Regular Business Meeting

Tuesday, March 11, 2025 5:30 PM
Board Assembly Room, 1250 West Broadway Avenue, Minneapolis, Minnesota 55411

1) **Call to Order and Roll Call**

2) **Adoption of the Agenda**

3) **Recognitions**

4) **Recess**

5) **Public Comments**

6) **Recess**

7) **Anishinabe Academy Facility Advisory Committee Recommendations**

8) **Reports and Recommendations from the Superintendent of Schools**

8)a. Presentations and Updates

9) **Action Items by the Board of Education**

9)a. Approval of the Consent Agenda

9)a.1. Acceptance of Minutes

9)a.1.a. February 11, 2025 Regular Business Meeting

9)a.2. Human Resources Transactions

9)a.2.a. Approval of List A personnel matters (2025-3-ER-A)

9)a.2.b. Approval of List B personnel matters (2025-3-ER-B)

9)a.3. Contracts

9)a.3.a. Amendment to contract 4400002563 with Airport Taxi/Transportation Plus

9)a.3.b. Contract with Archer Mechanical - Las Estrellas (2025-4400002895)

9)a.3.c. Contract with Archer Mechanical (2025-4400002909)

9)a.3.d. Contract with Archer Mechanical (2025-4400002926)

9)a.3.e. Contract with Archer Mechanical (2025-4400002929)

9)a.3.f. Contract with ATSR Planners, Architects & Engineers (2025-44000002927)

9)a.3.g. Contract with B&D Associates (2025-4400002941)

9)a.3.h. Contract with Carahsoft (2026-4400000TBD)

9)a.3.i. Amendment to contract 2025-4400002922 with Central Roofing

9)a.3.j. Contract with Commerical Roofing (2025-4400002934)
9)a.3.k. Contract with Construction Results Corporation (2025-4400002851)
9)a.3.l. Contract with Cuningham Group Architects, Inc (2025-4400002855)
9)a.3.m. Amendment to contract 2025-4400002162 with Flagship Recreation
9)a.3.n. Contract with Ford Metro (2025-4400002942)
9)a.3.o. Contract with Gardner Builders Minneapolis, LLC (2025-4400002890)
9)a.3.p. Contract with Grazzini Brothers (2025-4400002937)
9)a.3.q. Amendment to contract 2025-4400002482 with Grazzini Brothers
9)a.3.r. Contract with Kellingtoon Construction (2025-4400002939)
9)a.3.s. Amendment to contract 2025-4400002921 with Kraus Anderson
9)a.3.t. Contract with Kraus Anderson Construction Co (2025-4400002856)
9)a.3.u. Amendment to contract 2025-4400002923 with Lawal Scott Erickson Architects (LSE)
9)a.3.v. Contract with Master Mechanical (2025-4400002932)
9)a.3.w. Contract with Matrix NDI (2026-4400000TBD)
9)a.3.x. Contract with Miller Dunwiddie Architects (2025-4400002940)
9)a.3.y. Contract with Morcon Construction Co., Inc (2025-4400002893)
9)a.3.z. Contract with Morcon Construction Co., Inc (2025-4400002936)
9)a.3.aa. Contract with NAC Mechanical and Electrical Services (2025-4400002938)
9)a.3.bb. Contract with Nasseff Mechanical Contractors (2025-4400002943)
9)a.3.cc. Contract with Paragon Development Systems (2025-4400002896)
9)a.3.dd. Contract with Red Cedar Steel Erectors, Inc (2025-4400002931)
9)a.3.ee. Contract with Scholastic Inc. (2025-4400002918)
9)a.3.ff. Contract with Schwab Vollhaber Lubratt Service Inc (2025-4400002881)
9)a.3.gg. Contract with SVL - Harrison (2025-4400002905)
9)a.3.hh. Contract with SVL (2025-4400002908)
9)a.3.ii. Contract with Trane U.S. Inc (2025-4400002924)
9)a.3.jj. Contract with Twin City Acoustics, Inc (2025-4400002933)
9)a.3.kk. Contract with UCDirect (2026-4400000TBD)

9) a.3.ll. Contract with Wasche Commerical Finishes (2025-4400002935)
9) a.3.mm. Contract with Woodside Industries (2025-4400002947)
9) a.4. Agreements
9) a.4.a. Amending the Willard/Gordon Purchase Agreement (2025-0022)
9) a.5. Authorizations
9) a.5.a. Authorizing cooperative athletic team actions and filings with the Minnesota State High School League (MSHSL) (2025-0023)
9) b. Contract with Derau Construction (2025-4400002892)
9) c. Resolution Revising Policies 3000, 3002, 3003, 3004, 8111, 8510; Repealing and Replacing Policy 3001; and Adopting Policy 4300 (2025-0019)
9) d. Approving Comprehensive Achievement & Civic Readiness Advisory Committee Charter and Bylaws and Terminating the World's Best Workforce Advisory Committee (2025-0021)
10) **New Business**
11) **Reports from Board of Education Directors**
12) **Adjournment**

Anishinabe Academy
Facility Advisory Committee
Recommendations Report

To: The Board of Education
From: The appointed members of the Anishinabe Academy Facility Advisory Committee
Date: 2/19/2025

Re: Recommendation per Board of Education Resolution No. 2024-0028

Executive Summary

The Anishinabe Academy Facility Advisory Committee recommends that the Board of Education support Anishinabe Academy's mission of integrating and reclaiming American Indian identities, cultures, and languages through authentic academic experience by constructing a purpose-built new PK-8 school building on the site of the former Cooper Elementary or on an alternative site if available and approved by the committee.

Introduction

The Anishinabe Academy Facility Advisory Committee was formed as a result of Board Resolution 2024-0028, with the intent that the Committee "present a recommendations report to the School Board by November 2024 or in alignment with the school transformation process timeline, listing potential sites so that Anishinabe Academy will have its own building for the 2025-2026 school year."

The Committee met from October 2024 to February 2025 and was formed of nine (9) members with voting rights, one school board director to serve as liaison to the Committee, and three MPS staff members to serve as staff liaisons to the Committee. Voting members of the Committee were Laura Sullivan, Louise Matson, Danielle Grant, Sharon Buckanaga, Eileen Stand, Diane Stand, Josh Gilbert, Nation Wright and Shane Desjarlait. Non-voting

members were Board Director Lucie Skjefte and staff liaisons Tom Parent (Senior Operations Officer), Dan Goemann (District Master Planner) and Jennifer Simon (Director, Indian Education).

Committee Process

The Committee began by establishing group norms; respect confidences and the working nature of the group, respect different perspectives, foster engagement, live the seven core values, commitment to be present and efficient, and to share a meal together.
Background Data was reviewed to provide an understanding of MPS student demographic information including American Indian and Anishinabe Academy student resident patterns, American Indian MPS enrollment numbers, Anishinabe Academy enrollment by grade, and Anishinabe Academy enrollment trends from SY2009 to SY2024. Anishinabe Academy operated as a Pre-K – 8th Grade program until 2018 when it changed to a Pre-k through 5th Grade program.

Visioning & Programming

Visioning and Programming exercises were conducted over several committee meetings to identify priorities and to define the ideal future for Anishinabe Academy. This included discussions around the preferred grade level configuration and size of enrollment, programmatic focus and spatial needs, community partnerships and support, location and access to public transportation. The Committee feels that there is great value in growing Anishinabe Academy back into a PK-8 program as it had been until 2018, and understands that for growth beyond fifth grade, increased enrollment across all grade levels will be required for the program to be sustainable.

The top priorities identified by the Committee for a new location were:

- Proximity to where students live
- Proximity to social agencies that serve the American Indian community
- Access to public transportation
- Access to nature
- On-site green space
- Community safety

There were also several unique cultural spatial considerations identified that would be important for the building including, but not limited to:

- Space for community partnerships
- Elder's space
- Outdoor and indoor gathering spaces
- Garden space
- Smudging
- Music, language and culinary arts spaces focused from an American Indian lens

A community survey was also conducted in January to gain feedback from the larger Anishinabe Academy community and provide insight on their priorities for a new school location. In order from highest to lowest priority, the results of the survey prioritized the following characteristics:

1. Location close to outside native community agencies
2. Space for American Indian organizations to be located within the school building
3. Space for the program to grow and serve grades higher than fifth grade
4. Access to open outdoor space for program use
5. A location close to public transportation
6. A location that is close to where Anishinabe students live

Available Sites and Test Fits

Based on the criteria that the Committee identified, staff then evaluated each of the 73 buildings the school district owns for potential alignment to those criteria. As one of the working norms of the group was to not make decisions for communities not in the room for the discussion, staff anonymized the buildings that currently have programs in them in order to ensure the conversation stayed focused exclusively on a strategic review of physical characteristics of the school district's portfolio of buildings. Of all the school district's buildings, only three met the criteria for being an ideal candidate as the future home of Anishinabe Academy and only one of them is not occupied and available for repurposing.

Throughout the analysis and discussion, the Committee had deep frustration with our expectations established by the Board's resolution both in terms of timeliness of a potential

move (in time for school year 2025-2026) as well as the availability of multiple viable options via the Transformation process that could not be met. Despite looking at the school district's entire portfolio of properties as well as a general scan of the city's real estate market (for properties to either rent or buy), there were no options that met the promises in the language of the resolution and the Committee perceived this as another example of the school system not making good on commitments made to the American Indian community in Minneapolis.

Despite the recognition that the one currently available property that met the criteria - the site of the former Cooper Elementary school on E 33rd Street - would require years of work and funding to be ready to be the future home of Anishinabe Academy and not meet the school community's hopes of having a site of our own quickly, there are many reasons why this location would be well suited for the permanent home of the program:

- The site is located near where many Anishinabe Academy students live (see Exhibit A)
- The site is located near many social service agencies that serve the Native community (see Exhibit B)
- Proximity to the Mississippi River and the nature-based learning it affords
- Sufficient on-site green space for outdoor learning and play
- The Committee perceives the adjacent neighborhood as safe and stable
- The existing building is functionally too small for reuse as a school and is in poor condition, which opens up the opportunity to start fresh and build a new school tailored to the Anishinabe Academy program.

Recommendation

Therefore, it is the recommendation of the Committee that the Board of Education support Anishinabe Academy's mission of integrating and reclaiming American Indian identities, cultures, and languages through authentic academic experience by constructing a purpose-built new PK-8 school building on the site of the former Cooper Elementary. The Committee recognizes the magnitude of investment that this recommendation asks of the entire Minneapolis Public Schools community, but we see it as an opportunity to provide hope and demonstrate commitment to the American Indian students in the city through ensuring a rigorous, sustainable academic program.

The Committee discussed many variations of how the site could best accommodate the Anishinabe Academy, including:

- Renovating the existing building and adding on to it to match the programmatic needs as well as size needed for a viable PK-5 and / or PK-8 school.
- Building an all-new PK-8 building as quickly and efficiently as possible.
- Building a new building in two phases - the first phase serving the PK-5 program and all core service spaces (gym, cafeteria, community partner spaces, etc), and the second phase providing the learning space for grades 6-8 once the enrollment has grown enough to provide a well-rounded middle school education.

Ultimately, the Committee believes that building the full PK-8 building immediately is the best path forward. This recommendation likely represents an investment by the school district of approximately $80M - $100M in capital improvements (see Exhibit C), but further study and discussion based on parameters established by the Board resulting from this recommendation that include the Cooper neighborhood are necessary to fully articulate and finalize how it will come together. The Committee would also anticipate that the school district would want to do additional due diligence around potential alternate new properties that meet the criteria to fully ensure the use of the Cooper site is the most aligned to the vision of the Committee and strategically in the best interest of the school district - with the engagement and approval of the Committee, of course.

Conclusion

The work of this committee has been driven by Anishinabe Academy's mission to engage urban Indigenous students by integrating and reclaiming American Indian identities, cultures, and languages through authentic academic experience. The time is now for Anishinabe Academy to have its own building in order to provide a safe and positive learning environment that encourages the scholastic achievement of our students, as well as the development of their culture and social lives.

Exhibit A
Anishinabe Academy Student Residential Pattern

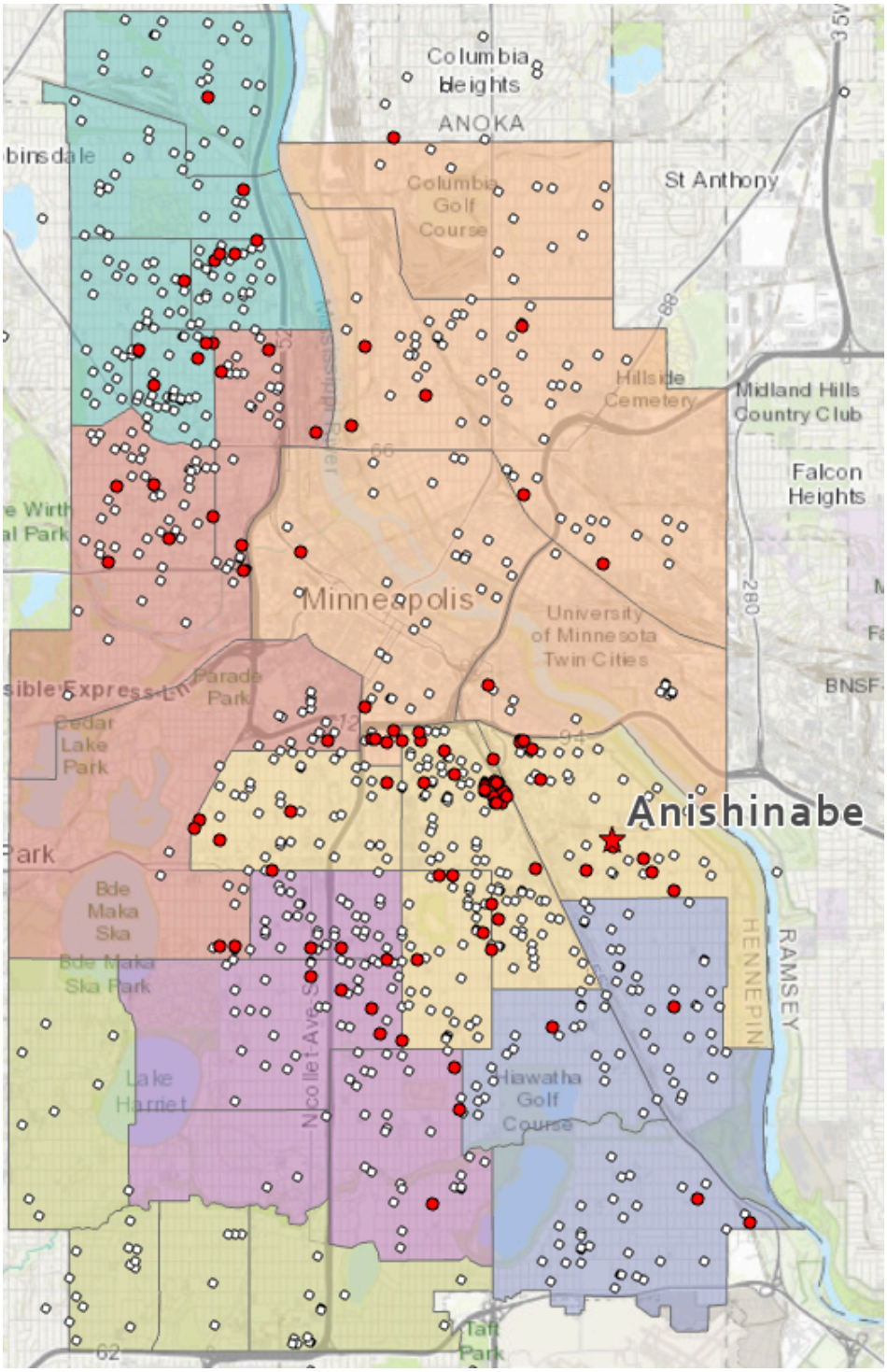


Exhibit B

Map of Native Agencies

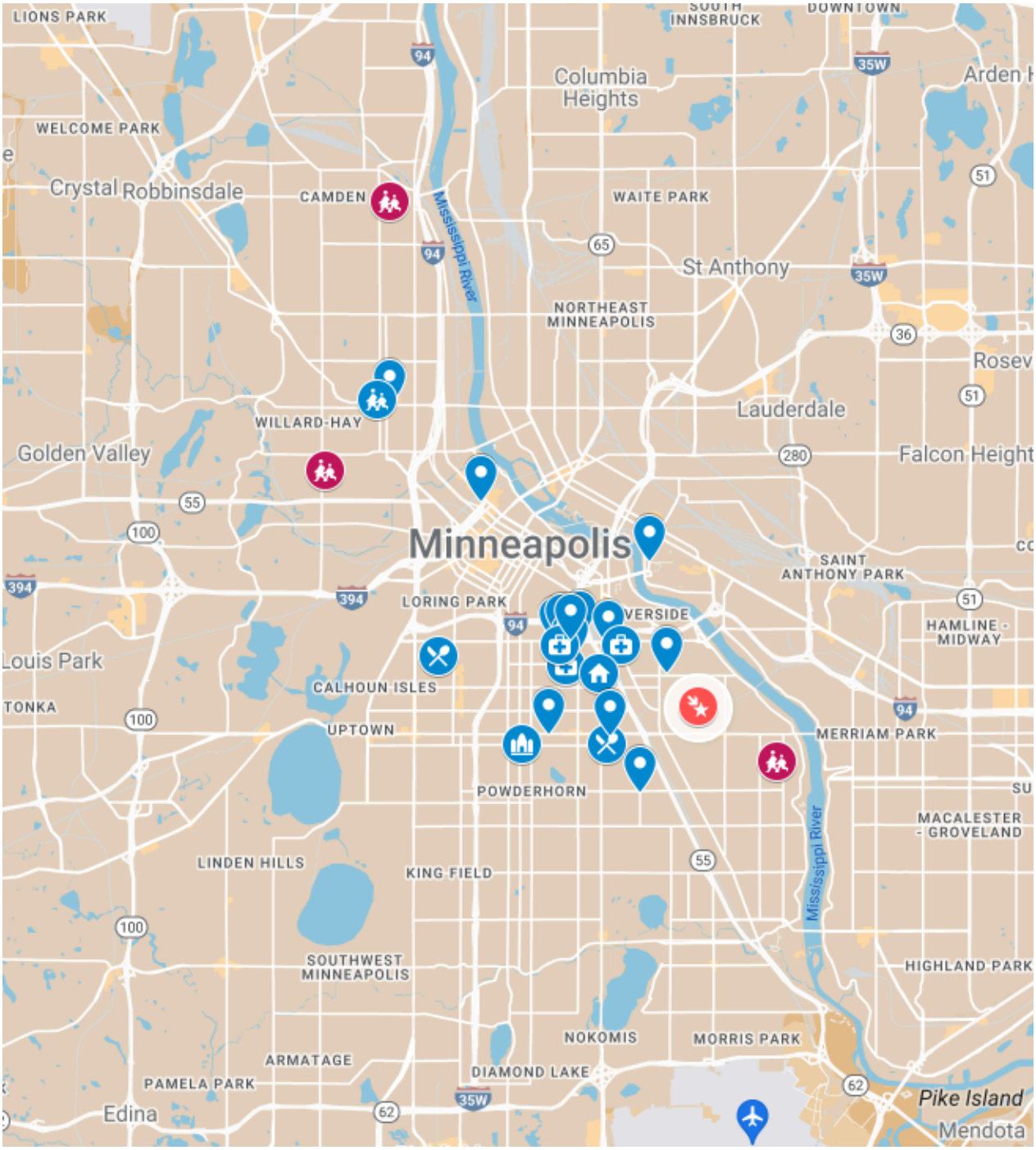


Exhibit C
Options and Associated Cost

Cooper Site Options	Approximate Size	Rough Order Cost	Est. Occupancy
Renovations + Addition (PK-5)	(Reno) 39,000 SF (Add) 16,000 SF	$19M - 23M	Fall 2027
Renovations + Addition (PK-8)	(Reno) 39,000 SF (Add) 111,000 SF	$70M - $85M	Fall 2028
New Building (PK-5)	55,000 SF	$30M - $36M	2027 - 2028
New Building (PK-8)	150,000 SF	$80 - $100M	2027 - 2028
Phase One (PK-5) Phase Two (PK-8)	55,000 SF 95,000 SF	$19M - $36M $55M - $65M	2027 / 2028 2029 / 2030

Notes:

- Costs shown represent a rough order of magnitude based on 2025 costs.
- Rough order costs do not factor in inflation, which would be highly dependent upon the timelines of approval and phasing.
- Estimated Occupancy assumes approval and direction by the Board of Education in spring of 2025 and inclusion of the work in the 2026 Capital Plan (approved spring 2025).



Anishinabe Academy Facility Committee

March 11, 2025

ANISHINABE ACADEMY | MINNEAPOLIS PUBLIC SCHOOLS AMERICAN INDIAN EDUCATION | MINNEAPOLIS PUBLIC SCHOOLS

Our Commitment to Anishinabe Academy's Future

NOW THEREFORE BE IT RESOLVED, that the Board of Directors of Special School District No. 1 (Minneapolis Public Schools) hereby establishes a time-limited Anishinabe Academy Facility Advisory Committee ***which shall present a recommendations report to the School Board*** *by November 2024 or in alignment with the school transformation process timeline,* ***listing potential sites so that Anishinabe Academy will have its own building for the 2025-2026 school year.***

Board Resolution No. 2024-0028, passed June 11, 2024 (emphasis added)

Committee Process

Overview

- **Purpose:**
  - Develop a recommendations report for the School Board.
- **Goal:**
  - Identify a permanent school site for Anishinabe Academy by 2025-2026.
- **Committee:**
  - Voting members: Shane Desjarlais, Diane Stand, Eileen Stand, Josh Gilbert, Sharon Buckanaga, Danielle Grant, Louise Matson, Nation Wright & Laura Sullivan
  - Board liaison: Director Skjefte and Director Jourdain
  - MPS staff liaisons: Tom Parent, Dan Goemann, and Jennifer Simon
  - Additional support by Yusuf Abdullah and Makylah Woods

Overview

- **Committee tasks included:**
  - Researching site options and feasibility.
  - Developing a formal recommendation.
  - Ensuring cultural, academic, and community needs were prioritized.
  - **Background Data Reviewed:**
    - MPS demographics and American Indian enrollment trends.
    - Anishinabe Academy's enrollment history (PK-8 until 2018, now PK-5).

Visioning & Programming

Vision – A Beacon of Hope for the Future

Rooted in the founding vision of Four Winds, this school is a beacon of hope, reclaiming and revitalizing American Indian identities, cultures, and languages through authentic academic experiences.

A place where:

- **Children see themselves reflected in their education.**
- **Culture is woven into learning, not separate from it.**
- **Language is honored and reclaimed as a living connection to identity.**
- **Families feel valued, seen, and supported by MPS.**

MPS reaffirms its commitment to American Indian students—not just acknowledging their heritage, but uplifting and celebrating it for future generations.

Visioning & Priorities for a New Location

- **Committee discussions focused on:**
  - Preferred grade-level configuration (returning to PK-8).
  - Enrollment sustainability for middle school expansion.
  - Programmatic focus and spatial needs.
  - Community partnerships and transportation access.
- **Key priorities for location:**
  - Near student residences and American Indian social agencies.
  - Access to public transportation and green space.
  - Community safety.

Cultural Spatial Considerations & Survey Results

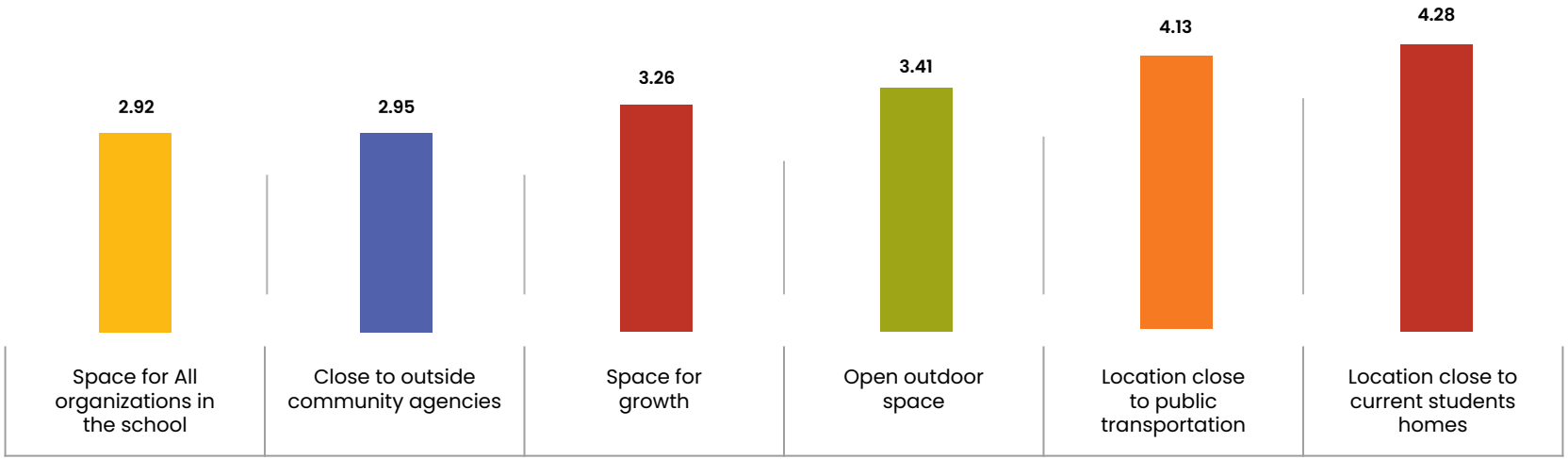
- **Culturally significant spaces required:**
  - Elder's space, community partnerships, smudging areas.
  - Outdoor gathering spaces, garden, music, language, and culinary arts spaces.
- **Community Survey Priorities (ranked highest to lowest):**
  - Proximity to American Indian community agencies.
  - Space for American Indian organizations.
  - Expansion capacity for middle school.
  - Access to outdoor space and public transportation.

Survey Results

Anishinabe Academy Specific Questions

77 responses from families who currently attend the school

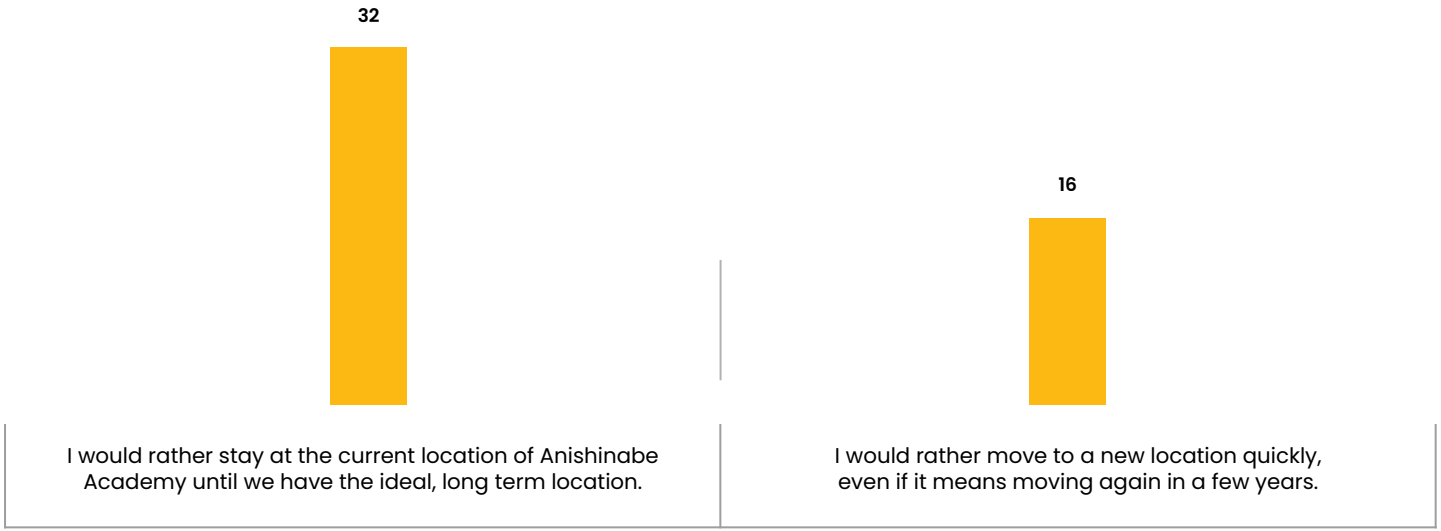
In thinking about the future home of Anishinabe Academy, rank the following characteristics from most important to the least important



Anishinabe Academy | Minneapolis Public Schools American Indian Education | Minneapolis Public Schools

Survey Results

Select one of the following approaches to finding Anishinabe Academy's next home that you most agree with:



Anishinabe Academy | Minneapolis Public Schools American Indian Education | Minneapolis Public Schools

Available Sites & Test Fits

Site Evaluation Process & Challenges

- Of all school district buildings, two (2) sites met all desired criteria of the committee, but of those two only one site is currently available.
  - To respect the group norm of not making decisions for communities not present in the discussion, all buildings with active programming in them remained anonymous throughout.
- Challenges & Frustrations:
  - Unrealistic timeline (2025-2026 move date).
  - Limited viable options.
  - District commitments to the American Indian community not being met.

Executive Summary

Recommendation: The Committee recommends that the Board of Education support Anishinabe Academy's mission by:

- Constructing a **purpose-built PK-8 school building**.
- Preferred site: **Former Cooper Elementary location**.
- Open to **alternative sites** if available and approved by the committee.

Site Evaluation Process & Challenges

- **Why Cooper Elementary is the strongest candidate:**
  - Near where Anishinabe Academy students live (See Exhibit A).
  - Close to American Indian social service agencies (See Exhibit B).
  - Proximity to the Mississippi River for nature-based learning.
  - Adequate on-site green space.
  - Opportunity for a new purpose-built facility.

Design & Construction Options Considered

Three approaches were considered:

1. **Renovating and expanding the existing Cooper Elementary building.**
2. **Constructing an entirely new PK-8 school.**
3. **Building in two phases (PK-5 first, then middle school expansion).**

Construction Options & Costs

Option	Pros	Cons	Estimated Cost
Renovate & Expand	Lower upfront cost, uses existing structure	Building is too small, poor condition	$60M - $80M
New PK-8 School	Purpose-built, best long-term solution	Higher cost, longer timeline	$80M - $100M
New PK-8 (Two Phases)	Allows phased investment and program to grow	Delays middle school expansion	$80M+ to $110M (Phased)

Exhibit C (see page 30)

Design & Construction Options Considered

1. The Committee's work was driven by Anishinabe Academy's mission to integrate and reclaim American Indian identities, cultures, and languages.
2. Now is the time for Anishinabe Academy to have its own building—a safe, culturally rich environment that fosters academic success.

The Four Directions – Guiding Our Path Forward

The Four Directions guide this vision, shaping our journey toward a thriving future:

NORTH
Strength & Survival

A commitment to American Indian education for future generations.

WEST
Reflection & Wisdom

Honoring ancestral knowledge and resilience.



EAST
Renewal & Learning

A new beginning for language, culture, and education.

SOUTH
Growth & Community

A gathering place for families and traditions.

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CLOSING & QUESTIONS

WOPIDA TANKA
CHI MIIGWECH
THANK YOU

Special School District Number 1
Board of Education Resolution

MINNEAPOLIS
PUBLIC SCHOOLS

Resolution No. 2024-0028
June 11, 2024

Resolution Creating an Anishinabe Academy Facility Advisory Committee

WHEREAS, Anishinabe Academy has shared a school building with Anne Sullivan STEAM School for approximately fourteen years; and

WHEREAS, this move was to be a temporary move; and

WHEREAS, students, families, community members and staff at Anishinabe Academy are demanding a dedicated facility; and

WHEREAS, sharing transportation with Anne Sullivan STEAM School has become untenable; and

WHEREAS, the upcoming school transformation process provides an opportunity to intentionally analyze the current facility arrangement and consider possibilities for the Anishinabe Academy community; and

WHEREAS, a dedicated facility advisory committee for Anishinabe Academy could provide additional historical background and context and make recommendations to inform the school transformation process as it relates to Anishinabe Academy.

NOW THEREFORE BE IT RESOLVED, that the Board of Directors of Special School District No. 1 (Minneapolis Public Schools) hereby establishes a time-limited Anishinabe Academy Facility Advisory Committee which shall present a recommendations report to the School Board by November 2024 or in alignment with the school transformation process timeline, listing potential sites so that Anishinabe Academy will have its own building for the 2025-2026 school year.

FURTHER BE IT RESOLVED, that Committee shall follow the guidelines in MPS Board Policy 1320 and shall select its own decision-making protocols and meeting dates, times, and locations.

FURTHER BE IT RESOLVED, that the School Board Chair, in consultation with leadership from Metro Urban Indian Directors (MUID) and Anishinabe Academy administration, shall appoint no more than nine individuals who shall have voting rights to serve on the Committee.

FURTHER BE IT RESOLVED, that the School Board Chair shall appoint one school board director who shall not have voting rights to serve as a liaison to the Committee.

FURTHER BE IT RESOLVED, that the Superintendent shall appoint no more than three MPS staff members who shall not have voting rights to serve as staff liaisons to the Committee.

FINALLY BE IT RESOLVED, that, in the meantime, Anishinabe Academy will have its own transportation or have sufficient funding provided for Anishinabe Academy staff and/or a properly selected contractor to serve as aides on current transportation, for the 2024-2025 school year.

Collin Beachy, Chair

Lori Norvell, Clerk

RECORD OF BOARD VOTE (2024-0028)				
DIRECTOR	AYE	NAY	ABSTAIN	ABSENT
Abdi	X			
El-Amin	X			
Feerayarre				X
Cerrillo	X			
Norvell	X			
Jourdain	X			
Beachy	X			
Ellison	X			
Emerick	X			







Superintendent's Report

Regular Business Meeting

March 11, 2025

MINNEAPOLIS PUBLIC SCHOOLS

Superintendent's Update

Superintendent Dr. Lisa Sayles-Adams

MINNEAPOLIS PUBLIC SCHOOLS

FY26 Budget Development Update

Senior Finance Officer Ibrahima Diop

MINNEAPOLIS PUBLIC SCHOOLS

What has happened so far?

Schools	Departments
• Received budget allocations and accompanying parameters and guidance • Met and consulted with school communities, including Site Councils • Completed Budget Tie Out (BTO) process	• Budget managers received department allocations • Within the budget allocation, proposed a plan for using funds, aiming to further reduce to mitigate the district's budget shortfall • Providing support to schools as they completed their BTO
Using community feedback, including information from the caregiver survey, proposed uses for discretionary and non-restricted funding	

What is happening now?

Schools	Departments
• Preparing required information that accompanies the budget (i.e., Equity Considerations, Title plans, Achievement and Integration plans) • Notifying impacted staff • Preparing for budget review with Finance and HR	• Reviewing department budgets for additional potential reductions to minimize or eliminate the need for vacancy savings to balance the budget • Completing budget documents for presentation to the board and community • Notifications to impacted staff and vendors whose contracts are being reduced or eliminated

What is happening next?

Schools	Departments
• Reviews of proposed budget with Finance, HR, and other departments to ensure compliance with restricted funding and alignment with board values and priorities • Presentation of school allocation methodology and costing at March 18 Committee of the Whole meeting	• Department BTO will conclude • Leadership is reviewing department budgets for additional potential reductions to minimize or eliminate the need for vacancy savings to balance the budget • Will provide a comprehensive review of department budgets at the March 25 Finance Committee meeting

What are we watching that may impact the FY26 budget?

- **Proposal at the federal level to significantly cut Title I, II, and III funding**
  - Nearly all Title I funding is allocated to schools for preschool, intervention programming, or site-determined allowable activities
  - Title II funds district professional development and class size reduction at certain elementary schools
  - Title III funds staff and programming in our Multilingual Department
  - Changes of the magnitude proposed would likely require opening back up budgets for these funding sources
- **Proposal at the state level regarding compensatory education funding**
  - One proposal could restore some funding to individual schools, but would shift funding from others and decrease the district's overall revenue

Stay Updated

bit.ly/mpsbudget26

- Visit our FY26 budget webpage
- Read our newsletters: Family Update, MPS Insider and our Community Newsletter
- Attend Finance Committee and Committee of the Whole meetings
- For questions about school allocations, reach out to principal
- Email answers@mpls.k12.mn.us

MINNEAPOLIS PUBLIC SCHOOLS

Questions

2025-26 Prioritized Strategies

Executive Director of Strategic Planning
Sarah Hunter

Prioritized Strategies for 2025-26

Goal	Year 1: 2022-23	Year 2: 2023-24	Year 3: 2024-25	Year 4: 2025-26	Year 5: 2026-27
1	1.1, 1.2, 1.3, 1.4, 1.5	1.1 → 1.2 →	1.1 → 1.2 →	*1.1** → *1.2** →	*1.1** *1.2**
2	2.1, 2.2, 2.3, 2.4, 2.5	2.4	2.1 →	*2.1** →	*2.1**
3	3.1, 3.2, 3.3, 3.4, 3.5	3.3	3.1 →	*3.1** →	*3.1**
4	4.1, 4.2, 4.3, 4.4, 4.5	4.1 →	4.1 →	*4.1** →	*4.1**

All strategies prioritized similarly to one another.

First year of board prioritized strategies.

Second year of board prioritized strategies.

**proposed by Strategic Planning*

Rationale:

- implementation science → consistency
- planning → resourcefulness

Scan for all strategies

MINNEAPOLIS PUBLIC SCHOOLS

Questions

Comprehensive Achievement & Civic Readiness Advisory Committee Charter and Bylaws

Deputy Superintendent Ty Thompson

Assistant to the Superintendent and Board Ryan Strack

MINNEAPOLIS PUBLIC SCHOOLS

Review Proposed Committee Charter

Name	Comprehensive Achievement & Civic Readiness Advisory Committee
Item File	2025-0021A
Type	Standing
Purpose	To fulfill the requirement in MN Statutes Section 120B.11: • *"Each school board must establish an advisory committee to ensure active community participation in all phases of planning and improving the instruction and curriculum affecting state and district academic standards…"*
Membership	Up to fifteen (15) members, appointed in accordance with the committee bylaws by the School Board, Superintendent, CityWide Student Leadership Board, and the District Parent Advisory Committee (DPAC)

Review Proposed Committee Charter (continued)

Leadership Structure	Co-chairs selected by committee members
School Board Liaison	Yes; appointed at annual organizational meeting
Meeting Frequency	At least three (3) times per year; Committee to determine schedule
Supporting Departments	• Strategic Planning (primary) • Core Academics • Equity and School Climate
Governing Rules	Bylaws and Policy 1320 (Board Of Directors Advisory Committees)
Date Approved	TBD

Review Proposed Committee Bylaws

Sections

1. Purpose
2. Advisory Capacity
3. Membership
4. Appointments
5. Leadership
6. Attendance and Participation Expectations
7. Code of Ethics and Conflicts of Interest
8. Meetings
9. Decision Making
10. Recommendations
11. Disclaimers

Next Steps

Task	Date
~~Present concept and recommendation to the board~~	~~2/11/2025~~
~~Receive board feedback~~	~~2/11/2025~~
~~Draft resolution, new committee charter, and overview materials~~	~~2/12/2025-3/4/2024~~
~~Board members consider potential appointees~~	~~2/12/2025-3/4/2024~~
~~Board receives draft committee charter~~	~~3/4/2025~~
Board approves committee charter	3/11/2025
Members are appointed to the committee	3/12/2025-
First meeting of the new committee	Early April

Questions

Appendix

Strategic Plan – Supporting Documents

Strategic Plan
STRATEGIES BY GOAL AREA

Goal 1 Academic Achievement

1.1 Provide standards-based core instruction with a focus on literacy and mathematics

1.2 Ensure all curriculum and instructional practices are anti-racist and sustain the cultures, languages, and experiences of our students

1.3 Ensure all community schools provide access to STEM, music, art, language, and for high schools, ethnic studies and college credit courses

1.4 Implement Professional Learning Communities to ensure all students' needs are met through a system of academic support and intervention

1.5 Provide magnet school pathways that offer innovative thematic instruction and integrated learning opportunities

Goal 2 Student Well-Being

2.1 Provide equitable student access to culturally responsive counseling and mental health services

2.2 Fully implement a restorative approach to student support

2.3 Integrate social and emotional practices into all classrooms and Out of School Time activities

2.4 Provide physically safe and welcoming school environments through strategic shortening of walk zones, building cleanliness, building improvements, landcare and strong emergency management practices

2.5 Support healthy child development through nutritious meals and promotion of physical activity

Goal 3 Effective Staff

3.1 Strengthen pathways and reduce barriers for talented and diverse MPS employees and potential employees to become teachers

3.2 Maintain Teacher Equity plan focused on staffing needs of MPS' 15 highest need schools

3.3 Deepen strategic recruitment of high quality, diverse teachers and staff

3.5 Pursue authentic engagement with MPS parents around the design and implementation of equitable HR policies and practices

Goal 4 School & District Climate

4.1 Fully implement the climate framework to ensure all district staff, parents, and students feel heard, valued and respected

4.2 Utilize district equity competencies to inform district hiring and retention practices, professional development opportunities, and professional support systems

4.3 Provide consistent opportunities for youth, parents and community members to provide feedback on district policies and practices

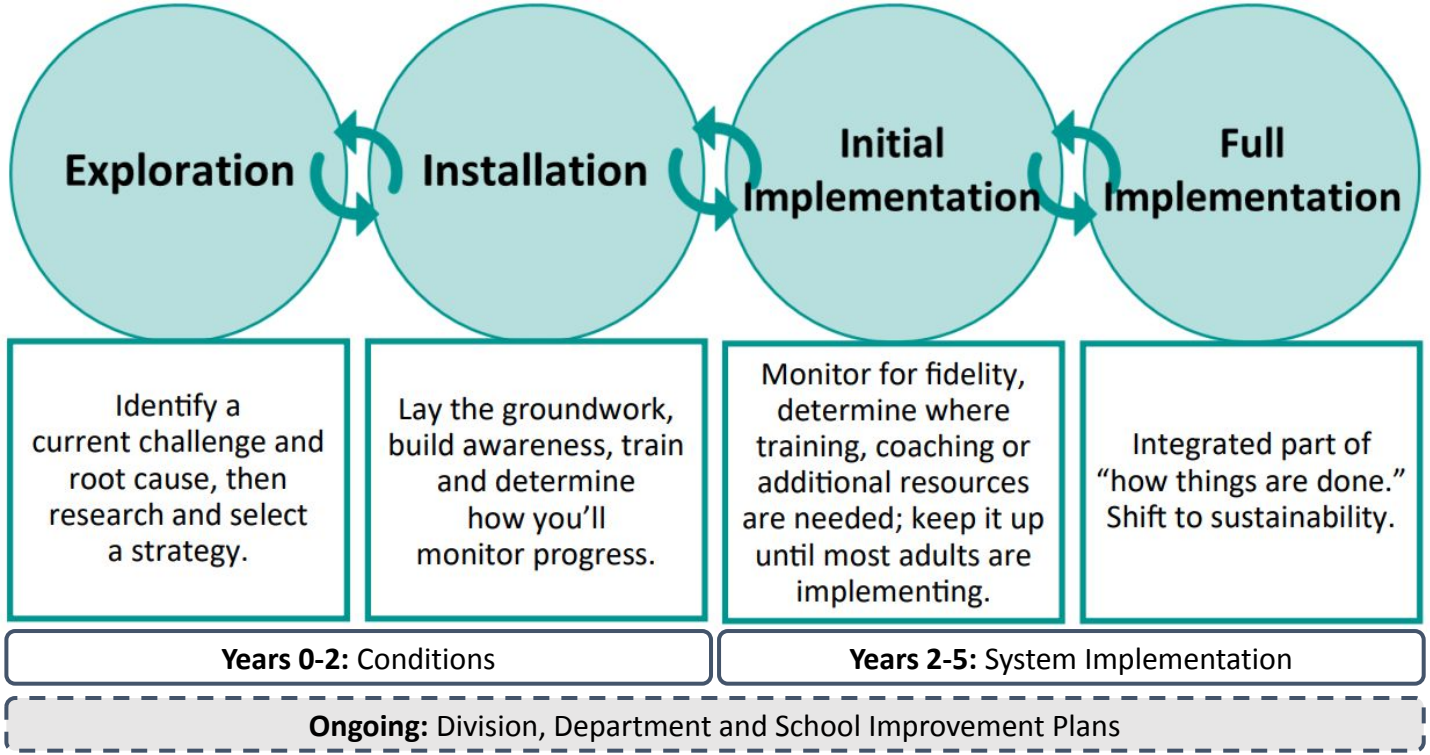
4.4 Ensure student placement practices support integrated learning opportunities, and increased enrollment and retention

4.5 Support community partnerships to enhance student experiences and learning opportunities

Source: 2022 Strategic Plan - www.mpschools.org/about-mps/strategic-plan

MINNEAPOLIS PUBLIC SCHOOLS

Implementation Science Framework



Source: 2022 Strategic Plan - www.mpschools.org/about-mps/strategic-plan

MINNEAPOLIS PUBLIC SCHOOLS

Review Board Values and Priorities

Approach: Students in the Center



MINNEAPOLIS PUBLIC SCHOOLS

Board Budget Values and Priorities: What We Will Offer

- Evidence- and standards-based programming and instructional strategies, focused staff professional development and accountability, and adequate school staffing models that **improve student academic outcomes**, especially on **literacy and math**
- Using the budgeting process and changes to enrollment management practices, ensure **class sizes adhere to the allocated and approved ratios**
- **Fiscal and programmatic equity** in support of Students of Color, Indigenous Students, students receiving special education services, and students learning English
- Adequately fund a **holistic set of programmatic and academic offerings** (i.e., the arts, music, languages, specialized programs, activities) that attract and retain students
- A comprehensive system of supporting student **mental health and well-being** with a focus on culturally responsive supports and services
- A comprehensive system of supporting **student and staff safety**

Board Budget Values and Priorities: How We Will Get There

- **Minimize the impact on students, classrooms, and schools** by reducing central office functions and budget allocations
- Focus central office-allocated resources first on **core operations and key strategic functions** before considering optional investments; reduce the number of non-school based FTE
- Increase the allocated amount of **restricted and dedicated funding towards direct student services and school-based supports**
- Reduce the amount of **contracted/purchased services**
- **Align and utilize external financial and programmatic support** in ways that supports the above-mentioned priorities, rather than creating new initiatives or programs
- Recognize that our financial situation necessitates an **analysis of the impact and number of students served by our programs** (must consider viability, sustainability, and efficiency of programs and services)

Additional Administrative Priorities

- Focus on **core functions and operations**
- Ensure **compliance functions** can be fulfilled (items required by law, policy, and contracts)
- Provide adequate **support to schools and staff**
- Positioned to continue progress on the **strategic plan** goals

Process, Timeline, and Next Steps

Process Overview

Key Milestones	Ongoing Activities

• Revenue projected ✓
• Expenses projected (status quo model) ✓
• Values and priorities set by board ✓
• Develop a balanced budget using board budget values and priorities
• Department and school allocations proposed
• Presentation of comprehensive budget
• Board review
• Board approval
	• Share updates with stakeholders via website and family update
	• Gather community input
	  ○ Caregiver survey
	  ○ School-specific feedback through site council and other methods
	• Updates to finance committee and board
	• Direction from finance committee and board

Key Deliverables to Finance Committee and School Board

1. Report of fiscal and other budget inputs and assumptions used in budget development process
2. Proposed department allocations and corresponding expenditure plans
3. Proposed school allocations with key budget parameters provided to schools to ensure alignment with board priorities and values
4. Crosswalk of proposed budget to board priorities and values
5. Equity considerations report of proposed budget
6. Comprehensive budget proposal in form of Budget Book
7. FY26 capital plan and budget resolution
8. FY26 budget resolution

Finance Committee & Committee of the Whole Schedule and Plan

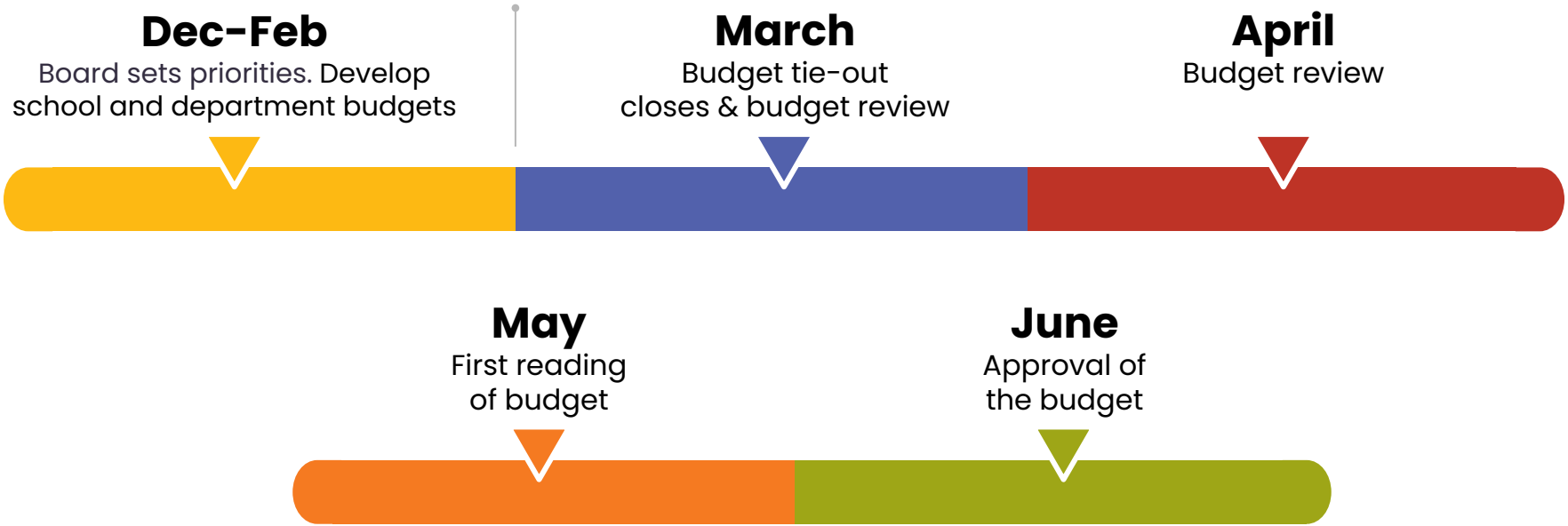
~~**February 4**~~	~~Finance Committee~~	~~• Process overview~~ ~~• Review operating assumptions, guiding principles, board priorities and values, and schedule and plan~~
~~**February 18**~~	~~Committee of the Whole~~	~~• Budget shortfall closure plan~~ ~~• Department and school allocations~~
~~**February 25**~~	~~Finance Committee~~	~~• Review proposed school and department allocations~~
March 18	Committee of the Whole	• Review post-BTO school and department allocations
March 25	Finance Committee	• Review post-BTO school and department allocations • Review capital plan
April 18	Committee of the Whole	• Review comprehensive budget proposal • Review capital plan
April 29	Finance Committee	• Final review and referral of proposed budget and capital plan to the full board

Regular Business Meeting Schedule and Plan

~~**February 11**~~	~~• Budget development process update~~
~~**March 11**~~	~~• Budget development process update~~
April 15	• Budget development process update
May 13	• First reading • Receive proposed budget and capital plan
June 10	• Budget and capital plan approval

FY26 Budget Timeline Overview

Schools receive budget allocations and engage with stakeholders



Budget website including full timeline: bit.ly/mpsbudget26

MINNEAPOLIS PUBLIC SCHOOLS

OFFICIAL MINUTES
MINNEAPOLIS BOARD OF EDUCATION (SPECIAL SCHOOL DISTRICT NO. 1)

REGULAR BUSINESS MEETING
FEBRUARY 11, 2025

CALL TO ORDER

In accordance with applicable requirements, notice was provided to each member of the Board of Education and to the public not less than three days prior to the meeting. Board members met in a regular meeting in the assembly room at the John B. Davis Educational Services Center (1250 West Broadway Ave. Minneapolis, MN) on February 11, 2025.

Chair Collin Beachy called the meeting to order at 5:31 p.m., a quorum being present.

ROLL CALL

Present: Directors Sharon El-Amin, Lucie Skjefte, Adriana Cerrillo, Lori Norvell, Greta Callahan, Collin Beachy, Kim Ellison, (8); Ex Officio members Superintendent Dr. Lisa Sayles-Adams, Student Representative Isiah Martin (2)

Absent: Director Joyner Emerick (1)

APPROVAL OF AGENDA

Ellison moved to approve the agenda.

On a voice vote, the motion to approved the agenda was adopted with the following result:

Aye: Abdi, El-Amin, Skjefte, Cerrillo, Norvell, Callahan, Beachy, Ellison (8)
Nay: (0)
Abstain: (0)
Absent: Emerick (1)

INTRODUCTION OF 2025 STUDENT BOARD REPRESENTATIVES

The 2025 student board representatives, Isiah Martin and Lyn Ampey, were introduced and congratulated on their appointments.

PUBLIC COMMENTS

Comments were heard from members of the public.

DRAFT

RECESS

A recess was taken.

REPORTS AND RECOMMENDATIONS FROM THE SUPERINTENDENT OF SCHOOLS

Superintendent Dr. Sayles Adams and staff provided presentations on the following topics:

a. Presentation and Updates
    - Superintendent's Update
    - FY26 Budget Update
    - Comprehensive Achievement & Civic Readiness Advisory Committee Proposal

No votes or action was taken on these informational items.

POLICY COMMITTEE REPORT

Resolution Revising Policies 3000, 3002, 3003, 3004, 8111, 8510; Repealing and Replacing Policy 3001; and Adopting Policy 4300, which was referred from the Policy Committee, received a first reading.

ACTION ITEMS BY THE BOARD OF EDUCATION

Approval of the Consent Agenda

Abdi moved to approve the consent agenda, which included the following items:

<u>Acceptance of Minutes</u>

- January 21, 2025 Regular Business Meeting

<u>Human Resources Transactions</u>

- Approval of List A personnel matters (2025-2-ER-A)
- Approval of List B personnel matters (2025-2-ER-B)
- Acceptance and Filing of Charges and Causes for Discharges of Tenured Teachers
    - Charges and Causes for Discharge (2025-ER-03-7058)
    - Charges and Causes for Discharge (2025-ER-03-7076)

<u>Contracts</u>

- Amendment to contract 2025-4400002839 with Bille Bus Transportation
- Amendment to Contract 2025-440002347 with College Nannies and Tutors
- Contract with Construction Results Corporation (2025-4400002847)
- Amendment to contract 2025-4400002488 with David Hoy and Associates
- Contract with H2I (2025-4400002846)
- Amendment to contract 2025-4400002850 with Lorenz Bus Service
- Contract with Minneapolis Community & Technical College (4400002806)

- Contract with Upper Midwest Athletics (2025-1000251584)
- Amendment to contract 2025-4400002849 with MTN Transportation
- Contract with Roofers Mart (2025-1000251381)
- Contract with Sun Life (2025 - 4400002841)
- Contract with True North Consulting Group (2025-4400002832)

On a voice vote, the motion to approve the consent agenda was adopted with the following result:

Aye: Abdi, El-Amin, Skjefte, Cerrillo, Norvell, Callahan, Beachy, Ellison (8)
Nay: (0)
Abstain: (0)
Absent: Emerick (1)

Approving an Amended Calendar for School Year 2026-2027 (2025-0020)

Abdi moved to approve Resolution 2025-0020, Approving an Amended Calendar for School Year 2026-2027.

On a voice vote, the motion to approve the resolution was adopted with the following result:

Aye: Abdi, El-Amin, Skjefte, Cerrillo, Norvell, Callahan, Beachy, Ellison (8)
Nay: (0)
Abstain: (0)
Absent: Emerick (1)

REPORTS FROM BOARD OF EDUCATION DIRECTORS

The following directors and student representatives provided reports:

- Callahan
- Abdi
- Norvell
- Cerrillo
- Ellison
- Beachy

ADJOURNMENT

Without objection, Chair Beachy adjourned the meeting at 7:36 p.m.

DRAFT

Secretary Notations:

- Minutes submitted by Ryan Strack, Assistant to the Superintendent and Board
- Meeting materials: https://meetings.boardbook.org/Public/Agenda/1807?meeting=674074
- Minutes approved: March 11, 2025

Attachments: *(to be added upon approval)*

- Resolution Approving an Amended Calendar for School Year 2026-2027 (2025-0020)

Approvals:

_____

Collin Beachy, Chair

_____

Lori Norvell, Clerk

DRAFT

Minneapolis Public Schools

List A: All Employees: Tuesday, March 11, 2025

Hiring - Licensed

Katie Fritz	Andersen Middle	Teacher, B/B (Spanish) Social Worker	2/13/2025
Sarah Hassebroek	Literacy Instruction	Teacher, TOSA Literacy Specialist	2/18/2025
Debra Krawetz	Career and Technical Education	Teacher, TOSA Instructional Specialist	2/11/2025
Jordan Palmer	South High	Teacher, Science	2/4/2025
Marc Woods	Northeast Middle	Teacher, Theatre/Dance	2/10/2025

Hiring - Non Licensed

Nova Allen	Bancroft Elementary	Special Education Assistant (Program)	3/3/2025
Kezyah Athorn	Roosevelt High	Associate Educator	3/3/2025
Echo Ballard	Minneapolis Kids	Child Care Assistant	2/10/2025
John Brooks	Engineers, Zone 2	Custodian	2/24/2025
Bernest Brown	Bryn Mawr Elementary	Special Education Assistant (Program)	2/24/2025
Eduardo Cedillo-Ponce	CWS, Distribution	Warehouse Specialist, Distribution	2/26/2025
Max Elofson	South High	Special Education Assistant	8/29/2024
Michelle Estrada Salazar	Minneapolis Kids	Child Care Assistant	1/21/2025
Patricia Gonzalez	Las Estrellas Elementary	School Secretary	1/27/2025
Rebekah Hovis	Windom Elementary	Associate Educator	2/24/2025
Kahlil Imaun	South High	Special Education Assistant	10/8/2024
Donte Mearon	Justice Page Middle	Special Education Assistant (1:1)	2/24/2025
Jazmin Potes Mangra	Transition Plus	Special Education Assistant	9/9/2024
Matthew Steinbergs	Andersen Middle	Special Education Assistant (1:1)	2/11/2025
Ronald Tolliver	North High	Security Monitor	2/18/2025

Discharges

Licensed

Non-Licensed

Special Education Assistant	02-10-2025	2025-03-ER-7181

Non-Represented

Probationary Separations

Licensed

Licensed, Staff Reduction

Licensed, Discontinuance of Contract

Teacher	02-24-2025	2025-03-ER-7240
Teacher	02-14-2025	2025-03-ER-7228
Teacher	02-14-2025	2025-03-ER-7230

Non-Licensed

Special Education Assistant	02-07-2025	2025-03-ER-7208
Associate Educator	02-27-2025	2025-03-ER-7254

Non-Licensed, Discontinuance of Contract

Non-Licensed, Staff Reduction

Layoffs

Licensed

Non-Licensed

Administrative Contract Non-Renewals

AMENDMENT TO CONTRACT BETWEEN: SPECIAL SCHOOLS DISTRICT NO.1 AND Airport Taxi

This Amendment ("Amendment") to the Contract between Special School District No. 1 and Airport Taxi dated 2/11/2025 ("Contract") is made and entered into by and between Special School District No.1 ("District") and Airport Taxi ("Contractor") (collectively "parties').

WHEREAS, Special School District No.1, a special school district created and existing under Minnesota law ("District") and Airport Taxi ("Contractor") entered into a contract titled CONTRACT FOR SERVICES for a period between 8/19/2024 through 6/30/2025 ("Contract"), and

WHEREAS, the Parties now desire to amend the Contract number: SRM: 4400002563/1

1. *Original contract amount:* $100,000
2. *Accumulative contract amount:* $130,000

NOW THEREFORE IT IS HEREBY AGREED by the Parties to amend the Contract as follows:

Section: District's total obligation to Contractor under this Contract, including compensation for goods, services, and reimbursable expenses shall not exceed $130,000.00. Contractor shall not receive any additional reimbursement for materials or subsistence expenses incurred in the performance of this Contract.

Description: Increasing total PO amount to $130,000 to support increased amount of riders utilizing this service.

Except as herein amended, the terms, conditions and provisions of the contract shall apply to and govern the provisions of this Amendment.

(The remainder of this page intentionally left blank.)

SPECIAL SCHOOL DISTRICT NO. 1

Signature: _____

Name: Tia Clasen

Title: Senior Academic Officer

Date: _____

Airport Taxi:

Signature: _____

Name: Tom Anderson

Title: Manager, Airport Taxi

Date: _____

Tom Anderson

Digitally signed by Tom Anderson
DN: cn=Tom Anderson, o=Transportation Plus, email=tanderson@tplusride.com, c=US
Date: 2025.02.05 09:58:17 -06'00'

MINNEAPOLIS
PUBLIC SCHOOLS
Urban Education. Global Citizens.

CONTRACT FOR SERVICES – $25,000 above

This Contract is entered into between Special School District No. 1, "District", a special school district created and existing under the laws of Minnesota, and Airport Taxi/Transportation Plus "Contractor" (collectively "parties") to provide parent and child transportation to Early Childhood Family Education classes and meetings

TERM OF CONTRACT

1.1 This Contract is effective on 08/19/2024 or the date of the last signature of the parties, whichever is later, and shall remain in effect until 06/30/2025, or until all obligations set forth in this Contract have been satisfactorily fulfilled, or the Contract has been terminated, whichever occurs first. Contractor shall have a continuing obligation, after said Contract period, to comply with any provision of this Contract intended for District's protection or benefit, or that that by its sense and context, is intended to survive the completion, expiration or termination of this Contract.

1.2 Contractor understands that NO WORK SHOULD BEGIN UNDER THIS CONTRACT until all required signatures on this Contract have been obtained and the Contract has been authorized and/or approved by the District's Board. Any work performed by Contractor prior to such time shall be considered as having been performed at Contractor's OWN RISK and as a volunteer.

2 SCOPE OF WORK

2.1 Contractor shall perform all of the services set forth herein and any exhibits attached hereto as **Exhibit A** ("Scope of Work"). Contractor understands that time is of the essence in this Contract and agrees to meet all milestones indicated in this section, in the Contract herein and any exhibits attached hereto.

3 CONSIDERATION AND TERMS OF PAYMENT

The consideration for all services (and goods if any) performed or supplied by Contractor under this Contract shall be paid by District as described below.

3.1 ***Total Obligation***

District's total obligation to Contractor under this Contract, including compensation for goods, services, and reimbursable expenses shall not exceed $100,000.00. Contractor shall

not receive any additional reimbursement for materials or subsistence expenses incurred in the performance of this Contract.

3.2 ***Frequency of Invoicing and Terms of Payment***

Subject to the conditions herein, payment shall be made by District within thirty (30) days upon receipt of Contractor's invoice for goods delivered or services rendered pursuant to this Contract. The Contractor's standard invoice shall be submitted after satisfactory completion of services on a monthly basis. District has no obligation to pay for services that are not satisfactorily performed or performed in violation of federal, state or local law, ordinance, rule or regulation. In the case of a dispute about satisfactory performance of services, the parties agree to work in good faith to resolve any disputes. If either party does not dispute an invoice in writing within 180 days of receipt of the invoice, no action challenging the invoice may be taken.

As applicable, for all agreed upon work performed by Contractor or Contractor's personnel in the provision of goods and/or services stipulated herein, District shall pay Contractor at the hourly or per diem rates as set forth in the applicable **Exhibit B**. Payment shall be made to Contractor based on the hours recorded provided such hours are in accordance with the terms of this Contract. Notwithstanding anything to the contrary, and without limitation, District has not promised or guaranteed any minimum amount of work, and Contractor understands and acknowledges same. District has no obligation to pay for overtime or holiday work, nor will it pay premiums for overtime and holidays.

3.3 ***Taxes.***

District is exempt from paying Minnesota sales and use taxes on certain purchases, as provided in Minnesota Statute, Section 297A.70. Contractor shall not charge District for such sales and use taxes. Alternatively, Contractor shall be responsible for the payment of any and all sales taxes to the Minnesota Department of Revenue relating to the following taxable items sold pursuant to this Contract; construction materials, leasing of motor vehicles, food and lodging, [See Minnesota Statute 297A.70]. Contractor shall promptly reimburse District for any and all such sales and use taxes paid by District to any governmental authority on behalf of Contractor including penalties and interest with respect thereto, and including any and all expenses (including attorneys' fees) or damages that result from a failure by Contractor to properly remit or reimburse District for any and all such sales and use taxes provided above.

District may be obligated by state and federal law to withhold state and federal taxes from the consideration stated herein. These taxes may consist of, but are not limited to, the Minnesota state entertainer tax, Minnesota state nonresident withholding tax, federal withholding on payments to foreign nonresident aliens, and federal backup withholding.

3.4 ***Fund Availability; Federal Funds Contingency.***

Financial obligations of District payable after the current fiscal year are contingent upon funds for that purpose being appropriated, budgeted and otherwise made available. If this Contract is funded in whole or in part with federal funds, District's payment obligations

are subject to and contingent upon the continuing availability of federal funds for the purposes hereof.

4 GENERAL TERMS AND CONDITIONS

4.1 The terms and conditions contained in this Contract shall govern and shall take precedence over any different or additional terms and conditions which Contractor may have included in any documents attached to or accompanying this Contract. Any handwritten changes on the face of this document shall be ignored and have no legal effect unless initialed by all parties. If this Agreement was made pursuant to a Request for Proposal (RFP) or Request for Information (RFI), the following order of precedence shall apply: (1) this Contract and its Exhibits, (2) District's RFP or RFI, and (3) Contractor's Response to District's RFP or RFI.

5 AFFIRMATIVE ACTION, EQUAL EMPLOYMENT OPPORTUNITY

5.1 The District is committed to the policy that all persons shall have equal access to its programs, facilities, and employment without regard to race, color, creed, religion, sex, national origin, age, marital status, disability, public assistance status, veteran status, or sexual orientation and is committed to transacting business only with firms who follow these practices. Contractor must apply every good faith effort to ensure implementation of this policy in their practices of employment, upgrade, demotion or transfer, recruitment, or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. As applicable, Contractor shall also develop and have on file for each of its establishments, written Affirmative Action Plans, as may be required by the rules and regulations of the Secretary of Labor. If applicable, Contractor certifies that it has received a certificate of compliance from the Minnesota Commissioner of Human Rights for its affirmative action plan. By accepting this Contract, Contractor certifies that it complies with all applicable federal and state laws as well as District policies related to non-discrimination, equal employment opportunity, and affirmative action.

6 BACKGROUND CHECKS

6.1 Contractor shall screen Contractor and all paid and volunteer employees and agents, including interviews, reference checks, credit history (if handling district funds), driving history and insurance coverage (if transporting district staff, students or families). And, Contractor shall conduct criminal background checks in accordance with state and federal law and District policy for Contractor and all paid and volunteer employees and agents who will have direct contact with children under this Contract. Background checks will be done prior to any contact with children, and shall be done in accordance with applicable state and federal laws, including but not limited to Minn. Stat. Sections 299C.61-.64; Minn. Stat. Section 123B.03; 42 U.S.C.Section 5119a and 42 U.S.C. Section 14501-05.

6.2 Contractor is responsible for ensuring that all paid and volunteer employees and agents who will be in contact with District staff and students are appropriate persons to conduct such work.

7 DATA PRIVACY

7.1 Contractor agrees that any information it creates, collects, receives, stores, uses, or disseminates during the course of its performance, which concerns the personal, financial, or other affairs of the District, its Board, officers, employees or students shall be kept confidential and in conformance with all state and federal laws relating to data privacy, including, without limitation, the Minnesota Government Data Practices Act, Minnesota Statute, Chapter 13. Contractor must comply with any applicable requirements as if it were a governmental entity. The remedies in Minn. Stat. § 13.08 apply to the Contractor. The Contractor will report immediately to the District any requests from third parties for information related to this Contract. The District will respond to such data requests. All subcontracts, if allowed, shall contain the same or similar data practices compliance requirements.

7.2 Contractors that provide school-issued devices for student use and directly or indirectly create, receive, or maintain educational data incidental to performing their duties under this Contract shall also sign **Exhibit C** ("Student Data Privacy"). "School-issued devices," as used herein, refers to hardware or software that is provided to an individual student for that student's dedicated personal use, and includes devices issued through a one-to-one program.

8 OWNERSHIP OF MATERIAL

8.1 The Contractor expressly waives to the District any claim to copyright pertaining to all new materials, publications, and documents produced as a result of this Contract and agrees that the District shall have exclusive right to and responsibility for their distribution, publication, copyrighting (when applicable) and all other matters relating to dissemination of the materials. Contractor shall not use, willingly allow or cause to have such materials used for any purpose other than performance of Contractor's obligations under this Contract without prior written consent of the District.

9 USE OF DISTRICT NAME OR LOGO

9.1 Contractor agrees not to use the name, logo, or any other marks (including, but not limited to, colors and music) owned by or associated with the District or the name of any representative of the District in any sales promotion work or advertising, or any form of publicity, without the written permission of the District.

10 INDEPENDENT CONTRACTOR

10.1 Contractor shall perform its duties hereunder as an independent contractor and not as an employee of the District. Neither Contractor nor any agent or employee of Contractor shall be or shall be deemed to be an agent or employee of the District. Contractor shall pay when due all required employment taxes and income tax withholding, including all federal and state income tax on any monies paid pursuant to this Contract. Contractor acknowledges that Contractor and its employees are not entitled to tax withholding,

worker's compensation, unemployment compensation, or any employee benefits, statutory or otherwise. Contractor shall have no authorization, express or implied, to bind District to any agreements, liability, or understanding except as expressly set forth herein. Contractor shall be solely responsible for the acts of Contractor, its employees and agents.

10.2 Contractor shall hold District completely harmless from and against any such contributions, premiums and taxes described above and from all claims and liability pertaining to those or any other item for which Contractor is responsible under this Contract, and from all attorney's fees and other costs incurred by District in contesting or defending against any responsibility therefore which is asserted against District.

11 WORKER HEALTH, SAFETY AND TRAINING

11.1 Contractor shall be solely responsible for the health and safety of its employees and/or self in connection with the work performed under this Contract. Contractor shall make arrangements to ensure the health and safety of all subagents and other persons who may perform work in connection to this Contract. Contractor shall ensure all personnel, subagents and/or self are properly trained and supervised and, when applicable, duly licensed or certified appropriate to the tasks performed under this Contract. Contractor shall comply with federal, state and local occupational safety and health standards, regulations, and rules promulgated pursuant to the Occupational Health and Safety Act that are applicable to the work performed by Contractor. Contractor shall develop and implement an emergency plan and procedures to follow in emergencies.

12 BUREAU OF CITIZENSHIP & IMMIGRATION SERVICES REQUIREMENTS

12.1 Contractor shall comply with all applicable requirements of the BCIS relating to employment including but not limited to confirming nationality for all employees and complying with requirements for employing aliens if appropriate.

13 INSURANCE

13.1 At all times during its performance under this Contract, Contractor shall obtain and keep in force comprehensive general liability insurance, including coverage for death, bodily or personal injury, property damage, liability and automobile coverages, with limits of not less than $1,500,000 each claim and $1,500,000 each occurrence covering claims that arise out of its acts and operations in providing services to the District or at limits established for a municipal corporation by Minnesota Statute Section 466.04. All such certificates evidencing such insurance shall name District as additional insured. Contractor may meet the limits above $1,000,000 per occurrence through umbrella or excess coverage.

13.2 Contractor represents that it has worker's compensation insurance to the extent required by law and agrees to furnish proof of such insurance for worker's compensation and the liability insurance, upon request. Contractor also represents that it has professional liability insurance with limits of not less than $1,500,000 each claim and $1,500,000 each occurrence covering claims that arise out of its acts and operations in providing services to the District, but shall not name the District as an additional insured to the coverage.

13.3 Contractor or its members shall also maintain property insurance coverage for the facility in which the program is located if it is not in a district building. Contractor and its members shall obtain and maintain insurance covering claims for the loss of or damage to its personal property that may be caused by students attending its programs.

13.4 Contractor shall provide all such certificates to District. Contractor shall not cancel or revise any insurance coverage required by this section during the term of this Contract and shall require its insurer to mail the District a notice if the coverage is cancelled or revised.

14 INDEMNIFICATION

14.1 Contractor agrees to release, defend, indemnify, and hold harmless District, its board, officers, students, employees, and agents from all liability, injuries, claims, damages (including claims of bodily injury, property damage, or negligence), or loss, including costs, expenses, and attorneys' fees, which arise in connection with, in relation to, or as a result of Contractor's negligent acts or omissions or in connection with Contractor's breach of warranties. The foregoing agreement to release, defend, indemnify and hold harmless shall not apply to the extent such liability, injuries, claims, damages, or loss was caused by the intentional, willful, or wanton acts of District. Contractor shall not settle or compromise any claim in which the District has been named a party and for which Contractor must indemnify the District without a signed agreement approved by the District.

15 LIMITATION ON LIABILTY

15.1 In no event shall the District be liable for any indirect, consequential, incidental, lost profits or like expectancy damages arising out of the Contract. District's maximum obligation under this Contract shall not exceed the amount set forth herein.

16 CONFLICT OF INTEREST/CODE OF ETHICS

16.1 Contractor agrees that it will not represent any other party or client which may create a conflict of interest in its representation with the District. Contractor agrees to be bound by the District's Code of Ethics. In particular, Contractor: (i) certifies that it has not paid kickbacks directly or indirectly to any District employee for the purpose of obtaining this or any other District Contract; (ii) agrees to cooperate fully with any investigation involving a possible violation; and (iii) agrees to report any suspected violations to the District. Contractor certifies that it has provided no fees, gifts, gratuities, compensation, or anything of value in violation any applicable laws or District policies.

17 COMPLIANCE WITH LAWS AND DEBARMENT

17.1 Contractor certifies that all goods or services furnished under this Contract shall comply with all applicable federal, state, and local laws and regulations, as well as District policies and procedures, regardless of whether such laws and regulations are specifically set forth in this Contract. Contractor represents that it is not currently debarred or suspended by any federal agency from doing business with the federal or state government.

Contractor shall notify District if it becomes debarred or suspended during the term of this Contract. District may immediately terminate this Contract in the event of such termination or suspension and Contractor shall be responsible for any costs incurred by District in connection therewith.

18 TERMINATION

18.1 The District and/or Contractor may terminate this Contract at any time without cause, upon thirty (30) days written notice to the other Party. In the event of such termination, Contractor shall be entitled to payment, calculated on a pro rata or other equitable basis, determined by District in its sole discretion, for work or services satisfactorily performed. In no event shall Contractor be paid for work performed or costs incurred after termination, or for costs incurred by suppliers or subcontractors which reasonably could have been avoided.

18.2 District may terminate this Contract in whole or in part for cause upon seven (7) days written notice if Contractor fails to comply with any material term or condition of this Contract, becomes insolvent or files for bankruptcy protection, or fails to comply in a material way with the requirements of this Contract. Late delivery of goods or services, or delivery of goods or services that are defective or do not conform to the Contract shall, without limitation, be causes allowing District to terminate for cause. If a determination is made that District improperly terminated this Contract for Cause, then such termination shall be deemed to have been for without cause.

18.3 Notwithstanding the above, Contractor shall not be relieved of liability to the District for damages sustained by the District as a result of any breach of this Contract by the contactor. The District, may, in such event, withhold payments due to the Contractor for the purpose of set-off until such time as the exact amount of damages due to the District is determined. The rights or remedies provided here shall not limit the District, in case of any default, error or omissions, by the Contractor, from asserting any other right or remedy allowed by law. Nothing in this Contract shall be construed as a waiver of any right, remedy, liability limit or immunity of the District under law.

19 RETURN OF DATA

19.1 Within fifteen (15) days of the completion or earlier termination of this Contract, or upon earlier request of the District, Contractor shall return all documents, data and other information provided by the District to Contractor, or Contractor's employees or agents in connection with this Contract. Additionally, Contractor, upon the request of the District, shall destroy all copies of such District provided data, documents, or information in Contractor's possession or control, and provide District with proof of such destruction.

20 RECORDS MANAGEMENT AND MAINTENANCE

20.1 District shall have the right to inspect and copy such books, records, and documents (in whatever medium they exist) as well as all accounting procedures and practices of Contractor, its agents, and subcontractors to verify Contractor's performance and all expenses submitted pursuant to the terms of this Contract. Contractor shall make such items

available for inspection during normal business hours at Contractor's place of business. Such records may be subject to copy, review and/or audit by District, State Auditor and/or the Comptroller General of the United States, or a duly authorized representative, if federal funds are used for any work under this Contract. All such items shall be retained by Contractor during the term of this Contract and for a period of six (6) years after the delivery of the goods and/or services. Any items relating to a claim arising out of the performance of this Contract shall be retained by Contractor, its agents and subcontractors, if any, until the claim has been resolved.

21 NOTICES/ADMINISTRATION

Except as otherwise provided in this Contract, all notices, requests and other communications that a party is required or elects to deliver shall be in writing and shall be delivered personally, or by facsimile or electronic mail (provided such delivery is confirmed), or by a recognized overnight courier service or by United States mail, first-class, certified or registered, postage prepaid, return receipt requested, to the other parties at the address set forth below or to such other address as such party may designate by notice given pursuant to this section.

Special School District No. 1

Division: Early Childhood Family Education
Attn: Elizabeth Fields
1250 W Broadway
Minneapolis, MN 55411
Email: elizabeth.fields@mpls.k12.mn.us

CONTRACTOR

Airport Taxi, Inc or Transportation Plus
Phone: 763.592.6417
Address: 5010 Hillsboro Ave N, New Hope, MN 55428
Email: tanderson@tplusride.com

ACKNOWLEDGMENT

21.1 In signing, Contractor certifies under penalties of perjury (see Section 6109 of the IRS Code for further penalties) that: (1) the taxpayer ID number (TIN) provided to District is correct; (2) it is not subject to back up withholding because (a) it is exempt from such withholding, (b) it has not been notified by the IRS that it is subject to backup withholding as a failure to report all interest or dividends, or (c) the IRS has notified it that it is no longer subject to backup withholding; (3) it is a U.S. person (including a U.S. resident alien); and (4) it has full authority to execute this Contract and perform its obligation under this

Contract. Contractor must cross out and initial item (2) and notify District in writing, if Contractor has been notified by the IRS that it is currently subject to backup withholding because of under reporting interest or dividends on its tax return. Contractor must cross out item (3) above if it is not a U.S person for tax purposes or U.S. resident alien.

21.2 Notwithstanding this certification, Contractor hereby acknowledges that District has the right to withhold amounts for federal backup withholding if such withholding is required by written notice from the Internal Revenue Service issued subsequent to the date this Contract is executed.

22 NON-WAIVER

22.1 No waiver by any party of any default or nonperformance shall be deemed a waiver of any subsequent default or nonperformance.

23 ASSIGNMENT

23.1 Contractor may not assign any obligations of this Contract without the prior written consent of District. In the event of any assignment, Contractor shall remain responsible for its performance and that of any assignee under this Contract. This Contract shall be binding upon Contractor, and its successors and assigns, if any. Any assignment attempted to be made in violation of this Contract shall be void. Notwithstanding any notice of assignment, District's tender of payment to Contractor named herein, or to any person reasonably believed by District to be entitled to payment, shall satisfy District's obligation to pay, and in no event shall District be obligated to pay twice or be liable for any damages due to failure to pay the correct party.

24 CHOICE OF LAW, FORUM SELECTION, ENTIRE CONTRACT AND AMENDMENT

24.1 This Contract shall be construed under Minnesota law (without regard for choice of law considerations). Any action arising out of this Contract shall be heard by a state court in Minnesota. For this purpose, Contractor specifically consents to jurisdiction in Minnesota. This Contract constitutes the entire Contract and understanding of the parties and replaces any prior or contemporaneous agreement, whether written or oral. Any amendments to this Contract shall be in writing and executed by same parties who executed the original Contract, or their successors in office.

25 WARRANTY

25.1 Contractor expressly warrants and guarantees that the services performed under this Contract will be of the highest professional standards and quality. Contractor further represents that all services and goods (if any and as applicable) provided under this Contract: (i) are free from defects in material and workmanship; (ii) are of the quality, size and dimensions ordered; (iii) are fit for the particular needs and purposes of District as may be communicated to Contractor; (iv) comply with the highest warranties and

representations expressed by Contractor orally or in any written document provided to or in the possession of District; (v) comply with all applicable laws, codes and regulations (including any published by any national or statewide association or groups); and (vi) are not restricted in any way by patents, copyrights, trade secrets, or any other rights of third parties. If any of the foregoing warranties are breached, Contractor agrees to correct all defects and nonconformities at Contractor's sole expense, to be liable for all direct damages suffered District and any other persons, and to defend, indemnify, and hold harmless District and its Board, officers, students, employees, and agents from any claim asserted by any person resulting in whole or in part from such breach. The foregoing warranties and guarantees shall not be deemed waived by reason of the acceptance of the goods or services or payment by District.

26 SEVERABILITY

26.1 If any provision of this Contract shall be invalid or unenforceable with respect to any party, the remainder of the Contract, or the application of such provision to persons other than those as to which it is held invalid or unenforceable, shall not be affected and each provision of the remainder of the Contract shall be valid and be enforceable to the fullest extent permitted by law.

27 SURVIVABILITY

27.1 The terms, provisions, representations, and warranties contained in this Contract that by their sense and context are intended to survive the performance thereof by any of the parties hereunder shall so survive the completion of performance and termination of this Contract, including the making of any and all payments hereunder.

[The remainder of this page intentionally left blank.]

SPECIAL SCHOOL DISTRICT NO. 1

Signature: Tia Clasen

Name: Dr. Tia Clasen

(Printed) TIA CLASEN

Title: Senior Academic Officer

Date: 8/29/2024

CONTRACTOR NAME

Signature:

Name: Tom Anderson
(Printed)

Title: Manager

Date: Tom Anderson

Digitally signed by Tom Anderson
DN: cn=Tom Anderson, o=Transportation Plus, email=tanderson@tplusride.com, c=US
Date: 2024.08.28 14:58:59 -05'00'

Exhibit A:

Deliverables:

Transportation for parents and young children to attend ECFE parenting classes and/or family events.

Service Outcome:

Safe, reliable, efficient service

Method of Evaluation:

Evaluation from parents and staff.

[The remainder of this page intentionally left blank.]

EXHIBIT B: PAYMENT TERMS

If there are exhibits to describe the payment terms:

Paid Monthly by invoice submitted to Concur

[The remainder of this page intentionally left blank.]

EXHIBIT C: STUDENT DATA PRIVACY

As used in this exhibit, the term "educational data" shall have the meaning ascribed to it under the Minnesota Government Data Practices Act ("MGDPA"), Minn. Stat. § 13.32 as amended.

1. Contractor acknowledges that all of the data created, collected, received, stored, used, maintained, or disseminated by Contractor in performing the services described in this Contract is subject to the requirements of the MGDPA, Minn. Stat. ch. 13, and Contractor must comply with those requirements as if it were a government entity. Contractor shall be subject to all civil remedies available under the MGDPA, Minn. Stat. § 13.08 as amended, for any violation of these obligations.

2. No educational data created, received, maintained, or disseminated by Contractor pursuant or incidental to this Contract shall become or be considered property of the Contractor. Any such educational data shall remain the property of the District.

3. If educational data maintained by Contractor pursuant or incidental to performance of this Contract are subject to a breach of security of the data, as that term is defined by the MGDPA, Minn. Stat. § 13.055 as amended, Contractor shall, upon discovering such breach, provide the District with all information necessary for the District to fulfill its obligations under the MGDPA.

4. Contractor shall not sell, share, or disseminate educational data, except as permitted under the MGDPA, Minn. Stat. § 13.32 as amended, or as part of a valid delegation or assignment of this Contract, if the terms of the Contract permit delegation or assignment. Any assignee or delegee must separately execute this Exhibit and is bound by the same terms.

5. Contractor shall not use educational data for any commercial purpose, including but not limited to marketing or advertising to a student or parent.

    a. The term "commercial purpose," does not include providing the specific services agreed upon in this Contract.

    b. Contractor may use deidentified aggregate information for the purpose of improving, maintaining, developing, supporting, or diagnosing the Contractor's site, service, or operation, as long as all direct and indirect identifiers have been removed from the data prior to use.

6. Contractor's employees, officers, agents, and sub-contractors, if applicable, shall only have access to educational data if authorized.

7. Contractor's employees, officers, agents, and sub-contractors, if applicable, shall only be authorized to access educational data if such access is necessary to fulfill their official duties in the performance of this Contract.

8. Unless renewal of the Contract is reasonably anticipated, Contractor shall destroy or return all educational data created, received, or maintained pursuant or incidental to the Contract within 90 days of the expiration of this Contract.

9. Contractor shall abide with all the requirements and restrictions of Minn. Stat. § 13.32, as amended, that pertain to or address technology providers. Contractor shall be considered a "technology provider" for purposes of Section 13.32.

BY SIGNING BELOW, CONTRACTOR ACKNOWLEDGES AND AGREES THAT IT UNDERSTANDS THE TERMS OF THIS EXHIBIT, THAT THESE TERMS ARE PART OF ITS CONTRACT WITH THE DISTRICT, AND THAT IT AGREES TO BE BOUND BY AND ABIDE BY THESE TERMS.

[CONTRACTOR NAME]

_____	_____
Signature	Name
_____	_____
Title	Date

Tom Anderson

Digitally signed by Tom Anderson
DN: cn=Tom Anderson, o=Transportation Plus, email=tanderson@tplusride.com, c=US
Date: 2024.08.28 14:59:40 -05'00'

MINNEAPOLIS PUBLIC SCHOOLS

AGREEMENT FOR LABOR, REPAIR, AND/OR INSTALLATION – OR PURCHASE OF GOODS, SUPPLIES AND MATERIALS

PROJECT:

This Agreement (the "Agreement") is made this 14 day of February, 2025 (the "Effective Date") by and between Special School District No. 1, a Minnesota public school corporation (the "School District"), and Archer Mechanical (the "Contractor").

RECITALS:

A. The School District owns and operates school buildings, administrative offices, and related sites and facilities that are generally located throughout the City of Minneapolis, Minnesota (collectively, the "Sites and Facilities").

B. The Sites and Facilities require maintenance, repair, and updating from time-to-time, necessitating the provision of services by a third-party contractor.

C. The School District also must periodically engage a third-party contractor to facilitate the purchase of equipment, materials and supplies to support its school operations.

D. The School District desires to retain a contractor to perform the services described below (the "Project") in accordance with and subject to the terms and conditions in this Agreement.

E. The Contractor has examined the location of all proposed work if applicable, carefully reviewed and evaluated the specifications set forth by the School District for the Project, is familiar with all conditions relevant to the performance of the services and is committed to perform all work required for the price specified in this Agreement.

In consideration of the covenants and agreements hereinafter set forth, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

1. ***General Terms and Conditions.*** Reference is hereby made to the General Terms and Conditions of this Agreement attached hereto as **Exhibit A** and made a part hereof (the "General Terms and Conditions"). The General Terms and Conditions are incorporated herein by

reference as if set forth in full herein. Without limiting the generality of the foregoing, (a) all capitalized terms used in this Agreement without definition shall have the meanings ascribed to them in the General Terms and Conditions and (b) all capitalized terms used in the General Terms and Conditions without definition shall have the meanings ascribed to them in this Agreement.

2. ***Project Information.***

(a) ***Scope of Work.*** The Project generally consists of remove/replace two burners. A detailed Scope of Work is set forth in **Exhibit B**, attached hereto and made a part hereof. Where applicable, drawings, specifications, lists of equipment, supplies, materials, and/or other existing documents describing or connected to the Project are listed or described on **Exhibit B.**

(b) ***Time of Performance.*** The Project shall be commenced on the Effective Date and completed in accordance with the schedule set forth in the Scope of Work, **Exhibit B** hereto (the "Work Schedule"). Time is of the essence in the performance of services under this Agreement.

(c) ***Compensation.*** The School District shall pay the Contractor for the services in accordance with this Agreement and the Schedule of Rates/Payments attached hereto as **Exhibit C** (the "Payment Schedule") and incorporated herein by reference. No rate changes shall be made during the term of this Agreement without the prior written approval of the School District. The Contractor's total compensation for services performed in accordance with this Agreement, including all reimbursable items, shall not exceed one hundred thirty three thousand two hundred eighty nine dollars ($133,289)(the "Contract Sum").

3. ***Notices.*** Any notice, demand, or other communication under this Agreement by either party to the other shall be sufficiently given or delivered if it is dispatched by registered or certified mail, postage prepaid, return receipt requested, or delivered personally:

(a) To the Contractor:
Archer Mechanical
1614 Cliff Road E
Burnsville, MN 55337
Attn: Shane Joyce

(b) To the School District:
Minneapolis Public Schools
1250 W. Broadway Avenue
Minneapolis, MN 55411-2533
Attn: Grant Lindberg

or at such other address with respect to either such party as that party may, from time to time, designate in writing and forward to the other as provided in this section.

4. ***Authorized Representatives.***

(a) The School District's authorized representatives with respect to this Agreement are: Shane Joyce; 952-894-2323, shanejoyce@archermechanical.com.

(b) The Contractor's authorized representatives with respect to this Agreement are: Grant Lindberg; 612-668-0281, Grant.Lindberg@mpls.k12.mn.us.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date indicated next to the name of the party who signs below.

SPECIAL SCHOOL DISTRICT NO. 1

Dated: _____, 20__ By: _____
[Authorized Signatory]

_____
[Title]

CONTRACTOR

Dated: 2/17, 2025 By: Shane Joyce
[Authorized Signatory]

EXHIBIT A

GENERAL TERMS AND CONDITIONS

These General Terms and Conditions (the "General Terms and Conditions) form a part of that certain AGREEMENT FOR LABOR, REPAIR, AND/OR INSTALLATION – OR PURCHASE OF GOODS, SUPPLIES AND MATERIAL**.**

1. ***Definitions.*** The terms defined in this Section shall have the following meanings for purposes of these General Terms and Conditions when initially capitalized herein:

(a) "**Agreement"** means that certain AGREEMENT FOR LABOR, REPAIR, AND/OR INSTALLATION – OR PURCHASE OF GOODS, SUPPLIES AND MATERIAL**.**

(b) "**Contract Documents"** means, collectively, (i) the Agreement, (ii) these General Terms and Conditions, (iii) all Exhibits listed or described in the Agreement and (iv) all drawings, specifications, addenda and modifications describing the Work which are issued after the date hereof.

(c) "**Work**" means all labor, materials, equipment, supplies, and/or services required to complete the Project described in the Contract Documents.

2. ***Contract Sum.*** The School District agrees to pay the Contractor for the full and faithful performance of the Work and related costs a stipulated amount equal to the Contract Sum set forth in the Agreement. The Contract Sum shall be subject to additions and deductions for changes in the Work, and the School District may deduct from the Contract Sum the value of any Work done which, in the good faith opinion of the School District, is not in compliance with the Contract Documents. The Contract Sum shall be payable to the Contractor in accordance with the Payment Schedule, subject to the provisions of these General Terms and Conditions.

3. ***Work Schedule.*** Contractor shall perform all of the Work in accordance with the Work Schedule. Time is of the essence in completing the Project. The Contractor agrees to notify the School District in writing of any and all causes of delay of the Work, or any part thereof, within 24 hours after such cause of delay shall arise, and in case of the failure of the Contractor to perform this Agreement and complete the Work at the time specified in the Contract Documents, the School District may immediately, or at any time thereafter, proceed to complete the Work at the cost and expense of the Contractor. Upon receipt of written notice from the Contractor of the existence of causes over which the Contractor has no control and which must delay the completion of the work, the School District may at its discretion, extend the date specified for the completion of the Work.

4. ***Standards of Performance.*** The Contractor agrees that all the work and labor shall be done in the best and most diligent manner and that all materials and labor shall be in entire and strict conformity in every respect with the Contract Documents and shall be subject to the inspection and approval by the proper authorities of the School District for the supervision of the

Work, and in case any of said material or labor shall be rejected by the School District as defective or unsuitable, then the materials shall be removed and replaced with other approved materials and the labor shall be done anew to the satisfaction and approval of the School District at the cost and expense of the Contractor. The Contractor agrees to take all precautions necessary to protect the public against injury, and to keep danger signals out at night and at such other times and such places as public safety may require during the performance of this Agreement. The Contractor further agrees to make good, replace, and renew at the Contractor's own cost and expense any loss or damage to the Work and Project occurring prior to the final delivery to and acceptance thereof by the School District, by reason of fire, tornado, theft, or any cause whatsoever, and to be wholly responsible for the construction, completion and delivery of the Work and Project in its entirety for the final acceptance by the School District; and any payment or payments made to the Contractor hereunder, shall not be construed as operating to relieve the Contractor from responsibility for the Work and Project as herein provided and agreed. It is agreed and understood by the parties hereto that the use of the Work and Project at any time by the School District for any purposes shall not be construed to be or operate as an acceptance by the School District of the work to be done by the Contractor under this Agreement.

5. ***Change Orders; Limitations***. No claim for extra work done or additional materials, equipment, or supplies furnished by the Contractor will be made by the Contractor or allowed by the School District, nor shall the Contractor do any work or furnish any materials, equipment or supplies not covered by the Scope of Work, unless such work or materials, equipment or supplies is ordered in writing by the School District. Any such work or materials, equipment or supplies which may be done or furnished by the Contractor without such written order first being given, shall be at the Contractor's own risk and expense. When any extra work or materials, equipment or supplies is ordered by the School District to be done or furnished, the Contractor shall furnish such materials and do such work for the price mutually agreed to by the Contractor and the School District, and when any alteration of the Scope of Work is ordered by the School District, the Contractor agrees to perform the work as altered and if such alteration shall reduce the cost of doing such work, the actual amount of such reduction in cost shall be deducted from the Contract Sum.

6. ***Labor, Materials, Equipment, Etc.*** The Contractor shall provide and pay for all labor, materials, equipment, tools, machinery, water, heat, utilities, transportation and other facilities and/or services necessary for the proper execution of the Work. All costs and expenses for such items shall be included in the Contract Sum.

7. ***Permits, Fees and Compliance with Law***. The Contractor shall secure all permits, licenses and inspections necessary for the execution and completion of the Work as part of the Contract Sum. All permit, license and inspection fees shall be included in the Contract Sum. The Contractor shall comply with the terms of all such permits and licenses and with all federal, state and municipal laws, statutes, ordinances, building codes, rules and regulations applicable to the Work.

8. ***Taxes.*** The Contractor shall pay sales, consumer, use and other similar taxes, except to the extent that such taxes are not payable due to the status of the School District as a tax-exempt entity. The Contractor shall not charge the School District for state sales taxes, uses taxes,

and other taxes that are not payable due to the status of the School District as a tax-exempt entity, and the Contract Sum shall be reduced to the extent that amounts for such taxes were included in the determination thereof.

9. ***Subcontractors; Third Party Claims***. The Contractor further agrees to pay all laborers employed, and all subcontractors furnishing material to the Contractor in and about the performance of this Agreement, and for all labor and material by them so performed and furnished, but in case the Contractor shall fail so to pay and to satisfy every and all claims and demands for labor and materials as aforesaid, the School District may apply the monies due and coming to the Contractor under this Agreement toward paying and satisfying such claims and demands, and the School District is herewith given the right to apply monies due and coming to the Contractor hereunder towards paying any indebtedness or claim heretofore accrued or which may hereafter come due to the School District from the Contractor on any account whatsoever, and the amount of such payments shall be charged against the balance due the Contractor hereunder; provided that nothing herein contained nor any variation from the amounts of the installments or from the manner and times of their payment shall be construed as impairing the right of the School District or of those to whose benefit the bond herein agreed upon shall insure, to hold the Contractor or surety liable on the bond for any breach of the conditions of the same nor as imposing upon the School District any obligation to laborers, materialmen, contractors, or sureties to pay or to retain for their benefit any monies coming to the Contractor hereunder. Contractor shall comply with the requirements of Minn. Stat. §471.425, subd. 4a., Prompt Payment to Subcontractors, which is incorporated herein by reference.

10. ***Bonds.*** If required by the Contract Documents, prior to performing any work under this Agreement, the Contractor shall provide the School District with the following bonds covering the Project: (a) a performance bond for the benefit of the School District, ensuring that Contractor will construct and maintain the Project in accordance with the Contract Documents, and saving and holding the School District harmless from all costs and charges which may accrue on account of completing the Project; and (b) a payment bond for the use and benefit of all persons furnishing labor or materials for the Project and making just claims for payment for such labor or materials.

11. ***Background Checks.*** The Contractor shall obtain a background check pursuant to applicable federal and state law and School District policy, including the Minnesota Child Protection Background Check Act, for each employee, volunteer or agent assigned to the Project. If Contractor receives a report that an employee, volunteer or agent so assigned has ever been convicted of a serious offense, or a background check crime, as defined at Minn. Stat. § 299C.61, it shall take immediate steps to notify the School District of the report and remove such employee, volunteer or agent from his/her assignment.

12. ***Equal Opportunity***. The Contractor agrees that in the hiring of common or skilled labor for the performance of any work under this Agreement or any subcontract hereunder, no contractor, material supplier, or vendor, shall, by reason of race, creed, color, sex or national origin, discriminate against any person or persons who are citizens of the United States and who are qualified and available to perform the work to which such employment relates; that neither he nor any subcontractor, material supplier, or vendor, shall in any manner discriminate against, or intimidate, or prevent the employment of any such person or persons from the performance of

work under this Agreement or any subcontract hereunder on account of race, creed, color, sex or national origin; that any violation of this Section shall be a misdemeanor; and that this Agreement may be canceled or terminated by the School District and all money due, or to become due hereunder, may be forfeited, for a second or any subsequent violation of the terms or conditions of this Agreement.

13. ***Independent Contractor***. All work provided pursuant to this Agreement shall be provided by the Contractor as an independent contractor and not as an employee of the School District for any purpose. Any and all officers, employees, subcontractors, agents, or any other person engaged by the Contractor in the performance of work or services pursuant to this Agreement shall not be considered employees of the School District. Any and all actions which arise as a consequence of any act or omission by the Contractor, its officers, employees, subcontractors, agents, or other persons engaged by the Contractor in the performance of work or services pursuant to this Agreement, shall not be the obligation or responsibility of the School District. The Contractor, and its officers, employees, subcontractors, and agents, shall not be entitled to any of the rights, privileges, or benefits of the School District's employees. This Agreement does not establish a joint powers agreement or joint partnership between the School District and the Contractor.

14. ***Indemnification***. The Contractor hereby agrees to protect, defend and hold the School District and its officers, elected and appointed officials, employees, administrators, agents, and representatives harmless from and indemnified against any and all loss, costs, fines, charges, damage and expenses, including, without limitation, reasonable attorneys' fees, consultants' and expert witness fees, and travel associated therewith, due to claims or demands of any kind whatsoever (including those based on strict liability) arising out of (i) the activities contemplated by this Agreement, (ii) including, without limitation, any claims for any lien imposed by law for services, labor or materials, or (iii) by reason of the execution of this Agreement or the performance of this Agreement. The Contractor, and the Contractor's successors or assigns, agree to protect, defend and save the School District, and its officers, agents, and employees, harmless from all such claims, demands, damages, and causes of action and the costs, disbursements, and expenses of defending the same, including but not limited to, attorneys' fees. This indemnity shall be continuing and shall survive the performance or cancellation of this Agreement. Nothing in this Agreement shall be construed as a limitation of or waiver by the School District of any immunities, defenses, or other limitations on liability to which the School District is entitled by law, including but not limited to the maximum monetary limits on liability established by Minnesota Statutes, Chapter 466, or otherwise.

15. ***Insurance***. Prior to performing any work under this Agreement, the Contractor shall purchase and maintain such insurance in the amounts specified below as will protect the Contractor from claims which may arise out of, or result from, the Contractor's performance under this Agreement, whether such performance is by the Contractor or by any subcontractor, or by anyone directly employed by them, or by anyone for whose acts or omissions anyone of them may be liable. Certificates of Insurance shall name the School District as an additional insured. The insurance shall not be canceled by the Contractor until all of the work required by this Agreement has been completed, accepted, and final payment made by the School District. Written notification of the School District by the Contractor shall be required thirty (30) calendar days prior to

cancellation, expiration, or change of insurance. All policies shall be written on an occurrence basis using ISO Form CG 00 01 or its equivalent.

(a) Statutory Workers Compensation and Employer's Liability

(b) Commercial General Liability:

Each Occurrence	$1,500,000
Damage to Rented Premises Each Occurrence	$ 100,000
Medical Expense any One Person	$ 5,000
Personal and Advertising Injury	$1,000,000
General Aggregate	$2,000,000
Products – Completed Operations Aggregate	$2,000,000

(c) Automobile Liability:

Combined Single Limit (Each Accident)	$1,500,000

(d) Other forms of insurance as called for in the Contract Documents.

The above paragraphs establish minimum insurance requirements, and it is the sole responsibility of the Contractor to purchase and maintain additional insurance that may be necessary for compliance with this Agreement. Certificates of Insurance must indicate if the policy is issued pursuant to all above requirements. The Contractor shall not commence work on the Project until the Contractor has obtained the required insurance and filed an acceptable Certificate(s) of Insurance with the School District. Copies of insurance policies shall be submitted to School District upon request.

16. ***Termination.*** The School District shall have the right to terminate the Agreement with or without cause by and upon delivering written notice to the Contractor. In the event of such termination by the School District for convenience, the School District shall promptly pay the Contractor any compensation owed for Work completed in compliance with the requirements of the Contract Documents through and including the date of termination, and upon payment of such compensation, the School District shall have no further obligations or liabilities to the Contractor. In the event of such termination by the School District for cause (including, without limitation, if the Contractor defaults, fails to comply with the Contract Documents, provides defective or non-conforming Work, becomes insolvent or becomes the subject of bankruptcy proceedings), the School District shall not be liable to the Contractor for any amounts, but the Contractor shall be liable to the School District for all losses, damages and expenses resulting from such default. The School District may withhold payments due to the Contractor for the purpose of set-off until such time as the exact amount of damages due to the School District is determined. If a determination is made that the School District improperly terminated the Agreement "for cause," then such termination shall be deemed to have been a "without cause" termination for convenience.

17. ***Limitation on Liability.*** In no event shall the School District be liable for any indirect, consequential, incidental, lost profits or like expectancy damages arising out of the

Agreement. The School District's maximum liability under the Agreement shall not exceed the Contract Sum.

18. ***Additional Requirements for Purchases of Equipment, Goods and Supplies.***

(a) ***Inspection and Testing.*** For a period of up to ten (10) business days following delivery, the School District shall have the right to inspect and/or test any equipment, goods and supplies (collectively, the "Goods") purchased by the School District. If upon inspection or testing the Goods or any portion thereof are found to be nonconforming, unsatisfactory, defective, of inferior quality or workmanship, or fail to meet any requirements or specifications contained in the Contract Documents, then without prejudice to any other rights or remedies, the School District may reject the Goods.

(b) ***Warranty.*** Contractor warrants that the Goods will be of merchantable quality and free from defects in design, engineering, material and workmanship for the time period specified by a manufacturer's warranty or as agreed to by the Contractor and the School District. Contractor further warrants that the Goods will meet the performance requirements and specifications set forth in the Contract Documents and shall be fit for the purpose intended. Contractor also warrants that the Goods are free and clear of all liens and encumbrances whatsoever, that Contractor has a good and marketable title to same, and that Contractor owns or has a valid license for all of the proprietary technology and intellectual property incorporated within the Goods. Contractor agrees to indemnify, defend and hold the School District harmless against any and all third-party claims resulting from the breach or inaccuracy of any of the foregoing warranties.

(c) ***Title and Risk of Loss.*** Title to the Goods shall remain with the Contractor until the School District accepts delivery of the Goods. The risk of loss will be on the Contractor until such time as the School District accepts delivery of the Goods. Contractor will be liable for any loss or damage to the Goods caused by Contractor or its subcontractors, their agents or employees, and Contractor will replace or repair said Goods at its own cost to the complete satisfaction of the School District.

19. ***Amendments; Binding Agreement; Assignment.*** Any amendment to this Agreement must be in writing and signed by both parties. This Agreement shall be binding upon and inure to the benefit of the parties. No assignment or attempted assignment of this Agreement or of any rights hereunder shall be effective without the prior written consent of the School District.

20. ***Authority.*** Each of the undersigned parties warrants it has the full authority to execute and delivery this Agreement.

21. ***Authorized Representatives***. Any consent, approval, authorization or other action required or permitted to be given or taken under the Contract Documents by the School District or the Contractor, as the case may be, shall be given or taken by one or more of the Authorized Representatives of each, except as provided by applicable law or School District policy.

22. ***Applicable Law; Jurisdiction.*** This Agreement shall be governed by and construed in accordance with the laws of the State of Minnesota. Any disputes, controversies, or claims arising out of this Agreement shall be heard in the Hennepin County District Court or United States District Court of Minnesota, and all parties to this Agreement waive any objection to the jurisdiction of these courts, whether based on convenience or otherwise.

23. ***Compliance with Laws.*** The Contractor warrants that all work performed pursuant to this Agreement shall be in compliance with all federal, state and local laws, ordinances, regulations, rules, and standards, as well as all requirements set forth in the Contract Documents, or any further requirements of the School District. The Contractor and all subcontractors shall conform to the labor laws of the State of Minnesota, and all other laws, ordinances and legal requirements pertaining to the Project. Pursuant to Minnesota Statutes 177.41 to 177.44 and corresponding Minnesota Rules 5200.1000 to 5200.1120, this Agreement may be subject to the prevailing wages as established by the Minnesota Department of Labor and Industry.

24. ***Warranty.*** The Contractor warrants that the Work shall be in accordance with the Contract Documents, applicable law and trade standards and free from material structural defects, improper workmanship or defective materials. Contractor shall replace, correct, or repair any Work not in accordance with the Contract Documents, applicable law and trade standards or any defects caused by faulty materials, equipment or workmanship for a period of two (2) year(s) from the date of completion of the Work. Nothing in this Section shall be construed to place a time limit with respect to any other obligation Contractor may have under this Agreement.

25. ***Entire Agreement.*** The Contract Documents and any addenda or amendments thereto signed by the parties shall constitute the entire Agreement between the School District and Contractor, and supersedes any other written or oral agreements between and School District and Contractor.

26. ***Severability.*** In the event that any one or more of the provisions of this Agreement, or any application thereof, shall be found to be invalid, illegal or otherwise unenforceable, the validity, legality, and enforceability of the remaining provisions in any application thereof shall not in any way be affected or impaired thereby.

27. ***No Waiver.*** No failure by any party to insist upon the strict performance of any covenant, duty, agreement, or condition of this Agreement or to exercise any right or remedy consequent upon a breach thereof, shall constitute a waiver of any such breach of any other covenant, agreement, term, or condition, nor does it imply that such covenant, agreement, term or condition may be waived again.

28. ***Data Practices.*** Any and all data created, collected, received, stored, used, maintained, or disseminated by the Contractor pursuant to this Agreement shall be administered in accordance with, and is subject to the requirements of the Minnesota Government Data Practices Act, Minnesota Statutes, Chapter 13, and the Contractor must comply with these requirements as if it were a government entity. This Section does not create a duty on the part of the Contractor to provide access to public data to the public if the public data are available from the School District,

except as required by the terms of this Agreement. The Contractor will report immediately to the School District any requests from third parties for information related to the Agreement.

29. ***Audit.*** The Contractor must allow the School District, or its duly authorized agents, and the state auditor or legislative auditor reasonable access to the Contractor's books, records, documents, and accounting procedures and practices that are pertinent to all work provided under this Agreement for a minimum of six years from the termination of this Agreement.

30. ***No Third-Party Beneficiary***. The Contractor acknowledges that nothing contained in this Agreement nor any act by the School District or the Contractor shall be deemed or construed by the Contractor or by any third person to create any relationship of third-party beneficiary, principal and agent, limited or general partner, or joint venture between the School District and the Contractor.

31. ***Counterparts.*** This Agreement may be executed in any number of counterparts, each of which shall constitute one and the same instrument.

EXHIBIT B

SCOPE OF WORK AND SCHEDULE OF PERFORMANCE

ARCHER MECHANICAL
1614 Cliff Road E. Burnsville, MN 952-894-2323 Archermechanical.com

REMOVE/REPLACE BURNERS (2)
AT
LAS ESTRELLAS SCHOOL

Proposal # 24-8008

To: Doug Tkachuck
MPLS. Public Schools
612-245-9333

Date: 1-14-24
Scope: Remove/replace burner (2). Install Lead Lag panel (1) – Installation is priced for install in 2025.

Included – Burner replacement:

- Install Burner (2)
  - DLG-105P size 2
  - Duel fuel
  - Full Modulation
  - Low fire – manual high fire limiting
  - LMV 5 Linkage less controls
  - Burner control cabinet – mounted left side of burners
- Gas train – based on 2# gas pressure
  - Seimens VG series gas valves
  - Gas train to meet CSD-1 standards
- Install Siemens Lead Lag panel on wall in location of existing Lead Lag panel
  - Siemens TS-MS
  - 10" color control panel
- Remove existing burner and dispose
- Disconnect/reconnect gas and fuel oil
- Start burners and set up on gas and oil
- Permits and inspections
- Electrical
  - Disconnect/reconnect burner

ARCHER MECHANICAL
1614 Cliff Road E. Burnsville, MN 952-894-2323 Archermechanical.com

REMOVE/REPLACE BURNERS (2)
AT
LAS ESTRELLAS SCHOOL

Proposal # 24-8008

Not included:

- Burner – (customer supplied)
- Turbulators
- Additional repairs found while performing work listed above
- Boiler modifications – not required
- Structural reinforcement
- Remote emergency shut off
- Insulation – non required
- Bond costs
- Overtime hours
- Temporary heat, power, lighting, water, toilet, etc.
- Painting or other general construction items
- Abatement of Hazardous Materials
- Draft controls

Price: ..... $ 133,289.00
Archer Mechanical may withdraw Proposal if not accepted within 30 days and work does not start within 90 days.

Payment:
Final Payment will be made at the time of job completion as outlined in the specifications listed above

Acceptance of Proposal: The prices, specifications and conditions are satisfactory and are hereby accepted. You are authorized to do the work as specified. Payment will be made as outlined above.

Customers Signature_____Date_____
Upon acceptance sign, date and return to Archer Mechanical LLC.

Respectfully submitted by,
Shane Joyce
Archer Mechanical
952-894-2323 office
952-894-3915 fax

EXHIBIT C

SCHEDULE OF RATES/PAYMENTS

Payments are to be made to vendor during the fiscal year through invoices, with this contract expiring 12/31/2025.

MINNEAPOLIS PUBLIC SCHOOLS
Urban Education. Global Citizens.

CONTRACT FOR GOODS – above $50,000

This Contract is entered into between Special School District No. 1, "District", a special school district created and existing under the laws of Minnesota, and Archer Mechanical "Contractor" (collectively "parties") to provide two burners.

1 TERM OF CONTRACT

1.1 This Contract is effective on March 11, 2025 or the date of the last signature of the parties, whichever is later, and shall remain in effect until December 31, 2025, or until all obligations set forth in this Contract have been satisfactorily fulfilled, or the Contract has been terminated, whichever occurs first. Contractor shall have a continuing obligation, after said Contract period, to comply with any provision of this Contract intended for District's protection or benefit, or that that by its sense and context, is intended to survive the completion, expiration or termination of this Contract.

1.2 Contractor understands that NO WORK SHOULD BEGIN UNDER THIS CONTRACT until all required signatures on this Contract have been obtained and the Contract has been authorized and/or approved by the District's Board. Any work performed by Contractor prior to such time shall be considered as having been performed at Contractor's OWN RISK and as a volunteer.

2 SCOPE OF WORK

2.1 Contractor shall perform all of the services/delivery of goods set forth herein and any exhibits attached hereto as **Exhibit A** ("Scope of Work"). Contractor understands that time is of the essence in this Contract and agrees to meet all milestones indicated in this section, in the Contract herein and any exhibits attached hereto.

3 CONSIDERATION AND TERMS OF PAYMENT

The consideration for all services (and goods if any) performed or supplied by Contractor under this Contract shall be paid by District as described below.

3.1 *Total Obligation*

District's total obligation to Contractor/Vendor under this Contract, including compensation for goods, and/or services, and reimbursable expenses (if applicable), shall not exceed $206,273.00. Contractor/Vendor shall not receive any additional reimbursement for materials or subsistence expenses incurred in the performance of this Contract.

3.2 *Frequency of Invoicing and Terms of Payment*

Subject to the conditions herein, payment shall be made by District within thirty (30) days upon receipt of Contractor's invoice for goods delivered or services rendered pursuant to this Contract. The Contractor's standard invoice shall be submitted after satisfactory completion of services on a monthly basis. District has no obligation to pay for services that are not satisfactorily performed or performed in violation of federal, state or local law, ordinance, rule or regulation. In the case of a dispute about satisfactory performance of services, the parties agree to work in good faith to resolve any disputes. If either party does not dispute an invoice in writing within 180 days of receipt of the invoice, no action challenging the invoice may be taken.

As applicable, for all agreed upon work performed by Contractor or Contractor's personnel in the provision of goods and/or services stipulated herein, District shall pay Contractor at the hourly or per diem rates as set forth in the applicable **Exhibit B**. Payment shall be made to Contractor based on the hours recorded provided such hours are in accordance with the terms of this Contract. Notwithstanding anything to the contrary, and without limitation, District has not promised or guaranteed any minimum amount of work, and Contractor understands and acknowledges same. District has no obligation to pay for overtime or holiday work, nor will it pay premiums for overtime and holidays.

3.3 *Taxes.*

District is exempt from paying Minnesota sales and use taxes on certain purchases, as provided in Minnesota Statute, Section 297A.70. Contractor shall not charge District for such sales and use taxes. Alternatively, Contractor shall be responsible for the payment of any and all sales taxes to the Minnesota Department of Revenue relating to the following taxable items sold pursuant to this Contract; construction materials, leasing of motor vehicles, food and lodging, [See Minnesota Statute 297A.70]. Contractor shall promptly reimburse District for any and all such sales and use taxes paid by District to any governmental authority on behalf of Contractor including penalties and interest with

respect thereto, and including any and all expenses (including attorneys' fees) or damages that result from a failure by Contractor to properly remit or reimburse District for any and all such sales and use taxes provided above.

District may be obligated by state and federal law to withhold state and federal taxes from the consideration stated herein. These taxes may consist of, but are not limited to, the Minnesota state entertainer tax, Minnesota state nonresident withholding tax, federal withholding on payments to foreign nonresident aliens, and federal backup withholding.

4 INSPECTION OF GOODS & REJECTION

4.1 Buyer is entitled to inspect the Goods upon delivery. If the Goods are unacceptable for any reason, Buyer must reject them at the time of delivery up to ten (10) business days from the date of delivery. If Buyer has not rejected the Goods within ten (10) business days from the date of delivery, Buyer shall have waived any right to reject that specific delivery of Goods.

4.2 In the event Buyer rejects the Goods, Buyer shall allow Seller a reasonable time to cure the deficiency. A reasonable time period shall be determined by industry standards for the Goods, as well as the Seller and Buyer.

5 RISK OF LOSS

5.1 Risk of loss will be on the Seller until the time when the Buyer accepts delivery. Seller shall maintain any and all necessary insurance in order to insure the Goods against loss at Seller's own expense.

6 TITLE

6.1 Title to the Goods will remain with the Seller until Buyer accepts delivery.

7 FORCE MAJEURE

7.1 Non-delivery or default of this Agreement due to labor disputes, transportation shortage, delay or shortage of materials to produce the Goods, fires, accidents, Acts of God, or any other causes outside of Seller's control shall be notified to Buyer immediately upon realization that it will not be able to deliver the Goods as promised. Either Party may terminate this Agreement upon such notice.

8 GENERAL TERMS AND CONDITIONS

8.1 The terms and conditions contained in this Contract shall govern and shall take precedence over any different or additional terms and conditions which Contractor may have included in any documents attached to or accompanying this Contract. Any handwritten changes on the face of this document shall be ignored and have no legal effect unless initialed by all parties. If this Agreement was made pursuant to a Request for Proposal (RFP) or Request for Information (RFI), the following order of precedence shall apply: (1) this Contract and its Exhibits, (2) District's RFP or RFI, and (3) Contractor's Response to District's RFP or RFI.

9 AFFIRMATIVE ACTION, EQUAL EMPLOYMENT OPPORTUNITY

9.1 The District is committed to the policy that all persons shall have equal access to its programs, facilities, and employment without regard to race, color, creed, religion, sex, national origin, age, marital status, disability, public assistance status, veteran status, or sexual orientation and is committed to transacting business only with firms who follow these practices. Contractor must apply every good faith effort to ensure implementation of this policy in their practices of employment, upgrade, demotion or transfer, recruitment, or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. As applicable, Contractor shall also develop and have on file for each of its establishments, written Affirmative Action Plans, as may be required by the rules and regulations of the Secretary of Labor. If applicable, Contractor certifies that it has received a certificate of compliance from the Minnesota Commissioner of Human Rights for its affirmative action plan. By accepting this Contract, Contractor certifies that it complies with all applicable federal and state laws as well as District policies related to non-discrimination, equal employment opportunity, and affirmative action.

10 DATA PRIVACY

10.1 Contractor agrees that any information it creates, collects, receives, stores, uses, or disseminates during the course of its performance, which concerns the personal, financial, or other affairs of the District, its Board, officers, employees or students shall be kept confidential and in conformance with all state and federal laws relating to data privacy, including, without limitation, the Minnesota Government Data Practices Act, Minnesota Statute, Chapter 13. Contractor must comply with any applicable requirements as if it were a governmental entity. The remedies in Minn. Stat. § 13.08 apply to the Contractor. The Contractor will report immediately to the District any requests from third parties for information related to this Contract. The District will respond to such data requests. All subcontracts, if allowed, shall contain the same or similar data practices compliance requirements.

10.2 Contractors that provide school-issued devices for student use and directly or indirectly create, receive, or maintain educational data incidental to performing their duties under this Contract shall also sign Exhibit C ("Student Data Privacy"). "School-issued devices," as used herein, refers to hardware or software that is provided to an individual

student for that student's dedicated personal use, and includes devices issued through a one-to-one program.

11 USE OF DISTRICT NAME OR LOGO

11.1 Contractor agrees not to use the name, logo, or any other marks (including, but not limited to, colors and music) owned by or associated with the District or the name of any representative of the District in any sales promotion work or advertising, or any form of publicity, without the written permission of the District.

12 INDEPENDENT CONTRACTOR

12.1 Contractor shall perform its duties hereunder as an independent contractor and not as an employee of the District. Neither Contractor nor any agent or employee of Contractor shall be or shall be deemed to be an agent or employee of the District. Contractor shall pay when due all required employment taxes and income tax withholding, including all federal and state income tax on any monies paid pursuant to this Contract. Contractor acknowledges that Contractor and its employees are not entitled to tax withholding, worker's compensation, unemployment compensation, or any employee benefits, statutory or otherwise. Contractor shall have no authorization, express or implied, to bind District to any agreements, liability, or understanding except as expressly set forth herein. Contractor shall be solely responsible for the acts of Contractor, its employees and agents.

12.2 Contractor shall hold District completely harmless from and against any such contributions, premiums and taxes described above and from all claims and liability pertaining to those or any other item for which Contractor is responsible under this Contract, and from all attorney's fees and other costs incurred by District in contesting or defending against any responsibility therefore which is asserted against District.

13 WORKER HEALTH, SAFETY AND TRAINING

13.1 Contractor shall be solely responsible for the health and safety of its employees and/or self in connection with the work performed under this Contract. Contractor shall make arrangements to ensure the health and safety of all subagents and other persons who may perform work in connection to this Contract. Contractor shall ensure all personnel, subagents and/or self are properly trained and supervised and, when applicable, duly licensed or certified appropriate to the tasks performed under this Contract. Contractor shall comply with federal, state and local occupational safety and health standards, regulations, and rules promulgated pursuant to the Occupational Health and Safety Act that are applicable to the work performed by Contractor. Contractor shall develop and implement an emergency plan and procedures to follow in emergencies.

14 BUREAU OF CITIZENSHIP & IMMIGRATION SERVICES REQUIREMENTS

14.1 Contractor shall comply with all applicable requirements of the BCIS relating to employment including but not limited to confirming nationality for all employees and complying with requirements for employing aliens if appropriate.

15 INSURANCE

15.1 At all times during its performance under this Contract, Contractor shall obtain and keep in force comprehensive general liability insurance, including coverage for death, bodily or personal injury, property damage, liability and automobile coverages, with limits of not less than $1,500,000 each claim and $1,500,000 each occurrence covering claims that arise out of its acts and operations in providing services to the District or at limits established for a municipal corporation by Minnesota Statute Section 466.04. All such certificates evidencing such insurance shall name District as additional insured. Contractor may meet the limits above $1,000,000 per occurrence through umbrella or excess coverage.

15.2 Contractor represents that it has worker's compensation insurance to the extent required by law and agrees to furnish proof of such insurance for worker's compensation and the liability insurance, upon request. Contractor also represents that it has professional liability insurance with limits of not less than $1,500,000 each claim and $1,500,000 each occurrence covering claims that arise out of its acts and operations in providing services to the District, but shall not name the District as an additional insured to the coverage.

15.3 Contractor shall provide all such certificates to District. Contractor shall not cancel or revise any insurance coverage required by this section during the term of this Contract, and shall require its insurer to mail the District a notice if the coverage is cancelled or revised.

16 INDEMNIFICATION

16.1 Contractor agrees to release, defend, indemnify, and hold harmless District, its board, officers, students, employees, and agents from all liability, injuries, claims, damages (including claims of bodily injury, property damage, or negligence), or loss, including costs, expenses, and attorneys' fees, which arise in connection with, in relation to, or as a result of Contractor's negligent acts or omissions or in connection with Contractor's breach of warranties. The foregoing agreement to release, defend, indemnify and hold harmless shall not apply to the extent such liability, injuries, claims, damages, or loss was caused by the intentional, willful, or wanton acts of District. Contractor shall not settle or compromise any claim in which the District has been named a party and for which Contractor must indemnify the District without a signed agreement approved by the District.

17 LIMITATION ON LIABILTY

17.1 In no event shall the District be liable for any indirect, consequential, incidental, lost profits or like expectancy damages arising out of the Contract. District's maximum obligation under this Contract shall not exceed the amount set forth herein.

18 CONFLICT OF INTEREST/CODE OF ETHICS

18.1 Contractor agrees that it will not represent any other party or client which may create a conflict of interest in its representation with the District. Contractor agrees to be bound by the District's Code of Ethics. In particular, Contractor: (i) certifies that it has not paid kickbacks directly or indirectly to any District employee for the purpose of obtaining this or any other District Contract; (ii) agrees to cooperate fully with any investigation involving a possible violation; and (iii) agrees to report any suspected violations to the District. Contractor certifies that it has provided no fees, gifts, gratuities, compensation, or anything of value in violation any applicable laws or District policies.

19 COMPLIANCE WITH LAWS AND DEBARMENT

19.1 Contractor certifies that all goods or services furnished under this Contract shall comply with all applicable federal, state, and local laws and regulations, as well as District policies and procedures, regardless of whether such laws and regulations are specifically set forth in this Contract. Contractor represents that it is not currently debarred or suspended by any federal agency from doing business with the federal or state government. Contractor shall notify District if it becomes debarred or suspended during the term of this Contract. District may immediately terminate this Contract in the event of such termination or suspension and Contractor shall be responsible for any costs incurred by District in connection therewith.

20 TERMINATION

20.1 The District and/or Contractor may terminate this Contract at any time without cause, upon thirty (30) days written notice to the other Party. In the event of such termination, Contractor shall be entitled to payment, calculated on a pro rata or other equitable basis, determined by District in its sole discretion, for work or services satisfactorily performed. In no event shall Contractor be paid for work performed or costs incurred after termination, or for costs incurred by suppliers or subcontractors which reasonably could have been avoided.

20.2 District may terminate this Contract in whole or in part for cause upon seven (7) days written notice if Contractor fails to comply with any material term or condition of this Contract, becomes insolvent or files for bankruptcy protection, or fails to comply in a material way with the requirements of this Contract. Late delivery of goods or services, or delivery of goods or services that are defective or do not conform to the Contract shall, without limitation, be causes allowing District to terminate for cause. If a determination is made that District improperly terminated this Contract for Cause, then such termination shall be deemed to have been for without cause.

20.3 Notwithstanding the above, Contractor shall not be relieved of liability to the District for damages sustained by the District as a result of any breach of this Contract by the contactor. The District, may, in such event, withhold payments due to the Contractor for the purpose of set-off until such time as the exact amount of damages due to the District is determined. The rights or remedies provided here shall not limit the District, in case of any default, error or omissions, by the Contractor, from asserting any other right or remedy allowed by law. Nothing in this Contract shall be construed as a waiver of any right, remedy, liability limit or immunity of the District under law.

21 RETURN OF DATA

21.1 Within fifteen (15) days of the completion or earlier termination of this Contract, or upon earlier request of the District, Contractor shall return all documents, data and other information provided by the District to Contractor, or Contractor's employees or agents in connection with this Contract. Additionally, Contractor, upon the request of the District, shall destroy all copies of such District provided data, documents, or information in Contractor's possession or control, and provide District with proof of such destruction.

22 RECORDS MANAGEMENT AND MAINTENANCE

22.1 District shall have the right to inspect and copy such books, records, and documents (in whatever medium they exist) as well as all accounting procedures and practices of Contractor, its agents, and subcontractors to verify Contractor's performance and all expenses submitted pursuant to the terms of this Contract. Contractor shall make such items available for inspection during normal business hours at Contractor's place of business. Such records may be subject to copy, review and/or audit by District, State Auditor and/or the Comptroller General of the United States, or a duly authorized representative, if federal funds are used for any work under this Contract. All such items shall be retained by Contractor during the term of this Contract and for a period of six (6) years after the delivery of the goods and/or services. Any items relating to a claim arising out of the performance of this Contract shall be retained by Contractor, its agents and subcontractors, if any, until the claim has been resolved.

23 NOTICES/ADMINISTRATION

Except as otherwise provided in this Contract, all notices, requests and other communications that a party is required or elects to deliver shall be in writing and shall be delivered personally, or by facsimile or electronic mail (provided such delivery is confirmed), or by a recognized overnight courier service or by United States mail, first-class, certified or registered, postage prepaid, return receipt requested, to the other parties at the address set forth below or to such other address as such party may designate by notice given pursuant to this section.

Special School District No. 1
Division: Plant Maintenance
Attn: Grant Lindberg
1250 W Broadway

Minneapolis, MN 55411
Email: Grant.Lindberg@mpls.k12.mn.us

CONTRACTOR

NAME: Shane Joyce
Address: 1614 Cliff Road E, Burnsville MN
Phone: 952-894-2323
Email: shanejoyce@archermechanical.com

ACKNOWLEDGMENT

23.1 In signing, Contractor certifies under penalties of perjury (see Section 6109 of the IRS Code for further penalties) that: (1) the taxpayer ID number (TIN) provided to District is correct; (2) it is not subject to back up withholding because (a) it is exempt from such withholding, (b) it has not been notified by the IRS that it is subject to backup withholding as a failure to report all interest or dividends, or (c) the IRS has notified it that it is no longer subject to backup withholding; (3) it is a U.S. person (including a U.S. resident alien); and (4) it has full authority to execute this Contract and perform its obligation under this Contract. Contractor must cross out and initial item (2) and notify District in writing, if Contractor has been notified by the IRS that it is currently subject to backup withholding because of under reporting interest or dividends on its tax return. Contractor must cross out item (3) above if it is not a U.S person for tax purposes or U.S. resident alien.

23.2 Notwithstanding this certification, Contractor hereby acknowledges that District has the right to withhold amounts for federal backup withholding if such withholding is required by written notice from the Internal Revenue Service issued subsequent to the date this Contract is executed.

24 NON-WAIVER

24.1 No waiver by any party of any default or nonperformance shall be deemed a waiver of any subsequent default or nonperformance.

25 ASSIGNMENT

25.1 Contractor may not assign any obligations of this Contract without the prior written consent of District. In the event of any assignment, Contractor shall remain responsible for its performance and that of any assignee under this Contract. This Contract shall be binding upon Contractor, and its successors and assigns, if any. Any assignment attempted to be made in violation of this Contract shall be void. Notwithstanding any notice of assignment, District's tender of payment to Contractor named herein, or to any person reasonably believed by District to be entitled to payment, shall satisfy District's obligation to pay, and

in no event shall District be obligated to pay twice or be liable for any damages due to failure to pay the correct party.

26 CHOICE OF LAW, FORUM SELECTION, ENTIRE CONTRACT AND AMENDMENT

26.1 This Contract shall be construed under Minnesota law (without regard for choice of law considerations). Any action arising out of this Contract shall be heard by a state court in Minnesota. For this purpose, Contractor specifically consents to jurisdiction in Minnesota. This Contract constitutes the entire Contract and understanding of the parties and replaces any prior or contemporaneous agreement, whether written or oral. Any amendments to this Contract shall be in writing and executed by same parties who executed the original Contract, or their successors in office.

27 WARRANTY

27.1 Contractor expressly warrants and guarantees that the services performed under this Contract will be of the highest professional standards and quality. Contractor further represents that all services and goods (if any and as applicable) provided under this Contract: (i) are free from defects in material and workmanship; (ii) are of the quality, size and dimensions ordered; (iii) are fit for the particular needs and purposes of District as may be communicated to Contractor; (iv) comply with the highest warranties and representations expressed by Contractor orally or in any written document provided to or in the possession of District; (v) comply with all applicable laws, codes and regulations (including any published by any national or statewide association or groups); and (vi) are not restricted in any way by patents, copyrights, trade secrets, or any other rights of third parties. If any of the foregoing warranties are breached, Contractor agrees to correct all defects and nonconformities at Contractor's sole expense, to be liable for all direct damages suffered District and any other persons, and to defend, indemnify, and hold harmless District and its Board, officers, students, employees, and agents from any claim asserted by any person resulting in whole or in part from such breach. The foregoing warranties and guarantees shall not be deemed waived by reason of the acceptance of the goods or services or payment by District.

28 SEVERABILITY

28.1 If any provision of this Contract shall be invalid or unenforceable with respect to any party, the remainder of the Contract, or the application of such provision to persons other than those as to which it is held invalid or unenforceable, shall not be affected and each provision of the remainder of the Contract shall be valid and be enforceable to the fullest extent permitted by law.

29 SURVIVABILITY

29.1 The terms, provisions, representations, and warranties contained in this Contract that by their sense and context are intended to survive the performance thereof by any of

the parties hereunder shall so survive the completion of performance and termination of this Contract, including the making of any and all payments hereunder.

[The remainder of this page intentionally left blank.]

SPECIAL SCHOOL DISTRICT NO. 1

Signature: _____

Name:
(Printed)

Title:

Date: _____

Archer Mechanical

Signature: Shane Joyce

Name: Click or tap here to enter text. Shane Joyce
(Printed)

Title: Click or tap here to enter text. President

Date: 2/5/25

EXHIBIT A: SCOPE OF WORK

Deliverables:

Two new burners for Dowling

Service Outcome:

New burners

Method of Evaluation

On time delivery and quality materials

[The remainder of this page intentionally left blank.]

EXHIBIT B: PAYMENT TERMS

If there are exhibits to describe the payment terms:

[The remainder of this page intentionally left blank.]

EXHIBIT C: STUDENT DATA PRIVACY

As used in this exhibit, the term "educational data" shall have the meaning ascribed to it under the Minnesota Government Data Practices Act ("MGDPA"), Minn. Stat. § 13.32 as amended.

1. Contractor acknowledges that all of the data created, collected, received, stored, used, maintained, or disseminated by Contractor in performing the services described in this Contract is subject to the requirements of the MGDPA, Minn. Stat. ch. 13, and Contractor must comply with those requirements as if it were a government entity. Contractor shall be subject to all civil remedies available under the MGDPA, Minn. Stat. § 13.08 as amended, for any violation of these obligations.

2. No educational data created, received, maintained, or disseminated by Contractor pursuant or incidental to this Contract shall become or be considered property of the Contractor. Any such educational data shall remain the property of the District.

3. If educational data maintained by Contractor pursuant or incidental to performance of this Contract are subject to a breach of security of the data, as that term is defined by the MGDPA, Minn. Stat. § 13.055 as amended, Contractor shall, upon discovering such breach, provide the District with all information necessary for the District to fulfill its obligations under the MGDPA.

4. Contractor shall not sell, share, or disseminate educational data, except as permitted under the MGDPA, Minn. Stat. § 13.32 as amended, or as part of a valid delegation or assignment of this Contract, if the terms of the Contract permit delegation or assignment. Any assignee or delegee must separately execute this Exhibit and is bound by the same terms.

5. Contractor shall not use educational data for any commercial purpose, including but not limited to marketing or advertising to a student or parent.

    a. The term "commercial purpose," does not include providing the specific services agreed upon in this Contract.

    b. Contractor may use deidentified aggregate information for the purpose of improving, maintaining, developing, supporting, or diagnosing the Contractor's site, service, or operation, as long as all direct and indirect identifiers have been removed from the data prior to use.

6. Contractor's employees, officers, agents, and sub-contractors, if applicable, shall only have access to educational data if authorized.

7. Contractor's employees, officers, agents, and sub-contractors, if applicable, shall only be authorized to access educational data if such access is necessary to fulfill their official duties in the performance of this Contract.

8. Unless renewal of the Contract is reasonably anticipated, Contractor shall destroy or return all educational data created, received, or maintained pursuant or incidental to the Contract within 90 days of the expiration of this Contract.

9. Contractor shall abide with all the requirements and restrictions of Minn. Stat. § 13.32, as amended, that pertain to or address technology providers. Contractor shall be considered a "technology provider" for purposes of Section 13.32.

BY SIGNING BELOW, CONTRACTOR ACKNOWLEDGES AND AGREES THAT IT UNDERSTANDS THE TERMS OF THIS EXHIBIT, THAT THESE TERMS ARE PART OF ITS CONTRACT WITH THE DISTRICT, AND THAT IT AGREES TO BE BOUND BY AND ABIDE BY THESE TERMS.

[CONTRACTOR NAME]

Signature

Name

President
Title

2/5/25
Date

MINNEAPOLIS
PUBLIC SCHOOLS
Urban Education. Global Citizens.

MINNEAPOLIS PUBLIC SCHOOLS

AGREEMENT FOR LABOR, REPAIR, AND/OR INSTALLATION – OR PURCHASE OF GOODS, SUPPLIES AND MATERIALS

PROJECT:

This Agreement (the "Agreement") is made this 14 day of February, 2025 (the "Effective Date") by and between Special School District No. 1, a Minnesota public school corporation (the "School District"), and Archer Mechanical (the "Contractor").

RECITALS:

A. The School District owns and operates school buildings, administrative offices, and related sites and facilities that are generally located throughout the City of Minneapolis, Minnesota (collectively, the "Sites and Facilities").

B. The Sites and Facilities require maintenance, repair, and updating from time-to-time, necessitating the provision of services by a third-party contractor.

C. The School District also must periodically engage a third-party contractor to facilitate the purchase of equipment, materials and supplies to support its school operations.

D. The School District desires to retain a contractor to perform the services described below (the "Project") in accordance with and subject to the terms and conditions in this Agreement.

E. The Contractor has examined the location of all proposed work if applicable, carefully reviewed and evaluated the specifications set forth by the School District for the Project, is familiar with all conditions relevant to the performance of the services and is committed to perform all work required for the price specified in this Agreement.

In consideration of the covenants and agreements hereinafter set forth, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

1. ***General Terms and Conditions.*** Reference is hereby made to the General Terms and Conditions of this Agreement attached hereto as **Exhibit A** and made a part hereof (the "General Terms and Conditions"). The General Terms and Conditions are incorporated herein by

reference as if set forth in full herein. Without limiting the generality of the foregoing, (a) all capitalized terms used in this Agreement without definition shall have the meanings ascribed to them in the General Terms and Conditions and (b) all capitalized terms used in the General Terms and Conditions without definition shall have the meanings ascribed to them in this Agreement.

2. ***Project Information.***

(a) ***Scope of Work.*** The Project generally consists of remove/replace three burners. A detailed Scope of Work is set forth in **Exhibit B**, attached hereto and made a part hereof. Where applicable, drawings, specifications, lists of equipment, supplies, materials, and/or other existing documents describing or connected to the Project are listed or described on **Exhibit B.**

(b) ***Time of Performance.*** The Project shall be commenced on the Effective Date and completed in accordance with the schedule set forth in the Scope of Work, **Exhibit B** hereto (the "Work Schedule"). Time is of the essence in the performance of services under this Agreement.

(c) ***Compensation.*** The School District shall pay the Contractor for the services in accordance with this Agreement and the Schedule of Rates/Payments attached hereto as **Exhibit C** (the "Payment Schedule") and incorporated herein by reference. No rate changes shall be made during the term of this Agreement without the prior written approval of the School District. The Contractor's total compensation for services performed in accordance with this Agreement, including all reimbursable items, shall not exceed four hundred eighty seven thousand three hundred thirty six dollars ($487,336)(the "Contract Sum").

3. ***Notices.*** Any notice, demand, or other communication under this Agreement by either party to the other shall be sufficiently given or delivered if it is dispatched by registered or certified mail, postage prepaid, return receipt requested, or delivered personally:

(a) To the Contractor:
Archer Mechanical
1614 Cliff Road E
Burnsville, MN 55337
Attn: Shane Joyce

(b) To the School District:
Minneapolis Public Schools
1250 W. Broadway Avenue
Minneapolis, MN 55411-2533
Attn: Grant Lindberg

or at such other address with respect to either such party as that party may, from time to time, designate in writing and forward to the other as provided in this section.

4. ***Authorized Representatives.***

(a) The School District's authorized representatives with respect to this Agreement are: Shane Joyce; 952-894-2323, shanejoyce@archermechanical.com.

(b) The Contractor's authorized representatives with respect to this Agreement are: Grant Lindberg; 612-668-0281, Grant.Lindberg@mpls.k12.mn.us.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date indicated next to the name of the party who signs below.

SPECIAL SCHOOL DISTRICT NO. 1

Dated: _____, 20__ By: _____
[Authorized Signatory]

_____
[Title]

CONTRACTOR

Dated: 2/17, 2025 By: Shane Joyce
[Authorized Signatory]

EXHIBIT A

GENERAL TERMS AND CONDITIONS

These General Terms and Conditions (the "General Terms and Conditions) form a part of that certain AGREEMENT FOR LABOR, REPAIR, AND/OR INSTALLATION – OR PURCHASE OF GOODS, SUPPLIES AND MATERIAL.

1. ***Definitions.*** The terms defined in this Section shall have the following meanings for purposes of these General Terms and Conditions when initially capitalized herein:

(a) "**Agreement**" means that certain AGREEMENT FOR LABOR, REPAIR, AND/OR INSTALLATION – OR PURCHASE OF GOODS, SUPPLIES AND MATERIAL.

(b) "**Contract Documents**" means, collectively, (i) the Agreement, (ii) these General Terms and Conditions, (iii) all Exhibits listed or described in the Agreement and (iv) all drawings, specifications, addenda and modifications describing the Work which are issued after the date hereof.

(c) "**Work**" means all labor, materials, equipment, supplies, and/or services required to complete the Project described in the Contract Documents.

2. ***Contract Sum.*** The School District agrees to pay the Contractor for the full and faithful performance of the Work and related costs a stipulated amount equal to the Contract Sum set forth in the Agreement. The Contract Sum shall be subject to additions and deductions for changes in the Work, and the School District may deduct from the Contract Sum the value of any Work done which, in the good faith opinion of the School District, is not in compliance with the Contract Documents. The Contract Sum shall be payable to the Contractor in accordance with the Payment Schedule, subject to the provisions of these General Terms and Conditions.

3. ***Work Schedule.*** Contractor shall perform all of the Work in accordance with the Work Schedule. Time is of the essence in completing the Project. The Contractor agrees to notify the School District in writing of any and all causes of delay of the Work, or any part thereof, within 24 hours after such cause of delay shall arise, and in case of the failure of the Contractor to perform this Agreement and complete the Work at the time specified in the Contract Documents, the School District may immediately, or at any time thereafter, proceed to complete the Work at the cost and expense of the Contractor. Upon receipt of written notice from the Contractor of the existence of causes over which the Contractor has no control and which must delay the completion of the work, the School District may at its discretion, extend the date specified for the completion of the Work.

4. ***Standards of Performance.*** The Contractor agrees that all the work and labor shall be done in the best and most diligent manner and that all materials and labor shall be in entire and strict conformity in every respect with the Contract Documents and shall be subject to the inspection and approval by the proper authorities of the School District for the supervision of the

Work, and in case any of said material or labor shall be rejected by the School District as defective or unsuitable, then the materials shall be removed and replaced with other approved materials and the labor shall be done anew to the satisfaction and approval of the School District at the cost and expense of the Contractor. The Contractor agrees to take all precautions necessary to protect the public against injury, and to keep danger signals out at night and at such other times and such places as public safety may require during the performance of this Agreement. The Contractor further agrees to make good, replace, and renew at the Contractor's own cost and expense any loss or damage to the Work and Project occurring prior to the final delivery to and acceptance thereof by the School District, by reason of fire, tornado, theft, or any cause whatsoever, and to be wholly responsible for the construction, completion and delivery of the Work and Project in its entirety for the final acceptance by the School District; and any payment or payments made to the Contractor hereunder, shall not be construed as operating to relieve the Contractor from responsibility for the Work and Project as herein provided and agreed. It is agreed and understood by the parties hereto that the use of the Work and Project at any time by the School District for any purposes shall not be construed to be or operate as an acceptance by the School District of the work to be done by the Contractor under this Agreement.

5. ***Change Orders; Limitations***. No claim for extra work done or additional materials, equipment, or supplies furnished by the Contractor will be made by the Contractor or allowed by the School District, nor shall the Contractor do any work or furnish any materials, equipment or supplies not covered by the Scope of Work, unless such work or materials, equipment or supplies is ordered in writing by the School District. Any such work or materials, equipment or supplies which may be done or furnished by the Contractor without such written order first being given, shall be at the Contractor's own risk and expense. When any extra work or materials, equipment or supplies is ordered by the School District to be done or furnished, the Contractor shall furnish such materials and do such work for the price mutually agreed to by the Contractor and the School District, and when any alteration of the Scope of Work is ordered by the School District, the Contractor agrees to perform the work as altered and if such alteration shall reduce the cost of doing such work, the actual amount of such reduction in cost shall be deducted from the Contract Sum.

6. ***Labor, Materials, Equipment, Etc.*** The Contractor shall provide and pay for all labor, materials, equipment, tools, machinery, water, heat, utilities, transportation and other facilities and/or services necessary for the proper execution of the Work. All costs and expenses for such items shall be included in the Contract Sum.

7. ***Permits, Fees and Compliance with Law***. The Contractor shall secure all permits, licenses and inspections necessary for the execution and completion of the Work as part of the Contract Sum. All permit, license and inspection fees shall be included in the Contract Sum. The Contractor shall comply with the terms of all such permits and licenses and with all federal, state and municipal laws, statutes, ordinances, building codes, rules and regulations applicable to the Work.

8. ***Taxes.*** The Contractor shall pay sales, consumer, use and other similar taxes, except to the extent that such taxes are not payable due to the status of the School District as a tax-exempt entity. The Contractor shall not charge the School District for state sales taxes, uses taxes,

and other taxes that are not payable due to the status of the School District as a tax-exempt entity, and the Contract Sum shall be reduced to the extent that amounts for such taxes were included in the determination thereof.

9. ***Subcontractors; Third Party Claims***. The Contractor further agrees to pay all laborers employed, and all subcontractors furnishing material to the Contractor in and about the performance of this Agreement, and for all labor and material by them so performed and furnished, but in case the Contractor shall fail so to pay and to satisfy every and all claims and demands for labor and materials as aforesaid, the School District may apply the monies due and coming to the Contractor under this Agreement toward paying and satisfying such claims and demands, and the School District is herewith given the right to apply monies due and coming to the Contractor hereunder towards paying any indebtedness or claim heretofore accrued or which may hereafter come due to the School District from the Contractor on any account whatsoever, and the amount of such payments shall be charged against the balance due the Contractor hereunder; provided that nothing herein contained nor any variation from the amounts of the installments or from the manner and times of their payment shall be construed as impairing the right of the School District or of those to whose benefit the bond herein agreed upon shall insure, to hold the Contractor or surety liable on the bond for any breach of the conditions of the same nor as imposing upon the School District any obligation to laborers, materialmen, contractors, or sureties to pay or to retain for their benefit any monies coming to the Contractor hereunder. Contractor shall comply with the requirements of Minn. Stat. §471.425, subd. 4a., Prompt Payment to Subcontractors, which is incorporated herein by reference.

10. ***Bonds.*** If required by the Contract Documents, prior to performing any work under this Agreement, the Contractor shall provide the School District with the following bonds covering the Project: (a) a performance bond for the benefit of the School District, ensuring that Contractor will construct and maintain the Project in accordance with the Contract Documents, and saving and holding the School District harmless from all costs and charges which may accrue on account of completing the Project; and (b) a payment bond for the use and benefit of all persons furnishing labor or materials for the Project and making just claims for payment for such labor or materials.

11. ***Background Checks.*** The Contractor shall obtain a background check pursuant to applicable federal and state law and School District policy, including the Minnesota Child Protection Background Check Act, for each employee, volunteer or agent assigned to the Project. If Contractor receives a report that an employee, volunteer or agent so assigned has ever been convicted of a serious offense, or a background check crime, as defined at Minn. Stat. § 299C.61, it shall take immediate steps to notify the School District of the report and remove such employee, volunteer or agent from his/her assignment.

12. ***Equal Opportunity***. The Contractor agrees that in the hiring of common or skilled labor for the performance of any work under this Agreement or any subcontract hereunder, no contractor, material supplier, or vendor, shall, by reason of race, creed, color, sex or national origin, discriminate against any person or persons who are citizens of the United States and who are qualified and available to perform the work to which such employment relates; that neither he nor any subcontractor, material supplier, or vendor, shall in any manner discriminate against, or intimidate, or prevent the employment of any such person or persons from the performance of

work under this Agreement or any subcontract hereunder on account of race, creed, color, sex or national origin; that any violation of this Section shall be a misdemeanor; and that this Agreement may be canceled or terminated by the School District and all money due, or to become due hereunder, may be forfeited, for a second or any subsequent violation of the terms or conditions of this Agreement.

13. ***Independent Contractor***. All work provided pursuant to this Agreement shall be provided by the Contractor as an independent contractor and not as an employee of the School District for any purpose. Any and all officers, employees, subcontractors, agents, or any other person engaged by the Contractor in the performance of work or services pursuant to this Agreement shall not be considered employees of the School District. Any and all actions which arise as a consequence of any act or omission by the Contractor, its officers, employees, subcontractors, agents, or other persons engaged by the Contractor in the performance of work or services pursuant to this Agreement, shall not be the obligation or responsibility of the School District. The Contractor, and its officers, employees, subcontractors, and agents, shall not be entitled to any of the rights, privileges, or benefits of the School District's employees. This Agreement does not establish a joint powers agreement or joint partnership between the School District and the Contractor.

14. ***Indemnification***. The Contractor hereby agrees to protect, defend and hold the School District and its officers, elected and appointed officials, employees, administrators, agents, and representatives harmless from and indemnified against any and all loss, costs, fines, charges, damage and expenses, including, without limitation, reasonable attorneys' fees, consultants' and expert witness fees, and travel associated therewith, due to claims or demands of any kind whatsoever (including those based on strict liability) arising out of (i) the activities contemplated by this Agreement, (ii) including, without limitation, any claims for any lien imposed by law for services, labor or materials, or (iii) by reason of the execution of this Agreement or the performance of this Agreement. The Contractor, and the Contractor's successors or assigns, agree to protect, defend and save the School District, and its officers, agents, and employees, harmless from all such claims, demands, damages, and causes of action and the costs, disbursements, and expenses of defending the same, including but not limited to, attorneys' fees. This indemnity shall be continuing and shall survive the performance or cancellation of this Agreement. Nothing in this Agreement shall be construed as a limitation of or waiver by the School District of any immunities, defenses, or other limitations on liability to which the School District is entitled by law, including but not limited to the maximum monetary limits on liability established by Minnesota Statutes, Chapter 466, or otherwise.

15. ***Insurance***. Prior to performing any work under this Agreement, the Contractor shall purchase and maintain such insurance in the amounts specified below as will protect the Contractor from claims which may arise out of, or result from, the Contractor's performance under this Agreement, whether such performance is by the Contractor or by any subcontractor, or by anyone directly employed by them, or by anyone for whose acts or omissions anyone of them may be liable. Certificates of Insurance shall name the School District as an additional insured. The insurance shall not be canceled by the Contractor until all of the work required by this Agreement has been completed, accepted, and final payment made by the School District. Written notification of the School District by the Contractor shall be required thirty (30) calendar days prior to

cancellation, expiration, or change of insurance. All policies shall be written on an occurrence basis using ISO Form CG 00 01 or its equivalent.

(a) Statutory Workers Compensation and Employer's Liability

(b) Commercial General Liability:

Each Occurrence	$1,500,000
Damage to Rented Premises Each Occurrence	$ 100,000
Medical Expense any One Person	$ 5,000
Personal and Advertising Injury	$1,000,000
General Aggregate	$2,000,000
Products – Completed Operations Aggregate	$2,000,000

(c) Automobile Liability:

Combined Single Limit (Each Accident)	$1,500,000

(d) Other forms of insurance as called for in the Contract Documents.

The above paragraphs establish minimum insurance requirements, and it is the sole responsibility of the Contractor to purchase and maintain additional insurance that may be necessary for compliance with this Agreement. Certificates of Insurance must indicate if the policy is issued pursuant to all above requirements. The Contractor shall not commence work on the Project until the Contractor has obtained the required insurance and filed an acceptable Certificate(s) of Insurance with the School District. Copies of insurance policies shall be submitted to School District upon request.

16. ***Termination.*** The School District shall have the right to terminate the Agreement with or without cause by and upon delivering written notice to the Contractor. In the event of such termination by the School District for convenience, the School District shall promptly pay the Contractor any compensation owed for Work completed in compliance with the requirements of the Contract Documents through and including the date of termination, and upon payment of such compensation, the School District shall have no further obligations or liabilities to the Contractor. In the event of such termination by the School District for cause (including, without limitation, if the Contractor defaults, fails to comply with the Contract Documents, provides defective or non-conforming Work, becomes insolvent or becomes the subject of bankruptcy proceedings), the School District shall not be liable to the Contractor for any amounts, but the Contractor shall be liable to the School District for all losses, damages and expenses resulting from such default. The School District may withhold payments due to the Contractor for the purpose of set-off until such time as the exact amount of damages due to the School District is determined. If a determination is made that the School District improperly terminated the Agreement "for cause," then such termination shall be deemed to have been a "without cause" termination for convenience.

17. ***Limitation on Liability.*** In no event shall the School District be liable for any indirect, consequential, incidental, lost profits or like expectancy damages arising out of the

Agreement. The School District's maximum liability under the Agreement shall not exceed the Contract Sum.

18. ***Additional Requirements for Purchases of Equipment, Goods and Supplies.***

(a) ***Inspection and Testing.*** For a period of up to ten (10) business days following delivery, the School District shall have the right to inspect and/or test any equipment, goods and supplies (collectively, the "Goods") purchased by the School District. If upon inspection or testing the Goods or any portion thereof are found to be nonconforming, unsatisfactory, defective, of inferior quality or workmanship, or fail to meet any requirements or specifications contained in the Contract Documents, then without prejudice to any other rights or remedies, the School District may reject the Goods.

(b) ***Warranty.*** Contractor warrants that the Goods will be of merchantable quality and free from defects in design, engineering, material and workmanship for the time period specified by a manufacturer's warranty or as agreed to by the Contractor and the School District. Contractor further warrants that the Goods will meet the performance requirements and specifications set forth in the Contract Documents and shall be fit for the purpose intended. Contractor also warrants that the Goods are free and clear of all liens and encumbrances whatsoever, that Contractor has a good and marketable title to same, and that Contractor owns or has a valid license for all of the proprietary technology and intellectual property incorporated within the Goods. Contractor agrees to indemnify, defend and hold the School District harmless against any and all third-party claims resulting from the breach or inaccuracy of any of the foregoing warranties.

(c) ***Title and Risk of Loss.*** Title to the Goods shall remain with the Contractor until the School District accepts delivery of the Goods. The risk of loss will be on the Contractor until such time as the School District accepts delivery of the Goods. Contractor will be liable for any loss or damage to the Goods caused by Contractor or its subcontractors, their agents or employees, and Contractor will replace or repair said Goods at its own cost to the complete satisfaction of the School District.

19. ***Amendments; Binding Agreement; Assignment.*** Any amendment to this Agreement must be in writing and signed by both parties. This Agreement shall be binding upon and inure to the benefit of the parties. No assignment or attempted assignment of this Agreement or of any rights hereunder shall be effective without the prior written consent of the School District.

20. ***Authority.*** Each of the undersigned parties warrants it has the full authority to execute and delivery this Agreement.

21. ***Authorized Representatives***. Any consent, approval, authorization or other action required or permitted to be given or taken under the Contract Documents by the School District or the Contractor, as the case may be, shall be given or taken by one or more of the Authorized Representatives of each, except as provided by applicable law or School District policy.

22. ***Applicable Law; Jurisdiction.*** This Agreement shall be governed by and construed in accordance with the laws of the State of Minnesota. Any disputes, controversies, or claims arising out of this Agreement shall be heard in the Hennepin County District Court or United States District Court of Minnesota, and all parties to this Agreement waive any objection to the jurisdiction of these courts, whether based on convenience or otherwise.

23. ***Compliance with Laws.*** The Contractor warrants that all work performed pursuant to this Agreement shall be in compliance with all federal, state and local laws, ordinances, regulations, rules, and standards, as well as all requirements set forth in the Contract Documents, or any further requirements of the School District. The Contractor and all subcontractors shall conform to the labor laws of the State of Minnesota, and all other laws, ordinances and legal requirements pertaining to the Project. Pursuant to Minnesota Statutes 177.41 to 177.44 and corresponding Minnesota Rules 5200.1000 to 5200.1120, this Agreement may be subject to the prevailing wages as established by the Minnesota Department of Labor and Industry.

24. ***Warranty.*** The Contractor warrants that the Work shall be in accordance with the Contract Documents, applicable law and trade standards and free from material structural defects, improper workmanship or defective materials. Contractor shall replace, correct, or repair any Work not in accordance with the Contract Documents, applicable law and trade standards or any defects caused by faulty materials, equipment or workmanship for a period of two (2) year(s) from the date of completion of the Work. Nothing in this Section shall be construed to place a time limit with respect to any other obligation Contractor may have under this Agreement.

25. ***Entire Agreement.*** The Contract Documents and any addenda or amendments thereto signed by the parties shall constitute the entire Agreement between the School District and Contractor, and supersedes any other written or oral agreements between and School District and Contractor.

26. ***Severability.*** In the event that any one or more of the provisions of this Agreement, or any application thereof, shall be found to be invalid, illegal or otherwise unenforceable, the validity, legality, and enforceability of the remaining provisions in any application thereof shall not in any way be affected or impaired thereby.

27. ***No Waiver.*** No failure by any party to insist upon the strict performance of any covenant, duty, agreement, or condition of this Agreement or to exercise any right or remedy consequent upon a breach thereof, shall constitute a waiver of any such breach of any other covenant, agreement, term, or condition, nor does it imply that such covenant, agreement, term or condition may be waived again.

28. ***Data Practices.*** Any and all data created, collected, received, stored, used, maintained, or disseminated by the Contractor pursuant to this Agreement shall be administered in accordance with, and is subject to the requirements of the Minnesota Government Data Practices Act, Minnesota Statutes, Chapter 13, and the Contractor must comply with these requirements as if it were a government entity. This Section does not create a duty on the part of the Contractor to provide access to public data to the public if the public data are available from the School District,

except as required by the terms of this Agreement. The Contractor will report immediately to the School District any requests from third parties for information related to the Agreement.

29. ***Audit.*** The Contractor must allow the School District, or its duly authorized agents, and the state auditor or legislative auditor reasonable access to the Contractor's books, records, documents, and accounting procedures and practices that are pertinent to all work provided under this Agreement for a minimum of six years from the termination of this Agreement.

30. ***No Third-Party Beneficiary***. The Contractor acknowledges that nothing contained in this Agreement nor any act by the School District or the Contractor shall be deemed or construed by the Contractor or by any third person to create any relationship of third-party beneficiary, principal and agent, limited or general partner, or joint venture between the School District and the Contractor.

31. ***Counterparts.*** This Agreement may be executed in any number of counterparts, each of which shall constitute one and the same instrument.

EXHIBIT B

SCOPE OF WORK AND SCHEDULE OF PERFORMANCE

ARCHER MECHANICAL
1614 Cliff Road E. Burnsville, MN 952-894-2323 Archermechanical.com

REMOVE/REPLACE BURNERS (3)
AT
EDISON SCHOOL

Proposal # 24-8010

To: Doug Tkachuck
MPLS. Public Schools
612-245-9333

Date: 1-14-24
Scope: Remove/replace burner (3). Install Lead Lag panel (1). Install Draft controls on burners (3) – Installation is priced for install in 2025.

Included – Burner replacement:

- Install Industrial Combustion burners (3)
  - MMG-84S size 4 (2)
  - MMG-34S Size 3 (1)
  - Duel fuel
  - Full Modulation
  - Siemens LMV5 – linkage less
  - Draft controls for 3 burners
    - Incorporated in burner control cabinets
- Siemens lead/lag panel for 3 burners (panel mounted on back wall)
  - TS-MS master panel
  - 10" color touch screen
  - Remote set point adjustment (4-20 mA)
- Gas train – based on 2# gas pressure
  - Seimens VG series gas valves
  - Gas train to meet CSD-1 standards
- Boiler Modifications
  - Install burner fronts to accept new burners (3)
  - 19" manways on side of two boilers
  - 26 stay bolts as required for burner fronts
    - Additional stay bolts found faulty will be replaced on T/M
  - 1" draft ports
  - Add sight glass on rear of boiler # 2
  - Inspect and repair mud leg corners
- Boiler refractory modifications
  - New floors (all 3 boilers)
  - Remove/replace refractory around burners
  - Insulate boiler #2 manway door to accept rear sight glass
- Remove existing burners and dispose
- Disconnect/reconnect gas and fuel oil
- Start burners and set up on gas and oil
- Permits and inspections

ARCHER
MECHANICAL
1614 Cliff Road E. Burnsville, MN 952-894-2323 Archermechanical.com

REMOVE/REPLACE BURNERS (3)
AT
EDISON SCHOOL

Proposal # 24-8010
Included continued:

- Electrical
  - Disconnect/reconnect burners (3)
  - Lead/lag panel (1)
  - Draft controls (3)
- Insulation of fronts of boilers

Not included:

- Burners/lead lag panel/draft controls – (customer supplied)
- Turbulators
- Additional repairs found while performing work listed above
- Structural reinforcement
- Remote emergency shut off
- Insulation
- Bond costs
- Overtime hours
- Temporary heat, power, lighting, water, toilet, etc.
- Painting or other general construction items
- Abatement of Hazardous Materials
- Draft controls

Price: ..... $ 487,336.00
Archer Mechanical may withdraw Proposal if not accepted within 30 days and work does not start within 90 days.

Acceptance of Proposal: The prices, specifications and conditions are satisfactory and are hereby accepted. You are authorized to do the work as specified. Payment will be made as outlined above.

Customers Signature_____Date_____
Upon acceptance sign, date and return to Archer Mechanical LLC.

Respectfully submitted by,
Shane Joyce
Archer Mechanical
952-894-2323 office
952-894-3915 fax

EXHIBIT C

SCHEDULE OF RATES/PAYMENTS

Payments are to be made to vendor during the fiscal year through invoices, with this contract expiring 12/31/2025.

MINNEAPOLIS PUBLIC SCHOOLS
Urban Education. Global Citizens.

MINNEAPOLIS PUBLIC SCHOOLS

AGREEMENT FOR LABOR, REPAIR, AND/OR INSTALLATION – OR PURCHASE OF GOODS, SUPPLIES AND MATERIALS

PROJECT:

This Agreement (the "Agreement") is made this 14 day of February, 2025 (the "Effective Date") by and between Special School District No. 1, a Minnesota public school corporation (the "School District"), and Archer Mechanical (the "Contractor").

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B. The Sites and Facilities require maintenance, repair, and updating from time-to-time, necessitating the provision of services by a third-party contractor.

C. The School District also must periodically engage a third-party contractor to facilitate the purchase of equipment, materials and supplies to support its school operations.

D. The School District desires to retain a contractor to perform the services described below (the "Project") in accordance with and subject to the terms and conditions in this Agreement.

E. The Contractor has examined the location of all proposed work if applicable, carefully reviewed and evaluated the specifications set forth by the School District for the Project, is familiar with all conditions relevant to the performance of the services and is committed to perform all work required for the price specified in this Agreement.

In consideration of the covenants and agreements hereinafter set forth, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

1. ***General Terms and Conditions.*** Reference is hereby made to the General Terms and Conditions of this Agreement attached hereto as **Exhibit A** and made a part hereof (the "General Terms and Conditions"). The General Terms and Conditions are incorporated herein by

reference as if set forth in full herein. Without limiting the generality of the foregoing, (a) all capitalized terms used in this Agreement without definition shall have the meanings ascribed to them in the General Terms and Conditions and (b) all capitalized terms used in the General Terms and Conditions without definition shall have the meanings ascribed to them in this Agreement.

2. ***Project Information.***

(a) ***Scope of Work.*** The Project generally consists of remove/replace two burners. A detailed Scope of Work is set forth in **Exhibit B**, attached hereto and made a part hereof. Where applicable, drawings, specifications, lists of equipment, supplies, materials, and/or other existing documents describing or connected to the Project are listed or described on **Exhibit B.**

(b) ***Time of Performance.*** The Project shall be commenced on the Effective Date and completed in accordance with the schedule set forth in the Scope of Work, **Exhibit B** hereto (the "Work Schedule"). Time is of the essence in the performance of services under this Agreement.

(c) ***Compensation.*** The School District shall pay the Contractor for the services in accordance with this Agreement and the Schedule of Rates/Payments attached hereto as **Exhibit C** (the "Payment Schedule") and incorporated herein by reference. No rate changes shall be made during the term of this Agreement without the prior written approval of the School District. The Contractor's total compensation for services performed in accordance with this Agreement, including all reimbursable items, shall not exceed two hundred ten thousand five hundred thirty six dollars ($210,536)(the "Contract Sum").

3. ***Notices.*** Any notice, demand, or other communication under this Agreement by either party to the other shall be sufficiently given or delivered if it is dispatched by registered or certified mail, postage prepaid, return receipt requested, or delivered personally:

(a) To the Contractor:
Archer Mechanical
1614 Cliff Road E
Burnsville, MN 55337
Attn: Shane Joyce

(b) To the School District:
Minneapolis Public Schools
1250 W. Broadway Avenue
Minneapolis, MN 55411-2533
Attn: Grant Lindberg

or at such other address with respect to either such party as that party may, from time to time, designate in writing and forward to the other as provided in this section.

4. ***Authorized Representatives.***

(a) The School District's authorized representatives with respect to this Agreement are: Shane Joyce; 952-894-2323, shanejoyce@archermechanical.com.

(b) The Contractor's authorized representatives with respect to this Agreement are: Grant Lindberg; 612-668-0281, Grant.Lindberg@mpls.k12.mn.us.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date indicated next to the name of the party who signs below.

SPECIAL SCHOOL DISTRICT NO. 1

Dated: _____, 20__ By: _____
[Authorized Signatory]

_____
[Title]

CONTRACTOR

Dated: 2/24, 2025 By: Shane Joyce
[Authorized Signatory]

EXHIBIT A

GENERAL TERMS AND CONDITIONS

These General Terms and Conditions (the "General Terms and Conditions) form a part of that certain AGREEMENT FOR LABOR, REPAIR, AND/OR INSTALLATION – OR PURCHASE OF GOODS, SUPPLIES AND MATERIAL.

1. ***Definitions.*** The terms defined in this Section shall have the following meanings for purposes of these General Terms and Conditions when initially capitalized herein:

(a) **"Agreement"** means that certain AGREEMENT FOR LABOR, REPAIR, AND/OR INSTALLATION – OR PURCHASE OF GOODS, SUPPLIES AND MATERIAL.

(b) **"Contract Documents"** means, collectively, (i) the Agreement, (ii) these General Terms and Conditions, (iii) all Exhibits listed or described in the Agreement and (iv) all drawings, specifications, addenda and modifications describing the Work which are issued after the date hereof.

(c) "**Work**" means all labor, materials, equipment, supplies, and/or services required to complete the Project described in the Contract Documents.

2. ***Contract Sum.*** The School District agrees to pay the Contractor for the full and faithful performance of the Work and related costs a stipulated amount equal to the Contract Sum set forth in the Agreement. The Contract Sum shall be subject to additions and deductions for changes in the Work, and the School District may deduct from the Contract Sum the value of any Work done which, in the good faith opinion of the School District, is not in compliance with the Contract Documents. The Contract Sum shall be payable to the Contractor in accordance with the Payment Schedule, subject to the provisions of these General Terms and Conditions.

3. ***Work Schedule.*** Contractor shall perform all of the Work in accordance with the Work Schedule. Time is of the essence in completing the Project. The Contractor agrees to notify the School District in writing of any and all causes of delay of the Work, or any part thereof, within 24 hours after such cause of delay shall arise, and in case of the failure of the Contractor to perform this Agreement and complete the Work at the time specified in the Contract Documents, the School District may immediately, or at any time thereafter, proceed to complete the Work at the cost and expense of the Contractor. Upon receipt of written notice from the Contractor of the existence of causes over which the Contractor has no control and which must delay the completion of the work, the School District may at its discretion, extend the date specified for the completion of the Work.

4. ***Standards of Performance.*** The Contractor agrees that all the work and labor shall be done in the best and most diligent manner and that all materials and labor shall be in entire and strict conformity in every respect with the Contract Documents and shall be subject to the inspection and approval by the proper authorities of the School District for the supervision of the

Work, and in case any of said material or labor shall be rejected by the School District as defective or unsuitable, then the materials shall be removed and replaced with other approved materials and the labor shall be done anew to the satisfaction and approval of the School District at the cost and expense of the Contractor. The Contractor agrees to take all precautions necessary to protect the public against injury, and to keep danger signals out at night and at such other times and such places as public safety may require during the performance of this Agreement. The Contractor further agrees to make good, replace, and renew at the Contractor's own cost and expense any loss or damage to the Work and Project occurring prior to the final delivery to and acceptance thereof by the School District, by reason of fire, tornado, theft, or any cause whatsoever, and to be wholly responsible for the construction, completion and delivery of the Work and Project in its entirety for the final acceptance by the School District; and any payment or payments made to the Contractor hereunder, shall not be construed as operating to relieve the Contractor from responsibility for the Work and Project as herein provided and agreed. It is agreed and understood by the parties hereto that the use of the Work and Project at any time by the School District for any purposes shall not be construed to be or operate as an acceptance by the School District of the work to be done by the Contractor under this Agreement.

5. ***Change Orders; Limitations***. No claim for extra work done or additional materials, equipment, or supplies furnished by the Contractor will be made by the Contractor or allowed by the School District, nor shall the Contractor do any work or furnish any materials, equipment or supplies not covered by the Scope of Work, unless such work or materials, equipment or supplies is ordered in writing by the School District. Any such work or materials, equipment or supplies which may be done or furnished by the Contractor without such written order first being given, shall be at the Contractor's own risk and expense. When any extra work or materials, equipment or supplies is ordered by the School District to be done or furnished, the Contractor shall furnish such materials and do such work for the price mutually agreed to by the Contractor and the School District, and when any alteration of the Scope of Work is ordered by the School District, the Contractor agrees to perform the work as altered and if such alteration shall reduce the cost of doing such work, the actual amount of such reduction in cost shall be deducted from the Contract Sum.

6. ***Labor, Materials, Equipment, Etc.*** The Contractor shall provide and pay for all labor, materials, equipment, tools, machinery, water, heat, utilities, transportation and other facilities and/or services necessary for the proper execution of the Work. All costs and expenses for such items shall be included in the Contract Sum.

7. ***Permits, Fees and Compliance with Law***. The Contractor shall secure all permits, licenses and inspections necessary for the execution and completion of the Work as part of the Contract Sum. All permit, license and inspection fees shall be included in the Contract Sum. The Contractor shall comply with the terms of all such permits and licenses and with all federal, state and municipal laws, statutes, ordinances, building codes, rules and regulations applicable to the Work.

8. ***Taxes.*** The Contractor shall pay sales, consumer, use and other similar taxes, except to the extent that such taxes are not payable due to the status of the School District as a tax-exempt entity. The Contractor shall not charge the School District for state sales taxes, uses taxes,

and other taxes that are not payable due to the status of the School District as a tax-exempt entity, and the Contract Sum shall be reduced to the extent that amounts for such taxes were included in the determination thereof.

9. ***Subcontractors; Third Party Claims***. The Contractor further agrees to pay all laborers employed, and all subcontractors furnishing material to the Contractor in and about the performance of this Agreement, and for all labor and material by them so performed and furnished, but in case the Contractor shall fail so to pay and to satisfy every and all claims and demands for labor and materials as aforesaid, the School District may apply the monies due and coming to the Contractor under this Agreement toward paying and satisfying such claims and demands, and the School District is herewith given the right to apply monies due and coming to the Contractor hereunder towards paying any indebtedness or claim heretofore accrued or which may hereafter come due to the School District from the Contractor on any account whatsoever, and the amount of such payments shall be charged against the balance due the Contractor hereunder; provided that nothing herein contained nor any variation from the amounts of the installments or from the manner and times of their payment shall be construed as impairing the right of the School District or of those to whose benefit the bond herein agreed upon shall insure, to hold the Contractor or surety liable on the bond for any breach of the conditions of the same nor as imposing upon the School District any obligation to laborers, materialmen, contractors, or sureties to pay or to retain for their benefit any monies coming to the Contractor hereunder. Contractor shall comply with the requirements of Minn. Stat. §471.425, subd. 4a., Prompt Payment to Subcontractors, which is incorporated herein by reference.

10. ***Bonds.*** If required by the Contract Documents, prior to performing any work under this Agreement, the Contractor shall provide the School District with the following bonds covering the Project: (a) a performance bond for the benefit of the School District, ensuring that Contractor will construct and maintain the Project in accordance with the Contract Documents, and saving and holding the School District harmless from all costs and charges which may accrue on account of completing the Project; and (b) a payment bond for the use and benefit of all persons furnishing labor or materials for the Project and making just claims for payment for such labor or materials.

11. ***Background Checks.*** The Contractor shall obtain a background check pursuant to applicable federal and state law and School District policy, including the Minnesota Child Protection Background Check Act, for each employee, volunteer or agent assigned to the Project. If Contractor receives a report that an employee, volunteer or agent so assigned has ever been convicted of a serious offense, or a background check crime, as defined at Minn. Stat. § 299C.61, it shall take immediate steps to notify the School District of the report and remove such employee, volunteer or agent from his/her assignment.

12. ***Equal Opportunity***. The Contractor agrees that in the hiring of common or skilled labor for the performance of any work under this Agreement or any subcontract hereunder, no contractor, material supplier, or vendor, shall, by reason of race, creed, color, sex or national origin, discriminate against any person or persons who are citizens of the United States and who are qualified and available to perform the work to which such employment relates; that neither he nor any subcontractor, material supplier, or vendor, shall in any manner discriminate against, or intimidate, or prevent the employment of any such person or persons from the performance of

work under this Agreement or any subcontract hereunder on account of race, creed, color, sex or national origin; that any violation of this Section shall be a misdemeanor; and that this Agreement may be canceled or terminated by the School District and all money due, or to become due hereunder, may be forfeited, for a second or any subsequent violation of the terms or conditions of this Agreement.

13. ***Independent Contractor***. All work provided pursuant to this Agreement shall be provided by the Contractor as an independent contractor and not as an employee of the School District for any purpose. Any and all officers, employees, subcontractors, agents, or any other person engaged by the Contractor in the performance of work or services pursuant to this Agreement shall not be considered employees of the School District. Any and all actions which arise as a consequence of any act or omission by the Contractor, its officers, employees, subcontractors, agents, or other persons engaged by the Contractor in the performance of work or services pursuant to this Agreement, shall not be the obligation or responsibility of the School District. The Contractor, and its officers, employees, subcontractors, and agents, shall not be entitled to any of the rights, privileges, or benefits of the School District's employees. This Agreement does not establish a joint powers agreement or joint partnership between the School District and the Contractor.

14. ***Indemnification***. The Contractor hereby agrees to protect, defend and hold the School District and its officers, elected and appointed officials, employees, administrators, agents, and representatives harmless from and indemnified against any and all loss, costs, fines, charges, damage and expenses, including, without limitation, reasonable attorneys' fees, consultants' and expert witness fees, and travel associated therewith, due to claims or demands of any kind whatsoever (including those based on strict liability) arising out of (i) the activities contemplated by this Agreement, (ii) including, without limitation, any claims for any lien imposed by law for services, labor or materials, or (iii) by reason of the execution of this Agreement or the performance of this Agreement. The Contractor, and the Contractor's successors or assigns, agree to protect, defend and save the School District, and its officers, agents, and employees, harmless from all such claims, demands, damages, and causes of action and the costs, disbursements, and expenses of defending the same, including but not limited to, attorneys' fees. This indemnity shall be continuing and shall survive the performance or cancellation of this Agreement. Nothing in this Agreement shall be construed as a limitation of or waiver by the School District of any immunities, defenses, or other limitations on liability to which the School District is entitled by law, including but not limited to the maximum monetary limits on liability established by Minnesota Statutes, Chapter 466, or otherwise.

15. ***Insurance***. Prior to performing any work under this Agreement, the Contractor shall purchase and maintain such insurance in the amounts specified below as will protect the Contractor from claims which may arise out of, or result from, the Contractor's performance under this Agreement, whether such performance is by the Contractor or by any subcontractor, or by anyone directly employed by them, or by anyone for whose acts or omissions anyone of them may be liable. Certificates of Insurance shall name the School District as an additional insured. The insurance shall not be canceled by the Contractor until all of the work required by this Agreement has been completed, accepted, and final payment made by the School District. Written notification of the School District by the Contractor shall be required thirty (30) calendar days prior to

cancellation, expiration, or change of insurance. All policies shall be written on an occurrence basis using ISO Form CG 00 01 or its equivalent.

(a) Statutory Workers Compensation and Employer's Liability

(b) Commercial General Liability:

Each Occurrence	$1,500,000
Damage to Rented Premises Each Occurrence	$ 100,000
Medical Expense any One Person	$ 5,000
Personal and Advertising Injury	$1,000,000
General Aggregate	$2,000,000
Products – Completed Operations Aggregate	$2,000,000

(c) Automobile Liability:

Combined Single Limit (Each Accident)	$1,500,000

(d) Other forms of insurance as called for in the Contract Documents.

The above paragraphs establish minimum insurance requirements, and it is the sole responsibility of the Contractor to purchase and maintain additional insurance that may be necessary for compliance with this Agreement. Certificates of Insurance must indicate if the policy is issued pursuant to all above requirements. The Contractor shall not commence work on the Project until the Contractor has obtained the required insurance and filed an acceptable Certificate(s) of Insurance with the School District. Copies of insurance policies shall be submitted to School District upon request.

16. ***Termination.*** The School District shall have the right to terminate the Agreement with or without cause by and upon delivering written notice to the Contractor. In the event of such termination by the School District for convenience, the School District shall promptly pay the Contractor any compensation owed for Work completed in compliance with the requirements of the Contract Documents through and including the date of termination, and upon payment of such compensation, the School District shall have no further obligations or liabilities to the Contractor. In the event of such termination by the School District for cause (including, without limitation, if the Contractor defaults, fails to comply with the Contract Documents, provides defective or non-conforming Work, becomes insolvent or becomes the subject of bankruptcy proceedings), the School District shall not be liable to the Contractor for any amounts, but the Contractor shall be liable to the School District for all losses, damages and expenses resulting from such default. The School District may withhold payments due to the Contractor for the purpose of set-off until such time as the exact amount of damages due to the School District is determined. If a determination is made that the School District improperly terminated the Agreement "for cause," then such termination shall be deemed to have been a "without cause" termination for convenience.

17. ***Limitation on Liability.*** In no event shall the School District be liable for any indirect, consequential, incidental, lost profits or like expectancy damages arising out of the

Agreement. The School District's maximum liability under the Agreement shall not exceed the Contract Sum.

18. ***Additional Requirements for Purchases of Equipment, Goods and Supplies.***

(a) ***Inspection and Testing.*** For a period of up to ten (10) business days following delivery, the School District shall have the right to inspect and/or test any equipment, goods and supplies (collectively, the "Goods") purchased by the School District. If upon inspection or testing the Goods or any portion thereof are found to be nonconforming, unsatisfactory, defective, of inferior quality or workmanship, or fail to meet any requirements or specifications contained in the Contract Documents, then without prejudice to any other rights or remedies, the School District may reject the Goods.

(b) ***Warranty.*** Contractor warrants that the Goods will be of merchantable quality and free from defects in design, engineering, material and workmanship for the time period specified by a manufacturer's warranty or as agreed to by the Contractor and the School District. Contractor further warrants that the Goods will meet the performance requirements and specifications set forth in the Contract Documents and shall be fit for the purpose intended. Contractor also warrants that the Goods are free and clear of all liens and encumbrances whatsoever, that Contractor has a good and marketable title to same, and that Contractor owns or has a valid license for all of the proprietary technology and intellectual property incorporated within the Goods. Contractor agrees to indemnify, defend and hold the School District harmless against any and all third-party claims resulting from the breach or inaccuracy of any of the foregoing warranties.

(c) ***Title and Risk of Loss.*** Title to the Goods shall remain with the Contractor until the School District accepts delivery of the Goods. The risk of loss will be on the Contractor until such time as the School District accepts delivery of the Goods. Contractor will be liable for any loss or damage to the Goods caused by Contractor or its subcontractors, their agents or employees, and Contractor will replace or repair said Goods at its own cost to the complete satisfaction of the School District.

19. ***Amendments; Binding Agreement; Assignment.*** Any amendment to this Agreement must be in writing and signed by both parties. This Agreement shall be binding upon and inure to the benefit of the parties. No assignment or attempted assignment of this Agreement or of any rights hereunder shall be effective without the prior written consent of the School District.

20. ***Authority.*** Each of the undersigned parties warrants it has the full authority to execute and delivery this Agreement.

21. ***Authorized Representatives***. Any consent, approval, authorization or other action required or permitted to be given or taken under the Contract Documents by the School District or the Contractor, as the case may be, shall be given or taken by one or more of the Authorized Representatives of each, except as provided by applicable law or School District policy.

22. ***Applicable Law; Jurisdiction.*** This Agreement shall be governed by and construed in accordance with the laws of the State of Minnesota. Any disputes, controversies, or claims arising out of this Agreement shall be heard in the Hennepin County District Court or United States District Court of Minnesota, and all parties to this Agreement waive any objection to the jurisdiction of these courts, whether based on convenience or otherwise.

23. ***Compliance with Laws.*** The Contractor warrants that all work performed pursuant to this Agreement shall be in compliance with all federal, state and local laws, ordinances, regulations, rules, and standards, as well as all requirements set forth in the Contract Documents, or any further requirements of the School District. The Contractor and all subcontractors shall conform to the labor laws of the State of Minnesota, and all other laws, ordinances and legal requirements pertaining to the Project. Pursuant to Minnesota Statutes 177.41 to 177.44 and corresponding Minnesota Rules 5200.1000 to 5200.1120, this Agreement may be subject to the prevailing wages as established by the Minnesota Department of Labor and Industry.

24. ***Warranty.*** The Contractor warrants that the Work shall be in accordance with the Contract Documents, applicable law and trade standards and free from material structural defects, improper workmanship or defective materials. Contractor shall replace, correct, or repair any Work not in accordance with the Contract Documents, applicable law and trade standards or any defects caused by faulty materials, equipment or workmanship for a period of two (2) year(s) from the date of completion of the Work. Nothing in this Section shall be construed to place a time limit with respect to any other obligation Contractor may have under this Agreement.

25. ***Entire Agreement.*** The Contract Documents and any addenda or amendments thereto signed by the parties shall constitute the entire Agreement between the School District and Contractor, and supersedes any other written or oral agreements between and School District and Contractor.

26. ***Severability.*** In the event that any one or more of the provisions of this Agreement, or any application thereof, shall be found to be invalid, illegal or otherwise unenforceable, the validity, legality, and enforceability of the remaining provisions in any application thereof shall not in any way be affected or impaired thereby.

27. ***No Waiver.*** No failure by any party to insist upon the strict performance of any covenant, duty, agreement, or condition of this Agreement or to exercise any right or remedy consequent upon a breach thereof, shall constitute a waiver of any such breach of any other covenant, agreement, term, or condition, nor does it imply that such covenant, agreement, term or condition may be waived again.

28. ***Data Practices.*** Any and all data created, collected, received, stored, used, maintained, or disseminated by the Contractor pursuant to this Agreement shall be administered in accordance with, and is subject to the requirements of the Minnesota Government Data Practices Act, Minnesota Statutes, Chapter 13, and the Contractor must comply with these requirements as if it were a government entity. This Section does not create a duty on the part of the Contractor to provide access to public data to the public if the public data are available from the School District,

except as required by the terms of this Agreement. The Contractor will report immediately to the School District any requests from third parties for information related to the Agreement.

29. ***Audit.*** The Contractor must allow the School District, or its duly authorized agents, and the state auditor or legislative auditor reasonable access to the Contractor's books, records, documents, and accounting procedures and practices that are pertinent to all work provided under this Agreement for a minimum of six years from the termination of this Agreement.

30. ***No Third-Party Beneficiary***. The Contractor acknowledges that nothing contained in this Agreement nor any act by the School District or the Contractor shall be deemed or construed by the Contractor or by any third person to create any relationship of third-party beneficiary, principal and agent, limited or general partner, or joint venture between the School District and the Contractor.

31. ***Counterparts.*** This Agreement may be executed in any number of counterparts, each of which shall constitute one and the same instrument.

EXHIBIT B

SCOPE OF WORK AND SCHEDULE OF PERFORMANCE

ARCHER MECHANICAL

1614 Cliff Road E. Burnsville, MN 952-894-2323 Archermechanical.com

REMOVE/REPLACE BURNERS (2)
AT
NUTRITION CENTER

Proposal # 25-2660

To: Doug Tkachuck
MPLS. Public Schools
612-245-9333

Date: 2-14-25
Scope: Remove/replace burner (2) – Installation is priced for install in 2025.

Included – Burner replacement:

- Install Burner (2)
  - Burner # 1 – 15 # steam pressure
    - Model # MMG-63P#2 size 3
    - Duel fuel
    - Full Modulation
    - Siemens LMV5 – linkage less
    - Remote panel located on right side of boiler
  - Burner # 2 – 125 # steam pressure
    - Model # MMG-54P#2 size 3
    - Duel fuel
    - Full Modulation
    - Siemens LMV5 – linkage less
    - Remote panel located on right side of boiler
- Gas train – based on 2# gas pressure
  - Seimens VG series gas valves
  - Gas train to meet CSD-1 standards
- Remove existing burner and dispose
- Disconnect/reconnect gas and fuel oil
- Start burners and set up on gas and oil
- Permits and inspections
- Boiler modifications
  - Boiler taps to allow for low fire hold and keep warm sensors
- Electrical
  - Disconnect/reconnect burner
- Install new rope around thimble
- Install high to low pressure controls and piping
  - Isolation valve
  - Boiler modification
  - Controllers and relays

ARCHER
MECHANICAL
1614 Cliff Road E. Burnsville, MN 952-894-2323 Archermechanical.com

REMOVE/REPLACE BURNERS (2)
AT
NUTRITION CENTER

Proposal # 25-2660

Not included:

- Burner – (customer supplied)
- Controls to allow high pressure boiler to be operated as low pressure boiler when not occupied
- Turbulators
- Additional repairs found while performing work listed above
- Structural reinforcement
- Remote emergency shut off
- Insulation – non required
- Bond costs
- Overtime hours
- Temporary heat, power, lighting, water, toilet, etc.
- Painting or other general construction items
- Abatement of Hazardous Materials
- Draft controls

Price: ..... $ 140,369.00
Add – high to low controls and piping : ..... $ 70,167.00
Archer Mechanical may withdraw Proposal if not accepted within 30 days and work does not start within 90 days.

Payment:
Final Payment will be made at the time of job completion as outlined in the specifications listed above

Acceptance of Proposal: The prices, specifications and conditions are satisfactory and are hereby accepted. You are authorized to do the work as specified. Payment will be made as outlined above.

Customers Signature_____Date_____
Upon acceptance sign, date and return to Archer Mechanical LLC.

Respectfully submitted by,
Shane Joyce
Archer Mechanical
952-894-2323 office
952-894-3915 fax

EXHIBIT C

SCHEDULE OF RATES/PAYMENTS

Payments are to be made to vendor during the fiscal year through invoices, with this contract expiring 12/31/2025.

FY24 Southwest High School Cooling Project

Contract Sum: $1,586,393.49

Architect:

ATSR Planners, Architects & Engineers
(Armstrong, Torseth, Skold & Rydeen, Inc.)
8501 Golden Valley Road, Suite 300
Minneapolis, MN 55427

Project Location and Number

Southwest High School
3414 West 47th Street
Minneapolis MN 55411
Minneapolis Public Schools Project Number: 24SWES001

Description

The scope of work identified by the Southwest High School HVAC Predesign prepared November 4, 2024, with the MPS CPCM Department: The project includes replacement of the existing DX (Direct Expansion) system with an air-cooled chiller system and the related infrastructure. The scope includes reinforcing the existing structure to support the new mechanical equipment and piping infrastructure. The project will include the replacement of old AHUs (Air Handling Units) as required with new air handlers to incorporate chilled water coils and the replacement DX cooling coils with chilled water coils at newer existing air handlers. The project will update the building automation controls system. It includes the removal of VRF (Variable Refrigerant Flow) cooling system. The project also will replace 148,900 SF of roofing and 103,431 SF of ceiling finishes. The translucent panels in the wrestling room and the gymnastics room will be replaced. Electrically the project will replace existing fixtures with LED Lighting fixtures. It will also provide electrical service conditioning, to regulate the service outages. Along with providing electrical distribution and connections to new mechanical equipment and replacing several outdated panel boards.

Contract Documents

AIA Document B132-2019
Exhibit A – Project Charter
Exhibit B – Project Design Milestones & Deliverables
Exhibit C – Owner Insurance
Exhibit D – Owner Requirements
AIA Document E203-2013
AIA Document G201-2013

AIA Document G202-2013
Future amendments

AIA® Document B132™ – 2019

Standard Form of Agreement Between Owner and Architect, Construction Manager as Adviser Edition

AGREEMENT made as of the eleventh day of March in the year 2025
(In words, indicate day, month, and year.)

BETWEEN the Architect's client identified as the Owner:
(Name, legal status, address, and other information)

Minneapolis Public Schools
Special School District #1
1250 West Broadway Avenue
Minneapolis, MN 55411

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

ATSR Planners, Architects & Engineers Armstrong, Torseth, Skold & Rydeen, Inc.
8501 Golden Valley Road, Suite 300
Minneapolis, MN 55427
763-545-3731

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

Southwest High School HVAC & LED Upgrades Project
3414 West 47th Street, Minneapolis, MN 55411
24SWES001

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

Kraus-Anderson Construction Company
501 South 8th Street, Minneapolis, MN 55404

The Owner and Architect agree as follows.

The standard of professional services are set forth in this document and schedule of exhibits as follows:

EXH-A Project Charter
EXH-B Project Design Milestones and Deliverables
EXH-C Owner Insurance
EXH-D Owner Requirements

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

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

This document is intended to be used in conjunction with AIA Documents A132™–2019, Standard Form of Agreement Between Owner and Contractor, Construction Manager as Adviser Edition; A232™–2019, General Conditions of the Contract for Construction, Construction Manager as Adviser Edition; and C132™–2019, Standard Form of Agreement Between Owner and Construction Manager as Adviser. AIA Document A232™–2019 is adopted in this document by reference. Do not use with other general conditions unless this document is modified.

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User Notes: (846423383)

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5 OWNER'S RESPONSIBILITIES

6 COST OF THE WORK

7 COPYRIGHTS AND LICENSES

8 CLAIMS AND DISPUTES

9 TERMINATION OR SUSPENSION

10 MISCELLANEOUS PROVISIONS

11 COMPENSATION

12 SPECIAL TERMS AND CONDITIONS

13 SCOPE OF THE AGREEMENT

ARTICLE 1 INITIAL INFORMATION

§ 1.1 This Agreement is based on the Initial Information set forth in this Section 1.1.
(For each item in this section, insert the information or a statement such as "not applicable," or "unknown at time of execution".)

§ 1.1.1 The Owner's program for the Project:
(Insert the Owner's program, identify documentation that establishes the Owner's program, or state the manner in which the program will be developed.)

Defined in EXH-A Project Charter

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

Defined in EXH-A Project Charter

§ 1.1.3 The Owner's budget for the Cost of the Work, as defined in Section 6.1:
(Provide total and, if known, a line item breakdown.)

Defined in EXH-A Project Charter

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

.1 Design phase milestone dates, if any:

Defined in EXH-B Project Design Milestones and Deliverables

.2 Construction commencement date:

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Defined in EXH B Project Design Milestones and Deliverables

.3 Substantial Completion date or dates:

Defined in EXH A Project Charter

.4 Other milestone dates:

Defined in EXH-B Project Design Milestones and Deliverables

§ 1.1.5 The Owner intends the following procurement method for the Project:
(Identify method such as competitive bid or negotiated contract.)

Competitive Bid in accordance with Minnesota Statutes

§ 1.1.6 The Owner's requirements for accelerated or fast-track design and construction, multiple bid packages, or phased construction are set forth below:
(Identify any requirements for fast-track scheduling or phased construction and, if applicable, list number and type of bid/procurement packages.)

Defined in EXH-A Project Charter

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

Sustainable Design solutions which optimize or promote improved energy efficiency, occupant well-being, comfort, health, and improved long-term maintenance serviceability as standard to LEED rating system and B3 requirements are valued. Owner will not pursue LEED certification or complete B3 compliance. The Architect is not required to provide additional services for Sustainable Design

§ 1.1.7.1 If the Owner identifies a Sustainable Objective, the Owner and Architect shall complete and incorporate AIA Document E235-2019, Sustainable Projects Exhibit, Construction Manager as Adviser Edition, into this Agreement to define the terms, conditions and services related to the Owner's Sustainable Objective. If E235-2019 is incorporated into this Agreement, the Owner and Architect shall incorporate the completed E235-2019 into the agreements with the consultants and contractors performing services or Work in any way associated with the Sustainable Objective.

§ 1.1.8 The Owner identifies the following representative in accordance with Section 5.4:
(List name, address, and other contact information.)

Minneapolis Public Schools
1250 West Broadway Avenue
Minneapolis, MN 55411

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

Jeff M. Helstrom – Project Manager Ph: 612-207-7859 Email: jeffrey.helstrom@mpls.k12.mn.us

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

.1 Construction Manager:

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(The Construction Manager is identified on the cover page. If a Construction Manager has not been retained as of the date of this Agreement, state the anticipated date of retention. If the Architect is to assist the Owner in selecting the Construction Manager, complete Section 4.1.1.1.)

Dustin Kempf – Sr. Project Manager Ph: 612-554-9421 Email: dustin.kempf@krausanderson.com

.2 Land Surveyor:

.3 Geotechnical Engineer:

.4 Civil Engineer:

.5 Other consultants and Contractors:
(List any other consultants and Contractors retained by the Owner.)

Commissioning Agent, Geotechnical Engineer, Special Inspections, Hazardous Materials Abatement, Special Testing, and Investigative Analysis

§ 1.1.11 The Architect identifies the following representative in accordance with Section 2.4:
(List name, address, and other contact information.)

Erik Anderson ATSR Partner. Ph: 651-324-1167 Email: eanderson@atsr.com
ATSR Planners, Architects & Engineers (Armstrong, Torseth, Skold & Rydeen, Inc.)
8501 Golden Valley Road, Suite 300
Minneapolis, MN 55427
763-545-3731

§ 1.1.12 The Architect shall retain the consultants identified EXH-A Project Charter:
(List name, legal status, address, and other contact information.)

(Paragraphs deleted)
§ 1.1.13 Other Initial Information on which the Agreement is based:

Professional Consultant Team as defined in EXH-A Project Charter

§ 1.2 The Owner and Architect may rely on the Initial Information. Both parties, however, recognize that the Initial Information may materially change and, in that event, the Owner and the Architect shall appropriately adjust the

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Architect's services, schedule for the Architect's services, and the Architect's compensation. The Owner shall adjust the Owner's budget for the Cost of the Work and the Owner's anticipated design and construction milestones, as necessary, to accommodate material changes in the Initial Information.

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

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

§ 1.4 The term "Contractors" refers to persons or entities who perform Work under contracts with the Owner that are administered by the Architect and Construction Manager. The term "Contractors" is used to refer to such persons or entities, whether singular or plural. The term does not include the Owner's own forces, or Separate Contractors, which are persons or entities who perform construction under separate contracts with the Owner not administered by the Architect and Construction Manager.

ARTICLE 2 ARCHITECT'S RESPONSIBILITIES

§ 2.1 The Architect shall provide professional services as set forth in this Agreement. The Architect represents that it is properly licensed in the jurisdiction where the Project is located to provide the services required by this Agreement, or shall cause such services to be performed by appropriately licensed design professionals.

§ 2.2 The Architect shall perform its services consistent with the professional skill and care ordinarily provided by architects practicing in the same or similar locality under the same or similar circumstances. The Architect shall perform its services as expeditiously as is consistent with such professional skill and care and the orderly progress of the Project.

§ 2.3 The Architect shall provide its services in conjunction with the services of a Construction Manager as described in AIA Document C132™–2019, Standard Form of Agreement Between Owner and Construction Manager as Adviser. The Architect shall not be responsible for actions taken by the Construction Manager.

§ 2.4 The Architect shall identify a representative authorized to act on behalf of the Architect with respect to the Project.

§ 2.5 Except with the Owner's knowledge and consent, the Architect shall not engage in any activity, or accept any employment, interest or contribution that would reasonably appear to compromise the Architect's professional judgment with respect to this Project.

§ 2.6 The Architect shall maintain insurance as defined in EXH-C Owner Insurance until termination of this Agreement and for the period of the statutes of repose set forth in Minnesota Statute 541.051, so long as such insurance is commercially available and reasonably affordable. .

(Paragraphs deleted)

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

§ 2.6.8 The Architect shall provide certificates of insurance to the Owner that evidence compliance with the requirements in this Section 2.6.

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ARTICLE 3 SCOPE OF ARCHITECT'S BASIC SERVICES

§ 3.1 The Architect's Basic Services consist of those described in this Article 3 and include usual and customary structural, mechanical, and electrical engineering services. Services not set forth in this Article 3 are Supplemental or Additional Services. The Architect's Basic Services are defined in EXH-B Project Design Milestones and Deliverables and EXH-D Owner Requirements.

§ 3.1.1 The Architect shall manage the Architect's services, research applicable design criteria, attend Project meetings, communicate with members of the Project team, and report progress to the Owner.

§ 3.1.2 The Architect shall coordinate its services with those services provided by the Owner, the Construction Manager, and the Owner's other consultants. The Architect shall be entitled to rely on, and shall not be responsible for, the accuracy, completeness, and timeliness of, services and information furnished by the Owner, the Construction Manager, and the Owner's other consultants. The Architect shall provide prompt written notice (within 10 days of discovery) to the Owner if the Architect becomes aware of any error, omission or inconsistency, in such services or information.

§ 3.1.3 As soon as practicable after the date of this Agreement, the Architect shall submit, for the Construction Manager's review and the Owner's approval, a schedule for the performance of the Architect's services. The schedule shall include design phase milestone dates, as well as the anticipated dates for the commencement of construction and for Substantial Completion of the Work as set forth in the Initial Information defined in EXH-B Project Milestone and Deliverables. This schedule shall include allowances for periods of time required for the Owner's review, for the Construction Manager's review, for the performance of the Owner's consultants, and for approval of submissions by authorities having jurisdiction over the Project. Once approved by the Owner, time limits established by the schedule shall not, except for reasonable cause, be exceeded by the Architect or Owner. With the Owner's approval, the Architect shall adjust the schedule, if necessary, as the Project proceeds until the commencement of construction.

§ 3.1.4 The Architect shall submit information to the Construction Manager and participate in developing and revising the Project schedule as it relates to the Architect's services. The Architect shall review and approve, or take other appropriate action upon, the portion of the Project schedule relating to the performance of the Architect's services.

§ 3.1.5 The Architect shall not be responsible for an Owner's or Construction Manager's directive or substitution, or for the Owner's acceptance of non-conforming Work, made or given without the Architect's written approval.

§ 3.1.6 The Architect shall, in coordination with the Construction Manager, contact governmental authorities required to approve the Construction Documents and entities providing utility services to the Project. The Architect shall respond to applicable design requirements imposed by those authorities and entities and initiate governmental planning review processes as defined in EXH-B Project Design Milestones and Deliverables.

§ 3.1.7 The Architect shall assist the Owner and Construction Manager in connection with the Owner's responsibility for filing documents required for the approval of governmental authorities having jurisdiction over the Project.

§ 3.1.8 The Architect and Construction Manager shall fully cooperate and coordinate with the Owner and its hired Commissioning Agent during all phases of design, construction, and commissioning to achieve the Project's final completion and full systems operability and ongoing use per the approved final design. The Architect is responsible for the duration of the contract to provide adequate support to its sub-consultants who provide services integral to commissioning.

§ 3.1.9 The Architect shall assist the Owner in connection with the Owner's responsibility to communicate the project design and construction to the school community, school neighbors, and neighborhood associations.

§ 3.1.10 The Owner shall provide available historical building documentation and the Architect shall field verify building elements as a basis for design. Additional design fees and reimbursable expenses incurred by the Architect related to remedying or addressing incorrectly identified building elements following the Architect's completion of field verification shall be borne solely by the Architect. Field verification shall include (1) field measurements of readily visible elements, (2) removing and replacing lay-in ceiling tiles, and (3) opening and closing access panels. The Architect is encouraged to identify areas that are not readily visible and merit further destructive testing that may include (1) drilling holes to use a scope camera to see inside a wall, (2) cutting small holes to identify subsurface

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conditions, or (3) moving non-functioning equipment to facilitate investigation. The Owner may perform any requested destructive testing. The Architect is responsible for field verification for the portion of the building within the scope of services. Field verification and destructive testing shall not be required for portions of the building or building systems that are not within the scope of services.

§ 3.2 Schematic Design Phase Services

§ 3.2.1 The Architect shall review the program and other information furnished by the Owner and Construction Manager, and shall review laws, codes, and regulations applicable to the Architect's services. The Architect shall submit reports, documents for review, and deliverables as defined in EXH-B Project Design Milestones & Deliverables, AIA contracts G201-2013, G202-2013, and E203-2013.

§ 3.2.2 The Architect shall prepare a preliminary evaluation of the Owner's program, schedule, budget for the Cost of the Work, Project site, and the proposed procurement and delivery method, and other Initial Information, each in terms of the other, to ascertain the requirements of the Project. The Architect shall notify the Owner of (1) any inconsistencies discovered in the information, and (2) other information or consulting services that may be reasonably needed for the Project.

§ 3.2.3 The Architect shall present its preliminary evaluation to the Owner and Construction Manager and shall discuss with the Owner and Construction Manager alternative approaches to design and construction of the Project. The Architect shall reach an understanding with the Owner and Construction Manager regarding the requirements of the Project.

§ 3.2.4 Based on the Project requirements agreed upon with the Owner, the Architect shall prepare and present, to the Owner and Construction Manager, for the Owner's approval, a preliminary design illustrating the scale and relationship of the Project components.

§ 3.2.5 Based on the Owner's approval of the preliminary design, the Architect shall prepare Schematic Design Documents for the Construction Manager's review and Owner's approval. The Schematic Design Documents shall consist of drawings and other documents including a site plan, if appropriate, and preliminary building plans, sections and elevations; and may include some combination of study models, perspective sketches, or digital representations. Preliminary selections of major building systems and construction materials shall be noted on the drawings or described in writing.

§ 3.2.5.1 The Architect shall consider sustainable design alternatives, such as material choices and building orientation, together with other considerations based on program and aesthetics, in developing a design that is consistent with the Owner's program, schedule and budget for the Cost of the Work. The Owner may obtain more advanced sustainable design services as a Supplemental Service under Section 4.1.1.

§ 3.2.5.2 The Architect shall consider with the Owner and the Construction Manager the value of alternative materials, building systems and equipment, together with other considerations based on program and aesthetics, in developing a design for the Project that is consistent with the Owner's program, schedule, and budget for the Cost of the Work.

§ 3.2.6 The Architect shall submit the Schematic Design Documents to the Owner and the Construction Manager. The Architect shall meet with the Construction Manager to review the Schematic Design Documents. The Architect and Construction Manager shall provide a preliminary estimate of costs for the proposed schematic design. The Architect shall not proceed to the Design Development Phase without approval by the Owner.

§ 3.2.7 Upon receipt of the Construction Manager's review comments and cost estimate at the conclusion of the Schematic Design Phase, the Architect shall take action as required under Section 6.4, and request the Owner's approval of the Schematic Design Documents. If revisions to the Schematic Design Documents are required to comply with the Owner's budget for the Cost of the Work at the conclusion of the Schematic Design Phase, the Architect shall incorporate such revisions in the Design Development Phase.

§ 3.2.8 In the further development of the Drawings and Specifications during this and subsequent phases of design, the Architect shall be entitled to rely on the accuracy of the estimates of the Cost of the Work, which are to be provided by the Construction Manager under the Construction Manager's agreement with the Owner.

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§ 3.3 Design Development Phase Services

§ 3.3.1 Based on the Owner's approval of the Schematic Design Documents, and on the Owner's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, the Architect shall prepare Design Development Documents for the Construction Manager's review and the Owner's approval. The Design Development Documents shall be based upon information provided, and estimates prepared by, the Construction Manager and shall illustrate and describe the development of the approved Schematic Design Documents and shall consist of drawings and other documents including plans, sections, elevations, typical construction details, and diagrammatic layouts of building systems to fix and describe the size and character of the Project as to architectural, structural, mechanical and electrical systems, and other appropriate elements. The Design Development Documents shall also include outline specifications that identify major materials and systems and establish in general their quality levels. . The Architect shall submit reports, documents for review, and deliverables as defined in EXH-B Project Design Milestones & Deliverables and AIA contracts G201-2013, G202-2013, and E203-2013

§ 3.3.2 Prior to the conclusion of the Design Development Phase, the Architect shall submit the Design Development Documents to the Owner and the Construction Manager. The Architect shall meet with the Construction Manager to review the Design Development Documents.

§ 3.3.3 Upon receipt of the Construction Manager's information and estimate at the conclusion of the Design Development Phase, the Architect shall take action as required under Sections 6.5 and 6.6 and request the Owner's approval of the Design Development Documents.

§ 3.4 Construction Documents Phase Services

§ 3.4.1 Based on the Owner's approval of the Design Development Documents, and on the Owner's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, the Architect shall prepare Construction Documents for the Construction Manager's review and the Owner's approval. The Construction Documents shall illustrate and describe the further development of the approved Design Development Documents and shall consist of Drawings and Specifications setting forth in detail the quality levels and performance criteria of materials and systems and other requirements for the construction of the Work. The Owner and Architect acknowledge that, in order to perform the Work, the Contractor will provide additional information, including Shop Drawings, Product Data, Samples and other similar submittals, which the Architect shall review in accordance with Section 3.6.4.

§ 3.4.2 The Architect shall incorporate the design requirements of governmental authorities having jurisdiction over the Project into the Construction Documents.

§ 3.4.3 During the development of the Construction Documents, if requested by the Owner, the Architect shall assist the Owner and the Construction Manager in the development and preparation of (1) procurement information that describes the time, place, and conditions of bidding, including bidding or proposal forms; (2) the form of agreements between the Owner and Contractors; and (3) the Conditions of the Contracts for Construction (General, Supplementary and other Conditions); and (4) a project manual that includes the Conditions of the Contracts for Construction and Specifications, and may include bidding requirements and sample forms.

§ 3.4.4 Prior to the conclusion of the Construction Documents Phase, the Architect shall submit the Construction Documents to the Owner and the Construction Manager. The Architect shall meet with the Construction Manager to review the Construction Documents.

§ 3.4.5 Upon receipt of the Construction Manager's information and an estimate at the conclusion of the Construction Documents Phase, the Architect shall take action as required under Section 6.7, and request the Owner's approval of the Construction Documents. The Architect shall submit construction documents which are estimated to bid within 5% of the budgeted construction cost. The Cost of Work submittal is defined in EXH-B Project Design Milestones & Deliverables.

§ 3.5 Procurement Phase Services

§ 3.5.1 General

The Architect shall assist the Owner and Construction Manager in establishing a list of prospective contractors. Following the Owner's approval of the Construction Documents, the Architect shall assist the Owner and Construction Manager in (1) obtaining either competitive bids or negotiated proposals; (2) confirming responsible and

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responsiveness of bids or proposals including identification of any bid anomalies or irregularities that may require legal review; (3) determining the successful bid or proposal and providing a recommended award letter to the Owner, if any; and (4) awarding and preparing Contracts for Construction.

§ 3.5.2 Competitive Bidding

§ 3.5.2.1 Bidding Documents shall consist of bidding requirements and proposed Contract Documents.

§ 3.5.2.2 The Architect shall assist the Owner and Construction Manager in bidding the Project by

.1 facilitating the distribution of Bidding Documents to prospective bidders;

.2 organizing and conducting a pre-bid conference for prospective bidders;

.3 preparing responses to questions from prospective bidders and providing clarifications and interpretations of the Bidding Documents to the prospective bidders in the form of addenda; and

.4 organizing and conducting the opening of bids, and subsequently documenting and distributing the bidding results, as directed by the Owner.

§ 3.5.2.3 If the Bidding Documents permit substitutions, upon the Owner's written authorization, the Architect shall, as an Additional Service, consider requests for substitutions, and prepare and distribute addenda identifying approved substitutions to all prospective bidders.

§ 3.5.3 Negotiated Proposals

§ 3.5.3.1 Proposal Documents shall consist of proposal requirements, and proposed Contract Documents.

§ 3.5.3.2 The Architect shall assist the Owner and Construction Manager in obtaining proposals by:

.1 facilitating the distribution of Proposal Documents for distribution to prospective Contractors, and requesting their return upon completion of the negotiation process;

.2 organizing and participating in selection interviews with prospective Contractors;

.3 preparing responses to questions from prospective Contractors and providing clarifications and interpretations of the Proposal Documents to the prospective Contractors in the form of addenda; and

.4 participating in negotiations with prospective Contractors, and subsequently preparing a summary report of the negotiation results, as directed by the Owner.

§ 3.5.3.3 If the Proposal Documents permit substitutions, upon the Owner's written authorization, the Architect shall, , consider requests for substitutions, consult with the Construction Manager, and prepare and distribute addenda identifying approved substitutions to all prospective contractors.

§ 3.6 Construction Phase Services

§ 3.6.1 General

§ 3.6.1.1 The Architect shall provide administration of the Contract between the Owner and the Contractor as set forth below and in AIA Document A232™–2019, General Conditions of the Contract for Construction, Construction Manager as Adviser Edition as revised..

§ 3.6.1.2 The Architect shall advise and consult with the Owner and Construction Manager during the Construction Phase Services. The Architect shall have authority to act on behalf of the Owner only to the extent provided in this Agreement. The Architect shall not have control over, charge of, or responsibility for the construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work, nor shall the Architect be responsible for the Contractors' failure to perform the Work in accordance with the requirements of the Contract Documents. The Architect shall be responsible for the Architect's negligent acts, errors or omissions, but shall not have control over or charge of, and shall not be responsible for acts or omissions of the Construction Manager, or acts or omissions of the Contractors or of any other persons or entities performing portions of the Work.

§ 3.6.1.3 Subject to Section 4.2, and except as provided in Section 3.6.6.5, the Architect's responsibility to provide Construction Phase Services commences with the award of the initial Contract for Construction and the Owner's issuance of the Notice to Proceed and terminates on the date the Architect authorizes the final Certificate for Payment for the Contractor.

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§ 3.6.2 Evaluations of the Work

§ 3.6.2.1 The Architect shall visit the site at intervals appropriate to the stage of construction, or as otherwise required in Section 4.2.3, to become generally familiar with the progress and quality of the portion of the Work completed, and to determine, in general, if the Work observed is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the Architect shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. On the basis of the site visits, the Architect shall keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, and promptly report to the Owner and the Construction Manager (1) known deviations from the Contract Documents, (2) known deviations from the most recent construction schedule submitted by the Construction Manager, and (3) defects and deficiencies observed in the Work.

§ 3.6.2.2 The Architect has the authority and obligation to reject Work that does not conform to the Contract Documents and shall notify the Construction Manager about the rejection. The Owner shall be given the option to accept the defective work after consultation with the Architect and Construction Manager. Whenever the Architect considers it necessary or advisable, the Architect, upon written authorization from the Owner and notification to the Construction Manager, shall have the authority to require inspection or testing of the Work in accordance with the provisions of the Contract Documents, whether or not the Work is fabricated, installed or completed. However, neither this authority of the Architect nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect to the Contractors, Subcontractors, suppliers, their agents or employees, or other persons or entities performing portions of the Work.

§ 3.6.2.3 The Architect shall interpret and decide matters concerning performance under, and requirements of, the Contract Documents on written request of the Construction Manager, Owner, or Contractors through the Construction Manager. The Architect's response to such requests shall be made in writing within five (5) business days.

§ 3.6.2.4 Interpretations and decisions of the Architect shall be consistent with the intent of, and reasonably inferable from, the Contract Documents and shall be in writing or in the form of drawings. When making such interpretations and decisions, the Architect shall endeavor to secure faithful performance by the Owner and Contractors, shall not show partiality to either, and shall not be liable for results of interpretations or decisions rendered in good faith. The Architect's decisions on matters relating to aesthetic effect shall be final if consistent with the intent expressed in the Contract Documents.

§ 3.6.2.5 Unless the Owner and Contractors designate another person to serve as an Initial Decision Maker, as that term is defined in AIA Document A232–2019, the Architect, with the assistance of the Construction Manager, shall render initial decisions on Claims between the Owner and Contractors as provided in the Contract Documents.

§ 3.6.3 Certificates for Payment to Contractor

§ 3.6.3.1 Not more frequently than monthly, the Architect shall review and certify an application for payment. Within seven days after the Architect receives an application for payment forwarded from the Construction Manager, the Architect shall review and certify the application as follows:

.1 Where there is only one Contractor responsible for performing the Work, the Architect shall review the Contractor's Application and Certificate for Payment that the Construction Manager has previously reviewed and certified. The Architect shall certify the amount due the Contractor and shall issue a Certificate for Payment in such amount.

.2 Where there is more than one Contractor responsible for performing different portions of the Project, the Architect shall review the Project Application and Project Certificate for Payment, with the Summary of Contractors' Applications for Payment, that the Construction Manager has previously prepared, reviewed, and certified. The Architect shall certify the total amount due all Contractors collectively and shall issue a Project Certificate for Payment in the total of such amounts.

§ 3.6.3.2 The Architect's certification for payment shall constitute a representation to the Owner, based on (1) the Architect's evaluation of the Work as provided in Section 3.6.2, (2) the data comprising the Contractor's Application for Payment or the data comprising the Project Application for Payment, and (3) the recommendation of the Construction Manager, that, to the best of the Architect's knowledge, information and belief, the Work has progressed to the point indicated, the quality of the Work is in accordance with the Contract Documents, and that the Contractors are entitled to payment in the amount certified. The foregoing representations are subject to (1) an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, (2) results of subsequent and

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documented tests and inspections, (3) correction of minor deviations from the Contract Documents prior to completion, and (4) specific qualifications expressed by the Architect. The Architect's certification on the Certificate for Payment shall be that the percentages of Work shown on the application are completed, to the best of the Architect's knowledge, information, and belief. No judgement is made by the Architect as to the value of the Work or the value of uncompleted Work.

§ 3.6.3.3 The issuance of a Certificate for Payment or a Project Certificate for Payment shall not be a representation that the Architect has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work, (2) reviewed construction means, methods, techniques, sequences or procedures, (3) reviewed copies of requisitions received from Subcontractors and suppliers and other data requested by the Owner to substantiate each Contractor's right to payment, or (4) ascertained how or for what purpose that Contractor has used money previously paid on account of the Contract Sum.

§ 3.6.3.4 The Architect shall maintain a record of the Applications and Certificates for Payment.

§ 3.6.4 Submittals

§ 3.6.4.1 The Architect shall review the Construction Manager's Project submittal schedule and shall not unreasonably delay or withhold approval of the schedule. The Architect's action in reviewing submittals transmitted by the Construction Manager shall be taken in accordance with the approved submittal schedule or, in the absence of an approved submittal schedule, with reasonable promptness while allowing sufficient time, in the Architect's professional judgment, to permit adequate review.

§ 3.6.4.2 The Architect shall review and approve, or take other appropriate action upon, the Contractors' submittals such as Shop Drawings, Product Data and Samples, that the Construction Manager has reviewed, recommended for approval, and transmitted to the Architect. The Architect's review of the submittals shall only be for the limited purpose of checking for conformance with the Contract Documents. Review of such submittals is not for the purpose of determining the accuracy and completeness of other information such as dimensions, quantities, and installation or performance of equipment or systems, which are the Contractors' responsibilities. The Architect's review shall not constitute approval of safety precautions or construction means, methods, techniques, sequences or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

§ 3.6.4.3 If the Contract Documents specifically require the Contractors to provide professional design services or certifications by a design professional related to systems, materials or equipment, the Architect shall specify the appropriate performance and design criteria that such services must satisfy. The Architect shall review and take appropriate action on Shop Drawings and other submittals related to the Work designed or certified by the Contractors' design professionals, provided the submittals bear such professionals' seal and signature when submitted to the Architect. The Architect's review shall be for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Architect shall be entitled to rely upon, and shall not be responsible for, the adequacy and accuracy of the services, certifications, and approvals performed or provided by such design professionals.

§ 3.6.4.4 After receipt of the Construction Manager's recommendations, and subject to the provisions of Section 4.2, the Architect shall review and respond to requests for information about the Contract Documents. The Architect, in consultation with the Construction Manager, shall set forth in the Contract Documents the requirements for requests for information. Requests for information shall include, at a minimum, a detailed written statement that indicates the specific Drawings or Specifications in need of clarification and the nature of the clarification requested. The Architect's response to such requests shall be made in writing within any time limits agreed upon, or otherwise with reasonable promptness. If appropriate, the Architect shall prepare and issue supplemental Drawings and Specifications in response to the requests for information.

§ 3.6.4.5 The Architect shall maintain a record of submittals and copies of submittals transmitted by the Construction Manager in accordance with the requirements of the Contract Documents.

§ 3.6.5 Changes in the Work

§ 3.6.5.1 The Architect shall review and sign, or take other appropriate action, on Change Orders and Construction Change Directives prepared by the Construction Manager for the Owner's approval and execution in accordance with the Contract Documents.

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§ 3.6.5.2 The Architect may order minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. Such changes shall be effected by written order issued by the Architect through the Construction Manager.

§ 3.6.5.3 The Architect shall maintain records relative to changes in the Work.

§ 3.6.6 Project Completion

§ 3.6.6.1 The Architect, assisted by the Construction Manager, shall:

- **.1** conduct inspections to determine the date of Substantial Completion and the date of final completion;
- **.2** issue a Certificate of Substantial Completion prepared by the Construction Manager;
- **.3** review written warranties and related documents required by the Contract Documents and received from the Contractors, through the Construction Manager and provide copies to the Owner including a summary of warranty items and expiration dates; and
- **.4** after receipt of a final Contractor's Application and Certificate for Payment or a final Project Application and Project Certificate for Payment from the Construction Manager, issue a final Certificate for Payment based upon a final inspection indicating that, to the best of the Architect's knowledge, information, and belief, the Work complies with the requirements of the Contract Documents.

§ 3.6.6.2 The Architect's inspections shall be conducted with the Owner and Construction Manager to (1) check conformance of the Work with the requirements of the Contract Documents and (2) verify the accuracy and completeness of the lists submitted by the Construction Manager and Contractors of Work to be completed or corrected. This includes all architectural, civil, mechanical, electrical, structural plumbing and security systems.

§ 3.6.6.3 When Substantial Completion has been achieved, the Architect shall inform the Owner about the balance of the Contract Sum remaining to be paid each of the Contractors, including the amount to be retained from the Contract Sum, if any, for final completion or correction of the Work.

§ 3.6.6.4 The Architect shall forward to the Owner the following information received from the Contractors, through the Construction Manager: (1) consent of surety or sureties, if any, to reduction in or partial release of retainage or the making of final payment; (2) affidavits, receipts, releases and waivers of liens, or bonds indemnifying the Owner against liens; and (3) any other documentation required of the Contractors under the Contract Documents.

§ 3.6.6.5 The Architect and Construction Manager shall schedule 10 months from the date of Substantial Completion, and conduct a meeting with the Owner and Construction Manager to review the facility operations and performance. This meeting shall not be subject to additional compensation for the Architect.

§ 3.6.6.6 The Architect shall issue an "As Constructed Record" set of construction documents that will consist of the As Designed Record Sets of construction documents and Revit model with redlined changes from the General Contractor incorporated into the digital deliverables as defined in AIA G201 2013 Article 2.3 to the Owner upon final completion of the Project. The As Constructed Record documents shall reflect all digital changes made by the Architect between issuing the Bid Documents set and final completion as well as the General Contractor's redline changes. The Architect shall not be held responsible for field verification of the General Contractor's changes. The Architect's full set of deliverables during Construction Administration are defined in EXH-D Owner Requirements.

ARTICLE 4 SUPPLEMENTAL AND ADDITIONAL SERVICES

§ 4.1 Supplemental Services

§ 4.1.1 The services listed below are not included in Basic Services but may be required for the Project. The Architect shall provide the listed Supplemental Services only if specifically designated in the table below as the Architect's responsibility, and the Owner shall compensate the Architect as provided in Section 11.2. Unless otherwise specifically addressed in this Agreement, if neither the Owner nor the Architect is designated, the parties agree that the listed Supplemental Service is not being provided for the Project.

(Designate the Architect's Supplemental Services and the Owner's Supplemental Services required for the Project by indicating whether the Architect or Owner shall be responsible for providing the identified Supplemental Service. Insert a description of the Supplemental Services in Section 4.1.2 below or attach the description of services as an exhibit to this Agreement.)

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Supplemental Services		Responsibility (Architect, Owner or Not Provided)
§ 4.1.1.1	Assistance with selection of Construction Manager	Owner
§ 4.1.1.2	Programming	Owner
§ 4.1.1.3	Multiple preliminary designs	As provided in EXH-B
§ 4.1.1.4	Measured drawings	As provided in EXH B
§ 4.1.1.5	Existing facilities surveys	Owner
§ 4.1.1.6	Site evaluation and planning	Owner
§ 4.1.1.7	Building Information Model management responsibilities	Basic Service for Architect
§ 4.1.1.8	Development of Building Information Models for post construction use	Architect
§ 4.1.1.9	Civil engineering	Architect
§ 4.1.1.10	Landscape design	Architect
§ 4.1.1.11	Architectural interior design	Basic Services for Architect
§ 4.1.1.12	Value analysis	Architect
§ 4.1.1.13	Cost estimating	Basic Services for Architect
§ 4.1.1.14	On-site project representation	Basic Services for Architect
§ 4.1.1.15	Conformed documents for construction	Basic Service for Architect
§ 4.1.1.16	As-designed record drawings	Basic Services for Architect
§ 4.1.1.17	As-constructed record drawings	Basic Services for Architect
§ 4.1.1.18	Post-occupancy evaluation	Owner
§ 4.1.1.19	Facility support services	Owner
§ 4.1.1.20	Tenant-related services	Not Provided
§ 4.1.1.21	Architect's coordination of the Owner's consultants	Basic Services for Architect
§ 4.1.1.22	Telecommunications/data design	Basic Services for Architect
§ 4.1.1.23	Security evaluation and planning	Owner
§ 4.1.1.24	Commissioning	Owner
§ 4.1.1.25	Sustainable Project Services pursuant to Section 4.1.3	Owner
§ 4.1.1.26	Historic preservation	Not Provided
§ 4.1.1.27	Furniture, furnishings, and equipment design	Owner
§ 4.1.1.28	Other services provided by specialty Consultants	TBD
§ 4.1.1.29	Other Supplemental Services	TBD

§ 4.1.2 Description of Supplemental Services

§ 4.1.2.1 A description of each Supplemental Service identified in Section 4.1.1 as the Architect's responsibility is provided below.

(Describe in detail the Architect's Supplemental Services identified in Section 4.1.1 or, if set forth in an exhibit, identify the exhibit. The AIA publishes a number of Standard Form of Architect's Services documents that can be included as an exhibit to describe the Architect's Supplemental Services.)

§ 4.1.2.2 A description of each Supplemental Service identified in Section 4.1.1 as the Owner's responsibility is provided below.

(Describe in detail the Owner's Supplemental Services identified in Section 4.1.1 or, if set forth in an exhibit, identify the exhibit.)

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§ 4.1.3 If the Owner identified a Sustainable Objective in Article 1, the Architect shall provide, as a Supplemental Service, the Sustainability Services required in AIA Document E235™–2019, Sustainable Projects Exhibit, Construction Manager as Adviser Edition, attached to this Agreement. The Owner shall compensate the Architect as provided in Section 11.2.

§ 4.2 Architect's Additional Services

The Architect may provide Additional Services after execution of this Agreement, without invalidating the Agreement. Except for services required due to the fault of the Architect, any Additional Services provided in accordance with this Section 4.2 shall entitle the Architect to compensation pursuant to Section 11.3 and an appropriate adjustment in the Architect's schedule. Additional Services are defined in EXH-A Project Charter

§ 4.2.1 Upon recognizing the need to perform the following Additional Services, the Architect shall notify the Owner with reasonable promptness and explain the facts and circumstances giving rise to the need. The Architect shall not proceed to provide the following Additional Services until the Architect receives the Owner's written authorization:

.1 Services necessitated by a change in the Initial Information, previous instructions or recommendations given by the Construction Manager or the Owner, approvals given by the Owner, or a material change in the Project including size, quality, complexity, building systems, the Owner's schedule or budget for Cost of the Work, constructability considerations, procurement or delivery method, or bid packages in addition to those listed in Section 1.1.6;

.2 Making revisions in Drawings, Specifications, or other documents (as required pursuant to Section 6.7), when such revisions are required because the Construction Manager's estimate of the Cost of the Work exceeds the Owner's budget, except where such excess is due to changes initiated by the Architect in scope, capacities of basic systems, or the kinds and quality of materials, finishes or equipment;

.3 Services necessitated by enactment or revision of codes, laws, or regulations, including changing or editing previously prepared Instruments of Service;

.4 Changing or editing previously prepared Instruments of Service necessitated by official interpretations of applicable codes, laws or regulations that are contrary to requirements of the Instruments of Service when those Instruments of Service were prepared in accordance with the applicable standard of care;

.5 Services necessitated by decisions of the Owner or Construction Manager not rendered in a timely manner or any other failure of performance on the part of the Owner, Construction Manager or the Owner's other consultants or contractors;

.6 ;

.7 ;

.8 ;

.9 Preparation for, and attendance at, a dispute resolution proceeding or legal proceeding, except where the Architect is party thereto;

.10 ;

.11 Consultation concerning replacement of Work resulting from fire or other cause during construction; or

.12 .

§ 4.2.2 To avoid delay in the Construction Phase, the Architect shall provide the following Additional Services, notify the Owner with reasonable promptness, and explain the facts and circumstances giving rise to the need. If, upon receipt of the Architect's notice, the Owner determines that all or parts of the services are not required, the Owner shall give prompt written notice to the Architect of the Owner's determination. The Owner shall compensate the Architect for the services provided prior to the Architect's receipt of the Owner's notice:

.1 Reviewing a Contractor's submittal out of sequence from the Project submittal schedule approved by the Architect;

.2 Responding to the Contractors' requests for information that are not prepared in accordance with the Contract Documents or where such information is available to the Contractors from a careful study and comparison of the Contract Documents, field conditions, other Owner-provided information, Contractor-prepared coordination drawings, or prior Project correspondence or documentation;

.3 Preparing Change Orders, and Construction Change Directives that require evaluation of Contractors' proposals and supporting data, or the preparation or revision of Instruments of Service;

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.4 Evaluating an extensive number of Claims as the Initial Decision Maker; or

.5 Evaluating substitutions proposed by the Owner, Construction Manager or Contractors and making subsequent revisions to Instruments of Service resulting therefrom.

§ 4.2.3 The Architect shall provide Construction Phase Services exceeding the limits set forth below as Additional Services. When the limits below are reached, the Architect shall notify the Owner:

.1 2 (two) reviews of each Shop Drawing, Product Data item, sample and similar submittals of the Contractors

.2 1 (one) visits to the site per week by the Architect during construction

.3 2 (two) inspections for any portion of the Work to determine whether such portion of the Work is substantially complete in accordance with the requirements of the Contract Documents

.4 1 (one) inspections for any portion of the Work to determine final completion

§ 4.2.4 Except for services required under Section 3.6.6.5 and those services that do not exceed the limits set forth in Section 4.2.3, Construction Phase Services provided more than 60 days after (1) the date of Substantial Completion of the Work, or (2) the anticipated date of Substantial Completion identified in the Initial Information, whichever is earlier, shall be compensated as Additional Services to the extent the Architect incurs additional cost in providing those Construction Phase Services.

§ 4.2.5 If the services covered by this Agreement have not been completed within ( ) months of the date of this Agreement, through no fault of the Architect, extension of the Architect's services beyond that time shall be compensated as Additional Services.

ARTICLE 5 OWNER'S RESPONSIBILITIES

§ 5.1 Unless otherwise provided for under this Agreement, the Owner shall provide information in a timely manner regarding requirements for and limitations on the Project, including a written program which shall set forth the Owner's objectives, schedule, constraints and criteria, including space requirements and relationships, flexibility, expandability, special equipment, systems and site requirements and stakeholder and steering team engagement requirements as defined in EXH-B Project Design Milestone and Deliverables.

§ 5.2 The Owner shall retain a Construction Manager to provide services, duties and responsibilities as described in AIA Document C132–2019, Standard Form of Agreement Between Owner and Construction Manager as Adviser. The Owner shall provide the Architect with a copy of the scope of services in the agreement executed between the Owner and the Construction Manager, and any subsequent modifications to the Construction Manager's scope of services in the agreement.

§ 5.3 The Owner shall establish the Owner's budget for the Project, including (1) the budget for the Cost of the Work as defined in Section 6.1; (2) the Owner's other costs; and (3) reasonable contingencies related to all of these costs. The Owner shall update the Owner's budget for the Project as necessary throughout the duration of the Project until final completion. If the Owner significantly increases or decreases the Owner's budget for the Cost of the Work, the Owner shall notify the Architect and the Construction Manager. The Owner and the Architect, in consultation with the Construction Manager, shall thereafter agree to a corresponding change in the Project's scope and quality.

§ 5.3.1 The Owner acknowledges that accelerated, phased or fast-track scheduling provides a benefit, but also carries with it associated risks. Such risks include the Owner incurring costs for the Architect to coordinate and redesign portions of the Project affected by procuring or installing elements of the Project prior to the completion of all relevant Construction Documents, and costs for the Contractors to remove and replace previously installed Work. If the Owner selects accelerated, phased or fast-track scheduling, the Owner agrees to include in the budget for the Project sufficient contingencies to cover such costs.

§ 5.4 The Owner shall identify a representative authorized to act on the Owner's behalf with respect to the Project. The Owner shall render decisions and approve the Architect's submittals in a timely manner in order to avoid unreasonable delay in the orderly and sequential progress of the Architect's services.

§ 5.5 The Owner shall furnish surveys to describe physical characteristics, legal limitations and utility locations for the site of the Project, and a written legal description of the site. The surveys and legal information shall include, as applicable, grades and lines of streets, alleys, pavements and adjoining property and structures; designated wetlands;

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adjacent drainage; rights-of-way, restrictions, easements, encroachments, zoning, deed restrictions, boundaries and contours of the site; locations, dimensions, and other necessary data with respect to existing buildings, other improvements and trees; and information concerning available utility services and lines, both public and private, above and below grade, including inverts and depths. All the information on the survey shall be referenced to a Project benchmark.

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

§ 5.7 The Owner shall provide the Supplemental Services designated as the Owner's responsibility in Section 4.1.1.

§ 5.8 If the Owner identified a Sustainable Objective in Article 1, the Owner shall fulfill its responsibilities as required in AIA Document E235™–2019, Sustainable Projects Exhibit, Construction Manager as Adviser Edition, attached to this Agreement.

§ 5.9 The Owner shall coordinate the services of its own consultants with those services provided by the Architect. Upon the Architect's request, the Owner shall furnish copies of the scope of services in the contracts between the Owner and the Owner's consultants. The Owner shall furnish the services of consultants other than those designated as the responsibility of the Architect in this Agreement, or authorize the Architect to furnish them as an Additional Service, when the Architect requests such services and demonstrates that they are reasonably required by the scope of the Project. The Owner shall require that its consultants and contractors maintain insurance, including professional liability insurance, as appropriate to the services or work provided.

§ 5.9.1 The Architect's responsibility in connection with the services of Owner's consultants, contractors, shall be to coordinate Owner's consultants' and contractors' portion of the Instruments of Service. Owner shall require consultants and contractors retained by Owner to coordinate their services and documents with those of Architect and Architect's consultants.

§ 5.10 The Owner shall furnish tests, inspections and reports required by law or the Contract Documents, such as structural, mechanical, and chemical tests, tests for air and water pollution, and tests for hazardous materials.

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

§ 5.12 The Owner shall provide prompt written notice to the Architect and Construction Manager if the Owner becomes aware of any fault or defect in the Project, including errors, omissions or inconsistencies in the Architect's Instruments of Service.

§ 5.13 The Owner shall communicate with the Contractors and the Construction Manager's consultants through the Construction Manager about matters arising out of or relating to the Contract Documents. The Owner and Construction Manager shall include the Architect in all communications that relate to or affect the Architect's services or professional responsibilities. The Owner shall promptly notify the Architect of the substance of any direct communications between the Owner and the Construction Manager otherwise relating to the Project. Communications by and with the Architect's consultants shall be through the Architect.

§ 5.14 Before executing the Contracts for Construction, the Owner shall coordinate the Architect's duties and responsibilities set forth in the Contracts for Construction with the Architect's services set forth in this Agreement. The Owner shall provide the Architect a copy of the executed agreements between the Owner and Contractors, including the General Conditions of the Contracts for Construction.

§ 5.15 The Owner shall provide the Architect access to the Project site prior to commencement of the Work and shall obligate the Construction Manager and Contractors to provide the Architect access to the Work wherever it is in preparation or progress.

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§ 5.16 Within 15 days after receipt of a written request from the Architect, the Owner shall furnish the requested information as necessary and relevant for the Architect to evaluate, give notice of, or enforce lien rights.

§ 5.17 The Owner shall provide coordination, installation, and procurement of furniture, furnishings, and equipment for the Project.

§ 5.18 The Owner shall provide Information Technology equipment plugged into networks. Cabling and infrastructure designed by the Architect and installed by the Contractor.

§ 5.19 The Owner shall provide Testing and Special Inspections.

§ 5.20 The Owner shall coordinate closely with the Architect, Construction Manager and the Contractor for design and installation of security systems in the Project. The Owner shall design systems by locating cameras and designating doors for access control, the Architect shall document and complete the initial design by designing pathways, the Contractor shall install cabling and infrastructure required for the systems to be operational as well as devices, and the Owner shall work with the Contractor to program and test the systems.

ARTICLE 6 COST OF THE WORK

§ 6.1 For purposes of this Agreement, the Cost of the Work shall be the total cost to the Owner to construct all elements of the Project designed or specified by the Architect and shall include the Contractors' general conditions costs, overhead and profit. The Cost of the Work includes the compensation of the Construction Manager and Construction Manager's consultants during the Construction Phase only, including compensation for reimbursable expenses at the job site, if any. The Cost of the Work also includes the reasonable value of labor (including escalation for phased work and/or market conditions), materials, and equipment, donated to, or otherwise furnished by, the Owner. The Cost of the Work does not include the compensation of the Architect; the costs of the land, rights-of-way, financing, or contingencies for changes in the Work; or other costs that are the responsibility of the Owner.

§ 6.2 The Owner's budget for the Cost of the Work is provided in Initial Information, and shall be adjusted throughout the Project as required under Sections 5.3 and 6.4. Evaluations of the Owner's budget for the Cost of the Work represent the Architect's judgment as a design professional.

§ 6.3 The Owner shall require the Construction Manager to include appropriate contingencies for design, bidding or negotiating, price escalation, and market conditions in estimates of the Cost of the Work. The Architect shall be entitled to rely on the accuracy and completeness of estimates of the Cost of the Work the Construction Manager prepares as the Architect progresses with its Basic Services. The Architect shall prepare, as an Additional Service, revisions to the Drawings, Specifications or other documents required due to the Construction Manager's inaccuracies or incompleteness in preparing cost estimates, or due to market conditions the Architect could not reasonably anticipate. The Architect may review the Construction Manager's estimates solely for the Architect's guidance in completion of its services, however, the Architect shall report to the Owner any material inaccuracies and inconsistencies noted during any such review.

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

§ 6.4 If, prior to the conclusion of the Design Development Phase, the Construction Manager's estimate of the Cost of the Work exceeds the Owner's budget for the Cost of the Work, the Architect, in consultation with the Construction Manager, shall make appropriate recommendations to the Owner to adjust the Project's size, quality or budget for the Cost of the Work, and the Owner shall cooperate with the Architect in making such adjustments.

§ 6.5 If the Construction Manager's estimate of the Cost of the Work at the conclusion of the Design Development Phase exceeds the Owner's budget for the Cost of the Work, the Owner shall

- **.1** give written approval of an increase in the budget for the Cost of the Work;
- **.2** terminate in accordance with Section 9.5;
- **.3** in consultation with the Architect and Construction Manager, revise the Project program, scope, or quality as required to reduce the Cost of the Work to within the Owner's budget. Revisions to the

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contract documents, designs or drawings to bring the project in alignment with the Owner's budget shall be borne entirely by the Architect or

.4 implement any other mutually acceptable alternative which may include the Owner's decision to suspend, delay or cancel the project. If the project is cancelled or suspended, the Architect shall be paid for the services provided to the Owner at the time of suspension or cancellation.

§ 6.6 If the Owner chooses to proceed under Section 6.5.3, the Architect, without additional compensation, shall incorporate the revisions in the Construction Documents Phase as necessary to comply with the Owner's budget for the Cost of the Work at the conclusion of the Design Development Phase Services, or the budget as adjusted under Section 6.5.1. The Architect's revisions in the Construction Documents Phase shall be the limit of the Architect's responsibility under this Article 6.

§ 6.7 After incorporation of modifications under Section 6.6, the Architect shall, as an Additional Service, make any required revisions to the Drawings, Specifications or other documents necessitated by subsequent cost estimates that exceed the Owner's budget for the Cost of the Work, except when the excess is due to changes initiated by the Architect in scope, basic systems, or the kinds and quality of materials, finishes or equipment.

ARTICLE 7 COPYRIGHTS AND LICENSES

§ 7.1 The Architect and the Owner warrant that in transmitting Instruments of Service, or any other information, the transmitting party is the copyright owner of such information or has permission from the copyright owner to transmit such information for its use on the Project.

§ 7.2 The Architect and the Architect's consultants shall be deemed the authors and owners of their respective Instruments of Service, including the Drawings and Specifications, and shall retain all common law, statutory and other reserved rights, including copyrights. Submission or distribution of Instruments of Service to meet official regulatory requirements or for similar purposes in connection with the Project is not to be construed as publication in derogation of the reserved rights of the Architect and the Architect's consultants.

§ 7.3 The Architect grants to the Owner a nonexclusive license to use the Architect's Instruments of Service solely and exclusively for purposes of constructing, using, maintaining, altering and adding to the Project, provided that the Owner substantially performs its obligations under this Agreement, including prompt payment of all sums due pursuant to Article 9 and Article 11. The Architect shall obtain similar nonexclusive licenses from the Architect's consultants consistent with this Agreement. The license granted under this section permits the Owner to authorize the Contractors, Construction Manager, Subcontractors, Sub-subcontractors, and suppliers, as well as the Owner's consultants and Separate Contractors, to reproduce applicable portions of the Instruments of Service, subject to any protocols established pursuant to Section 1.3, solely and exclusively for use in performing services or construction for the Project. If the Architect rightfully terminates this Agreement for cause as provided in Section 9.4, the license granted in this Section 7.3 shall terminate.

§ 7.3.1 In the event the Owner uses the Instruments of Service without retaining the authors of the Instruments of Service, the Owner releases the Architect and Architect's consultant(s) from all claims and causes of action arising from such uses. The Owner, to the extent permitted by law, further agrees to indemnify and hold harmless the Architect and its consultants from all costs and expenses, including the cost of defense, related to claims and causes of action asserted by any third person or entity to the extent such costs and expenses arise from the Owner's use of the Instruments of Service under this Section 7.3.1. The terms of this Section 7.3.1 shall not apply if the Owner rightfully terminates this Agreement for cause under Section 9.4.

(Paragraph deleted)

§ 7.4. Any unauthorized use of the Instruments of Service shall be at the Owner's sole risk and without liability to the Architect and the Architect's consultants. The Owner retains full rights to all Instruments of Service for use in the Project and any existing or future projects

§ 7.5 Except as otherwise stated in Section 7.3, the provisions of this Article 7 shall survive the termination of this Agreement.

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ARTICLE 8 CLAIMS AND DISPUTES

§ 8.1 General

§ 8.1.1 The Owner and Architect shall commence all claims and causes of action against the other and arising out of or related to this Agreement, whether in contract, tort, or otherwise, in accordance with the requirements of the binding dispute resolution method selected in this Agreement and within the period specified by applicable law, but in any case not more than 10 years after the date of Substantial Completion of the Work. The Owner and Architect waive all claims and causes of action not commenced in accordance with this Section 8.1.1.

§ 8.1.2 To the extent damages are covered by property insurance, the Owner and Architect waive all rights against each other and against the contractors, consultants, agents and employees of the other for damages, except such rights as they may have to the proceeds of such insurance as set forth in AIA Document A232–2019, General Conditions of the Contract for Construction. The Owner or the Architect, as appropriate, shall require of the Construction Manager, contractors, consultants, agents and employees of any of them, similar waivers in favor of the other parties enumerated herein.

§ 8.1.3 The Architect shall indemnify and hold the Owner and the Owner's officers and employees harmless from and against damages, losses and judgments arising from claims by third parties, including reasonable attorneys' fees and expenses recoverable under applicable law, but only to the extent they are caused by the negligent acts or omissions of the Architect, its employees and its consultants in the performance of professional services under this Agreement. The Architect's obligation to indemnify and hold the Owner and the Owner's officers and employees harmless does not include a duty to defend. The Architect's duty to indemnify the Owner under this Section 8.1.3 shall be limited to the available proceeds of the insurance coverage required by this Agreement.

§ 8.1.4 The Architect and Owner waive consequential damages for claims, disputes or other matters in question arising out of or relating to this Agreement. This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination of this Agreement, except as specifically provided in Section 9.7.

§ 8.2 Mediation

§ 8.2.1 Any claim, dispute, or other matter in question arising out of or related to this Agreement shall be subject to mediation as a condition precedent to binding dispute resolution. If such matter relates to or is the subject of a lien arising out of the Architect's services, the Architect may proceed in accordance with applicable law to comply with the lien notice or filing deadlines prior to resolution of the matter by mediation or by binding dispute resolution.

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

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

§ 8.2.4 If the parties do not resolve a dispute through mediation pursuant to this Section 8.2, the method of binding dispute resolution shall be the following:
(Check the appropriate box.)

[ ] Arbitration pursuant to Section 8.3 of this Agreement

[X] Litigation in a court of competent jurisdiction in Hennepin County, Minnesota

[ ] Other: *(Specify)*

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

§ 8.3 Arbitration

§ 8.3.1 If the parties have selected arbitration as the method for binding dispute resolution in this Agreement any claim, dispute or other matter in question arising out of or related to this Agreement subject to, but not resolved by, mediation shall be subject to arbitration, which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Arbitration Rules in effect on the date of this Agreement. A demand for arbitration shall be made in writing, delivered to the other party to this Agreement, and filed with the person or entity administering the arbitration.

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

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

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

§ 8.3.4 Consolidation or Joinder

§ 8.3.4.1 Either party, at its sole discretion, may consolidate an arbitration conducted under this Agreement with any other arbitration to which it is a party provided that (1) the arbitration agreement governing the other arbitration permits consolidation, (2) the arbitrations to be consolidated substantially involve common issues of law or fact, and (3) the arbitrations employ materially similar procedural rules and methods for selecting arbitrator(s).

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

§ 8.3.4.3 The Owner and Architect grant to any person or entity made a party to an arbitration conducted under this Section 8.3, whether by joinder or consolidation, the same rights of joinder and consolidation as the Owner and Architect under this Agreement.

§ 8.4 The provisions of this Article 8 shall survive the termination of this Agreement.

ARTICLE 9 TERMINATION OR SUSPENSION

§ 9.1 If the Owner fails to make payments to the Architect in accordance with this Agreement, such failure shall be considered substantial nonperformance and cause for termination or, at the Architect's option, cause for suspension of performance of services under this Agreement. If the Architect elects to suspend services, the Architect shall give seven days' written notice to the Owner before suspending services. In the event of a suspension of services, the Architect shall have no liability to the Owner for delay or damage caused the Owner because of such suspension of services. Before resuming services, the Owner shall pay the Architect all sums due prior to suspension and any reasonable and documented expenses incurred in the interruption and resumption of the Architect's services. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted.

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§ 9.2 If the Owner suspends the Project, the Architect shall be compensated for services performed prior to notice of such suspension. When the Project is resumed, the Architect shall be compensated for expenses incurred in the interruption and resumption of the Architect's services. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted.

§ 9.3 If the Owner suspends the Project for more than 90 cumulative days for reasons other than the fault of the Architect, the Architect may terminate this Agreement by giving not less than seven days' written notice.

§ 9.4 Either party may terminate this Agreement upon not less than seven days' written notice should the other party fail substantially to perform in accordance with the terms of this Agreement through no fault of the party initiating the termination.

§ 9.5 The Owner may terminate this Agreement upon not less than seven days' written notice to the Architect for the Owner's convenience and without cause.

§ 9.6 If the Owner terminates this Agreement for its convenience pursuant to Section 9.5, or if the Architect terminates this Agreement pursuant to Section 9.3, the Owner shall compensate the Architect for services performed prior to termination, Reimbursable Expenses incurred, and costs attributable to termination, including the committed costs or performance of services attributable to the Architect's termination of consultant agreements.

§ 9.7 In addition to any amounts paid under Section 9.6, if the Owner terminates this Agreement for its convenience pursuant to Section 9.5, or the Architect terminates this Agreement pursuant to Section 9.3, the Owner shall pay to the Architect the following fees:
(Set forth below the amount of any termination or licensing fee, or the method for determining any termination or licensing fee.)

.1 Termination Fee:

$0

.2 Licensing Fee if the Owner intends to continue using the Architect's Instruments of Service:

$0

§ 9.8 Except as otherwise expressly provided herein, this Agreement shall terminate one year from the date of Substantial Completion.

§ 9.9 The Owner's rights to use the Architect's Instruments of Service in the event of a termination of this Agreement are set forth in Article 7 and Section 9.7.

ARTICLE 10 MISCELLANEOUS PROVISIONS

§ 10.1 This Agreement shall be governed by the law of the place where the Project is located, excluding that jurisdiction's choice of law rules. If the parties have selected arbitration as the method of binding dispute resolution, the Federal Arbitration Act shall govern Section 8.3.

§ 10.2 Terms in this Agreement shall have the same meaning as those in AIA Document A232–2019, General Conditions of the Contract for Construction, Construction Manager as Adviser Edition, except for purposes of this Agreement, the term "Work" shall include the work of all Contractors under the administration of the Architect and Construction Manager.

§ 10.3 The Owner and Architect, respectively, bind themselves, their agents, successors, assigns, and legal representatives to this Agreement. Neither the Owner nor the Architect shall assign this Agreement without the written consent of the other, except that the Owner may assign this Agreement to a lender providing financing for the Project if the lender agrees to assume the Owner's rights and obligations under this Agreement, and including any payments due to the Architect by the Owner prior to the assignment.

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§ 10.4 If the Owner requests the Architect to execute certificates, the proposed language of such certificates shall be submitted to the Architect for review at least 14 days prior to the requested dates of execution. If the Owner requests the Architect to execute consents reasonably required to facilitate assignment to a lender, the Architect shall execute all such consents that are consistent with this Agreement, provided the proposed consent is submitted to the Architect for review at least 14 days prior to execution. The Architect shall not be required to execute certificates or consents that would require knowledge, services, or responsibilities beyond the scope of this Agreement.

§ 10.5 Nothing contained in this Agreement shall create a contractual relationship with, or a cause of action in favor of, a third party against either the Owner or Architect.

§ 10.6 Unless otherwise required in this Agreement, the Architect shall have no responsibility for the discovery, presence, handling, removal or disposal of, or exposure of persons to, hazardous materials or toxic substances in any form at the Project site. A hazardous material or toxic substance is any material or substance that may be considered hazardous, toxic, or otherwise subject to statutory or regulatory requirements governing handling, disposal, and/or cleanup. For purposes of this agreement, the term hazardous material shall include and not be limited to asbestos, polychlorinated biphenyl (PCB), mold, mildew, fungi, or other similar microbial conditions.

(Paragraph deleted)
§ 10.6.1 Owner agrees to defend, indemnify, and save harmless the Architect from and against any and all liabilities, demands, claims, penalties, forfeitures, suits, and the costs and expenses arising from the discovery, presence, handling, removal, or disposal of, or exposure to hazardous materials or toxic substances (as defined in § 10.6), except to the extent that the presence of or exposure to hazardous materials or toxic substances result from the sole negligence or willful misconduct of the Architect.

§ 10.8 If the Architect or Owner receives information specifically designated as "confidential" or "business proprietary," the receiving party shall keep such information strictly confidential and shall not disclose it to any other person except as set forth in Section 10.8.1. This Section 10.8 shall survive the termination of this Agreement.

§ 10.8.1 The receiving party may disclose "confidential" or "business proprietary" information after 7 days' notice to the other party, when required by law, arbitrator's order, or court order, including a subpoena or other form of compulsory legal process issued by a court or governmental entity, or to the extent such information is reasonably necessary for the receiving party to defend itself in any dispute. The receiving party may also disclose such information to its employees, consultants, or contractors in order to perform services or work solely and exclusively for the Project, provided those employees, consultants and contractors are subject to the restrictions on the disclosure and use of such information as set forth in this Section 10.8.

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

ARTICLE 11 COMPENSATION

§ 11.1 For the Architect's Basic Services described under Article 3, the Owner shall compensate the Architect as follows:

.1 Stipulated Sum
(Insert amount)

Defined in EXH A Project Charter

.2 Percentage Basis
(Insert percentage value)

( ) % of the Owner's budget for the Cost of the Work, as calculated in accordance with Section 11.6.

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.3 Other
(Describe the method of compensation)

Defined in EXH A Project Charter

§ 11.2 For the Architect's Supplemental Services designated in Section 4.1.1 and for any Sustainability Services required pursuant to Section 4.1.3, the Owner shall compensate the Architect as follows:
(Insert amount of, or basis for, compensation. If necessary, list specific services to which particular methods of compensation apply.)

Defined in EXH A Project Charter

§ 11.3 For Additional Services that may arise during the course of the Project, including those under Section 4.2, the Owner shall compensate the Architect as follows:
(Insert amount of, or basis for, compensation.)

Defined in EXH A Project Charter

§ 11.4 Compensation for Supplemental and Additional Services of the Architect's consultants when not included in Sections 11.2 or 11.3, shall be the amount invoiced to the Architect plus zero percent (0 %), or as follows:
(Insert amount of, or basis for computing, Architect's consultants' compensation for Supplemental or Additional Services.)

§ 11.5 When compensation for Basic Services is based on a stipulated sum or a percentage basis, the proportion of compensation for each phase of services shall be as defined in EXH B Project Design Milestones and Deliverables:

The Owner acknowledges that with an accelerated Project delivery or multiple bid package process, the Architect may be providing its services in multiple Phases simultaneously. Therefore, the Architect shall be permitted to invoice monthly in proportion to services performed in each Phase of Services, as appropriate.

§ 11.6 When compensation identified in Section 11.1 is on a percentage basis, progress payments for each phase of Basic Services shall be calculated by multiplying the percentages identified in this Article by the Owner's most recent budget for the Cost of the Work. Compensation paid in previous progress payments shall not be adjusted based on subsequent updates to the Owner's budget for the Cost of the Work.

§ 11.6.1 When compensation is on a percentage basis and any portions of the Project are deleted or otherwise not constructed, compensation for those portions of the Project shall be payable to the extent services are performed on those portions. The Architect shall be entitled to compensation in accordance with this Agreement for all services performed whether or not the Construction Phase is commenced.

§ 11.7 The hourly billing rates for services of the Architect and the Architect's consultants are set forth below. The rates shall be adjusted in accordance with the Architect's and Architect's consultants' normal review practices.
(If applicable, attach an exhibit of hourly billing rates or insert them below.)

Defined in EXH B Project Charter

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§ 11.8 Compensation for Reimbursable Expenses

§ 11.8.1 Reimbursable Expenses are in addition to compensation for Basic, Supplemental, and Additional Services and include expenses incurred by the Architect and the Architect's consultants directly related to the Project, as follows:

.1 Transportation and authorized out-of-town travel and subsistence;
.2 Long distance services, dedicated data and communication services, teleconferences, Project web sites, and extranets;
.3 Permitting and other fees required by authorities having jurisdiction over the Project;
.4 Printing, reproductions, plots, and standard form documents;
.5 Postage, handling, and delivery;
.6 Expense of overtime work requiring higher than regular rates, if authorized in advance by the Owner;
.7 Renderings, physical models, mock-ups, professional photography, and presentation materials requested by the Owner or required for the Project;
.8 If required by the Owner, and with the Owner's prior written approval, the Architect's consultants' expenses of professional liability insurance dedicated exclusively to this Project, or the expense of additional insurance coverage or limits in excess of that normally maintained by the Architect's consultants;
.9 All taxes levied on professional services and on reimbursable expenses;
.10 Site office expenses;
.11 Registration fees and any other fees charged by the Certifying Authority or by other entities as necessary to achieve the Sustainable Objective; and
.12 Other similar Project-related expenditures.

§ 11.8.2 For Reimbursable Expenses the compensation shall be the expenses incurred by the Architect and the Architect's consultants plus five percent (5 %) of the expenses incurred.

§ 11.9 Architect's Insurance

If the types and limits of coverage required in Section 2.6 are in addition to the types and limits the Architect normally maintains, the Owner shall pay the Architect for the additional costs incurred by the Architect for the additional coverages as set forth below:

(Insert the additional coverages the Architect is required to obtain in order to satisfy the requirements set forth in Section 2.6, and for which the Owner shall reimburse the Architect.)

None

§ 11.10 Payments to the Architect

§ 11.10.1 Initial Payments

§ 11.10.1.1 An initial payment of zero dollars ($ 0) shall be made upon execution of this Agreement and is the minimum payment under this Agreement. It shall be credited to the Owner's account in the final invoice.

§ 11.10.1.2 If a Sustainability Certification is part of the Sustainable Objective, an initial payment to the Architect of zero dollars ($ 0) shall be made upon execution of this Agreement for registration fees and other fees payable to the Certifying Authority and necessary to achieve the Sustainability Certification. The Architect's payments to the Certifying Authority shall be credited to the Owner's account at the time the expense is incurred.

§ 11.10.2 Progress Payments

§ 11.10.2.1 Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed. Payments are due and payable upon presentation of the Architect's invoice. Amounts unpaid thirty (30) days after the invoice date shall bear interest at the rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of the Architect.

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

0 % zero percent

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§ 11.10.2.2 The Owner shall not withhold amounts from the Architect's compensation to impose a penalty or liquidated damages on the Architect, or to offset sums requested by or paid to Contractors for the cost of changes in the Work, unless the Architect agrees or has been found liable for the amounts in a binding dispute resolution proceeding.

§ 11.10.2.3 Records of Reimbursable Expenses, expenses pertaining to Supplemental and Additional Services, and services performed on the basis of hourly rates shall be available to the Owner at mutually convenient times.

ARTICLE 12 SPECIAL TERMS AND CONDITIONS

Special terms and conditions that modify this Agreement are as follows:
(Include other terms and conditions applicable to this Agreement.)

12.1 The Architect and the Owner agree that the Project may be phased, include multiple bid packs (as few as one or as many as three) or require accelerated design deliverables to best meet the Owner's schedule of funding approvals and day one operations for building occupants. As a standard of working with the Owner the Architect agrees that additional compensation above fees for Basic Services and Additional Services as defined in EXH-A Project Charter will not be paid to the Architect to perform and deliver services within known parameters for the Project as defined in EXH-A Project Charter, EXH-B Project Design Milestones & Deliverables, and EXH-D Owner Requirements.

12.2 The Architect and the Owner agree to incorporate the Owner's feedback as defined ni EXH-D Owner Requirements. The Owner's written notice to proceed to the next design phase will not be granted without written receipt of required deliverables.

12.3 If the Owner elects to employ an accelerated, phased, or fast track design process (in which some of the Architect's design services overlap the construction work and are out of sequence with the traditional delivery method), Owner does so with full recognition of the inherent risks associated with these design methodologies. Such risks include the Owner incurring costs for the Architect to coordinate and re-design portions of the Project affected by procuring or installing elements of the Project prior to the completion of all relevant Construction Documents, and costs for the Contractor to remove and replace previously installed Work. In recognition of the inherent risks of the fast tracking to the Architect and the benefits to the Owner, the Owner agrees to (i) waive all claims against the Architect for design changes, delays, disruptions, or other modifications of portions of the Work already constructed due to the Owner's decision to employ the fast track process and (ii) indemnify and hold the Architect harmless, to the maximum extent permitted by law, from any and all damage, liability, and cost, including reasonable attorney fees and defense costs, arising from third party claims, excepting those attributable to the negligence of the Architect or those for whom the Architect is legally liable. To compensate the Architect for all Additional Services required to modify, correct, or adjust the Construction Documents and coordinate them in order to meet the Owner's program requirements because of the Owner's decision to construct the Project in a fast-track manner. Owner further agrees to include in the budget for the Project sufficient contingencies to cover such Additional Services.

12.4 The Owner agrees that the Architect is not responsible for damages arising directly or indirectly from any delays for causes beyond the Architect's control. For purposes of this Agreement, such causes include, but are not limited to, strikes or other labor disputes; severe weather disruptions, other natural disasters; fires, riots, acts of terrorism, war, or other emergencies or acts of God.

ARTICLE 13 SCOPE OF THE AGREEMENT

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

§ 13.2 This Agreement is comprised of the following documents identified below:

.1 AIA Document B132™–2019, Standard Form Agreement Between Owner and Architect, Construction Manager as Adviser Edition

.2 AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, dated as indicated below, if completed, or the following:
(Insert the date of the E203-2013 incorporated into this Agreement.)

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.3 Exhibits:
(Check the appropriate box for any exhibits incorporated into this Agreement.)

[ ] AIA Document E235™–2019, Sustainable Projects Exhibit, Construction Manager as Adviser Edition, dated as indicated below:
(Insert the date of the E235-2019 incorporated into this Agreement.)

[ ] Other Exhibits incorporated into this Agreement:
(Clearly identify any other exhibits incorporated into this Agreement, including any exhibits and scopes of services identified as exhibits in Section 4.1.2.)

EXH-A Project Charter
EXH-B Project Design Milestones & Deliverables
EXH-C Owner Insurance
EXH-D Owner Requirements

.4 Other documents:
(List other documents, if any, forming part of the Agreement.)

AIA Document G201-2013 Project Digital Data Protocol Form
AIA Document G202-2013 Project Building Information Modeling Protocol Form

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

OWNER *(Signature)*	**ARCHITECT** *(Signature)*
	Eric E Anderson, Architect Partner, 53046
(Printed name and title)	*(Printed name, title, and license number, if applicable)*

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Additions and Deletions Report for
AIA® Document B132™ – 2019

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PAGE 1

AGREEMENT made as of the eleventh day of March in the year 2025

...

Minneapolis Public Schools
Special School District #1
1250 West Broadway Avenue
Minneapolis, MN 55411

...

ATSR Planners, Architects & Engineers Armstrong, Torseth, Skold & Rydeen, Inc.
8501 Golden Valley Road, Suite 300
Minneapolis, MN 55427
763-545-3731

...

Southwest High School HVAC & LED Upgrades Project
3414 West 47th Street, Minneapolis, MN 55411
24SWES001

...

Kraus-Anderson Construction Company
501 South 8th Street, Minneapolis, MN 55404

...

The Owner and Architect agree as follows.

The standard of professional services are set forth in this document and schedule of exhibits as follows:

EXH-A Project Charter
EXH-B Project Design Milestones and Deliverables
EXH-C Owner Insurance
EXH-D Owner Requirements

PAGE 2

Defined in EXH-A Project Charter

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Defined in EXH-A Project Charter

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Defined in EXH-A Project Charter

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Defined in EXH-B Project Design Milestones and Deliverables

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Defined in EXH B Project Design Milestones and Deliverables

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Defined in EXH A Project Charter

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Defined in EXH-B Project Design Milestones and Deliverables

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Competitive Bid in accordance with Minnesota Statutes

...

Defined in EXH-A Project Charter

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Sustainable Design solutions which optimize or promote improved energy efficiency, occupant well-being, comfort, health, and improved long-term maintenance serviceability as standard to LEED rating system and B3 requirements are valued. Owner will not pursue LEED certification or complete B3 compliance. The Architect is not required to provide additional services for Sustainable Design

...

Minneapolis Public Schools
1250 West Broadway Avenue
Minneapolis, MN 55411

...

Jeff M. Helstrom – Project Manager Ph: 612-207-7859 Email: jeffrey.helstrom@mpls.k12.mn.us

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Dustin Kempf – Sr. Project Manager Ph: 612-554-9421 Email: dustin.kempf@krausanderson.com

...

Commissioning Agent, Geotechnical Engineer, Special Inspections, Hazardous Materials Abatement, Special Testing, and Investigative Analysis

...

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Erik Anderson ATSR Partner. Ph: 651-324-1167 Email: eanderson@atsr.com
ATSR Planners, Architects & Engineers (Armstrong, Torseth, Skold & Rydeen, Inc.)
8501 Golden Valley Road, Suite 300
Minneapolis, MN 55427
763-545-3731

...

§ 1.1.12 The Architect shall retain the consultants identified ~~in Sections 1.1.12.1 and 1.1.12.2:~~EXH-A Project Charter:

...

~~**§ 1.1.12.1** Consultants retained under Basic Services:~~
~~**.1** Structural Engineer:~~

~~**.2** Mechanical Engineer:~~

~~**.3** Electrical Engineer:~~

~~**§ 1.1.12.2** Consultants retained under Supplemental Services:~~

Professional Consultant Team as defined in EXH-A Project Charter
PAGE 5

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

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

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§ 2.6 The Architect shall maintain ~~the following insurance until termination of this Agreement. If any of the requirements set forth below are in addition to the types and limits the Architect normally maintains, the Owner shall pay the Architect as set forth in Section 11.9.~~insurance as defined in EXH-C Owner Insurance until termination of this Agreement and for the period of the statutes of repose set forth in Minnesota Statute 541.051, so long as such insurance is commercially available and reasonably affordable. .

~~**§ 2.6.1** Commercial General Liability with policy limits of not less than ($) for each occurrence and ($) in the aggregate for bodily injury and property damage.~~

~~**§ 2.6.2** Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Architect with policy limits of not less than ($) per accident for bodily injury, death of any person, and property damage arising out of the ownership, maintenance and use of those motor vehicles, along with any other statutorily required automobile coverage.~~

~~**§ 2.6.3** The Architect may achieve the required limits and coverage for Commercial General Liability and Automobile Liability through a combination of primary and excess or umbrella liability insurance, provided such primary and excess or umbrella liability insurance policies result in the same or greater coverage as the coverages required under Sections 2.6.1 and 2.6.2, and in no event shall any excess or umbrella liability insurance provide narrower coverage than the primary policy. The excess policy shall not require the exhaustion of the underlying limits only through the actual payment by the underlying insurers.~~

~~**§ 2.6.4** Workers' Compensation at statutory limits.~~

~~**§ 2.6.5** Employers' Liability with policy limits not less than ($) each accident, ($) each employee, and ($) policy limit.~~

~~**§ 2.6.6** Professional Liability covering negligent acts, errors and omissions in the performance of professional services with policy limits of not less than ($) per claim and ($) in the aggregate.~~

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§ 3.1 The Architect's Basic Services consist of those described in this Article 3 and include usual and customary structural, mechanical, and electrical engineering services. Services not set forth in this Article 3 are Supplemental or Additional Services. The Architect's Basic Services are defined in EXH-B Project Design Milestones and Deliverables and EXH-D Owner Requirements.

...

§ 3.1.2 The Architect shall coordinate its services with those services provided by the Owner, the Construction Manager, and the Owner's other consultants. The Architect shall be entitled to rely on, and shall not be responsible for, the accuracy, completeness, and timeliness of, services and information furnished by the Owner, the Construction Manager, and the Owner's other consultants. The Architect shall provide prompt written notice (within 10 days of discovery) to the Owner if the Architect becomes aware of any error, omission or inconsistency, in such services or information.

§ 3.1.3 As soon as practicable after the date of this Agreement, the Architect shall submit, for the Construction Manager's review and the Owner's approval, a schedule for the performance of the Architect's services. The schedule shall include design phase milestone dates, as well as the anticipated dates for the commencement of construction and for Substantial Completion of the Work as set forth in the Initial ~~Information.~~ Information defined in EXH-B Project Milestone and Deliverables. This schedule shall include allowances for periods of time required for the Owner's review, for the Construction Manager's review, for the performance of the Owner's consultants, and for approval of submissions by authorities having jurisdiction over the Project. Once approved by the Owner, time limits established by the schedule shall not, except for reasonable cause, be exceeded by the Architect or Owner. With the Owner's

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approval, the Architect shall adjust the schedule, if necessary, as the Project proceeds until the commencement of construction.

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§ 3.1.6 The Architect shall, in coordination with the Construction Manager, contact governmental authorities required to approve the Construction Documents and entities providing utility services to the Project. The Architect shall respond to applicable design requirements imposed by those authorities and ~~entities.~~entities and initiate governmental planning review processes as defined in EXH-B Project Design Milestones and Deliverables.

...

§ 3.1.8 The Architect and Construction Manager shall fully cooperate and coordinate with the Owner and its hired Commissioning Agent during all phases of design, construction, and commissioning to achieve the Project's final completion and full systems operability and ongoing use per the approved final design. The Architect is responsible for the duration of the contract to provide adequate support to its sub-consultants who provide services integral to commissioning.

§ 3.1.9 The Architect shall assist the Owner in connection with the Owner's responsibility to communicate the project design and construction to the school community, school neighbors, and neighborhood associations.

§ 3.1.10 The Owner shall provide available historical building documentation and the Architect shall field verify building elements as a basis for design. Additional design fees and reimbursable expenses incurred by the Architect related to remedying or addressing incorrectly identified building elements following the Architect's completion of field verification shall be borne solely by the Architect. Field verification shall include (1) field measurements of readily visible elements, (2) removing and replacing lay-in ceiling tiles, and (3) opening and closing access panels. The Architect is encouraged to identify areas that are not readily visible and merit further destructive testing that may include (1) drilling holes to use a scope camera to see inside a wall, (2) cutting small holes to identify subsurface conditions, or (3) moving non-functioning equipment to facilitate investigation. The Owner may perform any requested destructive testing. The Architect is responsible for field verification for the portion of the building within the scope of services. Field verification and destructive testing shall not be required for portions of the building or building systems that are not within the scope of services.

§ 3.2.1 The Architect shall review the program and other information furnished by the Owner and Construction Manager, and shall review laws, codes, and regulations applicable to the Architect's services. The Architect shall submit reports, documents for review, and deliverables as defined in EXH-B Project Design Milestones & Deliverables, AIA contracts G201-2013, G202-2013, and E203-2013.
PAGE 7

§ 3.2.6 The Architect shall submit the Schematic Design Documents to the Owner and the Construction Manager. The Architect shall meet with the Construction Manager to review the Schematic Design Documents. The Architect and Construction Manager shall provide a preliminary estimate of costs for the proposed schematic design. The Architect shall not proceed to the Design Development Phase without approval by the Owner.
PAGE 8

§ 3.3.1 Based on the Owner's approval of the Schematic Design Documents, and on the Owner's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, the Architect shall prepare Design Development Documents for the Construction Manager's review and the Owner's approval. The Design Development Documents shall be based upon information provided, and estimates prepared by, the Construction Manager and shall illustrate and describe the development of the approved Schematic Design Documents and shall consist of drawings and other documents including plans, sections, elevations, typical construction details, and diagrammatic layouts of building systems to fix and describe the size and character of the Project as to architectural, structural, mechanical and electrical systems, and other appropriate elements. The Design Development Documents shall also include outline specifications that identify major materials and systems and establish in general their quality levels. . The Architect shall submit reports, documents for review, and deliverables as defined in EXH-B Project Design Milestones & Deliverables and AIA contracts G201-2013, G202-2013, and E203-2013

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§ 3.4.5 Upon receipt of the Construction Manager's information and an estimate at the conclusion of the Construction Documents Phase, the Architect shall take action as required under Section 6.7, and request the Owner's approval of the Construction Documents. The Architect shall submit construction documents which are estimated to bid within 5% of the budgeted construction cost. The Cost of Work submittal is defined in EXH-B Project Design Milestones & Deliverables.

...

The Architect shall assist the Owner and Construction Manager in establishing a list of prospective contractors. Following the Owner's approval of the Construction Documents, the Architect shall assist the Owner and Construction Manager in (1) obtaining either competitive bids or negotiated proposals; (2) confirming ~~responsiveness of bids or proposals;~~ responsible and responsiveness of bids or proposals including identification of any bid anomalies or irregularities that may require legal review; (3) determining the successful bid or ~~proposal,~~ proposal and providing a recommended award letter to the Owner, if any; and (4) awarding and preparing Contracts for Construction.
PAGE 9

§ 3.5.3.3 If the Proposal Documents permit substitutions, upon the Owner's written authorization, the Architect shall, ~~as an Additional Service,~~ , consider requests for substitutions, consult with the Construction Manager, and prepare and distribute addenda identifying approved substitutions to all prospective contractors.

...

§ 3.6.1.1 The Architect shall provide administration of the Contract between the Owner and the Contractor as set forth below and in AIA Document A232™–2019, General Conditions of the Contract for Construction, Construction Manager as Adviser ~~Edition. If the Owner and Contractor modify AIA Document A232–2019, those modifications shall not affect the Architect's services under this Agreement unless the Owner and the Architect amend this Agreement.~~Edition as revised..

§ 3.6.1.2 The Architect shall advise and consult with the Owner and Construction Manager during the Construction Phase Services. The Architect shall have authority to act on behalf of the Owner only to the extent provided in this Agreement. The Architect shall not have control over, charge of, or responsibility for the construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work, nor shall the Architect be responsible for the Contractors' failure to perform the Work in accordance with the requirements of the Contract Documents. The Architect shall be responsible for the Architect's negligent ~~acts~~ acts, errors or omissions, but shall not have control over or charge of, and shall not be responsible for acts or omissions of the Construction Manager, or acts or omissions of the Contractors or of any other persons or entities performing portions of the Work.

§ 3.6.1.3 Subject to Section 4.2, and except as provided in Section 3.6.6.5, the Architect's responsibility to provide Construction Phase Services commences with the award of the initial Contract for Construction and the Owner's issuance of the Notice to Proceed and terminates on the date the Architect ~~issues~~ authorizes the final Certificate ~~for Payment.~~for Payment for the Contractor.
PAGE 10

§ 3.6.2.2 The Architect has the authority and obligation to reject Work that does not conform to the Contract Documents and shall notify the Construction Manager about the rejection. The Owner shall be given the option to accept the defective work after consultation with the Architect and Construction Manager. Whenever the Architect considers it necessary or advisable, the Architect, upon written authorization from the Owner and notification to the Construction Manager, shall have the authority to require inspection or testing of the Work in accordance with the provisions of the Contract Documents, whether or not the Work is fabricated, installed or completed. However, neither this authority of the Architect nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect to the Contractors, Subcontractors, suppliers, their agents or employees, or other persons or entities performing portions of the Work.

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§ 3.6.2.3 The Architect shall interpret and decide matters concerning performance under, and requirements of, the Contract Documents on written request of the Construction Manager, Owner, or Contractors through the Construction Manager. The Architect's response to such requests shall be made in writing within ~~any time limits agreed upon or otherwise with reasonable promptness.~~five (5) business days.

...

§ 3.6.3.2 The Architect's certification for payment shall constitute a representation to the Owner, based on (1) the Architect's evaluation of the Work as provided in Section 3.6.2, (2) the data comprising the Contractor's Application for Payment or the data comprising the Project Application for Payment, and (3) the recommendation of the Construction Manager, that, to the best of the Architect's knowledge, information and belief, the Work has progressed to the point indicated, the quality of the Work is in accordance with the Contract Documents, and that the Contractors are entitled to payment in the amount certified. The foregoing representations are subject to (1) an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, (2) results of subsequent and documented tests and inspections, (3) correction of minor deviations from the Contract Documents prior to completion, and (4) specific qualifications expressed by the Architect. The Architect's certification on the Certificate for Payment shall be that the percentages of Work shown on the application are completed, to the best of the Architect's knowledge, information, and belief. No judgement is made by the Architect as to the value of the Work or the value of uncompleted Work.

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§ 3.6.4.2 The Architect shall review and approve, or take other appropriate action upon, the Contractors' submittals such as Shop Drawings, Product Data and Samples, that the Construction Manager has reviewed, recommended for approval, and transmitted to the Architect. The Architect's review of the submittals shall only be for the limited purpose of checking for conformance with ~~information given and the design concept expressed in~~ the Contract Documents. Review of such submittals is not for the purpose of determining the accuracy and completeness of other information such as dimensions, quantities, and installation or performance of equipment or systems, which are the Contractors' responsibilities. The Architect's review shall not constitute approval of safety precautions or construction means, methods, techniques, sequences or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

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.3 review written warranties and related documents required by the Contract Documents and received from the Contractors, through the Construction ~~Manager;~~ Manager and provide copies to the Owner including a summary of warranty items and expiration dates; and

...

§ 3.6.6.2 The Architect's inspections shall be conducted with the Owner and Construction Manager to (1) check conformance of the Work with the requirements of the Contract Documents and (2) verify the accuracy and completeness of the lists submitted by the Construction Manager and Contractors of Work to be completed or corrected. This includes all architectural, civil, mechanical, electrical, structural plumbing and security systems.

...

§ 3.6.6.5 ~~Upon request of the Owner, and prior to the expiration of one year~~ The Architect and Construction Manager shall schedule 10 months from the date of Substantial Completion, ~~the Architect shall, without additional compensation,~~ and conduct a meeting with the Owner and Construction Manager to review the facility operations and performance. This meeting shall not be subject to additional compensation for the Architect.

§ 3.6.6.6 The Architect shall issue an "As Constructed Record" set of construction documents that will consist of the As Designed Record Sets of construction documents and Revit model with redlined changes from the General Contractor incorporated into the digital deliverables as defined in AIA G201 2013 Article 2.3 to the Owner upon final completion of the Project. The As Constructed Record documents shall reflect all digital changes made by the Architect between issuing the Bid Documents set and final completion as well as the General Contractor's redline changes. The Architect shall not be held responsible for field verification of the General Contractor's changes. The Architect's full set of deliverables during Construction Administration are defined in EXH-D Owner Requirements.

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§ 4.1.1.1	Assistance with selection of Construction Manager	Owner
§ 4.1.1.2	Programming	Owner
§ 4.1.1.3	Multiple preliminary designs	As provided in EXH-B
§ 4.1.1.4	Measured drawings	As provided in EXH B
§ 4.1.1.5	Existing facilities surveys	Owner
§ 4.1.1.6	Site evaluation and planning	Owner
§ 4.1.1.7	Building Information Model management responsibilities	Basic Service for Architect
§ 4.1.1.8	Development of Building Information Models for post construction use	Architect
§ 4.1.1.9	Civil engineering	Architect
§ 4.1.1.10	Landscape design	Architect
§ 4.1.1.11	Architectural interior design	Basic Services for Architect
§ 4.1.1.12	Value analysis	Architect
§ 4.1.1.13	Cost estimating	Basic Services for Architect
§ 4.1.1.14	On-site project representation	Basic Services for Architect
§ 4.1.1.15	Conformed documents for construction	Basic Service for Architect
§ 4.1.1.16	As-designed record drawings	Basic Services for Architect
§ 4.1.1.17	As-constructed record drawings	Basic Services for Architect
§ 4.1.1.18	Post-occupancy evaluation	Owner
§ 4.1.1.19	Facility support services	Owner
§ 4.1.1.20	Tenant-related services	Not Provided
§ 4.1.1.21	Architect's coordination of the Owner's consultants	Basic Services for Architect
§ 4.1.1.22	Telecommunications/data design	Basic Services for Architect
§ 4.1.1.23	Security evaluation and planning	Owner
§ 4.1.1.24	Commissioning	Owner
§ 4.1.1.25	Sustainable Project Services pursuant to Section 4.1.3	Owner
§ 4.1.1.26	Historic preservation	Not Provided
§ 4.1.1.27	Furniture, furnishings, and equipment design	Owner
§ 4.1.1.28	Other services provided by specialty Consultants	TBD
§ 4.1.1.29	Other Supplemental Services	TBD

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The Architect may provide Additional Services after execution of this Agreement, without invalidating the Agreement. Except for services required due to the fault of the Architect, any Additional Services provided in accordance with this Section 4.2 shall entitle the Architect to compensation pursuant to Section 11.3 and an appropriate adjustment in the Architect's schedule. Additional Services are defined in EXH-A Project Charter

...

.4 Changing or editing previously prepared Instruments of Service necessitated by official interpretations of applicable codes, laws or regulations that are ~~either (a)~~ contrary ~~to specific interpretations by the applicable authorities having jurisdiction made prior~~ to ~~the issuance of the building permit, or (b) contrary to~~ requirements of the Instruments of Service when those Instruments of Service were prepared in accordance with the applicable standard of care;

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.6 ~~Preparing digital models or other design documentation for transmission to the Owner's consultants and contractors, or to other Owner-authorized recipients;~~;

.7 ~~Preparation of design and documentation for alternate bid or proposal requests proposed by the Owner or Construction Manager; ~~;

.8 ~~Preparation for, and attendance at, a public presentation, meeting or hearing;~~;

...

.10 ~~Evaluation of the qualifications of entities providing bids or proposals;~~;

...

.12 ~~Assistance to the Initial Decision Maker, if other than the Architect.~~.

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.1 2 (two) reviews of each Shop Drawing, Product Data item, sample and similar submittals of the Contractors

.2 1 (one) visits to the site per week by the Architect during construction

.3 2 (two) inspections for any portion of the Work to determine whether such portion of the Work is substantially complete in accordance with the requirements of the Contract Documents

.4 1 (one) inspections for any portion of the Work to determine final completion

...

§ 5.1 Unless otherwise provided for under this Agreement, the Owner shall provide information in a timely manner regarding requirements for and limitations on the Project, including a written program which shall set forth the Owner's objectives, schedule, constraints and criteria, including space requirements and relationships, flexibility, expandability, special equipment, systems and site ~~requirements.~~requirements and stakeholder and steering team engagement requirements as defined in EXH-B Project Design Milestone and Deliverables.

PAGE 16

§ 5.9.1 The Architect's responsibility in connection with the services of Owner's consultants, contractors, shall be to coordinate Owner's consultants' and contractors' portion of the Instruments of Service. Owner shall require consultants and contractors retained by Owner to coordinate their services and documents with those of Architect and Architect's consultants.

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§ 5.17 The Owner shall provide coordination, installation, and procurement of furniture, furnishings, and equipment for the Project.

§ 5.18 The Owner shall provide Information Technology equipment plugged into networks. Cabling and infrastructure designed by the Architect and installed by the Contractor.

§ 5.19 The Owner shall provide Testing and Special Inspections.

§ 5.20 The Owner shall coordinate closely with the Architect, Construction Manager and the Contractor for design and installation of security systems in the Project. The Owner shall design systems by locating cameras and designating doors for access control, the Architect shall document and complete the initial design by designing pathways, the Contractor shall install cabling and infrastructure required for the systems to be operational as well as devices, and the Owner shall work with the Contractor to program and test the systems.

§ 6.1 For purposes of this Agreement, the Cost of the Work shall be the total cost to the Owner to construct all elements of the Project designed or specified by the Architect and shall include the Contractors' general conditions costs, overhead and profit. The Cost of the Work includes the compensation of the Construction Manager and

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Construction Manager's consultants during the Construction Phase only, including compensation for reimbursable expenses at the job site, if any. The Cost of the Work also includes the reasonable value of ~~labor,~~ labor (including escalation for phased work and/or market conditions), materials, and equipment, donated to, or otherwise furnished by, the Owner. The Cost of the Work does not include the compensation of the Architect; the costs of the land, rights-of-way, financing, or contingencies for changes in the Work; or other costs that are the responsibility of the Owner.

...

.3 in consultation with the Architect and Construction Manager, revise the Project program, scope, or quality as required to reduce the Cost of the ~~Work;~~ Work to within the Owner's budget. Revisions to the contract documents, designs or drawings to bring the project in alignment with the Owner's budget shall be borne entirely by the Architect or

.4 implement any other mutually acceptable ~~alternative.~~alternative which may include the Owner's decision to suspend, delay or cancel the project. If the project is cancelled or suspended, the Architect shall be paid for the services provided to the Owner at the time of suspension or cancellation.

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~~**§ 7.4** Except for the licenses granted in this Article 7, no other license or right shall be deemed granted or implied under this Agreement. The Owner shall not assign, delegate, sublicense, pledge or otherwise transfer any license granted herein to another party without the prior written agreement of the Architect. Any unauthorized use of the Instruments of Service shall be at the Owner's sole risk and without liability to the Architect and the Architect's consultants.~~

§ 7.4. Any unauthorized use of the Instruments of Service shall be at the Owner's sole risk and without liability to the Architect and the Architect's consultants. The Owner retains full rights to all Instruments of Service for use in the Project and any existing or future projects

PAGE 19

[X] Litigation in a court of competent jurisdiction in Hennepin County, Minnesota

PAGE 20

§ 9.1 If the Owner fails to make payments to the Architect in accordance with this Agreement, such failure shall be considered substantial nonperformance and cause for termination or, at the Architect's option, cause for suspension of performance of services under this Agreement. If the Architect elects to suspend services, the Architect shall give seven days' written notice to the Owner before suspending services. In the event of a suspension of services, the Architect shall have no liability to the Owner for delay or damage caused the Owner because of such suspension of services. Before resuming services, the Owner shall pay the Architect all sums due prior to suspension and any reasonable and documented expenses incurred in the interruption and resumption of the Architect's services. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted.

PAGE 21

§ 9.6 If the Owner terminates this Agreement for its convenience pursuant to Section 9.5, or if the Architect terminates this Agreement pursuant to Section 9.3, the Owner shall compensate the Architect for services performed prior to termination, Reimbursable Expenses incurred, and costs attributable to termination, including the committed costs or performance of services attributable to the Architect's termination of consultant agreements.

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§ 10.6 Unless otherwise required in this Agreement, the Architect shall have no responsibility for the discovery, presence, handling, removal or disposal of, or exposure of persons to, hazardous materials or toxic substances in any form at the Project site. A hazardous material or toxic substance is any material or substance that may be considered hazardous, toxic, or otherwise subject to statutory or regulatory requirements governing handling, disposal, and/or cleanup. For purposes of this agreement, the term hazardous material shall include and not be limited to asbestos, polychlorinated biphenyl (PCB), mold, mildew, fungi, or other similar microbial conditions.

~~**§ 10.7** The Architect shall have the right to include photographic or artistic representations of the design of the Project among the Architect's promotional and professional materials. The Architect shall be given reasonable access to the completed Project to make such representations. However, the Architect's materials shall not include the Owner's confidential or proprietary information if the Owner has previously advised the Architect in writing of the specific information considered by the Owner to be confidential or proprietary. The Owner shall provide professional credit for the Architect in the Owner's promotional materials for the Project. This Section 10.7 shall survive the termination of this Agreement unless the Owner terminates this Agreement for cause pursuant to Section 9.4.~~

§ 10.6.1 Owner agrees to defend, indemnify, and save harmless the Architect from and against any and all liabilities, demands, claims, penalties, forfeitures, suits, and the costs and expenses arising from the discovery, presence, handling, removal, or disposal of, or exposure to hazardous materials or toxic substances (as defined in § 10.6), except to the extent that the presence of or exposure to hazardous materials or toxic substances result from the sole negligence or willful misconduct of the Architect.

...

Defined in EXH A Project Charter

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Defined in EXH A Project Charter

...

Defined in EXH A Project Charter

...

Defined in EXH A Project Charter

§ 11.4 Compensation for Supplemental and Additional Services of the Architect's consultants when not included in Sections 11.2 or 11.3, shall be the amount invoiced to the Architect plus zero percent (0 %), or as follows:

...

§ 11.5 When compensation for Basic Services is based on a stipulated sum or a percentage basis, the proportion of compensation for each phase of services shall be as ~~follows:~~defined in EXH B Project Design Milestones and Deliverables:

~~Schematic Design Phase~~		~~percent (~~		~~%)~~
~~Design Development Phase~~		~~percent (~~		~~%)~~
~~Construction Documents Phase~~		~~percent (~~		~~%)~~
~~Procurement Phase~~		~~percent (~~		~~%)~~
~~Construction Phase~~		~~percent (~~		~~%)~~
~~Total Basic Compensation~~	~~one hundred~~	~~percent (~~	~~100~~	~~%)~~

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...

Defined in EXH B Project Charter

~~**Employee or Category** **Rate ($0.00)**~~

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§ 11.8.2 For Reimbursable Expenses the compensation shall be the expenses incurred by the Architect and the Architect's consultants plus five percent (5 %) of the expenses incurred.

...

None

...

§ 11.10.1.1 An initial payment of zero dollars ($ 0) shall be made upon execution of this Agreement and is the minimum payment under this Agreement. It shall be credited to the Owner's account in the final invoice.

§ 11.10.1.2 If a Sustainability Certification is part of the Sustainable Objective, an initial payment to the Architect of zero dollars ($ 0) shall be made upon execution of this Agreement for registration fees and other fees payable to the Certifying Authority and necessary to achieve the Sustainability Certification. The Architect's payments to the Certifying Authority shall be credited to the Owner's account at the time the expense is incurred.

...

§ 11.10.2.1 Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed. Payments are due and payable upon presentation of the Architect's invoice. Amounts unpaid thirty (30) days after the invoice date shall bear interest at the rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of the Architect.

...

0 % zero percent

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12.1 The Architect and the Owner agree that the Project may be phased, include multiple bid packs (as few as one or as many as three) or require accelerated design deliverables to best meet the Owner's schedule of funding approvals and day one operations for building occupants. As a standard of working with the Owner the Architect agrees that additional compensation above fees for Basic Services and Additional Services as defined in EXH-A Project Charter will not be paid to the Architect to perform and deliver services within known parameters for the Project as defined in EXH-A Project Charter, EXH-B Project Design Milestones & Deliverables, and EXH-D Owner Requirements.

12.2 The Architect and the Owner agree to incorporate the Owner's feedback as defined ni EXH-D Owner Requirements. The Owner's written notice to proceed to the next design phase will not be granted without written receipt of required deliverables.

12.3 If the Owner elects to employ an accelerated, phased, or fast track design process (in which some of the Architect's design services overlap the construction work and are out of sequence with the traditional delivery method), Owner does so with full recognition of the inherent risks associated with these design methodologies. Such risks include the Owner incurring costs for the Architect to coordinate and re-design portions of the Project affected by procuring or installing elements of the Project prior to the completion of all relevant Construction Documents, and costs for the Contractor to remove and replace previously installed Work. In recognition of the inherent risks of the fast tracking to the Architect and the benefits to the Owner, the Owner agrees to (i) waive all claims against the Architect for design changes, delays, disruptions, or other modifications of portions of the Work already constructed due to the Owner's decision to employ the fast track process and (ii) indemnify and hold the Architect harmless, to the maximum extent permitted by law, from any and all damage, liability, and cost, including reasonable attorney fees and

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defense costs, arising from third party claims, excepting those attributable to the negligence of the Architect or those for whom the Architect is legally liable. To compensate the Architect for all Additional Services required to modify, correct, or adjust the Construction Documents and coordinate them in order to meet the Owner's program requirements because of the Owner's decision to construct the Project in a fast-track manner. Owner further agrees to include in the budget for the Project sufficient contingencies to cover such Additional Services.

12.4 The Owner agrees that the Architect is not responsible for damages arising directly or indirectly from any delays for causes beyond the Architect's control. For purposes of this Agreement, such causes include, but are not limited to, strikes or other labor disputes; severe weather disruptions, other natural disasters; fires, riots, acts of terrorism, war, or other emergencies or acts of God.

...

.2 ~~Building Information Modeling Exhibit, if completed:~~AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, dated as indicated below, if completed, or the following:

(Insert the date of the E203-2013 incorporated into this Agreement.)

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(Clearly identify any other exhibits incorporated into this Agreement, including any exhibits and scopes of services identified as exhibits in Section 4.1.2.)

EXH-A Project Charter
EXH-B Project Design Milestones & Deliverables
EXH-C Owner Insurance
EXH-D Owner Requirements

...

AIA Document G201-2013 Project Digital Data Protocol Form
AIA Document G202-2013 Project Building Information Modeling Protocol Form

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Certification of Document's Authenticity

AIA® Document D401™ – 2003

I, , hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with its associated Additions and Deletions Report and this certification at 12:23:21 CT on 02/06/2025 under Order No. 4104251278 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document B132™ – 2019, Standard Form of Agreement Between Owner and Architect, Construction Manager as Adviser Edition, other than those additions and deletions shown in the associated Additions and Deletions Report.

_____

(Signed)

_____

(Title)

_____

(Dated)

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EXHIBIT A - Project Charter

Project Identification, Intent, and Scope

Re: MPS Project Number: SWHS HVAC & LED Upgrades Project
MPS Project Name: 24SWES001 HVAC

Building Context

Southwest High School is home to approximately 1,700 students in grades 9-12. The school was constructed in 1940 and has had a number of additions and alterations since that time. The building includes a 3-story west wing; a single level north wing with gyms, locker rooms and science classrooms; a 2-story east wing including a swimming pool and locker rooms; and in 2015 a 3-story central atrium connected the east and west wings on 1st floor and created a new main entry, commons, cafeteria, office, media center and classrooms. Remodeling has occurred in the west wing toilet rooms and accessible toilet rooms were provided in the new commons.

Project Intent

Remove DX and VRF Systems and provide a central Chiller System for Cooling. Provide LED Lighting throughout all public spaces. Provide Electrical conditioning for HVAC equipment. Ceiling, Wall & Floor changes to support HVAC & LED work.

Project Summary

Project Delivery Method:	Best Value-CMA
Project Construction Budget:	$ 32,017,792.61
Phased Construction Completion:	Phase 1 – 5 beginning Summer 2026 to 2030

Scope/Budget Context

The Project Intent/scope of work identified by the Southwest High School HVAC Predesign Report prepared November 4, 2024, with the Construction Manager – Kraus Anderson for the MPS CPCM Department: The project includes replacement of the existing DX (Direct Expansion) system with an air-cooled chiller system and the related infrastructure. The scope includes reinforcing the existing structure to support the new mechanical equipment and piping infrastructure. The project will include the replacement of old AHUs (Air Handling Units) as required with new air handlers to incorporate chilled water coils and the replacement DX cooling coils with chilled water coils at newer existing air handlers. The project will update the building automation controls system. It includes the removal of VRF (Variable Refrigerant Flow) cooling system. The project also will replace 148,900 SF of roofing and 103,431 SF of ceiling finishes. The translucent panels in the wrestling room and the gymnastics room will be replaced. Electrically the project will replace existing fixtures with LED Lighting fixtures. It will also provide electrical service conditioning, to regulate the service outages. Along with providing electrical distribution and connections to new mechanical equipment and replacing several outdated panel boards.

Project Schedule

Project Phase	Anticipated Completion Date
Design Contract Approval	March 11, 2025
Schematic Design Report	November 4, 2024
Design Development Report	February 12, 2025
Cost Estimate	February 12, 2025
Construction Documents Report	April 1, 2025
Receive bids	May 29, 2025
Construction Contract Approval	June 10, 2025
Pre-Construction Activities	June 15, 2026
Construction Phase 1	Summer 2026
Warranty (one year)	August/September 2027
Construction Phase 2	Summer 2027
Warranty (one year)	August/September 2028
Construction Phase 3	Summer 2028
Warranty (one year)	August/September 2029
Construction Phase 4	Summer 2029
Warranty (one year)	August/September 2030
Construction Phase 5	Summer 2030
Warranty (one year)	August/September 2031

Project Staff

The following MPS staff are anticipated to serve on the Steering Team

Jeff Helstrom	Project Manager – Capital Planning, Construction, and Maintenance (CPCM)
Curt Hartog	Executive Director - CPCM
Grant Lindberg	Manager of Plant Maintenance
N/A	Food Service/EMSS (as needed for the project)
Ed Bennett	Principal SWHS
Tom Parent	Senior Operating Officer
Dan Goemann	Master Planner – CPCM
Jason Worwa	IT Representative (as needed for the project)

Project Communications

Consultant and District representative will coordinate the development and implementation of a project communications plan, including:

Communication
Meetings with Steering Team
Meetings with Stakeholder Team
Presentations to Community Groups if needed
Project web page updates
Project e-updates
Updates for elected representatives
Updates for families and staff
Updates for neighborhood

Construction signage
Board of Education updates

Project Budget

Construction Budget

$ 32,017,792.61

Project Budget Detailed Funding Sources

Type	Capital Renewal (LTFM)	Capital Improvement (GOB)	Total
FY26	$9,000,000		$9,000,000
Future LTFM Allocation	$25,000,000		
PROJECT TOTALS	$34,000,000		**$34,000,000**
CONSTRUCTION TOTAL	$32,017,793		**$32,017,793**

Consultant's Fee, Hourly Rates, and Reimbursable Expenses

Compensation for Project Services as defined herein is a fixed fee of **$1,586,393.49**. Basic Design Services will be allocated to the phases of work as defined in EXH-B Project Design Milestones & Deliverables.

The following supplemental and additional services are identified as part of the project scope and fee presented above.

Multiple preliminary designs (see EXH B)
Measured drawings
BIM Management
Architectural Interior Design
Cost Estimating
On-site Project representative
Conformed documents for construction
As designed record drawings
As constructed record drawings
Architect's coordination with Owner's consultants

Telecommunication/data design including security systems

The following supplemental and additional services are identified as extra/additional services and if they are needed, an amendment will be provided to the contract.

BIM Models for post construction use
Civil Engineering
Landscape design
Value Analysis
Other services identified during design and approved according to the contract

Attachments:

1. ATSR Proposal Dated February 5, 2025
2. ATSR Hourly Fee Schedule

Feb 5, 2024
Fee Proposal

Jeff Helstrom, Project Manager
CPCM / Minneapolis Public Schools
1250 West Broadway Avenue
Minneapolis, MN 55411

Re: MPS – Southwest High School HVAC Upgrades Project
Project Number: 24019.1

Dear Jeff:

This letter is submitted as a fee proposal for A/E Professional Services for the above-referenced project. A Standard Form of Agreement between MPS (Owner) and ATSR (A/E), AIA Document B123, will be prepared by MPS using the information provided in this proposal.

ATSR proposes the basis of compensation for Basic Services to be a percentage of the Construction Cost. This includes Architectural & Engineering Services through all Phases of the Work as described in the Contract under the Scope of the Architect's Basic Services.

The Estimated Construction Cost Budget is $32,017,792.61 (including General conditions, Site Services and CM Fees) confirmed by the Owner.

The scope of work identified by the Southwest High School HVAC Predesign prepared Nov 6 2024 with the MPS administration: The project includes replacement of the existing DX (Direct Expansion) system with an air-cooled chiller system and the related infrastructure. The scope includes reinforcing the existing structure to support the new mechanical equipment and piping infrastructure. The project will include the replacement of old AHUs (Air Handling Units) as required with new air handlers to incorporate chilled water coils and the replacement DX cooling coils with chilled water coils at newer existing air handlers. The project will update the building automation controls system. It includes the removal of VRF (Variable Refrigerant Flow) cooling system. The project also will replace 148,900 SF of roofing and 103,431 SF of ceiling finishes. The translucent panels in the wrestling room and the gymnastics room will be replaced. Electrically the project will replace existing fixtures with LED Lighting fixtures. It will also provide electrical service conditioning, to regulate the service outages. Along with providing electrical distribution and connections to new mechanical equipment and replacing several outdated panel boards.

Based on the size, scope of services anticipated, and complexity of the work, the Architect proposes compensation as a percentage of the construction work. Consistent with previous compensation, ATSR proposes a fee of 5.25% of the Cost of the Work.

Breakdown by Design Phase as Follows:

Schematic Design Phase	(Fifteen Percent)	15%
Design Development Phase	(Twenty Percent)	20%
Construction Documents Phase	(Thirty-five Percent)	35%
Procurement/Bidding Phase	(Five Percent)	5%
Construction Phase	(Twenty-five Percent)	25%
Total Consultant Compensation	(One hundred Percent)	100%

Schematic Design	15%	$ 252,140.12
Previously Billed		$ (94,540.62)
Design Development	20%	$ 336,186.82
Construction Document	35%	$ 588,326.94
Procurement/ Bidding	5%	$ 84,046.71
Construction Phase	25%	$ 420,233.53
	100%	$ 1,586,393.49
Reimbursable Allowance		$ 35,000.00

Reimbursable expenses are in addition to compensation for Basic, Supplemental & Additional Services as outlined in the attached document.

The Design Schedule is outlined in the attached document.

We appreciate the opportunity to submit this proposal and continue the relationship & support of Minneapolis Public Schools in providing quality facility spaces to serve the needs of your users.

Please let me know if you have any questions upon review of this proposal.

Sincerely,



Eric E Anderson, AIA / NCARB

Enclosures: None
DM/lp

ARTICLE 11.2/11.3
COMPENSATION FOR HOURLY AND ADDITIONAL SERVICES
(January 1, 2024)

PRINCIPAL/OFFICER	**$240.00**
PARTNER/DEPARTMENT DIRECTOR	
GRADE 1	**$210.00**
GRADE 2	**$220.00**
SENIOR ADVISOR	
GRADE 1	**$200.00**
GRADE 2	**$210.00**
ARCHITECT/ENGINEER/PROFESSIONAL	
GRADE 1	**$170.00/$185.00**
GRADE 2	**$190.00/$215.00**
TECHNICIAN/DESIGNER	
GRADE 1	**$105.00/$140.00**
GRADE 2	**$150.00/$175.00**
GRADE 3	**$190.00/$210.00**
SPECIFICATIONS	**$180.00/$215.00**
CONTRACT ADMINISTRATION	**$150.00/$195.00**
CLERICAL/ADMINISTRATIVE	**$100.00/$150.00**

Rates Are Subject To Adjustment

Exhibit B – Project Design Milestones & Deliverables

Project Design Milestones

Architect Responsibilities		Owner Responsibilities
Fully Executed Contract	0%	
	1%	Project Steering Team Kickoff
	5%	QAQC #1 Existing Conditions
	10%	Project Stakeholder Team Kickoff
Three Design Options Delivered	15%	
City Planning Processes initiated	20%	Commissioning Provider Kickoff
Schematic Design Report Delivered	25%	
	35%	MEP Systems Decisions Made
Design Development Report Delivered	50%	All major scope items have final decisions
	75%	QAQC #3 Two Week Comprehensive Design Review
Construction Document Report Delivered	80%	
Procurement Begins	90%	
	95%	
Bid Period Ends	99%	
	100%	Fully Executed Construction Contract

Design Milestones

0% Complete – Fully executed architectural contract

Once the Design team has a fully executed contract, work may commence. The Architect is required to download a new copy of the Minneapolis Public Schools (MPS) Master Specifications at this time. Previous project specifications shall not be used as a template for new projects. All changes to MPS Master Specifications will be recorded with track changes, with additions and deletions clearly identified at each Design Report Phase. The Architect shall utilize the MPS Design Guidelines in the development of the Work. Deviations from design guidelines shall be documented and sent to the Owner for Approval. The Architect shall conform to the MPS Revit and Drafting Standards including MPS sheet numbering conventions and begin the Work with the MPS Revit template provided by the Owner.

1% Complete – Project Steering Team Kickoff Meeting

The Owner will schedule the first meeting of the Project Steering Team, a team that discusses project scope, schedule, and budget and makes recommendations to the Owner. This team needs to meet at the onset of the project to provide background and input for the design team. The meeting will be in person and will have an agenda prepared by the Owner's Project Manager that includes:

1. Welcome and Introductions
2. Team roles and responsibilities
3. Communication protocol and confidentiality agreement
4. Project Overview
5. Next Steps

The Architect is expected to provide a presentation, a clear ask of the group, and any available graphics that can describe the scope of work to the team. Graphics at this stage may include aerial photographs, photographs of the building and site, massing models if available, or rudimentary renderings if available. Any graphics that were included in the RFP may be used to describe the scope of work. The Owner will present the most recent list of maintenance requirements that should be incorporated into the project. Generally, the maintenance needed matches the project budget detail. However, on occasion, the maintenance required for the project may change to accommodate the most needed items.

5% Complete – Quality Assurance / Quality Control (QAQC) #1 – Existing Conditions Meeting

The Owner will coordinate a meeting on site at the school with the Architect and the Owner's QAQC team. The purpose of the meeting is to:

1. Introduce the design team to the QAQC team
2. Allow the QAQC team an opportunity to present important existing conditions to the Architect
3. Inform the Architect of any work that has been performed during pre-planning of the project and can be removed from scope.
4. Document all presented conditions for future reference whether they are included in the budget provided by the Owner at project kickoff or if they are outside the scope of the Work.
5. Identify known deficiencies in the building that are identified in the budget provided by the Owner at project kickoff.
6. Provide the Owner an opportunity to present deficiencies not identified in the budget that should be considered as part of the Work.

The Architect is expected to provide:

- Sign in sheet
- One person whose sole role at the meeting is to document the conversation and take photographs as needed
- Minutes that capture all presented conditions and general discussions during the meeting.
- If multiple component meetings are conducted (e.g. mechanical, electrical, plumbing) the Architect shall assign a person to each team to document the review.

10% Complete – Project Stakeholder Team Kickoff Meeting

The Owner will identify members of the Project Stakeholder team and schedule a meeting with the Architect. The Architect is expected to present preliminary information on the project that includes scope, schedule, and budget. The Architect shall provide graphics that are easy to interpret for a non-technical audience such as 3-D views, renderings, photographs, or video fly throughs.

15% Complete - Three Options Delivered

The Architect will deliver at least three options to illustrate proposed solutions that will be presented to the Steering Team. All three options must be within the budget provided by the Owner at project kickoff and address programmatic and maintenance goals of the Work. The goal of the meeting is to present options to the Steering Team and ask for recommendations to proceed with design. The Architect is responsible for providing:

- Images that depict the scope options in 3-D formats. Acceptable formats are:
    - Greyscale camera views from Revit
    - Video flythrough
    - Hand drawn perspectives
- Color-coded floor plan that clearly describes scope of work and any associated programmatic moves within the building.
- A table summary of preliminary costs broken into categories of maintenance and new items
- A meeting agenda
- A digital presentation as well as paper handouts
- Minutes

Estimates of expected costs at this stage shall be AACE International Class 4 levels. The cost estimate shall clearly show the expected accuracy range and provide sufficient detail and reference to determine the source and scope of the information. The estimate shall also identify potential risks to the project and estimated costs and mitigation strategies for further refinement.

20% Complete – City planning processes started

It is expected that projects with additions in excess of 2,500 sf or those that disturb more than one acre of land to take 10 to 12 weeks to complete the City of Minneapolis Planning Process. As soon as the Architect has:

- A survey, even in draft form
- A preliminary understand of how big and where any addition(s) will be
- Elevations or camera views from Revit
- Site plan, even in draft form

The Architect shall have an initial meeting with the Planning Department at the City of Minneapolis to discuss initial feedback related to site improvements and storm water conditions on the site. The architect shall

invite the Owner's Project Manager to the meeting. As soon as is practicable after the meeting, the Architect shall complete the online application to begin the PDR, LUA, CUP, and variance processes. The Architect shall develop meeting minutes for all meetings with the City. The meeting minutes shall be sent to all parties in attendance for verification of items discussed and to the Owner's Project Manager.

20% Complete – Commissioning Agent kickoff

The Owner will hire a Commissioning Agent for most projects. The Commissioning Agent will be responsible for design review and input throughout the project. The Architect will incorporate the Commissioning Agent comments upon review and approval by the Owner's Project Manager.

25% Complete – Schematic Design (SD) Report, Cost Estimate 1, Constructability Review 1, EDA preliminary report

The Architect will deliver the Schematic Design (SD) report to the Owner for review. . The SD Report will be used to make final scope determinations, select mechanical options, and determine if the project is on budget and on schedule. The Owner will provide Bluebeam software to compile Owner comments to return to the Architect. The Architect will identify any non-standard equipment or processes in this report for Owner approval. SD report shall include:

- All drawings created for the project to date. This shall include a complete title page that indicates all potential drawings that will form the Construction Drawings. All drawings shall be bookmarked in Bluebeam by the Architect as defined in Article 5 of the AIA E203-2015 to facilitate Owner reviews.
- MEP narratives
- Cost Estimate #1 that contains cost information for up to three mechanical options and up to two architectural variations that meet program needs. The cost estimate shall be an AACE International Class 3 estimate. The estimate shall provide enough detail to determine the major cost drivers for the project and adequate to understand the scope of the project. The cost estimate shall detail the level of accuracy and provide a narrative on the contingency value used and why. Where appropriate the maintenance items that are not part of the improvement items shall be detailed in the cost estimate
- Constructability Review #1
- Preliminary EDA report (not all projects should participate in EDA)
- All meeting minutes to date
- Survey
- City Planning Documentation
- Revit file archived at delivery of SD report

SD report must be in 8 ½ x 11 format, in a binder, with tabs. It must also be delivered digitally as a PDF. Provide two paper copies to the Project Manager for review. The table of contents should read:

1. Project Background
    a. Executive Summary
    b. Project Goals
    c. Program goals
    d. Project Scope
    e. Preliminary Project Schedule showing both design, bidding and construction schedules
2. Existing Conditions
    a. Survey
    b. Site Plan
    c. Code Reviews

    d. Revit Camera Views or renderings
3. Design Options
    a. Architectural
    b. Mechanical
    c. Electrical
    d. Plumbing
    e. Food Service (if applicable), etc.
    f. Maintenance items identified in the 5% meeting.
4. Cost Estimate
    a. Project Budget breakdown for consultant services
    b. Cost Estimate. AACE International Class 3
    c. Constructability Review. List all risks and any unknown complexities.
5. EDA report (if applicable)
6. Minutes

35% Complete – MEP decisions Made

The Owner is committed to making any major MEP decisions such as choosing system types at this stage in order to allow the Architect to progress with drawings, designs and specifications. Documentation of decisions shall be provided in meeting minutes.

50% Complete – Design Development (DD) report, Cost Estimate 2, Constructability Review 2, Final EDA report

The Owner is committed to making design decisions early in order to have a robust submittal at this phase for review. For the DD Report, the Architect shall provide:

- Enough detail completed in at least one portion of the building (or major component of the project), to produce detail sheets, an idea of design intent with mechanical systems, and architectural decisions that indicate a final configuration.
- Specification sections that represent all or nearly all sections to be included in construction documents
- All drawings needed for a Construction Document shall be identified and in order.
- All drawings shall be bookmarked in Bluebeam by the Architect as defined in Article 5 of the AIA E203-2015 to facilitate Owner reviews.

DD report shall contain:

- Two half size drawings sets, unbound, and two paper copies of the specification, unbound
- All drawing sheets that will be included in the final set, even if they are blank, developed to 65% complete.
- Diagrammatic layouts of building systems
- Draft specification that contains all divisions, even if they are blank
- Cost estimate #2 in organized by major CSI division for construction items and detailed non-construction items. The cost estimate shall be an AACE International Class 3 estimate that shows the accuracy range of each item and the total.
- Constructability review #2
- Final EDA report (if applicable)
- Update on City of Minneapolis planning progress (if applicable)
- Revit file archived at delivery of DD report and delivered to the Owner

DD report shall have letter sized pages that can be delivered in a binder. The DD report shall include drawings that are 11x17. The Architect shall deliver two printed copies and one electronic copy to the Owner.

50% Complete – All major scope items have final decisions

The Owner will make final decisions on all major scope items in order to allow the Architect to create detailed drawings for the next review. The deliverable from the Owner to the Architect will be written confirmation of scope decisions.

75% Complete – QAQC #3 – Two Week Comprehensive Design Review

The Architect will prepare complete and detailed drawing sets and complete specifications for review by the Owner. The 75% set of drawings shall have 75% of all the drawings completed (100%) and all drawings in the Construction drawing set identified in the index. Detail numbering and references shown in the 75% drawings cannot be changed. Specifications shall be provided such that all specifications are identified and 75% of the specifications are considered to be in final form. All changes to the MPS Master Specifications shall be clearly shown using track changes. New specifications that are not part of the MPS Master Specifications shall be identified. Specifications shall be provided in an MS Word format for review. Drawings shall be provided in a PDF format for review. Comments to specifications will be made using track changes. Comments to drawings will be made in Bluebeam. The Architect shall document all comments and either incorporate them into the documents or provide an issue resolution document that details the comment and resolution and reasons not to include the change in the Construction Document. The Owner will compile comments and return them to the Architect following a two week review period. Documentation shall include all elements required to accurately describe the work. The Architect shall maintain the 75% review set for reference. The Architect shall provide the Owner with a list of unresolved comments/changes at the 90% review stage. The Owner and Architect shall document any unresolved item not included in the final project set and place that in the file.

80% Complete – Construction Document (CD) report, Cost Estimate #3, Constructability Review #3

Construction Document (CD) report is the basis for a final quality control check by the Owner. At this stage the drawings shall be complete. Cost estimates at this stage shall be at the AACE International Class 2 level with documented levels of accuracy for each item. The estimate shall include any risks and contingencies, exceptions and sources. Expected accuracy for each item is -10% to +20% or better. An estimate simulation shall be completed showing the outcome of various scenarios inside of the accuracy range. The final cost estimate shall not contain any amount for design contingency. At a minimum, 5% of the budget shall be represented in add alternates. Deliverables will include:

- Two half size drawings sets, unbound, and two paper copies of the specification, unbound
- one printed binder of letter sized documentation
- Digital versions of all documentation. Drawings shall be in PDF and REVIT.
- All drawings shall be bookmarked in Bluebeam by the Architect as defined in Article 5 of the AIA E203-2015 to facilitate Owner reviews.
- Specifications shall be in MS Word format.
- Correspondence relevant to City of Minneapolis Planning processes or Plan Review processes
- All drawing sheets that will be included in the final set.
- Egress plan for construction zones while building is occupied
- Diagrammatic layouts of building systems
- Draft specification that contains all divisions
- No major changes in design intent or scope can occur between DD and CD report

- cost Estimate #3 organized by CSI division for construction items and detailed non-construction items at Class 2 level
- Constructability Review narrative
- Revit file archived at delivery of CD report

The Owner will require two weeks to review the documents to ensure completeness and accuracy. Architect shall incorporate Owner comments into the final construction documents prior to issuing the set for bid release.

90% Complete – Procurement Begins

100% Construction Documentation set is released for public bid. Architect will coordinate with Owner to set a date for the mandatory pre-bid meeting, publicize bid release, and produce a call for bids. Owner will approve all addenda issued during the procurement process and will have adequate time to review any major changes issued via addenda. The Architect is expected to attend the pre-bid meeting and provide responses to questions, issue addendums and document changes to designs, specifications and contract documents.

95% Complete

This is considered as the bid opening. All addenda have been issued and questions responded to. The bid opening shall be attended by the Architect. The Architect shall provide a review of the apparent low bid and a written recommendation of award to the Owner. If the apparent low bid exceeds the cost estimate provided by the Architect, a detailed review and analysis shall be conducted by the Architect to determine the areas that caused the over bid. The Architect shall also make a written recommendation to accept or deny the add alternates in the bid document.

100% Complete – Fully executed contract between Owner and General Contractor

The Architect shall submit to the Owner the Revit file containing the Construction drawings, the specifications in an MS Word format and any addenda issued in an MS Word format. The architect shall prepare the contract documents for award of the contract using Owner provided forms, issue the notice of award to the Contractor and collect the payment and performance bonds, insurance, letter of assent and other documents. Once executed by the Contractor, the Architect shall provide a complete set to the Owner for signature. Upon Board of Education approval of the contract, the Architect shall prepare a Notice to Proceed for the Contractor. The Architect shall provide the Notice to Proceed to the Owner for review. The Owner shall issue the Notice to Proceed to the Contractor.

Construction Phase

The Architect shall prepare all meeting agendas and produce meeting minutes for regular meetings throughout the construction phase. The Architect will notify the Owner of discussion topics prior to the scheduled meeting so the Owner may invite the appropriate MPS staff to participate in the meeting. Meeting minutes for all meetings shall be distributed within 5 working days of the meeting. All agendas and meeting minutes shall be provided to the Owner for review in an MS Word format. Changes will be documented using track changes.

Submittals

The Architect shall follow the Owner's process for submittals. Contractor shall send submittals to the Architect in accordance with the submittal schedule prepared by the Contractor. The Architect shall document submittal schedule variances and provide the information to the Contractor and the Owner each

month. The Architect shall review all submittals and determine if the submittal meets the Contract Documents . Each submittal shall be labeled with a stamp or similar that identifies the reviewer of the submittal, date of review and action. Submittals shall be marked as:

- No exception taken
- Make Corrections Noted
- Revise and Resubmit
- Rejected
- No submittal is required

A copy of each submittal shall be provided to the Owner. The Architect shall be responsible for developing and maintaining a complete and accurate submittal log. The submittal log shall identify the submittal number, description, date received from contractor, date sent to reviewer, date returned from reviewer, action, date sent back to the Contractor and date when Owner was provided a copy. . If the Architect is unclear as to the requirements of the contract documents or should the Architect need input from the Owner, the Architect shall contact the Owner's Project Manager. All substitution requests shall be sent to the Owner for review. The Owner requires a minimum of 1 week for all reviews. The Architect shall log and track all items sent to the Owner for review and monitor the review schedule.

Substantial Completion

The Architect shall review the punch list provided by the Contractor to verify the list is complete and accurate based on the Architect's review. The Architect shall issue a preliminary final punch list of items to the Owner and schedule a punch list site review with the Owner. The punch list may be modified as a result of the Owner's punch list site review. The Architect shall then issue a final punch list to the Owner and Contractor. If the Owner and Architect deem the project substantial complete in accordance with Contract Documents, the Architect shall prepare and deliver a Certificate of Substantial Completion to the Contractor and Owner establishing the date of substantial completion. The punch list provided at the time of Substantial Completion shall include the Architect's estimate of costs to repair each of the items on the punch list. The estimate provided shall form the basis of the amount of retainage to be withheld for the punch list items in accordance with Minnesota Statute. Issuance of the Certificate of Substantial Completion shall include the final punch list and establish the date of substantial completion. The punch list shall include a complete list of all manuals, warranties, commissioning reports and other items required by the Contractor as part of the Contract Documents that was not previously provided to the Owner and accepted. If the project is not deemed substantially complete by the date established in the Contract Documents, the Architect will inform the Contractor of the liquidated damages provision in the Contract Document and apply liquidated damages to the next progress payment until the Certificate of Substantial Completion is issued.

EXHIBIT C Owner Insurance

Insurance Requirements

1. CONSULTANT'S INSURANCE – to be used with AIA B101-2017, AIA C103-2015, or similar non-contractor consultants:
   The Consultant shall at its own expense maintain in effect at all times during the performance of the Work under the Agreement at least the following coverage and limits of insurance:

   a. Worker's Compensation and Employer's Liability Insurance

      i. Coverage A is statutory.

      ii. Coverage B
      $500,000 Each Accident
      $500,000 Each Employee
      $500,000 Policy Limit (Disease)

   b. Comprehensive General Liability Insurance *

General Aggregate	$1,000,000
Products/Completed Operations Aggregate	$1,000,000
Per Occurrence	$1,000,000
Medical Payments	$10,000

   * The Owner should be named as an additional insured for Comprehensive General Liability Insurance.

   c. Automobile Insurance

Per Occurrence	$1,000,000
PIP	Basic
Underinsured Motorist	$1,000,000
Uninsured Motorist	$1,000,000

   d. Professional Liability Insurance

      i. Per Claim $2,000,000

ii. For projects with an estimated construction Contract Sum of over $10,000,000 or major structural work an aggregate is required as follows:
Aggregate $4,000,000

e. Umbrella Liability Insurance

i. Per Occurrence $2,000,000

ii. For projects with an estimated construction Contract Sum of over $10,000,000 or major structural work an aggregate is required as follows:
Aggregate $2,000,000

f. Manned or Unmanned Aircraft Coverage (if used)

i. Per Claim $1,000,000

ii. Aggregate $1,000,000

For specialty consultants used for commissioning activities, studies, asbestos surveys and security, items A, B, C and F shall apply.

Special Asbestos Abatement Liability Insurance is required for Asbestos Abatement Contractors. The limits are $1,500,000 per claim, for liability arising from the encapsulation, removal, handling, storage, transportation, and disposal of asbestos-containing materials.

2. CONSULTANT'S OBLIGATIONS

Consultant shall not violate or knowingly permit any violation of any conditions or terms of the policies of insurance required to be carried under the terms hereof and shall endeavor to satisfy the requirements of the insurance companies issuing them. In the event Consultant neglects, refuses or fails to provide or maintain any of the insurance required to be carried under the Agreement, or if such insurance is canceled for any reason, the Owner or the Owner's lender(s) shall have the right, but not the duty, to procure or maintain the same.

In the event the Owner or the Owner's lender(s) do procure or maintain such insurance, the Owner or the Owner's lender(s) shall have, in additional to any and all other available remedies, the right to recover from the Consultant (including the right of set-off against sums otherwise due the Consultant) all of the costs associated with procuring or maintaining such insurance.

3. PROFESSIONAL LIABILITY INSURANCE

   a. Professional Liability Coverage of $2,000,000 shall be maintained for one (1) year from the date of Substantial Completion. If the Consultant discontinues its business and if directed by Owner in writing, Consultant shall purchase such insurance in such amount for an extended discovery period beyond the one (1) year after the date of Substantial Completion, with the premium cost to be a reimbursable expense paid by the Owner. The limit of liability for such policy may not be reduced below $2,000,000 without the Owner giving its prior, written consent. All policies of insurance that Consultant is required under the terms of this Exhibit C Owner's Insurance to secure and maintain shall bear the endorsement "Not to be canceled until sixty (60) calendar days after Owner has received a written notice from insurer as evidence by a return receipt of registered or certified mail."

   b. The Owner shall not be responsible for obtaining or paying premiums or other expenses in connection with insurance required to be carried under the Agreement or normally carried by the Consultant's consultants, and the obligation to obtain such insurance and to pay such premiums and other expenses shall be solely that of the Consultant.

   c. The Consultant shall bear all the costs of any and all deductible amounts under any insurance policies required to be carried under the Agreement and shall remain solely and fully liable for the full amount of any claim or item not compensated by insurance (to the extent that any amount resulted from damages that arose out of the Consultant's sole negligence.)

4. COVERAGE
   The coverage's referred to above are set forth in full in the respective policy forms, and the foregoing descriptions of such policies are not intended to be complete.

5. GENERALLY

   a. The Consultant thereby represents and warrants to the Owner that, as of the date of the execution of the Agreement, the Consultant is not aware of any claims or potential claims which have been made, filed or threatened against any of the insurance or for damages covered by any of the insurance required to be carried under the Agreement that would affect the Consultant's ability to provide the insurance coverage required by this agreement.

b. It is understood that the provisions in the Agreement requiring the Consultant to carry insurance shall not be construed as in any manner waiving or restricting the liability of the Consultant as to any obligations imposed under the Agreement, including, but not limited to, obligations imposed under the provisions of Article 11 of the AIA A201-2017 General Conditions.

Insurance requirements for Contractors

1. CONTRACTOR'S INSURANCE – to be used with AIA A101-2017
   The Contractor shall at its own expense maintain in effect at all times during the performance of the Work under the Agreement at least the following coverage and limits of insurance:

   a. Commercial General Liability

      i. General Aggregate $1,500,000

      ii. Products/Completed Operations Aggregate $1,500,000

      iii. Per Occurrence $1,500,000

      The Owner shall be named as additional insured for Commercial General Liability Insurance

   b. Automobile Insurance

      i. Per Occurrence $1,000,000

      ii. PIP Basic

      iii. Underinsured Motorist $1,000,000

      iv. Uninsured Motorist $1,000,000

   c. Workers Compensation

      i. Coverage A is statutory.

      ii. Coverage B $500,000 Each Accident

      iii. $500,000 Each Employee

d. Professional Liability (if the Contractor is hiring professionals)

   i. Per Claim $2,000,000

   For Projects with an estimated construction cost of over $10,000,000 or major structural work, additional Aggregate coverage of $4,000,000 is required.

e. Manned or Unmanned Aircraft Coverage (if used)

   i. Per Claim $1,000,000

   ii. Aggregate $1,000,000

f. Property Insurance

   i. Per Claim $1,000,000

   ii. Aggregate $1,000,000

   This insurance is only required for materials stored offsite and not incorporated into the project at delivery. For material stored on site, no additional insurance is required.

g. Builders “all risk” Insurance

   i. Per Claim $2,000,000

   ii. Aggregate $4,000,000

   This insurance is only required for additions exceeding $10,000,000. Renovations to existing schools are not required to have builders all risk insurance.

h. Umbrella Liability

   i. Aggregate limit $5,000,000

   This insurance is required only for projects larger than $10,000,000 in total construction costs.

EXHIBIT D - Owner Requirements

Targeted Group Business

The Owner's Targeted Group Business goal is 12%. The Architect will employ the following strategies:

- Expanding the Professional identity of the targeted business with the design and construction industry.
- Creating opportunities for networking and exposure of the targeted business by team with other consultants.
- Encouraging leadership and management within both organizations and the targeted business through the design and construction process.
- Gaining new perspectives and encouraging cultural change within the firm by working with targeted business.

Quality Performance and Owner Provisions

The following are checklists to enhance quality performance tracking and requirements to promote improved delivery for Architect work items most commonly encountered throughout design and construction.

Before design commences

1. The Architect shall begin design with current download of the Owner's published Master Specifications as provided by the Owner at design kickoff.
2. The Architect shall design to the Owner's published design guidelines and requirements as provided by the Owner at design kickoff. Deviation from the design standard shall be clearly noted on all drawings and specifications up to CD.
3. The Architect shall conform to the Owner's Revit and Drafting Standards as provided by the Owner at design kickoff.
4. The Architect shall begin the 3-D model with the Owner's Revit template as provided by the Owner at design kickoff.
5. The Architect shall be familiar with the City of Minneapolis Planning Review Process.

During Design

1. Conform to all activities required in Article 3 of AIA Document B101-2017.
2. The Architect shall conform to the Owner's design milestones and deliverables as defined in EXH-B.

3. The Architect shall incorporate the Owner's review comments provided during design phases into the final design prior to project bid. Comments shall be cataloged by the Architect and resolution to comments clearly explained.
4. The Architect shall be familiar with the Owner's Procurement requirements.
5. The Architect shall own all agendas and meeting minutes throughout the design process.
6. The Architect shall document all major decision points.
7. The Architect shall present to the Owner's community stakeholders as required.

During Construction Administration

1. Conform to all activities required in Article 3 of AIA Document B101-2017.
2. The Architect shall own all agendas and meeting minutes throughout the construction process.

During Substantial Completion

1. Conform to the requirements of Article 3 in AIA Document B101-2017.
2. Confirm with the Owner the completeness of the punchlist before finalizing.
3. Provide the Owner with a detailed estimate to complete or repair all items on the substantial completion punchlist.

During Project Closeout

1. Conform to all activities required in Article 3 of AIA Document B101-2017.
2. Within thirty (30) days of the date of Substantial Completion, the Architect shall provide the Owner, in writing, a list of incomplete items and the cost to complete those items.

Safety Precautions and Programs

While on location of the Project, the Architect hereby agrees to and shall comply with the following Owner safety requirements.

1. Security Identification Badges: The Owner requires all personnel to wear an identification badge when at a facility of the Owner. The identification badge is to remain on personnel and clearly visible at all times. No one is permitted on-site without an identification badge. The identification badge shall contain the following:

    a. A legible photograph of the individual (passport sized photo)

    b. Name of the individual (Minimum 14 point font)

    c. Name of the employer (Company name, minimum 14 point font)

d. The badge shall be plastic-laminated.

e. The badge identification size shall be 3 ½" x 2 ½" minimum.

2. All personnel are required to check in with the main office to sign in, get a badge, and indicate their destination within the building while school is in session. All personnel are required to sign out in the main office upon completion of their site visit.

3. No personnel will be allowed to prop doors open and leave them unattended.

AIA® Document E203™ – 2013

Building Information Modeling and Digital Data Exhibit

This Exhibit dated the 31 day of January in the year 2020 is incorporated into the agreement (the "Agreement") between the Parties for the following Project:
(Name and location or address of the Project)

Defined in EXH-A Project Charter

TABLE OF ARTICLES

1 GENERAL PROVISIONS

2 TRANSMISSION AND OWNERSHIP OF DIGITAL DATA

3 DIGITAL DATA PROTOCOLS

4 BUILDING INFORMATION MODELING PROTOCOLS

5 OTHER TERMS AND CONDITIONS

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

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

This document is intended to be incorporated into an agreement between the parties and used in conjunction with AIA Documents G201™–2013, Project Digital Data Protocol Form, and G202™–2013, Building Information Modeling Protocol Form. It is anticipated that other Project Participants will incorporate a project specific E203–2013 into their agreements, and that the Parties and other Project Participants will set forth the agreed-upon protocols in AIA Documents G201–2013 and G202–2013.

ARTICLE 1 GENERAL PROVISIONS

§ 1.1 This Exhibit provides for the establishment of protocols for the development, use, transmission, and exchange of Digital Data for the Project. If Building Information Modeling will be utilized, this Exhibit also provides for the establishment of the protocols necessary to implement the use of Building Information Modeling on the Project, including protocols that establish the expected Level of Development for Model Elements at various milestones of the Project, and the associated Authorized Uses of the Building Information Models.

§ 1.2 The Parties agree to incorporate this Exhibit into their agreements with any other Project Participants that may develop or make use of Digital Data on the Project. Prior to transmitting or allowing access to Digital Data, a Party may require any Project Participant to provide reasonable evidence that it has incorporated this Exhibit into its agreement for the Project, and agreed to the most recent Project specific versions of AIA Document G201™–2013, Project Digital Data Protocol Form and AIA Document G202™–2013, Project Building Information Modeling Protocol Form.

§ 1.2.1 The Parties agree that each of the Project Participants utilizing Digital Data on the Project is an intended third party beneficiary of the Section 1.2 obligation to incorporate this Exhibit into agreements with other Project Participants, and any rights and defenses associated with the enforcement of that obligation. This Exhibit does not create any third-party beneficiary rights other than those expressly identified in this Section 1.2.1.

§ 1.3 Adjustments to the Agreement

§ 1.3.1 If a Party believes that protocols established pursuant to Sections 3.2 or 4.5, and memorialized in AIA Documents G201–2013 and G202–2013, will result in a change in the Party's scope of work or services warranting an adjustment in compensation, contract sum, schedule or contract time, the Party shall notify the other Party. Failure to provide notice as required in this Section 1.3 shall result in a Party's waiver of any claims for adjustments in compensation, contract sum, schedule or contract time as a result of the established protocols.

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§ 1.3.2 Upon such notice, the Parties shall discuss and negotiate revisions to the protocols or discuss and negotiate any adjustments in compensation, contract sum, schedule or contract time in accordance with the terms of the Agreement.

§ 1.3.3 Notice required under this Section 1.3 shall be provided within thirty days of receipt of the protocols, unless otherwise indicated below:
(If the Parties require a notice period other than thirty days from receipt of the protocols, indicate the notice period below.)

§ 1.4 Definitions

§ 1.4.1 Building Information Model. A Building Information Model is a digital representation of the Project, or a portion of the Project, and is referred to in this Exhibit as the "Model," which term may be used herein to describe a Model Element, a single model or multiple models used in the aggregate, as well as other data sets identified in AIA Document G202–2013, Project Building Information Modeling Protocol Form.

§ 1.4.2 Building Information Modeling. Building Information Modeling or Modeling means the process used to create the Model.

§ 1.4.3 Model Element. A Model Element is a portion of the Model representing a component, system or assembly within a building or building site.

§ 1.4.4 Level of Development. The Level of Development (LOD) describes the minimum dimensional, spatial, quantitative, qualitative, and other data included in a Model Element to support the Authorized Uses associated with such LOD.

§ 1.4.5 Authorized Uses. The term "Authorized Uses" refers to the permitted uses of Digital Data authorized in the Digital Data and/or Building Information Modeling protocols established pursuant to the terms of this Exhibit.

§ 1.4.6 Model Element Author. The Model Element Author is the entity (or individual) responsible for managing and coordinating the development of a specific Model Element to the LOD required for an identified Project milestone, regardless of who is responsible for providing the content in the Model Element. Model Element Authors are to be identified in Section 3.3, Model Element Table, of AIA Document G202–2013.

§ 1.4.7 Digital Data. Digital Data is information, including communications, drawings, specifications and designs, created or stored for the Project in digital form. Unless otherwise stated, the term Digital Data includes the Model.

§ 1.4.8 Confidential Digital Data. Confidential Digital Data is Digital Data containing confidential or business proprietary information that the transmitting party designates and clearly marks as "confidential."

§ 1.4.9 Written or In Writing. In addition to any definition in the Agreement to which this Exhibit is attached, for purposes of this Exhibit and the Agreement, "written" or "in writing" shall mean any communication prepared and sent using a transmission method set forth in this Exhibit, or the protocols developed pursuant to this Exhibit, that permits the recipient to print the communication.

§ 1.4.10 Written Notice. In addition to any terms in the Agreement to which this Exhibit is attached, for purposes of this Exhibit and the Agreement, "written notice" shall be deemed to have been duly served if transmitted electronically to an address provided in this Exhibit or the Agreement using a transmission method set forth in this Exhibit that permits the recipient to print the communication.

§ 1.4.11 Party and Parties. The terms "Party" and "Parties" refer to the signing parties to the Agreement.

§ 1.4.12 Project Participant. A Project Participant is an entity (or individual) providing services, work, equipment or materials on the Project and includes the Parties.

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ARTICLE 2 TRANSMISSION AND OWNERSHIP OF DIGITAL DATA

§ 2.1 The transmission of Digital Data constitutes a warranty by the Party transmitting Digital Data to the Party receiving Digital Data that the transmitting Party is the copyright owner of the Digital Data, or otherwise has permission to transmit the Digital Data for its use on the Project in accordance with the Authorized Uses of Digital Data established pursuant to the terms of this Exhibit.

§ 2.2 If a Party transmits Confidential Digital Data, the transmission of such Confidential Digital Data constitutes a warranty to the Party receiving such Confidential Digital Data that the transmitting Party is authorized to transmit the Confidential Digital Data. If a Party receives Confidential Digital Data, the receiving Party shall keep the Confidential Digital Data strictly confidential and shall not disclose it to any other person or entity except as set forth in Section 2.2.1.

§ 2.2.1 The receiving Party may disclose Confidential Digital Data as required by law or court order, including a subpoena or other form of compulsory legal process issued by a court or governmental entity. The receiving Party may also disclose the Confidential Digital Data to its employees, consultants or contractors in order to perform services or work solely and exclusively for the Project, provided those employees, consultants and contractors are subject to the restrictions on the disclosure and use of Confidential Digital Data as set forth in this Exhibit.

§ 2.3 By transmitting Digital Data, the transmitting Party does not convey any ownership right in the Digital Data or in the software used to generate the Digital Data. Unless otherwise granted in a separate license, the receiving Party's right to use, modify, or further transmit Digital Data is specifically limited to designing, constructing, using, maintaining, altering and adding to the Project consistent with the terms of this Exhibit, and nothing contained in this Exhibit conveys any other right to use the Digital Data.

§ 2.4 Where a provision in this Article 2 conflicts with a provision in the Agreement into which this Exhibit is incorporated, the provision in this Article 2 shall prevail.

ARTICLE 3 DIGITAL DATA PROTOCOLS

§ 3.1 Anticipated Types of Digital Data. The anticipated types of Digital Data to be used on the Project are as follows: *(Indicate below the information on the Project that shall be created and shared in a digital format. If the Parties indicate that Building Information Modeling will be utilized on the Project, the Parties shall also complete Article 4.)*

Anticipated Digital Data	**Applicability to the Project** *(Indicate Applicable or Not Applicable)*	**Location of Detailed Description** *(Section 3.1.1 below or in an attachment to this exhibit and identified below)*
Project Agreements and Modifications		
Project communications		
Architect's pre-construction submittals		
Contract Documents		
Contractor's submittals		
Subcontractor's submittals		
Modifications		
Project payment documents		
Notices and claims		
Building Information Modeling		

§ 3.1.1 Insert a detailed description of the anticipated Digital Data identified in Section 3.1, if not further described in an attachment to this Exhibit.

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§ 3.2 As soon as practical following execution of the Agreement, the Parties shall further describe the uses of Digital Data, and establish necessary protocols governing the transmission and Authorized Uses of Digital Data, in consultation with the other Project Participants that are expected to utilize Digital Data on the Project.

§ 3.2.1 Unless another Project Participant is identified below, the Architect shall prepare and distribute to the other Project Participants Digital Data protocols for review, revision and approval.
(If a Project Participant other than the Architect shall be responsible for preparing draft and final Digital Data protocols, identify that Project Participant.)

§ 3.2.2 The agreed upon Digital Data protocols shall be set forth in AIA Document G201–2013 and each Project Participant shall memorialize their agreement in writing to such Digital Data protocols.

§ 3.2.3 The Parties, together with the other Project Participants, shall review and, if necessary, revise the Digital Data protocols at appropriate intervals as required by the conditions of the Project.

§ 3.3 The Parties shall transmit, use, store and archive Digital Data in accordance with the Digital Data protocols set forth in the latest version of AIA Document G201–2013 agreed to by the Project Participants.

§ 3.4 Unauthorized Use

§ 3.4.1 Prior to Establishment of Digital Data Protocols

If a Party receives Digital Data prior to the agreement to, and documentation of, the Digital Data protocols in AIA Document G201–2013, that Party is not authorized to use or rely on the Digital Data. Any use of, or reliance on, such Digital Data is at that Party's sole risk and without liability to the other Party and its contractors, consultants, agents and employees.

§ 3.4.2 Following Establishment of Digital Data Protocols

Following agreement to, and documentation of, the Digital Data protocols in AIA Document G201–2013, if a Party uses Digital Data inconsistent with the Authorized Uses identified in the Digital Data protocols, that use shall be at the sole risk of the Party using the Digital Data.

§ 3.5 Digital Data Management

§ 3.5.1 Centralized electronic document management system use on the Project shall be:
(Check the appropriate box. If the Parties do not check one of the boxes below, the default selection shall be that the Parties will not utilize a centralized electronic document management system on the Project.)

[X] The Parties intend to use a centralized electronic document management system on the Project.

[ ] The Parties do not intend to use a centralized electronic document management system on the Project.

§ 3.5.2 If the Project Participants intend to utilize a centralized electronic document management system on the Project, the Project Participants identified in Section 3.5.3 shall be responsible for managing and maintaining such system. The Project Participants responsible for managing and maintaining the centralized electronic document management system shall facilitate the establishment of protocols for transmission, use, storage and archiving of the centralized Digital Data and assist the Project Participants identified in Section 3.2.1 above in preparing Digital Data protocols. Upon agreement to, and documentation of, the Digital Data protocols in AIA Document G201–2013, the Project Participants identified in Section 3.5.3 shall manage and maintain the centralized electronic document management system consistent with the management protocols set forth in the latest version of G201–2013 approved by the Project Participants.

§ 3.5.3 Unless responsibility is assigned to another Project Participant, the Architect shall be responsible for managing and maintaining the centralized electronic document management system. If the responsibility for management and maintenance will be assigned to another Project Participant at an identified Project milestone, indicate below the Project Participant who shall assume that responsibility, and the Project milestone.

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(Identify the Project Participant responsible for management and maintenance only if the Parties intend to utilize a centralized electronic document management system on the Project.)

Responsible Project Participant	Project Milestone

ARTICLE 4 BUILDING INFORMATION MODELING PROTOCOLS

§ 4.1 If the Parties indicate in Section 3.1 that Building Information Modeling will be used on the Project, specify below the extent to which the Parties intend to utilize Building Information Modeling and identify the provisions of this Article 4 governing such use:

[ ] The Parties shall utilize Building Information Modeling on the Project for the sole purpose of fulfilling the obligations set forth in the Agreement without an expectation that the Model will be relied upon by the other Project Participants. Unless otherwise agreed in writing, any use of, transmission of, or reliance on the Model is at the receiving Party's sole risk. The remaining sections of this Article 4 shall have no force or effect.

[X] The Parties shall develop, share, use and rely upon the Model in accordance with Sections 4.2 through 4.10 of this Exhibit.

§ 4.2 Anticipated Building Information Modeling Scope. Indicate below the portions of the Project for which Modeling will be used and the anticipated Project Participant responsible for that Modeling.

Project Portion for Modeling	Responsible Project Participant

§ 4.3 Anticipated Model Authorized Uses. Indicate below the anticipated Authorized Uses of the Model for the Project, which Authorized Uses will be agreed upon by the Project Participants and further described for each LOD in AIA Document G202–2013.

Authorized Uses of the Model for the Project are defined in Article 7 of AIA B101-2017.

§ 4.4 Ancillary Modeling Activities. Indicate additional Modeling activities agreed upon by the Parties, but not to be included in AIA Document G202–2013, if any.
(Describe any Modeling activities, such as renderings, animations, performance simulations, or other similar use, including the anticipated amount and scope of any such Modeling activities.)

Defined in EXH-B Project Design Milestones & Deliverables to AIA B101-2017.

§ 4.5 Modeling Protocols. As soon as practical following execution of the Agreement, the Parties shall, in consultation with the other Project Participants that are expected to utilize Building Information Modeling on the Project, further describe the Authorized Uses of the Model and establish necessary protocols governing the development of the Model utilizing AIA Document G202–2013.

§ 4.5.1 The Modeling protocols shall address the following:

.1 Identification of the Model Element Authors;
.2 Definition of the various LOD for the Model Elements and the associated Authorized Uses for each defined LOD;
.3 Identification of the required LOD of each Model Element at each identified Project milestone;
.4 Identification of the construction classification systems to be used on the Project;
.5 The process by which Project Participants will exchange and share the Model at intervals not reflected in Section 3.3, Model Element Table, of AIA Document G202–2013;
.6 The process by which the Project Participants will identify, coordinate and resolve changes to the Model;
.7 Details regarding any anticipated as-designed or as-constructed Authorized Uses for the Model, if required on the Project;

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.8 Anticipated Authorized Uses for facilities management or otherwise, following completion of the Project; and

.9 Other topics to be addressed by the Modeling protocols: *(Identify additional topics to be addressed by the Modeling Protocols.)*

§ 4.5.2 Unless responsibility is assigned to another Project Participant identified below, the Architect shall prepare and distribute Modeling protocols to the other Project Participants for review, revision and approval.
(If a Project Participant other than the Architect shall be responsible for preparing draft and final Modeling protocols, identify that Project Participant.)

§ 4.5.3 The agreed upon Modeling protocols shall be set forth in AIA Document G202–2013 and each Project Participant shall memorialize their agreement in writing to such Modeling protocols.

§ 4.5.4 The Parties, together with the other Project Participants, shall review, and if necessary, revise the Modeling protocols at appropriate intervals as required by the conditions of the Project.

§ 4.6 The Parties shall develop, use and rely on the Model in accordance with the Modeling protocols set forth in the latest version of AIA Document G202–2013, which document shall be included in or attached to the Model in a manner clearly accessible to the Project Participants.

§ 4.7 Unauthorized Use

§ 4.7.1 Prior to Establishment of Modeling Protocols

If a Party receives any Model prior to the agreement to, and documentation of, the Modeling protocols in AIA Document G202–2013, that Party is not authorized to use, transmit, or rely on the Model. Any use, transmission or reliance is at that Party's sole risk and without liability to the other Party and its contractors, consultants, agents and employees.

§ 4.7.2 Following Establishment of Modeling Protocols

Following agreement to, and documentation of, the Modeling protocols in AIA Document G202–2013, if a Party uses or relies on the Model inconsistent with the Authorized Uses identified in the Modeling protocols, such use or reliance shall be at the sole risk of the Party using or relying on the Model. A Party may rely on the Model Element only to the extent consistent with the minimum data required for the identified LOD, even if the content of a specific Model Element includes data that exceeds the minimum data required for the identified LOD.

§ 4.8 Model Management

§ 4.8.1 The requirements for managing the Model include the duties set forth in this Section 4.8. Unless assigned to another Project Participant, the Architect shall manage the Model from the inception of the Project. If the responsibility for Model management will be assigned to another Project Participant, or change at an identified Project milestone, indicate below the identity of the Project Participant who will assume that responsibility, and the Project milestone.

Responsible Project Participant	Project Milestone

§ 4.8.2 Model Management Protocol Establishment. The Project Participant responsible for managing the Model, in consultation with the other Project Participants that are expected to utilize Building Information Modeling on the Project, shall facilitate the establishment and revision of Model management protocols, including the following:

.1 Model origin point, coordinate system, precision, file formats and units. The Model shall be accurately geo-located.

.2 Model file storage location(s)

.3 Processes for transferring and accessing Model files

.4 Naming conventions as defined in the Owner's Revit and Drafting Standards.

.5 Processes for aggregating Model files from varying software platforms

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.6 Model access rights
.7 Identification of design coordination and clash detection procedures.
.8 Model security requirements
.9 Other: *(Identify additional Model management protocols to be addressed.)*

The Project Participant responsible for managing the Model shall use the issued MPS Revit template and conform to MPS Revit and Drafting Standards as defined in EXH-C.2 Quality Performance and Owner Provisions of AIA B101-2017.

§ 4.8.3 Ongoing Responsibilities. The Project Participant responsible for managing the Model shall do so consistent with the Model management protocols, which shall also include the following ongoing responsibilities:

.1 Collect incoming Models:
  .1 Coordinate submission and exchange of Models
  .2 Create and maintain a log of Models received
  .3 Review Model files for consistency with Sections 4.8.2.1 through 4.8.2.5
  .4 Maintain a record copy of each Model file received
.2 Aggregate Model files and make them available for Authorized Uses
.3 Maintain Model Archives and backups consistent with the requirements of Section 4.8.4 below
.4 Manage Model access rights
.5 Other: *(Identify additional responsibilities.)*

§ 4.8.4 Model Archives. The individual or entity responsible for Model management as set forth in this Section 4.8 shall compile a Model Archive at the end of each Project milestone and shall preserve it without alteration as a record of Model completion as of that Project milestone.

§ 4.8.4.1 Additional Model Archive requirements, if any, are as follows:

§ 4.8.4.2 The procedures for storing and preserving the Model(s) upon final completion of the Project are as follows:

§ 4.9 Post-Construction Model. The services associated with providing a Model for post-construction use shall only be required if specifically designated in the table below as a Party's responsibility.
(Designate below any anticipated post-construction Model and related requirements, the Project Participant responsible for creating or adapting the Model to achieve such uses, and the location of a detailed description of the anticipated scope of services to create or adapt the Model as necessary to achieve such uses.)

Post-Construction Model	**Applicability to Project** *(Applicable or Not Applicable)*	**Responsible Project Participant**	**Location of Detailed Description of Requirements and Services** *(Section 4.10 below or in an attachment to this exhibit and identified below)*
§ 4.9.1 Remodeling	Applicable	Owner	
§ 4.9.2 Wayfinding and Mapping	Applicable	Architect	
§ 4.9.3 Asset/FF & E Management	Applicable	Owner	
§ 4.9.4 Energy Management	Applicable	Owner	
§ 4.9.5 Space Management	Applicable	Owner	
§ 4.9.6 Maintenance Management	Applicable	Owner	

§ 4.10 Insert a detailed description of the requirements for each Post-Construction Model identified in Section 4.9 and the anticipated services necessary to create each Post-Construction Model, if not further described in an attachment to this Exhibit.

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ARTICLE 5 OTHER TERMS AND CONDITIONS

Other terms and conditions related to the transmission and use of Digital Data are as follows:

§ 5.1 Digital Reviews in Bluebeam

PDF documents shall be produced from the 3-D Digital Model as requested by the Owner and digitally transmited to the Owner for digital review. The PDF files shall be produced with the following criteria

.1 All sheets in the drawing set shall be listed on the title sheet.

.2 All sheets shall be bookmarked accurately from the title sheet of the drawing set allowing users to click on a sheet name and arrive at that sheet.

.3 All drafting symbols representing enlarged plans, sections, and details shall be accurately linked to the respective drawings.

.4 The Architect shall create a bookmark list of each major discipline allowing users to jump to the first sheet for each discipline.

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PAGE 1

This Exhibit dated the ~~day of~~ 31 day of January in the year 2020 is incorporated into the agreement (the "Agreement") between the Parties for the following Project:

...

Defined in EXH-A Project Charter

PAGE 4

[X] The Parties intend to use a centralized electronic document management system on the Project.

PAGE 5

[X] The Parties shall develop, share, use and rely upon the Model in accordance with Sections 4.2 through 4.10 of this Exhibit.

...

Authorized Uses of the Model for the Project are defined in Article 7 of AIA B101-2017.

...

Defined in EXH-B Project Design Milestones & Deliverables to AIA B101-2017.

PAGE 6

.1 Model origin point, coordinate system, precision, file formats and ~~units~~units. The Model shall be accurately geo-located.

...

.4 Naming conventions as defined in the Owner's Revit and Drafting Standards.

PAGE 7

The Project Participant responsible for managing the Model shall use the issued MPS Revit template and conform to MPS Revit and Drafting Standards as defined in EXH-C.2 Quality Performance and Owner Provisions of AIA B101-2017.

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...

§ 4.9.1 Remodeling	Applicable	Owner	
§ 4.9.2 Wayfinding and Mapping	Applicable	Architect	
§ 4.9.3 Asset/FF & E Management	Applicable	Owner	
§ 4.9.4 Energy Management	Applicable	Owner	
§ 4.9.5 Space Management	Applicable	Owner	
§ 4.9.6 Maintenance Management	Applicable	Owner	

PAGE 8

§ 5.1 Digital Reviews in Bluebeam

...

PDF documents shall be produced from the 3-D Digital Model as requested by the Owner and digitally transmited to the Owner for digital review. The PDF files shall be produced with the following criteria

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...

.3 All drafting symbols representing enlarged plans, sections, and details shall be accurately linked to the respective drawings.

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.4 The Architect shall create a bookmark list of each major discipline allowing users to jump to the first sheet for each discipline.

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Certification of Document's Authenticity

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_____

(Signed)

_____

(Title)

_____

(Dated)

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AIA® Document G201™ – 2013

Project Digital Data Protocol Form

PROJECT: *(Name and address)*

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

This document is intended to be used in conjunction with a project specific AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, which the Parties will incorporate into their Agreement for the Project.

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Defined in EXH-A Project Charter

PROTOCOL VERSION NUMBER:
DATE: March 13, 2018
PREPARED BY: Minneapolis Public Schools
DISTRIBUTION TO: *(List each individual to whom this protocol is distributed. Include individuals listed in Section 1.2, or reference Section 1.2, along with any additional recipients.)*
Defined in EXH-A Project Charter

TABLE OF ARTICLES

1 GENERAL PROVISIONS REGARDING USE OF DIGITAL DATA

2 DIGITAL DATA MANAGEMENT PROTOCOLS

3 TRANSMISSION AND USE OF DIGITAL DATA

ARTICLE 1 GENERAL PROVISIONS REGARDING USE OF DIGITAL DATA

§ 1.1 List each Project Participant that has incorporated AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, dated , into its agreement for the Project:

Project Participant	Discipline

§ 1.2 Project Participants. For each Project Participant listed in Section 1.1, identify and provide contact information for the individuals responsible for implementation of the Digital Data protocols.

Project Participant	Individual Responsible	Contact Information

§ 1.3 Terms in this document shall have the same meaning as those in AIA Document E203–2013.

ARTICLE 2 DIGITAL DATA MANAGEMENT PROTOCOLS

§ 2.1.1 Electronic Document Management System. If, pursuant to Section 3.5.1 of the Project specific version of AIA Document E203–2013, the Project Participants indicated an intent to use a centralized electronic document management system on the Project, the requirements for the centralized electronic document management system are as follows:
(The requirements for the system shall address, among other things, access to and security of Digital Data.)

§ 2.1.2 System Startup Requirements. Initial training and other startup requirements to be implemented with respect to the use or management of Digital Data, if any, are as follows:
(Describe in detail any initial training or other startup requirements.)

The Owner shall provide a Revit template to be used to create the Model. The Owner shall provide Revit and Drafting Standards as outlined in EXH-C.2 Quality Performance & Owner Provisions of AIA B101-2017.

§ 2.1.3 Ongoing System Requirements. Ongoing training or support programs to be implemented with respect to the use or management of Digital Data, if any, are as follows:
(Describe in detail any ongoing training or support programs to be implemented.)

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§ 2.2 Digital Data Storage Requirements. The procedures and requirements for storing Digital Data during the course of the Project, if any, are as follows:
(Describe in detail the procedures and requirements for storing Digital Data during the course of the Project.)

§ 2.3 Digital Data Archiving Requirements. The procedures and requirements for archiving and preserving Digital Data during the course of the Project and following final completion of the Project, if any, are as follows:
(Describe in detail the procedures and requirements for archiving and preserving Digital Data during the course of the Project and following final completion.)

The Architect shall maintain digital versions of all meeting minutes. The Architect shall maintain digital versions of the Model at all project Report Milestones as well as the Conformed As Bid Model and the As Designed Record Model. All other requirements are defined in the Owner's Revit and Drafting Standards as defined in EXH-C.2 Quality Performance & Owner Provisions to and article 3.6.6.6 AIA B101-2017.

§ 2.4 Other Digital Data Management protocol requirements, if any, are as follows:
(Describe in detail any other requirements.)

ARTICLE 3 TRANSMISSION AND USE OF DIGITAL DATA

§ 3.1 Digital Data Protocol Table. The Project Participants shall comply with the data formats, transmission methods and Authorized Uses set forth in the Digital Data Protocol Table below when transmitting or using Digital Data on the Project.
(Complete the Digital Data Protocol Table by entering information in the spaces below. Adapt the table to the needs of the Project by adding, deleting or modifying the listed Digital Data as necessary. Use Section 3.2 Digital Data Protocol Table Definitions and Notes to define abbreviations placed, and to record notes indicated, in the Digital Data Protocol Table.)

Digital Data	Digital Data Format	Transmission Method	Authorized Uses	Note Number *(See Sec. 3.2)*
§ 3.1.1 Project Agreements and Modifications				
§ 3.1.2 Project communications				
General communications				
Meeting notices				
Agendas				
Minutes				
Requests for information				
Architect's Supplemental Instructions				
§ 3.1.3 Architect's pre-construction submittals				
Schematic Design Documents				
Design Development Documents				
Construction Documents				
§ 3.1.4 Contract Documents				
Architect's Drawings				
Architect's Specifications				
§ 3.1.5 Contractor's submittals				
Product data				
Submitted by Contractor				
Returned by Architect				
Shop drawings				
Submitted by Contractor				
Returned by Architect				
§ 3.1.6 Subcontractor's submittals				

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Product data				
Submitted by Subcontractor				
Returned by Contractor				
Shop drawings				
Submitted by Subcontractor				
Returned by Contractor				
§ 3.1.7 Modifications				
Requests for proposal				
Architect's order for a minor change in the Work				
Proposals				
Construction Change Directives				
Change Orders				
§ 3.1.8 Project payment documents				
§ 3.1.9 Notices and Claims				
§ 3.1.10 Closeout documents				
Record documents				
Operations and Maintenance Manual				

§ 3.2 Digital Data Protocol Table Definitions and Notes

Digital Data Format:
(Provide required data format, including software version, if applicable.)

Digital Data Format	Definition

Transmission Method:
(Below are suggested abbreviations and definitions. Delete, modify or supplement, as necessary.)

Abbreviation	Definition
CD	Delivered via Compact Disk
EM	Via e-mail
DMS	Centralized Electronic Document Management System

Authorized Uses of Digital Data:
(Below are suggested abbreviations and definitions. Delete, modify or supplement, as necessary.)

Abbreviation	Definition
I	Integrate (incorporate additional digital data without modifying data received)
M	Modify as required to fulfill obligations for the Project
R	Reproduce and distribute
S	Store and view only

Notes:
(List by number shown on table.)

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PAGE 2

Defined in EXH-A Project Charter

...

DATE: March 13, 2018
PREPARED BY: Minneapolis Public Schools

...

Defined in EXH-A Project Charter

...

The Owner shall provide a Revit template to be used to create the Model. The Owner shall provide Revit and Drafting Standards as outlined in EXH-C.2 Quality Performance & Owner Provisions of AIA B101-2017.

PAGE 3

The Architect shall maintain digital versions of all meeting minutes. The Architect shall maintain digital versions of the Model at all project Report Milestones as well as the Conformed As Bid Model and the As Designed Record Model. All other requirements are defined in the Owner's Revit and Drafting Standards as defined in EXH-C.2 Quality Performance & Owner Provisions to and article 3.6.6.6 AIA B101-2017.

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AIA® Document G202™ – 2013

Project Building Information Modeling Protocol Form

PROJECT: *(Name and address)*
Defined in EXH-A Project Charter

PROTOCOL VERSION NUMBER:

DATE: March 13, 2018

PREPARED BY: Minneapolis Public Schools

DISTRIBUTION TO: *(List each individual to whom this protocol is distributed. Include individuals listed in Section 1.1, or reference Section 1.1, along with any additional recipients.)*
Defined in EXH-A Project Charter

TABLE OF ARTICLES

1 GENERAL PROVISIONS

2 LEVEL OF DEVELOPMENT

3 MODEL ELEMENTS

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

This document is intended to be used in conjunction with a Project specific AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, which the Parties will incorporate into their agreement for the Project, and a Project specific AIA Document G201™–2013, Project Digital Data Protocol Form.

ARTICLE 1 GENERAL PROVISIONS

§ 1.1 For each Project Participant that has incorporated the Project specific AIA Document E203™–2013, Building Information Modeling and Digital Data Protocol Exhibit, dated , into its agreement for the Project, identify and provide the contact information for individuals responsible for implementation of the Modeling protocols. If, for any Project Participant, more than one individual will be responsible for implementation of the Modeling protocols, list each individual separately and describe the unique Modeling Role assigned to each individual.

Modeling Role	Project Participant	Individual Responsible	Contact Information

§ 1.2 This document establishes the Modeling protocols for the Project. For purposes of these protocols, the Model is comprised of the following information and other data sets: *(Indicate disciplines, separate models, and other data that will be included within the Model and governed by the Modeling protocols.)*

§ 1.3 Collaboration Protocols. The Project Participants' protocols for the collaborative utilization of the Model, if any, including communications protocols, a collaboration meeting schedule and colocation requirements, are as follows:

§ 1.4 Technical Requirements. The technical requirements relating to the utilization of Building Information Modeling, including specific software and hardware requirements are as follows:

Init.
/

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§ 1.5 Training and Support. The parameters for any training or support program(s) that will be implemented with respect to any collaboration strategy or technical requirements are set forth below:

§ 1.6 Model Standard. The Model shall be developed in accordance with the following Model Standard, if any:

§ 1.7 Model Management Protocols and Processes

The following Model Management Protocols and Processes shall apply to the Project only if specifically designated in the table below as being applicable.

(Designate the Model Management Protocols and Processes applicable to the Project in the second column of the table below. In the third column, indicate whether the detailed description of the Model Management Protocol or Process is located in Section 1.8 or in an attached exhibit. If in an exhibit, identify the exhibit.)

Model Management Protocols and Processes		Applicability to Project *(Applicable or Not Applicable)*	Location of Detailed Description *(Section 1.8 below or in an attachment to this exhibit identified below)*
§ 1.7.1	Model origin point, coordinate system, precision, file formats and units		
§ 1.7.2	Model file storage location(s)		
§ 1.7.3	Processes for transferring and accessing Model files		
§ 1.7.4	Naming conventions		
§ 1.7.5	Processes for aggregating Model files from varying software platforms		
§ 1.7.6	Model access rights		
§ 1.7.7	Design coordination and clash detection procedures.		
§ 1.7.8	Model security requirements		

§ 1.8 Insert a description of each Model Management Protocol and Process identified in Section 1.7, if not further described in an exhibit attached to this document:

§ 1.9 Terms in this document shall have the same meaning as those in AIA Document E203–2013.

ARTICLE 2 LEVEL OF DEVELOPMENT

§ 2.1 The Level of Development (LOD) descriptions, included in Section 2.2 through Section 2.6 below, identify the specific minimum content requirements and associated Authorized Uses for each Model Element at five progressively detailed levels of completeness. The Parties shall utilize the five LOD descriptions in completing the Model Element Table at Section 3.3.

§ 2.2 LOD 100

§ 2.2.1 Model Element Content Requirements. The Model Element may be graphically represented in the Model with a symbol or other generic representation, but does not satisfy the requirements for LOD 200. Information related to the Model Element (i.e., cost per square foot, tonnage of HVAC, etc.) can be derived from other Model Elements.

§ 2.2.2 Authorized Uses

§ 2.2.2.1 Analysis. The Model Element may be analyzed based on volume, area and orientation by application of generalized performance criteria assigned to other Model Elements.

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§ 2.2.2.2 Cost Estimating. The Model Element may be used to develop a cost estimate based on current area, volume or similar conceptual estimating techniques (e.g., square feet of floor area, condominium unit, hospital bed, etc.).

§ 2.2.2.3 Schedule. The Model Element may be used for Project phasing and determination of overall Project duration.

§ 2.2.2.4 Other Authorized Uses. Additional Authorized Uses of the Model Element developed to LOD 100, if any, are as follows:

§ 2.3 LOD 200

§ 2.3.1 Model Element Content Requirements. The Model Element is graphically represented within the Model as a generic system, object, or assembly with approximate quantities, size, shape, location, and orientation. Non-graphic information may also be attached to the Model Element.

§ 2.3.2 Authorized Uses

§ 2.3.2.1 Analysis. The Model Element may be analyzed for performance of selected systems by application of generalized performance criteria assigned to the representative Model Elements.

§ 2.3.2.2 Cost Estimating. The Model Element may be used to develop cost estimates based on the approximate data provided and quantitative estimating techniques (e.g., volume and quantity of elements or type of system selected).

§ 2.3.2.3 Schedule. The Model Element may be used to show ordered, time-scaled appearance of major elements and systems.

§ 2.3.2.4 Coordination. The Model Element may be used for general coordination with other Model Elements in terms of its size, location and clearance to other Model Elements.

§ 2.3.2.5 Other Authorized Uses. Additional Authorized Uses of the Model Element developed to LOD 200, if any, are as follows:

§ 2.4 LOD 300

§ 2.4.1 Model Element Content Requirements. The Model Element is graphically represented within the Model as a specific system, object or assembly in terms of quantity, size, shape, location, and orientation. Non-graphic information may also be attached to the Model Element.

§ 2.4.2 Authorized Uses

§ 2.4.2.1 Analysis. The Model Element may be analyzed for performance of selected systems by application of specific performance criteria assigned to the representative Model Element.

§ 2.4.2.2 Cost Estimating. The Model Element may be used to develop cost estimates suitable for procurement based on the specific data provided.

§ 2.4.2.3 Schedule. The Model Element may be used to show ordered, time-scaled appearance of detailed elements and systems.

§ 2.4.2.4 Coordination. The Model Element may be used for specific coordination with other Model Elements in terms of its size, location and clearance to other Model Elements including general operation issues.

§ 2.4.2.5 Other Authorized Uses. Additional Authorized Uses of the Model Element developed to LOD 300, if any, are as follows:

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§ 2.5 LOD 400

§ 2.5.1 Model Element Content Requirements. The Model Element is graphically represented within the Model as a specific system, object or assembly in terms of size, shape, location, quantity, and orientation with detailing, fabrication, assembly, and installation information. Non-graphic information may also be attached to the Model Element.

§ 2.5.2 Authorized Uses

§ 2.5.2.1 Analysis. The Model Element may be analyzed for performance of systems by application of actual performance criteria assigned to the Model Element.

§ 2.5.2.2 Cost Estimating. Costs are based on the actual cost of the Model Element at buyout.

§ 2.5.2.3 Schedule. The Model may be used to show ordered, time-scaled appearance of detailed specific elements and systems including construction means and methods.

§ 2.5.2.4 Coordination. The Model Element may be used for coordination with other Model Elements in terms of its size, location and clearance to other Model Elements, including fabrication, installation and detailed operation issues.

§ 2.5.2.5 Other Authorized Uses. Additional Authorized Uses of the Model Element developed to LOD 400, if any, are as follows:

§ 2.6 LOD 500

§ 2.6.1 Model Element Content Requirements. The Model Element is a field verified representation in terms of size, shape, location, quantity, and orientation. Non-graphic information may also be attached to the Model Elements.

§ 2.6.2 Authorized Uses. Specific Authorized Uses of the Model Element developed to LOD 500, if any, are as follows:

ARTICLE 3 MODEL ELEMENTS

§ 3.1 Reliance on Model Elements

§ 3.1.1 At any particular Project milestone, a Project Participant may rely on the accuracy and completeness of a Model Element only to the extent consistent with the minimum data required for the Model Element's LOD for that Project milestone as identified below in the Model Element Table, even if the content of a specific Model Element includes data that exceeds the minimum data required for the identified LOD.

§ 3.1.2 Coordination and Model Refinement

Where conflicts are found in the Model, regardless of the phase of the Project or LOD, the Project Participant that identifies the conflict shall promptly notify the Model Element Authors and the Project Participant identified in AIA Document E203–2013 Section 4.8 as being responsible for Model management. Upon such notification, the Model Element Author(s) shall act promptly to evaluate, mitigate and resolve the conflict in accordance with the processes established in Section 1.7.7, if applicable.

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§ 3.2 Table Instructions

§ 3.2.1 The Model Element Table in Section 3.3 indicates the LOD to which each Model Element shall be developed at each identified Project milestone and the Model Element Author.

§ 3.2.2 Abbreviations for each Model Element Author to be used in the Model Element Table are as follows:
(Provide abbreviations, such as "A—Architect," or "C—Contractor.")

Abbreviation	Model Element Author (MEA)

§ 3.3 Model Element Table

		Required LOD at Project milestones as defined in EXH-B Project Milestones & Deliverables					
Model Element Category	**Scope Status**	**15%**	**25%**	**50%**	**75%**	**90%**	**100%**
Exterior Walls	Within Scope	200	300	300	300	300	300
	Outside of Scope	100	300	300	300	300	300
Interior Walls	Within Scope	200	300	300	300	300	300
	Outside of Scope	100	200	200	200	200	200
Roofs	Within Scope	200	300	300	300	300	300
	Outside of Scope	100	300	300	300	300	300
Floors	Within Scope	200	300	300	300	300	300
	Outside of Scope	100	200	200	200	200	200
Exterior doors and windows	Within Scope	200	300	300	300	300	300
	Outside of Scope	100	300	300	300	300	300
Interior doors and windows	Within Scope	200	200	300	300	300	300
	Outside of Scope	100	200	200	200	200	200
Major structural elements	Within Scope	Not required	200	200	300	300	300
	Outside of Scope	Not required	Not required	Not required	Not required	Not required	Not required
Plumbing Fixtures	Within Scope	100	300	300	300	300	300
	Outside of Scope	Not required	Not required	Not required	Not required	Not required	Not required

§ 3.4 Model Element Table Notes

Notes:
(List by number shown on table.)

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Additions and Deletions Report for

AIA® Document G202™ – 2013

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

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PAGE 1

Defined in EXH-A Project Charter

...

DATE: March 13, 2018
PREPARED BY: Minneapolis Public Schools

...

Defined in EXH-A Project Charter

PAGE 5

§ 3.3 Model Element Table

		Required LOD at Project milestones as defined in EXH-B Project Milestones & Deliverables					
Model Element Category	**Scope Status**	**15%**	**25%**	**50%**	**75%**	**90%**	**100%**
Exterior Walls	Within Scope	200	300	300	300	300	300
	Outside of Scope	100	300	300	300	300	300
Interior Walls	Within Scope	200	300	300	300	300	300
	Outside of Scope	100	200	200	200	200	200
Roofs	Within Scope	200	300	300	300	300	300
	Outside of Scope	100	300	300	300	300	300
Floors	Within Scope	200	300	300	300	300	300
	Outside of Scope	100	200	200	200	200	200
Exterior doors and windows	Within Scope	200	300	300	300	300	300
	Outside of Scope	100	300	300	300	300	300
Interior doors and windows	Within Scope	200	200	300	300	300	300

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	Outside of Scope	100	200	200	200	200	200
Major structural elements	Within Scope	Not required	200	200	300	300	300
	Outside of Scope	Not required	Not required	Not required	Not required	Not required	Not required
Plumbing Fixtures	Within Scope	100	300	300	300	300	300
	Outside of Scope	Not required	Not required	Not required	Not required	Not required	Not required

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Certification of Document's Authenticity

AIA® Document D401™ – 2003

I, , hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with its associated Additions and Deletions Report and this certification at 12:25:37 on 03/23/2018 under Order No. 8259021829 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document G202™ – 2013, Project Building Information Modeling Protocol Form , as published by the AIA in its software, other than those additions and deletions shown in the associated Additions and Deletions Report.

_____

(Signed)

_____

(Title)

_____

(Dated)

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FY21 North High School Renovations-Bid Pack 4 Work Scope 03-A Concrete and Masonry

Contract Sum: $530,650

Contractor: B&D Associates, Inc

Project Name and Number

North High School Phase 3 Work Scope 03-A
1500 James Avenue
Minneapolis, MN 55411
Minneapolis Public Schools Project Number 21NORTCTE
OP 25-2512

Description

Perform concrete and masonry work in accordance with Work Scope 03-A for the North High School Phase 4 renovations

Contract Sum details

Item	Price	Status
Base Bid	$530,650	accepted
Alt #1: Health Office	$15,800	rejected
Alt #2: Athletic and Counseling Offices	$13,000	rejected
Alt #3: Electrical Panel Replacements	$0	Accepted
Alt #4: AHU-41 Replacement	$0	Accepted
Alt #5: Direct Digital Controls	$0	Accepted

Contract Documents

AIA Document A132-2019
AIA Document A132 Exhibit A-2019
Exhibit B – Project Charter
Exhibit C – Owner Insurance
Exhibit D – Project Schedule
AIA Document A232-2019

AIA® Document A132® – 2019

Standard Form of Agreement Between Owner and Contractor, Construction Manager as Adviser Edition

AGREEMENT made as of the first__ day of _February_____ in the year 2025_
(In words, indicate day, month, and year.)

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

Minneapolis Public Schools Special School District #1
1250 West Broadway Avenue
Minneapolis, MN 55411

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

B&D Associates, LLC
1410 Sylvan Street, Suite 200
St Paul, MN 55117

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

North High School Phase 4 Work Scope 03A Concrete and Masonry
1500 James Avenue
Minneapolis, MN 55411

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

Kraus-Anderson Construction Company
501 South 8th Street
Minneapolis, MN 55405

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

LSE Architects
1401 Glenwood Avenue
Minneapolis, MN 55405

The Owner and Contractor agree as follows.

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

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

This document is intended to be used in conjunction with AIA Documents A232™–2019, General Conditions of the Contract for Construction, Construction Manager as Adviser Edition; B132™–2019, Standard Form of Agreement Between Owner and Architect, Construction Manager as Adviser Edition; and C132™–2019, Standard Form of Agreement Between Owner and Construction Manager as Adviser. AIA Document A232™–2019 is adopted in this document by reference. Do not use with other general conditions unless this document is modified.

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TABLE OF ARTICLES

1 THE CONTRACT DOCUMENTS

2 THE WORK OF THIS CONTRACT

3 DATE OF COMMENCEMENT AND DATES OF SUBSTANTIAL COMPLETION

4 CONTRACT SUM

5 PAYMENTS

6 DISPUTE RESOLUTION

7 TERMINATION OR SUSPENSION

8 MISCELLANEOUS PROVISIONS

9 ENUMERATION OF CONTRACT DOCUMENTS

EXHIBIT A INSURANCE AND BONDS
EXHIBIT B DETERMINATION OF THE COST OF THE WORK

ARTICLE 1 THE CONTRACT DOCUMENTS

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

§ 1.2 In the event that there are inconsistencies between any of the Project Contract Documents, all Contract Documents shall be construed together and shall be read with a purpose and intent to provide that the Contractor shall commit to fully complete its Project Work and services with the greater degree of commitment as referenced in the Contract Documents, including the plans and specifications, to work diligently to ensure completion of the Project in a timely and workmanlike manner and at the earliest stated times provided for in Project schedules, as they may be revised, and to ensure that Contractor, and all of its Subcontractors and suppliers complete the Project on schedule and within Project Contract Price, subject to approved change orders.

§ 1.3 Contractor acknowledges that it has had full, fair, and adequate opportunity to review all of the Project bidding and Contract Documents, that it has fully satisfied itself as to the scope and requirements of the Project, that it has fully and fairly investigated all Project site conditions and circumstances and Contract Documents, including any potential difficulties or interferences present in the same, that it has had the opportunity to ask questions during the bidding phase and that it has received adequate answers to any such questions, that it has had the opportunity to attend and fairly participate in all pre-bid conferences and pre-construction conferences, and that it has required the same of all of its Subcontractors.

ARTICLE 2 THE WORK OF THIS CONTRACT

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

ARTICLE 3 DATE OF COMMENCEMENT AND DATES OF SUBSTANTIAL COMPLETION

§ 3.1 The date of commencement of the Work shall be:
(Check one of the following boxes.)

[ ] The date of this Agreement.

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[X] A date set forth in a notice to proceed issued by the Owner.

[ ] Established as follows:
(Insert a date or a means to determine the date of commencement of the Work.)

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

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

§ 3.3 Substantial Completion of the Project or Portions Thereof
§ 3.3.1 Subject to adjustments of the Contract Time as provided in the Contract Documents, the date of Substantial Completion of the Work of all of the Contractors for the Project will be:
(Insert the date of Substantial Completion of the Work of all Contractors for the Project.)

Defined in EXH-D Project Schedule

§ 3.3.2 Subject to adjustments of the Contract Time as provided in the Contract Documents, if portions of the Work of all of the Contractors for the Project are to be completed prior to Substantial Completion of the entire Work of all of the Contractors for the Project, the Contractors shall achieve Substantial Completion of such portions by the following dates defined in EXH-D Project Schedule. Such portions of the Work not completed as defined in EXH-D Project Schedule shall be subject to liquidated damages as set forth in Article 4.5.

(Table deleted)
(Table deleted)
(Paragraphs deleted)
§ 3.4.3 If the Contractor fails to substantially complete the Work of this Contract, or portions thereof, as provided in this Section 3.4, liquidated damages, if any, shall be assessed as set forth in Section 4.5.

ARTICLE 4 CONTRACT SUM
§ 4.1 The Owner shall pay the Contractor the Contract Sum in current funds for the Contractor's performance of the
(Paragraphs deleted)
Contract as defined in EXH-B Project Charter, subject to additions and deductions as provided in the Contract Documents.
§ 4.2 Stipulated Sum
§ 4.2.1 The Contract Sum shall be five-hundred, thirty thousand, six-hundred fifty dollars ($ 530,650), subject to additions and deductions as provided in the Contract Documents.

§ 4.2.2 Alternates
§ 4.2.2.1 Alternates, if any, included in the Contract Sum are defined in EXH-B Project Charter.
(Table deleted)
§ 4.2.2.2 Subject to the conditions noted in EXH-B Project Charter, alternates may be accepted by the Owner following execution of this Agreement. Upon acceptance, the Owner shall issue a Modification to this Agreement.
(Paragraphs deleted)
(Table deleted)
§ 4.2.3 Allowances, if any, included in the Contract Sum are defined in EXH-B Project Charter.
(Identify each allowance.)

Item	Price

§ 4.2.4 Unit prices, if any are defined in EXH-B Project Charter.

(Table deleted)

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§ 4.3 Allowances, if any, included in the Contract Sum are defined in EXH-B Project Charter.

(Paragraph deleted)
(Table deleted)
(Paragraphs deleted)
§ 4.4 Unit prices, if any, are defined in EXH-B Project Charter.

(Paragraphs deleted)
(Table deleted)
(Paragraphs deleted)
(Table deleted)
(Paragraphs deleted)
(Table deleted)
(Paragraphs deleted)
(Table deleted)
(Paragraphs deleted)
§ 4.5 Liquidated damages, if any:
(Insert terms and conditions for liquidated damages, if any, to be assessed in accordance with Section 3.4.)

Contractor and Owner recognize that time is of the essence for the Project and the Owner will suffer financial loss if the Work is not completed in the time specified in the Contract Documents. The parties also recognize the delays, expenses, and difficulties involved in proving in a legal proceeding the actual loss suffered by the Owner if the Work is not completed on time. Accordingly, instead of requiring such proof, the Owner and Contractor agree that as liquidated damages for delay (but not as penalty), Contractor shall pay Owner One Thousand Dollars ($1,000.00) per calendar day for each day that expires after the time specified for Substantial Completion in EXH-D Project Schedule until such time the Work is determined to be substantially complete by the Owner.

After Substantial Completion, if Contractor neglects, refuses, or fails to complete the remaining Work within the Contract Time specified in the Contract Documents, the Contractor shall pay the Owner One Thousand Dollars ($1,000.00) per day that expires after the time specified in the Contract Documents for Final Completion and readiness for Final Payment until the Work is completed.

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

None

ARTICLE 5 PAYMENTS

§ 5.1 Progress Payments

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

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

§ 5.1.3 When an Application for Payment is received by the Construction Manager, payment of the amount certified shall be made by the Owner not later than forty-five (45) days after the Construction Manager receives the Application for Payment. Unless expressly otherwise agreed in this Contract, payments and payment disputes shall be governed by the Prompt Payment of Local Government Bills, Minnesota Statutes, Section 471.425 ("Prompt Payment Act").
(Federal, state or local laws may require payment within a certain period of time.)

§ 5.1.4 Progress Payments Where the Contract Sum is Based on a Stipulated Sum

§ 5.1.4.1 Each Application for Payment shall be based on the most recent schedule of values submitted by the Contractor on AIA G702 Application and Certificate for Payment in accordance with the Contract Documents. The schedule of

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values shall allocate the entire Contract Sum among the various portions of the Work. The schedule of values shall be prepared in such form, and supported by such data to substantiate its accuracy, as the Construction Manager and Architect may require. This schedule of values shall be used as a basis for reviewing the Contractor's Applications for Payment.

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

§ 5.1.4.3 In accordance with AIA Document A232™–2019, General Conditions of the Contract for Construction, Construction Manager as Adviser Edition, as modified and subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

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

.1 That portion of the Contract Sum properly allocable to completed Work;

.2 That portion of the Contract Sum properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction, or, if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing; and

.3 That portion of Construction Change Directives that the Architect determines, in the Architect's professional judgment, to be reasonably justified.

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

.1 The aggregate of any amounts previously paid by the Owner;

.2 The amount, if any, for Work that remains uncorrected and for which the Architect has previously withheld a Certificate for Payment as provided in Article 9 of AIA Document A232–2019;

.3 Any amount for which the Contractor does not intend to pay a Subcontractor or material supplier, unless the Work has been performed by others the Contractor intends to pay;

.4 For Work performed or defects discovered since the last payment application, any amount for which the Architect may withhold payment, or nullify a Certificate of Payment in whole or in part, as provided in Article 9 of AIA Document A232–2019; and

.5 Retainage withheld pursuant to Section 5.1.7.

(Paragraphs deleted)

§ 5.1.7 Retainage

§ 5.1.7.1 For each progress payment made prior to when the Work of this Contract is substantially complete, the Owner may withhold the following amount, as retainage, from the payment otherwise due:
(Insert a percentage or amount to be withheld as retainage from each Application for Payment. The amount of retainage may be limited by governing law.)

Five Percent (5%)

§ 5.1.7.1.1 The following items are not subject to retainage:
(Insert any items not subject to the withholding of retainage, such as general conditions, insurance, etc.)

For major items installed into the Work, the Contractor may request full payment for the items to ensure prompt delivery and fabrication. Such items shall be recommended by the Architect and approved by the Owner as not requiring retainage. Prompt payment for the items shall be documented by the Contractor to the Owner in the subsequent payment application by submitting a full lien release for the items. Major items may include mechanical units with long lead times, structural systems with long lead times, critical path systems or items, etc. Major items will be discussed and defined by Owner, Architect, Construction Manager and Contractor.

§ 5.1.7.2 Reduction or limitation of retainage, if any, shall be as follows:
(If the retainage established in Section 5.1.7.1 is to be modified prior to when the entire Work of this Contract is substantially complete, including modifications for completion of portions of the Work as provided in Section 3.4.2, insert provisions for such modifications.)

Prior to Substantial Completion and at the discretion of the Owner, retainage may be reduced. If the Work has been fifty percent (50%) completed as determined by the Architect and is satisfactory to the Owner, then ninety percent (90%) of the

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retained amount may be released to the Contractor for completed Work (with ten percent (10%) of the total retained by the Owner).

§ 5.1.7.3 Except as set forth in this Section 5.1.7.3, when the Work of this Contract is substantially complete, the Contractor may submit an Application for Payment that includes the retainage withheld from prior Applications for Payment pursuant to this Section 5.1.7. The Application for Payment submitted when the Work of this Contract is substantially complete shall not include retainage as follows:
(Insert any other conditions for release of retainage when the Work of this Contract is substantially complete, or upon Substantial Completion of the Work of all Contractors on the Project or portions thereof.)

Upon Substantial Completion, additional retainage may be returned to the Contractor as recommended by the Architect and Construction Manager and approved by the Owner to an amount sufficient to satisfactorily complete the Work. Retainage release will comply with Minnesota Statutes, Section 15.72 after Substantial Completion and punch list acceptance by the Owner.

§ 5.2 Final Payment

§ 5.2.1 Final Payment Where the Contract Sum is Based on a Stipulated Sum

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

.1 the Contractor has fully performed the Contract except for the Contractor's responsibility to correct Work as provided in Article 12 of AIA Document A232–2019, and to satisfy other requirements, if any, which extend beyond final payment;

.2 a final Certificate for Payment or Project Certificate for Payment has been issued by the Architect; and

.3 all lien waivers and IC134 forms have been delivered to the Owner.

§ 5.2.1.2 The Owner's final payment to the Contractor shall be made no later than forty-five (45) days after the issuance of the Architect's final Certificate for Payment or Project Certificate for Payment, or as follows:

§ 5.2.2 Final Payment Where the Contract Sum is Based on the Cost of the Work with or without a Guaranteed Maximum Price

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

.1 the Contractor has fully performed the Contract except for the Contractor's responsibility to correct Work as provided in Article 12 of AIA Document A232–2019, and to satisfy other requirements, if any, which extend beyond final payment;

.2 the Contractor has submitted a final accounting for the Cost of the Work, pursuant to Exhibit B, Determination of the Cost of the Work and a final Application for Payment; and

.3 a final Certificate for Payment or Project Certificate for Payment has been issued by the Architect in accordance with Exhibit B, Determination of the Cost of the Work.

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

§ 5.3 Payments due and unpaid under the Contract shall bear interest from the date payment is due at the rate stated below.
(Insert rate of interest agreed upon, if any.)

Zero %

ARTICLE 6 DISPUTE RESOLUTION

§ 6.1 Initial Decision Maker

The Architect will serve as Initial Decision Maker pursuant to Article 15 of AIA Document
(Paragraphs deleted)
A232–2019.

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§ 6.1.1 Mediation

The Owner or the Contractor may request mediation of any Claim submitted to the Initial Decision Maker before the decision becomes final and binding. The mediation shall be governed by the Construction Industry Mediation Rules of the American Arbitration Association in effect at the date of this contract. The request for mediation shall be made in writing by the party requesting mediation and the other party of this contract. The Owner and Contractor shall participate in mediation in good faith. The mediation shall be concluded within 60 days of the request. Mediation is not a condition precedent to commencing litigation. If litigation is commenced, the Owner and Contractor agree to mediate before any dispositive motion or trial.

§ 6.2 Binding Dispute Resolution

For any Claim subject to, but not resolved by, mediation pursuant to Article 15 of AIA Document A232–2019, the method of binding dispute resolution shall be as follows:
(Check the appropriate box.)

[ ] Arbitration pursuant to Article 15 of AIA Document A232–2019.

[X] Litigation in a state or federal court of competent jurisdiction located in Hennepin County, Minnesota.

[ ] Other: *(Specify)*

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

ARTICLE 7 TERMINATION OR SUSPENSION

§ 7.1 Where the Contract Sum is a Stipulated Sum

§ 7.1.1 The Contract may be terminated by the Owner or the Contractor as provided in Article 14 of AIA Document A232–2019.

§ 7.1.1.1 If the Contract is terminated for the Owner's convenience in accordance with Article 14 of AIA Document A232–2019, then the Owner shall pay the Contractor a termination fee as follows:
(Insert the amount of, or method for determining, the fee, if any, payable to the Contractor following a termination for the Owner's convenience.)

Termination fee will be based on the percentage of Work completed and any materials purchased or in production at the time of termination. Said fee and justification shall be provided to the Owner by the Contractor within ten (10) days' notice of the termination.

§ 7.1.2 The Work may be suspended by the Owner as provided in Article 14 of AIA Document A232–2019.

(Paragraphs deleted)

ARTICLE 8 MISCELLANEOUS PROVISIONS

§ 8.1 Where reference is made in this Agreement to a provision of AIA Document A232–2019 or another Contract Document, the reference refers to that provision as amended or supplemented by other provisions of the Contract Documents.

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

Curtis Hartog, PE, Executive Director
Minneapolis Public Schools, SSD#1
Capital Planning, Construction & Maintenance
1250 West Broadway Avenue, Minneapolis, MN 55411

§ 8.3 The Contractor's representative:

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

Tim Selken
Vice President
B&D Associates, LLC
1410 Sylvan Street, Suite 200
St Paul, MN 55117

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

§ 8.5 Record Keeping—Availability and Retention
Pursuant to Minnesota Statutes, Section 16C.05, subd. 5, Contractor agrees that the books, records, documents and accounting procedures and practices of Contractor, that are relevant to the Contract or transaction, are subject to examination by the Owner, the Owner's auditor, and the state auditor for a minimum of six (6) years. Contractor shall maintain such records for a minimum of six (6) years after final payment.

§ 8.6 Data Practices
Pursuant to Minnesota Statutes, Section 13.05, subd. 11, all of the data created, collected, received, stored, used, maintained, or disseminated by Contractor in performing this contract is subject to the requirements of the Minnesota Government Data Practices Act ("MGDPA"), Minnesota Statutes Chapter 13, and Contractor must comply with those requirements as if it were a government entity. The remedies in Minnesota Statutes, Section 13.08 apply to Contractor. Contractor does not have a duty to provide access to public data to the public if the public data are available from the Owner, except as required by the terms of this contract.

§ 8.7 Non-Discrimination
Pursuant to Minnesota Statutes, Section 181.59, the Contractor will take affirmative action to ensure that applicants are selected, and that employees are treated during employment, without regard to their race, color, creed, religion, national origin, sex, sexual orientation, marital status, status with regard to public assistance, membership or activity in a local civil rights commission, disability or age. The Contractor agrees to be bound by the provisions of Minnesota Statutes, Section 181.59, that prohibits certain discriminatory practices and the terms of said section are incorporated into this contract.

§ 8.8 Prompt Payment to Subcontractors
In accordance with the Prompt Payment Act, each Prime Contractor must pay any subcontractor within ten (10) days of the Prime Contractor's receipt of payment from the municipality for undisputed services provided by the subcontractor. The Subcontract must require the Prime Contractor to pay interest of 1-1/2 percent per month or any part of a month to the subcontractor on any undisputed amount not paid on time to the subcontractor. The minimum monthly interest penalty payment for an unpaid balance of $100 or more is $10. For an unpaid balance of less than $100, the Prime Contractor shall pay the actual penalty due to the subcontractor. A subcontractor who prevails in a civil action to collect interest penalties from a Prime Contractor must be awarded its costs and disbursements, including attorney's fees, incurred in bringing the action.

§ 8.9 Prevailing Wage
Contractor agrees that all laborers or mechanics working on the Project shall receive at least the prevailing wage rate in accordance with Minnesota Statutes Section 177.42, *et seq*. Contractor agrees further that it will incorporate any and all necessary contract language in its agreements with any subcontractors to allow Contractor to monitor and enforce the prevailing wage requirement for subcontractors of any tier.

§ 8.5 Insurance and Bonds
§ 8.5.1 The Owner and the Contractor shall purchase and maintain insurance as set forth EXH-C Owner Insurance.

§ 8.5.2 The Contractor shall provide bonds as set forth in AIA Document A132™–2019, Exhibit A, and elsewhere in the Contract Documents.

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§ 8.6 Notice in electronic format, pursuant to Article 1 of AIA Document A232–2019, may be given in accordance with AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, if completed, or as otherwise set forth below:
(If other than in accordance with AIA Document E203–2013, insert requirements for delivering notice in electronic format such as name, title, and email address of the recipient and whether and how the system will be required to generate a read receipt for the transmission.)

email to Owner's representative identified in Section 8.2

§ 8.7 Relationship of the Parties
Where the Contract is based on the Cost of the Work plus the Contractor's Fee, with or without a Guaranteed Maximum Price, the Contractor accepts the relationship of trust and confidence established by this Agreement and covenants with the Owner to cooperate with the Architect and exercise the Contractor's skill and judgment in furthering the interests of the Owner; to furnish efficient business administration and supervision; to furnish at all times an adequate supply of workers and materials; and to perform the Work in an expeditious and economical manner consistent with the Owner's interests. The Owner agrees to furnish and approve, in a timely manner, information required by the Contractor and to make payments to the Contractor in accordance with the requirements of the Contract Documents.

§ 8.8 Other provisions:

Owner prohibits Contractor from using the Work in any marketing material or business development practice. Contractor is prohibited from communication with any news outlet or public without Owner's written approval.

Floor plans, designs, wiring, safety and security measures shall be kept confidential by the Contractor, the Subcontractors, the Sub-Subcontractors (of any tier) during and after completion of the Work.

ARTICLE 9 ENUMERATION OF CONTRACT DOCUMENTS

§ 9.1 This Agreement is comprised of the following documents:

.1 AIA Document A132™–2019, Standard Form of Agreement Between Owner and Contractor, Construction Manager as Adviser Edition

.2 AIA Document A132™–2019, Exhibit A, Insurance and Bonds Exhibit

.3 AIA Document A232™–2019, General Conditions of the Contract for Construction, Construction Manager as Adviser Edition

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

Not applicable

.5 Drawings

Number	Title	Date
139	North High School Renovations & CTE Center Vol 1 of 2	November 13, 2024
209	North High School Renovations & CTE Center Vol 2 of 2	November 13, 2024

.6 Specifications

Section	Title	Date	Pages
All Specifications	North High School Renovations and CTE Center Bid Package 4	November 13, 2024	1414

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.7 Addenda, if any:

Number	Date	Pages
1	December 2, 2024	70
2	December 9, 2024	165

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

.8 Other Exhibits:

EXH-B Project Charter
EXH-C Owner Insurance
EXH-D Project Schedule
(Check all boxes that apply and include appropriate information identifying the exhibit where required.)

[ ]
(Paragraphs deleted)
(Table deleted)

[ ] Supplementary and other Conditions of the Contract:

Document	Title	Date	Pages

.9 Other documents, if any, listed below:
(List here any additional documents that are intended to form part of the Contract Documents. AIA Document A232–2019 provides that the advertisement or invitation to bid, Instructions to Bidders, sample forms, the Contractor's bid or proposal, portions of Addenda relating to bidding or proposal requirements, and other information furnished by the Owner in anticipation of receiving bids or proposals, are not part of the Contract Documents unless enumerated in this Agreement. Any such documents should be listed here only if intended to be part of the Contract Documents.)

Contractors Bid Documents

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

OWNER *(Signature)*	**CONTRACTOR** *(Signature)*
Tom Parent, Sr Operations Officer	BRADY SELKEN P.M.
(Printed name and title)	*(Printed name and title)*

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Additions and Deletions Report for

AIA® Document A132® – 2019

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

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PAGE 1

AGREEMENT made as of the first___day of _February_____in the year 2025_

...

Minneapolis Public Schools Special School District #1
1250 West Broadway Avenue
Minneapolis, MN 55411

...

B&D Associates, LLC
1410 Sylvan Street, Suite 200
St Paul, MN 55117

...

North High School Phase 4 Work Scope 03A Concrete and Masonry
1500 James Avenue
Minneapolis, MN 55411

...

Kraus-Anderson Construction Company
501 South 8th Street
Minneapolis, MN 55405

...

LSE Architects
1401 Glenwood Avenue
Minneapolis, MN 55405

PAGE 2

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

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§ 1.2 In the event that there are inconsistencies between any of the Project Contract Documents, all Contract Documents shall be construed together and shall be read with a purpose and intent to provide that the Contractor shall commit to fully complete its Project Work and services with the greater degree of commitment as referenced in the Contract Documents, including the plans and specifications, to work diligently to ensure completion of the Project in a timely and workmanlike manner and at the earliest stated times provided for in Project schedules, as they may be revised, and to ensure that Contractor, and all of its Subcontractors and suppliers complete the Project on schedule and within Project Contract Price, subject to approved change orders.

§ 1.3 Contractor acknowledges that it has had full, fair, and adequate opportunity to review all of the Project bidding and Contract Documents, that it has fully satisfied itself as to the scope and requirements of the Project, that it has fully and fairly investigated all Project site conditions and circumstances and Contract Documents, including any potential difficulties or interferences present in the same, that it has had the opportunity to ask questions during the bidding phase and that it has received adequate answers to any such questions, that it has had the opportunity to attend and fairly participate in all pre-bid conferences and pre-construction conferences, and that it has required the same of all of its Subcontractors.

PAGE 3

[**X**] A date set forth in a notice to proceed issued by the Owner.

...

Defined in EXH-D Project Schedule

§ 3.3.2 Subject to adjustments of the Contract Time as provided in the Contract Documents, if portions of the Work of all of the Contractors for the Project are to be completed prior to Substantial Completion of the entire Work of all of the Contractors for the Project, the Contractors shall achieve Substantial Completion of such portions by the following ~~dates:~~dates defined in EXH-D Project Schedule. Such portions of the Work not completed as defined in EXH-D Project Schedule shall be subject to liquidated damages as set forth in Article 4.5.

~~**Portion of Work** **Substantial Completion Date**~~

~~**§ 3.4 When the Work of this Contract, or any Portion Thereof, is Substantially Complete**~~
~~**§ 3.4.1** Subject to adjustments of the Contract Time as provided in the Contract Documents, the Contractor shall substantially complete the entire Work of this Contract:~~
~~*(Check one of the following boxes and complete the necessary information.)*~~

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

~~[–] By the following date:~~

~~**§ 3.4.2** Subject to adjustments of the Contract Time as provided in the Contract Documents, if portions of the Work of this Contract are to be substantially complete prior to when the entire Work of this Contract shall be substantially complete, the Contractor shall substantially complete such portions by the following dates:~~

~~**Portion of Work** **Date to be substantially complete**~~

...

§ 4.1 The Owner shall pay the Contractor the Contract Sum in current funds for the Contractor's performance of the ~~Contract. The Contract Sum shall be one of the following:~~
~~*(Check the appropriate box.)*~~

~~[–] Stipulated Sum, in accordance with Section 4.2 below~~

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[–] Cost of the Work plus the Contractor's Fee, in accordance with Section 4.3 below

[–] Cost of the Work plus the Contractor's Fee with a Guaranteed Maximum Price, in accordance with Section 4.4 below

(Based on the selection above, complete Section 4.2, 4.3 or 4.4 below.)
Contract as defined in EXH-B Project Charter, subject to additions and deductions as provided in the Contract Documents.

...

§ 4.2.1 The Contract Sum shall be five-hundred, thirty thousand, six-hundred fifty dollars ($ 530,650), subject to additions and deductions as provided in the Contract Documents.

...

§ 4.2.2.1 Alternates, if any, included in the Contract Sum:
Sum are defined in EXH-B Project Charter.

Item	Price

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

Item	Price	Conditions for Acceptance

§ 4.2.3 Allowances, if any, included in the Contract Sum:Sum are defined in EXH-B Project Charter.

...

§ 4.2.4 Unit prices, if any:
(Identify the item and state the unit price, and quantity limitations, if any, to which the unit price will be applicable.)any are defined in EXH-B Project Charter.

Item	Units and Limitations	Price per Unit ($0.00)

§ 4.3 Cost of the Work Plus Contractor's Fee without a Guaranteed Maximum PriceAllowances, if any, included in the Contract Sum are defined in EXH-B Project Charter.
§ 4.3.1 The Cost of the Work is as defined in Exhibit B, Determination of the Cost of the Work.

§ 4.3.2 The Contractor's Fee:
(State a lump sum, percentage of Cost of the Work or other provision for determining the Contractor's Fee.)

§ 4.3.3 The method of adjustment of the Contractor's Fee for changes in the Work:

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

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~~§ 4.3.5 Rental rates for Contractor-owned equipment shall not exceed ( ) percent (%) of the standard rental rate paid at the place of the Project.~~

~~§ 4.3.6 Unit prices, if any:~~
~~*(Identify the item and state the unit price and quantity limitations, if any, to which the unit price will be applicable.)*~~

~~Item~~	~~Units and Limitations~~	~~Price per Unit ($0.00)~~

~~§ 4.3.7 The Contractor shall prepare and submit to the Construction Manager, within 14 days of executing this Agreement, a written Control Estimate for the Owner's review and approval. The Control Estimate shall include the items in Section B.1 of Exhibit B, Determination of the Cost of the Work.~~

~~§ 4.4 Cost of the Work Plus Contractor's Fee with a Guaranteed Maximum Price~~Unit prices, if any, are defined in EXH-B Project Charter.
~~§ 4.4.1 The Cost of the Work is as defined in Exhibit B, Determination of the Cost of the Work.~~

~~§ 4.4.2 The Contractor's Fee:~~
~~*(State a lump sum, percentage of Cost of the Work or other provision for determining the Contractor's Fee.)*~~

~~§ 4.4.3 The method of adjustment of the Contractor's Fee for changes in the Work:~~

~~§ 4.4.4 Limitations, if any, on a Subcontractor's overhead and profit for increases in the cost of its portion of the Work:~~

~~§ 4.4.5 Rental rates for Contractor-owned equipment shall not exceed ( ) percent (%) of the standard rental rate paid at the place of the Project.~~

~~§ 4.4.6 Unit Prices, if any:~~
~~*(Identify the item and state the unit price and quantity limitations, if any, to which the unit price will be applicable.)*~~

~~Item~~	~~Units and Limitations~~	~~Price per Unit ($0.00)~~

~~§ 4.4.7 Guaranteed Maximum Price~~
~~§ 4.4.7.1 The Contract Sum is guaranteed by the Contractor not to exceed ($), subject to additions and deductions by Change Order as provided in the Contract Documents. This maximum sum is referred to in the Contract Documents as the Guaranteed Maximum Price. Costs which would cause the Guaranteed Maximum Price to be exceeded shall be paid by the Contractor without reimbursement by the Owner.~~

~~§ 4.4.7.2 Alternates~~
~~§ 4.4.7.2.1 Alternates, if any, included in the Guaranteed Maximum Price:~~

~~Item~~	~~Price~~

~~§ 4.4.7.2.2 Subject to the conditions noted below, the following alternates may be accepted by the Owner following execution of this Agreement. Upon acceptance, the Owner shall issue a Modification to this Agreement.~~
~~*(Insert below each alternate and the conditions that must be met for the Owner to accept the alternate.)*~~

~~Item~~	~~Price~~	~~Conditions for Acceptance~~

~~§ 4.4.7.3 Allowances, if any, included in the Guaranteed Maximum Price:~~
~~*(Identify each allowance.)*~~

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~~Item~~ ~~Price~~

~~§ 4.4.7.4 Assumptions, if any, upon which the Guaranteed Maximum Price is based:~~
~~*(Identify each assumption.)*~~

~~§ 4.4.8 To the extent that the Contract Documents are anticipated to require further development, the Guaranteed Maximum Price includes the costs attributable to such further development consistent with the Contract Documents and reasonably inferable therefrom. Such further development does not include changes in scope, systems, kinds and quality of materials, finishes, or equipment, all of which, if required, shall be incorporated by Change Order.~~

~~§ 4.4.9 The Owner shall authorize preparation of revisions to the Contract Documents that incorporate the agreed-upon assumptions contained in Section 4.4.7.4. The Owner shall promptly furnish such revised Contract Documents to the Contractor. The Contractor shall notify the Owner and Architect of any inconsistencies between the agreed-upon assumptions contained in Section 4.4.7.4 and the revised Contract Documents.~~

PAGE 4

Contractor and Owner recognize that time is of the essence for the Project and the Owner will suffer financial loss if the Work is not completed in the time specified in the Contract Documents. The parties also recognize the delays, expenses, and difficulties involved in proving in a legal proceeding the actual loss suffered by the Owner if the Work is not completed on time. Accordingly, instead of requiring such proof, the Owner and Contractor agree that as liquidated damages for delay (but not as penalty), Contractor shall pay Owner One Thousand Dollars ($1,000.00) per calendar day for each day that expires after the time specified for Substantial Completion in EXH-D Project Schedule until such time the Work is determined to be substantially complete by the Owner.

After Substantial Completion, if Contractor neglects, refuses, or fails to complete the remaining Work within the Contract Time specified in the Contract Documents, the Contractor shall pay the Owner One Thousand Dollars ($1,000.00) per day that expires after the time specified in the Contract Documents for Final Completion and readiness for Final Payment until the Work is completed.

...

None

...

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

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

§ 5.1.3 ~~Provided that~~ When an Application for Payment is received by the Construction ~~Manager not later than the day of a month, the Owner shall make payment of the amount certified to the Contractor not later than the day of the month. If an Application for Payment is received by the Construction Manager after the application date fixed above, payment of the amount certified~~ Manager, payment of the amount certified shall be made by the Owner not later than forty-five (45) days after the Construction Manager receives the Application for Payment. Unless expressly otherwise agreed in this Contract, payments and payment disputes shall be governed by the Prompt Payment of Local Government Bills, Minnesota Statutes, Section 471.425 ("Prompt Payment Act").

...

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§ 5.1.4.1 Each Application for Payment shall be based on the most recent schedule of values submitted by the Contractor on AIA G702 Application and Certificate for Payment in accordance with the Contract Documents. The schedule of values shall allocate the entire Contract Sum among the various portions of the Work. The schedule of values shall be prepared in such form, and supported by such data to substantiate its accuracy, as the Construction Manager and Architect may require. This schedule of values shall be used as a basis for reviewing the Contractor's Applications for Payment.
PAGE 5

§ 5.1.4.3 In accordance with AIA Document A232™–2019, General Conditions of the Contract for Construction, Construction Manager as Adviser Edition, as modified and subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

...

~~**§ 5.1.5 Progress Payments Where the Contract Sum is Based on the Cost of the Work without a Guaranteed Maximum Price**~~

~~**§ 5.1.5.1** With each Application for Payment, the Contractor shall submit the cost control information required in Exhibit B, Determination of the Cost of the Work, along with payrolls, petty cash accounts, receipted invoices, or invoices with check vouchers attached, and any other evidence required by the Owner, Construction Manager or Architect to demonstrate that payments already made by the Contractor on account of the Cost of the Work equal or exceed progress payments already received by the Contractor, plus payrolls for the period covered by the present Application for Payment, less that portion of the payments attributable to the Contractor's Fee.~~

~~**§ 5.1.5.2** Applications for Payment shall show the Cost of the Work actually incurred by the Contractor through the end of the period covered by the Application for Payment and for which the Contractor has made or intends to make actual payment prior to the next Application for Payment.~~

~~**§ 5.1.5.3** In accordance with AIA Document A232–2019 and subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:~~

~~**§ 5.1.5.3.1** The amount of each progress payment shall first include:~~

- ~~**.1** The Cost of the Work as described in Exhibit B, Determination of the Cost of the Work;~~
- ~~**.2** That portion of Construction Change Directives that the Architect determines, in the Architect's professional judgment, to be reasonably justified; and~~
- ~~**.3** The Contractor's Fee computed upon the Cost of the Work described in the preceding Section 5.1.5.3.1.1 at the rate stated in Section 4.3.2; or if the Contractor's Fee is stated as a fixed sum in Section 4.3.2 an amount which bears the same ratio to that fixed-sum Fee as the Cost of the Work included in Section 5.1.5.3.1.1 bears to a reasonable estimate of the probable Cost of the Work upon its completion.~~

~~**§ 5.1.5.3.2** The amount of each progress payment shall then be reduced by:~~

- ~~**.1** The aggregate of any amounts previously paid by the Owner;~~
- ~~**.2** The amount, if any, for Work that remains uncorrected and for which the Architect has previously withheld a Certificate for Payment as provided in Article 9 of AIA Document A232–2019;~~
- ~~**.3** Any amount for which the Contractor does not intend to pay a Subcontractor or material supplier, unless the Work has been performed by others the Contractor intends to pay;~~
- ~~**.4** For Work performed or defects discovered since the last payment application, any amount for which the Architect may withhold payment, or nullify a Certificate of Payment in whole or in part, as provided in Article 9 of AIA Document A232–2019;~~
- ~~**.5** The shortfall, if any, indicated by the Contractor in the documentation required by Section 5.1.5.1 to substantiate prior Applications for Payment, or resulting from errors subsequently discovered by the Owner's auditors in such documentation; and~~
- ~~**.6** Retainage withheld pursuant to Section 5.1.7.~~

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

§ 5.1.5.5 In taking action on the Contractor's Applications for Payment, the Construction Manager and Architect shall be entitled to rely on the accuracy and completeness of the information furnished by the Contractor, and such action shall not be deemed to be a representation that (1) the Construction Manager and Architect have made a detailed examination, audit or arithmetic verification of the documentation submitted in accordance with Article 5 or other supporting data; (2) that the Construction Manager and Architect have made exhaustive or continuous on-site inspections; or (3) that the Construction Manager and Architect have made examinations to ascertain how or for what purposes the Contractor has used amounts previously paid on account of the Contract. Such examinations, audits and verifications, if required by the Owner, will be performed by the Owner's auditors acting in the sole interest of the Owner.

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

§ 5.1.5.7 If final completion of the Work is materially delayed through no fault of the Contractor, then the Owner shall pay the Contractor any additional amounts in accordance with Article 9 of AIA Document A232–2019.

§ 5.1.6 Progress Payments Where the Contract Sum is Based on the Cost of the Work with a Guaranteed Maximum Price

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

§ 5.1.6.2 Each Application for Payment shall be based on the most recent schedule of values submitted by the Contractor in accordance with the Contract Documents. The schedule of values shall allocate the entire Guaranteed Maximum Price among: (1) the various portions of the Work; (2) any contingency for costs that are included in the Guaranteed Maximum Price but not otherwise allocated to another line item or included in a Change Order; and (3) the Contractor's Fee.

§ 5.1.6.2.1 The schedule of values shall be prepared in such form, and supported by such data to substantiate its accuracy, as the Construction Manager and Architect may require. This schedule of values shall be used as a basis for reviewing the Contractor's Applications for Payment.

§ 5.1.6.2.2 The allocation of the Guaranteed Maximum Price under this Section 5.1.6.2 shall not constitute a separate guaranteed maximum price for the Cost of the Work of each individual line item in the schedule of values.

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

§ 5.1.6.3 Applications for Payment shall show the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment. The percentage of completion shall be the lesser of (1) the percentage of that portion of the Work which has actually been completed; or (2) the percentage obtained by dividing (a) the expense that has actually been incurred by the Contractor on account of that portion of the Work and for which the Contractor has made payment or intends to make payment prior to the next Application for Payment by (b) the share of the Guaranteed Maximum Price allocated to that portion of the Work in the schedule of values.

§ 5.1.6.4 In accordance with AIA Document A232–2019, and subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

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

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.1 That portion of the Guaranteed Maximum Price properly allocable to completed Work as determined by multiplying the percentage of completion of each portion of the Work by the share of the Guaranteed Maximum Price allocated to that portion of the Work in the most recent schedule of values;

.2 That portion of the Guaranteed Maximum Price properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction or, if approved in writing in advance by the Owner, suitably stored off the site at a location agreed upon in writing;

.3 That portion of Construction Change Directives that the Architect determines, in the Architect's professional judgment, to be reasonably justified; and

.4 The Contractor's Fee, computed upon the Cost of the Work described in the preceding Sections 5.1.6.4.1.1 and 5.1.6.4.1.2 at the rate stated in Section 4.4.2 or, if the Contractor's Fee is stated as a fixed sum in that Section, an amount that bears the same ratio to that fixed-sum fee as the Cost of the Work included in Sections 5.1.6.4.1.1 and 5.1.6.4.1.2 bears to a reasonable estimate of the probable Cost of the Work upon its completion.

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

.1 The aggregate of any amounts previously paid by the Owner;

.2 The amount, if any, for Work that remains uncorrected and for which the Architect has previously withheld a Certificate for Payment as provided in Article 9 of AIA Document A232–2019;

.3 Any amount for which the Contractor does not intend to pay a Subcontractor or material supplier, unless the Work has been performed by others the Contractor intends to pay;

.4 For Work performed or defects discovered since the last payment application, any amount for which the Architect may withhold payment, or nullify a Certificate of Payment in whole or in part, as provided in Article 9 of AIA Document A232–2019;

.5 The shortfall, if any, indicated by the Contractor in the documentation required by Section 5.1.6.1 to substantiate prior Applications for Payment, or resulting from errors subsequently discovered by the Owner's auditors in such documentation; and

.6 Retainage withheld pursuant to Section 5.1.7.

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

§ 5.1.6.6 In taking action on the Contractor's Applications for Payment, the Construction Manager and Architect shall be entitled to rely on the accuracy and completeness of the information furnished by the Contractor and such action shall not be deemed to be a representation that (1) the Construction Manager or Architect have made a detailed examination, audit, or arithmetic verification of the documentation submitted in accordance with Section 5.1.6.1 or other supporting data; (2) that the Construction Manager or Architect have made exhaustive or continuous on-site inspections; or (3) that the Construction Manager or Architect have made examinations to ascertain how or for what purposes the Contractor has used amounts previously paid on account of the Contract. Such examinations, audits, and verifications, if required by the Owner, will be performed by the Owner's auditors acting in the sole interest of the Owner.

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

§ 5.1.6.8 If final completion of the Work is materially delayed through no fault of the Contractor, then the Owner shall pay the Contractor any additional amounts in accordance with Article 9 of AIA Document A232-2019.

...

Five Percent (5%)

...

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For major items installed into the Work, the Contractor may request full payment for the items to ensure prompt delivery and fabrication. Such items shall be recommended by the Architect and approved by the Owner as not requiring retainage. Prompt payment for the items shall be documented by the Contractor to the Owner in the subsequent payment application by submitting a full lien release for the items. Major items may include mechanical units with long lead times, structural systems with long lead times, critical path systems or items, etc. Major items will be discussed and defined by Owner, Architect, Construction Manager and Contractor.

...

Prior to Substantial Completion and at the discretion of the Owner, retainage may be reduced. If the Work has been fifty percent (50%) completed as determined by the Architect and is satisfactory to the Owner, then ninety percent (90%) of the retained amount may be released to the Contractor for completed Work (with ten percent (10%) of the total retained by the Owner).

PAGE 6

Upon Substantial Completion, additional retainage may be returned to the Contractor as recommended by the Architect and Construction Manager and approved by the Owner to an amount sufficient to satisfactorily complete the Work. Retainage release will comply with Minnesota Statutes, Section 15.72 after Substantial Completion and punch list acceptance by the Owner.

...

.1 the Contractor has fully performed the Contract except for the Contractor's responsibility to correct Work as provided in Article 12 of AIA Document A232–2019, and to satisfy other requirements, if any, which extend beyond final payment; ~~and~~

.2 a final Certificate for Payment or Project Certificate for Payment has been issued by ~~the Architect.~~the Architect; and

.3 all lien waivers and IC134 forms have been delivered to the Owner.

§ 5.2.1.2 The Owner's final payment to the Contractor shall be made no later than ~~30~~ forty-five (45) days after the issuance of the Architect's final Certificate for Payment or Project Certificate for Payment, or as follows:

...

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

...

Zero %

...

The Architect will serve as Initial Decision Maker pursuant to Article 15 of AIA Document ~~A232–2019, unless the parties appoint below another individual, not a party to this Agreement, to serve as Initial Decision Maker.~~
~~*(If the parties mutually agree, insert the name, address and other contact information of the Initial Decision Maker, if other than the Architect.)*~~

A232–2019.

§ 6.1.1 Mediation

The Owner or the Contractor may request mediation of any Claim submitted to the Initial Decision Maker before the decision becomes final and binding. The mediation shall be governed by the Construction Industry Mediation Rules of the American Arbitration Association in effect at the date of this contract. The request for mediation shall be made in

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writing by the party requesting mediation and the other party of this contract. The Owner and Contractor shall participate in mediation in good faith. The mediation shall be concluded within 60 days of the request. Mediation is not a condition precedent to commencing litigation. If litigation is commenced, the Owner and Contractor agree to mediate before any dispositive motion or trial.

PAGE 7

[ ] ~~Litigation in a court of competent jurisdiction.~~ [X] Litigation in a state or federal court of competent jurisdiction located in Hennepin County, Minnesota.

...

Termination fee will be based on the percentage of Work completed and any materials purchased or in production at the time of termination. Said fee and justification shall be provided to the Owner by the Contractor within ten (10) days' notice of the termination.

...

~~**§ 7.2 Where the Contract Sum is Based on the Cost of the Work with or without a Guaranteed Maximum Price**~~

~~**§ 7.2.1 Termination**~~

~~**§ 7.2.1.1** The Contract may be terminated by the Owner or the Contractor as provided in Article 14 of AIA Document A232–2019.~~

~~**§ 7.2.1.2 Termination by the Owner for Cause**~~

~~**§ 7.2.1.2.1** If the Owner terminates the Contract for cause as provided in Article 14 of AIA Document A232–2019, the Owner shall then only pay the Contractor an amount as follows:~~

- ~~**.1** Take the Cost of the Work incurred by the Contractor to the date of termination;~~
- ~~**.2** Add the Contractor's Fee, computed upon the Cost of the Work to the date of termination at the rate stated in Section 4.3.2 or 4.4.2, as applicable, or, if the Contractor's Fee is stated as a fixed sum in that Section, an amount that bears the same ratio to that fixed-sum Fee as the Cost of the Work at the time of termination bears to a reasonable estimate of the probable Cost of the Work upon its completion;~~
- ~~**.3** Subtract the aggregate of previous payments made by the Owner; and~~
- ~~**.4** Subtract the costs and damages incurred, or to be incurred, by the Owner under Article 14 of AIA Document A232–2019.~~

~~**§ 7.2.1.2.2** When the Contract Sum is based on the Cost of the Work with a Guaranteed Maximum Price, if the Owner terminates the Contract for cause as provided in Article 14 of AIA Document A232-2019, the amount, if any, to be paid to the Contractor under Article 14 of AIA Document A232-2019 shall not cause the Guaranteed Maximum Price to be exceeded, nor shall it exceed the amount calculated in Section 7.2.1.2.1.~~

~~**§ 7.2.1.2.3** The Owner shall also pay the Contractor fair compensation, either by purchase or rental at the election of the Owner, for any equipment owned by the Contractor that the Owner elects to retain and that is not otherwise included in the Cost of the Work under Section 7.2.1.2.1.1. To the extent that the Owner elects to take legal assignment of subcontracts and purchase orders (including rental agreements), the Contractor shall, as a condition of receiving the payments referred to in this Article 7, execute and deliver all such papers and take all such steps, including the legal assignment of such subcontracts and other contractual rights of the Contractor, as the Owner may require for the purpose of fully vesting in the Owner the rights and benefits of the Contractor under such subcontracts or purchase orders. All Subcontracts, purchase orders and rental agreements entered into by the Contractor will contain provisions allowing for assignment to the Owner as described above.~~

~~**§ 7.2.1.3 Termination by the Owner for Convenience**~~

~~If the Owner terminates the Contract for convenience in accordance with Article 14 of AIA Document A232–2019, then the Owner shall pay the Contractor a termination fee as follows:~~

~~*(Insert the amount of or method for determining the fee, if any, payable to the Contractor following a termination for the Owner's convenience.)*~~

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~~§ 7.3 Suspension~~

~~The Work may be suspended by the Owner as provided in Article 14 of AIA Document A232–2019; in such case, the Contract Sum and Contract Time shall be increased as provided in Article 14 of AIA Document A232–2019, except that the term "profit" shall be understood to mean the Contractor's Fee as described in Section 4.3.2 or 4.4.2, as applicable, of this Agreement.~~

...

Curtis Hartog, PE, Executive Director
Minneapolis Public Schools, SSD#1
Capital Planning, Construction & Maintenance
1250 West Broadway Avenue, Minneapolis, MN 55411
PAGE 8

Tim Selken
Vice President
B&D Associates, LLC
1410 Sylvan Street, Suite 200
St Paul, MN 55117

...

§ 8.5 Record Keeping—Availability and Retention

Pursuant to Minnesota Statutes, Section 16C.05, subd. 5, Contractor agrees that the books, records, documents and accounting procedures and practices of Contractor, that are relevant to the Contract or transaction, are subject to examination by the Owner, the Owner's auditor, and the state auditor for a minimum of six (6) years. Contractor shall maintain such records for a minimum of six (6) years after final payment.

§ 8.6 Data Practices

Pursuant to Minnesota Statutes, Section 13.05, subd. 11, all of the data created, collected, received, stored, used, maintained, or disseminated by Contractor in performing this contract is subject to the requirements of the Minnesota Government Data Practices Act ("MGDPA"), Minnesota Statutes Chapter 13, and Contractor must comply with those requirements as if it were a government entity. The remedies in Minnesota Statutes, Section 13.08 apply to Contractor. Contractor does not have a duty to provide access to public data to the public if the public data are available from the Owner, except as required by the terms of this contract.

§ 8.7 Non-Discrimination

Pursuant to Minnesota Statutes, Section 181.59, the Contractor will take affirmative action to ensure that applicants are selected, and that employees are treated during employment, without regard to their race, color, creed, religion, national origin, sex, sexual orientation, marital status, status with regard to public assistance, membership or activity in a local civil rights commission, disability or age. The Contractor agrees to be bound by the provisions of Minnesota Statutes, Section 181.59, that prohibits certain discriminatory practices and the terms of said section are incorporated into this contract.

§ 8.8 Prompt Payment to Subcontractors

In accordance with the Prompt Payment Act, each Prime Contractor must pay any subcontractor within ten (10) days of the Prime Contractor's receipt of payment from the municipality for undisputed services provided by the subcontractor. The Subcontract must require the Prime Contractor to pay interest of 1-1/2 percent per month or any part of a month to the subcontractor on any undisputed amount not paid on time to the subcontractor. The minimum monthly interest penalty payment for an unpaid balance of $100 or more is $10. For an unpaid balance of less than $100, the Prime Contractor shall pay the actual penalty due to the subcontractor. A subcontractor who prevails in a civil action to collect interest penalties from a Prime Contractor must be awarded its costs and disbursements, including attorney's fees, incurred in bringing the action.

§ 8.9 Prevailing Wage

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Contractor agrees that all laborers or mechanics working on the Project shall receive at least the prevailing wage rate in accordance with Minnesota Statutes Section 177.42, *et seq*. Contractor agrees further that it will incorporate any and all necessary contract language in its agreements with any subcontractors to allow Contractor to monitor and enforce the prevailing wage requirement for subcontractors of any tier.

§ 8.5.1 The Owner and the Contractor shall purchase and maintain insurance as set forth ~~in AIA Document A132™–2019, Standard Form of Agreement Between Owner and Contractor, Construction Manager as Adviser Edition, Exhibit A, Insurance and Bonds, and elsewhere in the Contract Documents.~~EXH-C Owner Insurance.

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§ 8.6 Notice in electronic format, pursuant to Article 1 of AIA Document A232–2019, may be given in accordance with ~~a building information modeling exhibit,~~ AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, if completed, or as otherwise set forth below:
(If other than in accordance with ~~a building information modeling exhibit,~~ AIA Document E203–2013, insert requirements for delivering notice in electronic format such as name, title, and email address of the recipient and whether and how the system will be required to generate a read receipt for the transmission.)

email to Owner's representative identified in Section 8.2

...

Owner prohibits Contractor from using the Work in any marketing material or business development practice. Contractor is prohibited from communication with any news outlet or public without Owner's written approval.

Floor plans, designs, wiring, safety and security measures shall be kept confidential by the Contractor, the Subcontractors, the Sub-Subcontractors (of any tier) during and after completion of the Work.

...

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

Not applicable

...

139		North High School Renovations & CTE Center Vol 1 of 2	November 13, 2024
209		North High School Renovations & CTE Center Vol 2 of 2	November 13, 2024

...

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EXH-B Project Charter
EXH-C Owner Insurance
EXH-D Project Schedule

[ ] ~~AIA Document A132™–2019, Exhibit B, Determination of the Cost of the Work~~

~~[–] AIA Document E235™–2019, Sustainable Projects Exhibit, Construction Manager as Adviser Edition, dated as indicated below:~~
~~*(Insert the date of the E235-2019 incorporated into this Agreement.)*~~

~~[–] The Sustainability Plan:~~

~~Title~~	~~Date~~	~~Pages~~

...

Contractors Bid Documents

...

Tom Parent, Sr Operations Officer

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Certification of Document's Authenticity

AIA® Document D401™ – 2003

I, , hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with its associated Additions and Deletions Report and this certification at 13:44:44 CT on 02/01/2025 under Order No. 4104251278 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document A132™ – 2019, Standard Form of Agreement Between Owner and Contractor, Construction Manager as Adviser Edition, other than those additions and deletions shown in the associated Additions and Deletions Report.



(Signed)

Curtis Hartog, Executive Director

(Title)

2/1/2025

(Dated)

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AIA® Document A132® – 2019 Exhibit A

Insurance and Bonds

This Insurance and Bonds Exhibit is part of the Agreement, between the Owner and the Contractor, dated the _first_ day of _February____ in the year _2025
(In words, indicate day, month, and year.)

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

North High School Phase 4 Work Scope 03A Concrete and Masonry
1500 James Avenue, Minneapolis, MN 55411

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

Minneapolis Public Schools Special School District #1
1250 West Broadway Avenue
Minneapolis, MN 55411

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

B&D Associates, LLC 1410 Sylvan Street, Suite 200
St. Paul, MN 55117

TABLE OF ARTICLES

A.1 GENERAL

A.2 OWNER'S INSURANCE

A.3 CONTRACTOR'S INSURANCE AND BONDS

A.4 SPECIAL TERMS AND CONDITIONS

ARTICLE A.1 GENERAL

The Owner and Contractor shall purchase and maintain insurance, and provide bonds, as set forth in this Exhibit. As used in this Exhibit, the term General Conditions refers to AIA Document A232™–2019, General Conditions of the Contract for Construction.

ARTICLE A.2 OWNER'S INSURANCE

§ A.2.1 General

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

§ A.2.2 Liability Insurance

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

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

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

This document is intended to be used in conjunction with AIA Document A232™–2019, General Conditions of the Contract for Construction. Article 11 of A232™–2019 contains additional insurance provisions

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§ A.2.3 Required Property Insurance

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

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

Causes of Loss	Sub-Limit

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

Coverage	Sub-Limit

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

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

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

§ A.2.3.3 Insurance for Existing Structures

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

§ A.2.4 Optional Extended Property Insurance.

The Owner shall purchase and maintain the insurance selected and described below.

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(Select the types of insurance the Owner is required to purchase and maintain by placing an X in the box(es) next to the description(s) of selected insurance. For each type of insurance selected, indicate applicable limits of coverage or other conditions in the fill point below the selected item.)

[ ] **§ A.2.4.1 Loss of Use, Business Interruption, and Delay in Completion Insurance**, to reimburse the Owner for loss of use of the Owner's property, or the inability to conduct normal operations due to a covered cause of loss.

[ ] **§ A.2.4.2 Ordinance or Law Insurance**, for the reasonable and necessary costs to satisfy the minimum requirements of the enforcement of any law or ordinance regulating the demolition, construction, repair, replacement or use of the Project.

[ ] **§ A.2.4.3 Expediting Cost Insurance**, for the reasonable and necessary costs for the temporary repair of damage to insured property, and to expedite the permanent repair or replacement of the damaged property.

[ ] **§ A.2.4.4 Extra Expense Insurance**, to provide reimbursement of the reasonable and necessary excess costs incurred during the period of restoration or repair of the damaged property that are over and above the total costs that would normally have been incurred during the same period of time had no loss or damage occurred.

[ ] **§ A.2.4.5 Civil Authority Insurance**, for losses or costs arising from an order of a civil authority prohibiting access to the Project, provided such order is the direct result of physical damage covered under the required property insurance.

[ ] **§ A.2.4.6 Ingress/Egress Insurance**, for loss due to the necessary interruption of the insured's business due to physical prevention of ingress to, or egress from, the Project as a direct result of physical damage.

[ ] **§ A.2.4.7 Soft Costs Insurance**, to reimburse the Owner for costs due to the delay of completion of the Work, arising out of physical loss or damage covered by the required property insurance: including construction loan fees; leasing and marketing expenses; additional fees, including those of architects, engineers, consultants, attorneys and accountants, needed for the completion of the construction, repairs, or reconstruction; and carrying costs such as property taxes, building permits, additional interest on loans, realty taxes, and insurance premiums over and above normal expenses.

§ A.2.5 Other Optional Insurance.

The Owner shall purchase and maintain the insurance selected below.

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

[ ] **§ A.2.5.1 Cyber Security Insurance** for loss to the Owner due to data security and privacy breach, including costs of investigating a potential or actual breach of confidential or private information.

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(Indicate applicable limits of coverage or other conditions in the fill point below.)

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

Coverage	Limits

ARTICLE A.3 CONTRACTOR'S INSURANCE AND BONDS

§ A.3.1 General

§ A.3.1.1 Certificates of Insurance. The Contractor shall provide certificates of insurance acceptable to the Owner evidencing compliance with the requirements in this Article A.3 at the following times: (1) prior to commencement of the Work; (2) upon renewal or replacement of each required policy of insurance; and (3) upon the Owner's written request. An additional certificate evidencing continuation of commercial liability coverage, including coverage for completed operations, shall be submitted with the final Application for Payment and thereafter upon renewal or replacement of such coverage until the expiration of the periods required by Section A.3.2.1 and Section A.3.3.1. The certificates will show the Owner as an additional insured on the Contractor's Commercial General Liability and excess or umbrella liability policy or policies.

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

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

§ A.3.2 Contractor's Required Insurance Coverage

§ A.3.2.1 The Contractor shall purchase and maintain the types and limits of insurance as defined in EXH-C Owner Insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The Contractor shall maintain the required insurance until the expiration of the period for correction of Work as set forth in Section 12.2.2 of the General Conditions, unless a different duration is stated below:
(If the Contractor is required to maintain insurance for a duration other than the expiration of the period for correction of Work, state the duration.)

§ A.3.2.2 Commercial General Liability

§ A.3.2.2.1 Commercial General Liability insurance for the Project written on an occurrence form with policy limits as defined in EXH-C Owner Insurance providing coverage for claims including

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

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§ A.3.2.2.2 The Contractor's Commercial General Liability policy under this Section A.3.2.2 shall not contain an exclusion or restriction of coverage for the following:

.1 Claims by one insured against another insured, if the exclusion or restriction is based solely on the fact that the claimant is an insured, and there would otherwise be coverage for the claim.

.2 Claims for property damage to the Contractor's Work arising out of the products-completed operations hazard where the damaged Work or the Work out of which the damage arises was performed by a Subcontractor.

.3 Claims for bodily injury other than to employees of the insured.

.4 Claims for indemnity under Section 3.18 of the General Conditions arising out of injury to employees of the insured.

.5 Claims or loss excluded under a prior work endorsement or other similar exclusionary language.

.6 Claims or loss due to physical damage under a prior injury endorsement or similar exclusionary language.

.7 Claims related to residential, multi-family, or other habitational projects, if the Work is to be performed on such a project.

.8 Claims related to roofing, if the Work involves roofing.

.9 Claims related to exterior insulation finish systems (EIFS), synthetic stucco or similar exterior coatings or surfaces, if the Work involves such coatings or surfaces.

.10 Claims related to earth subsidence or movement, where the Work involves such hazards.

.11 Claims related to explosion, collapse and underground hazards, where the Work involves such hazards.

§ A.3.2.3 Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Contractor, with policy limits as defined in EXH-C Owner Insurance.

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

§ A.3.2.5 Workers' Compensation at statutory limits for Coverage A as defined in EXH-C Owner Insurance.

§ A.3.2.6 Employers' Liability Coverage B as defined in EXH-C Owner Insurance.

§ A.3.2.7 If the Contractor is required to furnish professional services as part of the Work, the Contractor shall procure Professional Liability insurance covering performance of the professional services, with policy limits as defined in EXH-C Owner Insurance.

§ A.3.2.8 Insurance for the use or operation of manned or unmanned aircraft, if the Work requires such activities, with policy limits as defined in EXH-C Owner Insurance.

(Paragraphs deleted)

§ A.3.3 Contractor's Other Insurance Coverage

§ A.3.3.1 Insurance selected and described in this Section A.3.3 shall be purchased from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The Contractor shall maintain the required insurance until the expiration of the period for correction of Work as set forth in Section 12.2.2 of the General Conditions, unless a different duration is stated below:
(If the Contractor is required to maintain any of the types of insurance selected below for a duration other than the expiration of the period for correction of Work, state the duration.)

If Professional Liability insurance is required as part of the Contract, the Contractor shall maintain coverage for one year beyond the date of Substantial Completion.

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§ A.3.3.2 The Contractor shall purchase and maintain the types and limits of insurance as defined in EXH-C Owner Insurance.

(Paragraphs deleted)

§ A.3.4 Performance Bond and Payment Bond

The Contractor shall provide surety bonds, from a company or companies lawfully authorized to issue surety bonds in the jurisdiction where the Project is located, as follows:
(Specify type and penal sum of bonds.)

Type	Penal Sum ($0.00)
Payment Bond	$530,650
Performance Bond	$530,650

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

ARTICLE A.4 SPECIAL TERMS AND CONDITIONS

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

None

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Additions and Deletions Report for

AIA® Document A132® – 2019 Exhibit A

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PAGE 1

This Insurance and Bonds Exhibit is part of the Agreement, between the Owner and the Contractor, dated the _first_ day of _February_____in the year _2025

...

North High School Phase 4 Work Scope 03A Concrete and Masonry
1500 James Avenue, Minneapolis, MN 55411

...

Minneapolis Public Schools Special School District #1
1250 West Broadway Avenue
Minneapolis, MN 55411

...

B&D Associates, LLC 1410 Sylvan Street, Suite 200
St. Paul, MN 55117

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

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§ A.3.2.1 The Contractor shall purchase and maintain the ~~following~~ types and limits of insurance as defined in EXH-C Owner Insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The Contractor shall maintain the required insurance until the expiration of the period for correction of Work as set forth in Section 12.2.2 of the General Conditions, unless a different duration is stated below:

...

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§ A.3.2.2.1 Commercial General Liability insurance for the Project written on an occurrence form with policy limits ~~of not less than ($) each occurrence, ($) general aggregate, and ($) aggregate for products-completed operations hazard,~~ as defined in EXH-C Owner Insurance providing coverage for claims including

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§ A.3.2.3 Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Contractor, with policy limits ~~of not less than ($) per accident, for bodily injury, death of any person, and property damage arising out of the ownership, maintenance and use of those motor vehicles along with any other statutorily required automobile coverage.~~as defined in EXH-C Owner Insurance.

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

§ A.3.2.5 Workers' Compensation at statutory ~~limits.~~limits for Coverage A as defined in EXH-C Owner Insurance.

§ A.3.2.6 Employers' Liability ~~with policy limits not less than ($) each accident, ($) each employee, and ($) policy limit.~~Coverage B as defined in EXH-C Owner Insurance.

§ A.3.2.7 ~~Jones Act, and the Longshore & Harbor Workers' Compensation Act, as required, if the Work involves hazards arising from work on or near navigable waterways, including vessels and docks~~ If the Contractor is required to furnish professional services as part of the Work, the Contractor shall procure Professional Liability insurance covering performance of the professional services, with policy limits as defined in EXH-C Owner Insurance.

§ A.3.2.8 ~~If the Contractor is required to furnish professional services as part of the Work, the Contractor shall procure Professional Liability insurance covering performance of the professional services, with policy limits of not less than ($) per claim and ($) in the aggregate.~~Insurance for the use or operation of manned or unmanned aircraft, if the Work requires such activities, with policy limits as defined in EXH-C Owner Insurance.

~~**§ A.3.2.9** If the Work involves the transport, dissemination, use, or release of pollutants, the Contractor shall procure Pollution Liability insurance, with policy limits of not less than ($) per claim and ($) in the aggregate.~~

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

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

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

...

If Professional Liability insurance is required as part of the Contract, the Contractor shall maintain coverage for one year beyond the date of Substantial Completion.

§ A.3.3.2 The Contractor shall purchase and maintain the ~~following~~ types and limits of insurance ~~in accordance with Section A.3.3.1.~~as defined in EXH-C Owner Insurance.

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

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

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

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

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

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

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

Coverage	**Limits**

§ A.3.4 Performance Bond and Payment Bond
PAGE 6

Payment Bond	$530,650
Performance Bond	$530,650

...

None

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AIA® Document A232® – 2019

General Conditions of the Contract for Construction, *Construction Manager as Adviser Edition*

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

North High School Phase 4 Work Scope 03-A Concrete and Masonry
1500 James Avenue, Minneapolis, MN 55411

THE CONSTRUCTION MANAGER:
(Name, legal status, and address)

Kraus-Anderson Construction Company
501 South 8th Street, Minneapolis, MN 55404

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

Minneapolis Public Schools Special School District #1
1250 West Broadway Avenue
Minneapolis, MN 55411

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

LSE Architects 1401 Glenwood Avenue
Minneapolis, MN 55405

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

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

This document is intended to be used in conjunction with AIA Documents A132™–2019, Standard Form of Agreement Between Owner and Contractor, Construction Manager as Adviser Edition; B132™–2019, Standard Form of Agreement Between Owner and Architect, Construction Manager as Adviser Edition; and C132™–2019, Standard Form of Agreement Between Owner and Construction Manager as Adviser.

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ARTICLE 1 GENERAL PROVISIONS

§ 1.1 Basic Definitions

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

§ 1.1.1.1 Notwithstanding the foregoing, it is understood and agreed that the Owner is an intended third-party beneficiary of all contracts between the Contractor and Subcontractors or suppliers who provide labor and/or materials for the Work.

§ 1.1.2 The Contract. The Contract Documents form the Contract for Construction. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations, or agreements, either written or oral. The Contract may be amended or modified only by a Modification. The Contract Documents shall not be construed to create a contractual relationship of any kind (1) between the Contractor and the Architect or the Architect's consultants, (2) between the Owner and the Construction Manager or the Construction Manager's consultants, (3) between the Owner and the Architect or the Architect's consultants, (4) between the Contractor and the Construction Manager or the Construction Manager's consultants, (5) between the Owner and a Subcontractor or Sub-subcontractor (6) between the Construction Manager and the Architect, or (7) between any persons or entities other than the Owner and Contractor. The Construction Manager and Architect shall, however, be entitled to performance and enforcement of obligations under the Contract intended to facilitate performance of their duties.

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

§ 1.1.4 The Project. The Project is the total construction of which the Work performed under the Contract Documents may be the whole or a part and which may include construction by other Contractors, and by the Owner's own forces and Separate Contractors.

§ 1.1.5 Contractors. Contractors are persons or entities, other than the Contractor or Separate Contractors, who perform Work under contracts with the Owner that are administered by the Architect and Construction Manager.

§ 1.1.6 Separate Contractors. Separate Contractors are persons or entities who perform construction under separate contracts with the Owner not administered by the Architect and Construction Manager.

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

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

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

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§ 1.1.10 Initial Decision Maker. The Initial Decision Maker is the person identified in the Agreement to render initial decisions on Claims in accordance with Section 15.2. The Architect will serve as the Initial Decision Maker pursuant to Section 15.2 of AIA Document A232–2019.

§ 1.2 Correlation and Intent of the Contract Documents

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

§ 1.2.1.1 The invalidity of any provision of the Contract Documents shall not invalidate the Contract or its remaining provisions. In such case the Contract Documents shall be construed, to the fullest extent permitted by law, to give effect to the parties' intentions and purposes in executing the Contract.

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

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

§ 1.3 Capitalization

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

§ 1.4 Interpretation

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

§ 1.4.1 In the case of inconsistency between Drawings and Specifications or within Contract Documents not clarified by Addenda, the better quality or greater quantity of Work shall be provided in accordance with the Architect's interpretation.

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

§ 1.5.1 The Architect and the Architect's consultants shall be deemed the authors and owners of their respective Instruments of Service, including the Drawings and Specifications, and retain all common law, statutory, and other reserved rights in their Instruments of Service, including copyrights. The Contractor, Subcontractors, sub-subcontractors, and suppliers shall not own or claim a copyright in the Instruments of Service. Submittal or distribution to meet official regulatory requirements or for other purposes in connection with the Project is not to be construed as publication in derogation of the Architect's or Architect's consultants' reserved rights. The Owner retains rights to the Instruments of Service pursuant to Article 7 of AIA Document B101-2017.

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

§ 1.5.3 The Architect shall furnish to the Contractor a version of the Instruments of Service in electronic form for the sole purpose of the construction of the Project for which the Instruments of Service were created.

§ 1.6 Notice

§ 1.6.1 Except as otherwise provided in Section 1.6.2, where the Contract Documents require one party to notify or give notice to the other party, such notice shall be provided in writing to the designated representative of the party to

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whom the notice is addressed and shall be deemed to have been duly served if delivered in person, by mail, by courier, or by electronic transmission if a method for electronic transmission is set forth in the Agreement.

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

§ 1.7 Digital Data Use and Transmission

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

§ 1.8 Building Information Models Use and Reliance

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

ARTICLE 2 OWNER

§ 2.1 General

§ 2.1.1 The Owner is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The Owner shall designate in writing a representative who shall have express authority to bind the Owner with respect to all matters requiring the Owner's approval or authorization in accordance with Owner's Delegation of Authority Policy, a copy of which will be provided at Contractor's request. Except as otherwise provided in Section 4.2.1, the Construction Manager and the Architect do not have such authority. The term "Owner" means the Owner or the Owner's authorized representative.

(Paragraph deleted)

§ 2.2 Evidence of the Owner's Financial Arrangements

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

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

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

§ 2.2.4 Where the Owner has designated information furnished under this Section 2.2 as "confidential," the Contractor shall keep the information confidential and shall not disclose it to any other person. However, the Contractor may disclose "confidential" information, after seven (7) days' notice to the Owner, where disclosure is required by law, including a subpoena or other form of compulsory legal process issued by a court or governmental entity, or by court

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or arbitrator(s) order. The Contractor may also disclose "confidential" information to its employees, consultants, sureties, Subcontractors and their employees, Sub-subcontractors, and others who need to know the content of such information solely and exclusively for the Project and who agree to maintain the confidentiality of such information.

§ 2.3 Information and Services Required of the Owner

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

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

§ 2.3.3 The Owner shall retain a construction manager adviser lawfully practicing construction management in the jurisdiction where the Project is located. That person or entity is identified as the Construction Manager in the Agreement and is referred to throughout the Contract Documents as if singular in number.

§ 2.3.4 If the employment of the Construction Manager or Architect terminates, the Owner shall employ a successor construction manager or architect to whom the Contractor has no reasonable objection and whose status under the Contract Documents shall be that of the Construction Manager or Architect, respectively.

§ 2.3.5 If requested by the Contractor and reasonably required for the Project, the Owner shall furnish surveys describing physical characteristics, legal limitations and utility locations for the site of the Project, and a written legal description of the site. The Contractor shall exercise proper precautions relating to the safe performance of the Work.

§ 2.3.6 The Owner shall furnish information or services required of the Owner by the Contract Documents with reasonable promptness. The Owner shall also furnish any other information or services under the Owner's control and relevant to the Contractor's performance of the Work with reasonable promptness after receiving the Contractor's written request for such information or services. The Contractor is responsible for the timeliness of, or interference caused by, Subcontractors, Sub-subcontractors (of any tier), and others directly or indirectly under contract to the Contractor.

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

§ 2.3.8 The Owner shall forward all communications to the Contractor through the Construction Manager. Other communication shall be made as set forth in Section 4.2.6.

§ 2.4 Owner's Right to Stop the Work

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

§ 2.5 Owner's Right to Carry Out the Work

If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within a three-business-day (3) period after receipt of notice from the Owner to commence and continue correction of such default or neglect with diligence and promptness, the Owner may, without prejudice to other remedies the Owner may have, correct such default or neglect. Such action by the Owner and amounts charged to the Contractor are both subject to review by the Construction Manager and prior approval of the Architect, and the Construction Manager or Architect may, pursuant to Section 9.5.1, withhold or nullify a Certificate for Payment in whole or in part, to the extent reasonably necessary to reimburse the Owner for the reasonable cost of correcting such deficiencies, including Owner's expenses and compensation for the Construction Manager's and Architect's and their respective consultants'

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additional services and expenses made necessary by such default, neglect, or failure. If current and future payments are not sufficient to cover such amounts, the Contractor shall pay the difference to the Owner within ten (10) days following written request for payment delivered by the Owner to the Contractor. If the Contractor disagrees with the actions of the Owner or the Architect, or the amounts claimed as costs to the Owner, the Contractor may file a Claim pursuant to Article 15.

ARTICLE 3 CONTRACTOR

§ 3.1 General

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

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

§ 3.1.3 The Contractor shall hire a professional utilities locator to investigate and verify all private utility locations prior to excavation and cutting into of existing Work. The Contractor is responsible for locating, terminating, and reinstallation of all private utilities. Private site utilities may not be in the Drawings and Project Manual and as such, verification of private utilities is the sole responsibility of the Contractor. Costs associated with moving and repairing of unknown and undocumented utilities will be by appropriate Change Order. The Contractor shall comply with Gopher State One Call, or other public utility service locator to locate all public utilities prior to any work on the site. This shall not relieve Contractor from obligations under Article 3.

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

§ 3.2 Review of Contract Documents and Field Conditions by Contractor

§ 3.2.1 The Contractor shall carefully study and compare the Contract Documents with each other and with information furnished by the Owner pursuant to Section 2.2.3, and shall immediately report to the Architect and Construction Manager errors, inconsistencies, or omissions discovered. The Contractor shall not be liable to the Owner or Architect for damage resulting from errors, inconsistencies, or omissions in the Contract Document unless the Contractor recognized such error, inconsistency, or omission and knowingly failed to report it to the Architect. If the Contractor performs any construction activity knowing or believing it involves a recognized error, inconsistency, or omission in the Contract Documents without such notice to the Architect, the Contractor shall assume full responsibility for such performance and shall bear the attributable costs for correction and shall bear responsibility for any additional costs, delays, and damages resulting from such failure to immediately report any such errors, inconsistencies, or omissions which the Contractor may discover. By executing the Contract, the Contractor represents that the Contractor has reviewed and understands the Contract Documents, has visited the Site and is familiar with local conditions under which the Work is to be performed, has correlated personal observations with the requirements of the Contract Documents, and has notified the Architect of and obtained clarification of any discrepancies which have become apparent during the bidding or proposal period.

§ 3.2.1.1 The Contractor shall take field measurements and verify field conditions and shall carefully compare such field measurements and conditions and other information known to the Contractor with the Contract Documents before commencing activities. Errors, inconsistencies, or omissions discovered shall be reported to the Architect immediately in writing.

§ 3.2.1.2 The Contractor shall carefully study and compare the Contract Documents with existing conditions at the job site and shall immediately report in writing to the Architect any error, inconsistency, or omission which the Contractor may discover or any materials, systems, procedures, or methods of construction, either shown on the Drawings or specified, which the Contractor has reason to believe are incorrect, inadequate, obsolete, unsuitable for the purpose intended or which the Contractor has reason to believe would constitute or result in a violation of the Contractor's warranty under Section 3.5 or applicable law. The Contractor shall not proceed with any work in such areas until written instructions are received from the Architect.

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§ 3.2.2 The Contractor shall perform the Work in accordance with the Contract Documents and submittals accepted pursuant to Section 3.12.

§ 3.2.3 The Owner shall be entitled to deduct from the Contract Sum amounts paid to the Architect for the Architect to evaluate and respond to the Contractor's requests for interpretation or information where such information was available to the Contractor from a careful study and comparison of the Contract Documents, Filed Conditions, Owner Provided Information, Contractor Prepared Coordination Drawings, or prior Project Correspondence or Documentation.

§ 3.2.4 If the Contractor believes that any portions of the Contract Documents do not comply with applicable laws, statutes, ordinances, building codes, and rules and regulations, or any orders by code enforcement officials or the Owner or its designees acting in the capacity of building code inspectors or Referenced Standards, the Contractor must promptly notify the Owner and the Architect of the non-compliance as provided in Section 3.2.6 and request direction before proceeding with the affected Work.

§ 3.2.5 The Contractor must promptly notify the Owner and the Architect in writing of any apparent errors, inconsistencies, omissions, ambiguities, construction impracticalities or code violations discovered as a result of the Contractor's review of the Contract Documents including any differences between actual and indicated dimensions, locations and descriptions, and must give the Owner and the Architect timely notice in writing of same and of any corrections, clarifications, additional Drawings or Specifications, or other information required to define the Work in greater detail or to permit the proper progress of the Work. The Contractor must provide similar notice with respect to any variance between its review of the Site and physical data and Site conditions observed.

§ 3.2.6 If the Contractor performs any Work involving an apparent error, inconsistency, ambiguity, construction impracticality, omission or code violation in the Contract Documents of which the Contractor is aware, or which could reasonably have been discovered by the review required by Section 3.2, without prompt written notice to the Owner and the Architect and request for correction, clarification or additional information, as appropriate, the Contractor does so at its own risk and expense and all Claims relating thereafter are specifically waived.

§ 3.3 Supervision and Construction Procedures

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

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

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

§ 3.3.4 The Contractor shall at all times staff the Project adequately to allow the Project to be managed and completed in a timely and professional manner. The Contractor shall have competent supervision on the job during work hours and readily available at all times upon call.

§ 3.3.5 The Contractor shall at all times make reasonable provisions to protect any Work performed by any separate contractors, adjacent property, and the existing building (if any) from damage due to the Work or due to the weather.

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§ 3.3.6 The Owner or its approved representative (heretofore referred to as Owner's Representative) shall have access to the Work site and all Work. No supervision or inspection by the Owner or the Owner's Representative, nor the authority to act, nor any other actions taken by the Owner's Representative shall relieve the Contractor of any of its obligations under the Contract Documents or give rise to any duty on the part of the Owner.

§ 3.3.7 The Contract shall take appropriate precautions to ensure that the Work does not materially disrupt any ongoing operation by the Owner at the Project (if any) except to the extent any such disruption is a necessary result of performing a particular portion of the Work, in which case the Contractor shall provide the Owner with reasonable advanced written notice and shall take all commercially reasonable measures to minimize the impact on the Owner and the Owner's operations.

§ 3.4 Labor and Materials

§ 3.4.1 Unless otherwise provided in the Contract Documents, the Contractor shall provide and pay for labor, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation, and other facilities and services necessary for proper execution and completion of the Work, whether temporary or permanent and whether or not incorporated or to be incorporated in the Work. Should the Contract Documents require Work to be performed after regular working hours or should the Contractor elect to perform Work after regular working hours, the additional cost of such Work shall be borne by the Contractor.

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

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

§ 3.4.4 The Contractor shall be responsible for all additional costs incurred to incorporate into the Project substitute materials, products, or equipment approved by Owner during the bidding period.

§ 3.4.5 In the event of a Change related to substitute or additional materials, and which shall comply with Article 7, the Contractor shall exercise reasonable efforts, consistent with the provisions of the Contract Documents to obtain the maximum available case discounts on all materials, provided that, in doing so, the Contractor shall not accept or use materials for incorporation into the Project which are of a type or quality not reasonably contemplated under the terms of the Contract Documents.

§ 3.4.6 After award of the Contract, a request for substitution of a material, product, or piece of equipment at no change in the Contract Sum will not be approved by the Owner or the Architect, unless the specified item is no longer manufactured, the specified item is unavailable as a result of an act of government such as a declaration of a national emergency, or delivery of the specified items is substantially delayed as a result of labor disputes affecting the manufacturer, unusual delay in transportation, or any other cause beyond control of the Contractor or a Subcontractor or material supplier which the Architect determines justified the delay. Requests will not be approved where the delay in delivery results from failure to promptly place subcontracts and material orders. Requests for substitution shall be submitted in writing to the Architect and shall clearly describe the proposed substitution, state the reason for the unavailability of a specified item and be accompanied by such additional data and information as may be necessary in the discretion of the Owner and the Architect to establish the acceptability of the proposed substitute.

§ 3.4.7 The Owner shall be entitled to deduct from the Contract Sum amounts paid to the Architect to evaluate the Contractor's proposed Substitutions and for changes made to the Contract Documents as a result of Owner's acceptance of such Substitutions.

§ 3.5 Warranty

§ 3.5.1 The Contractor warrants to the Owner, Construction Manager, and Architect that materials and equipment furnished under the Contract will be of good quality and new unless the Contract Documents require or permit otherwise. The Contractor further warrants that the Work will conform to the requirements of the Contract Documents

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

§ 3.5.2 All material, equipment, or other special warranties required by the Contract Documents shall be issued in the name of the Owner, or shall be transferable to the Owner, and shall commence in accordance with Section 9.8.4. The Contractor shall arrange for the Owner to have the benefit of and right to enforce all warranties by Subcontractors, Sub-subcontractors, suppliers, and manufacturers.

§ 3.5.3 Manufacturers' warranties and warranties by other shall not relieve the Contractor of any of its responsibilities.

§ 3.5.4 The Contractor's general warranty and any additional or special warranties are not limited by the Contractor's obligations to specifically correct defective or nonconforming Work as provided in Article 12, nor are they limited by any other remedies provided in the Contract Documents. The Contractor shall also be liable for any damage to property or persons (including death) including consequential and direct damages relating to any breach of the Contractor's general warranty or any additional or special warranties required by the Contract Documents.

§ 3.5.5 The Contractor must furnish all special warranties required by the Contract Documents to the Owner no later than Substantial Completion. The Owner may require additional special warranties in connection with the approval of "Or-Equals" or Substitutions, Allowance items, Work that is defective or nonconforming, or the acceptance of nonconforming Work pursuant to Article 12.

§ 3.6 Taxes

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

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

§ 3.7.1 Unless otherwise provided in the Contract Documents, the Owner, assisted by the Construction Manager, shall secure and pay for the building permit. The Contractor shall secure and pay for other permits, fees, licenses, and inspections by government agencies necessary for proper execution and completion of the Work that are customarily secured after execution of the Contract and legally required at the time bids are received or negotiations concluded. The Contractor shall be responsible for the Sewer Access (SAC) and Water Access (WAC) fees for the Project. The Contractor shall pay the SAC/WAC costs to the authorities having jurisdiction from the Allowance in the Base Bid for such charges as defined in the Construction Documents.

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

§ 3.7.3 If the Contractor performs Work knowing or believing it to be contrary to applicable laws, statutes, ordinances, building codes, rules and regulations, or lawful orders of public authorities, without such notice to the Architect and Owner, the Contractor shall assume full responsibility for such Work and shall bear the attributable costs, delays, and damages resulting from such failure to immediately notify the Architect and Owner of any such violation..

§ 3.7.4 Concealed or Unknown Conditions. If the Contractor encounters conditions at the site that are (1) subsurface or otherwise concealed physical conditions that differ materially from those indicated in the Contract Documents or (2) unknown physical conditions of an unusual nature that differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents, the Contractor shall promptly provide notice to the Owner, Construction Manager, and the Architect before conditions are disturbed and in no event later than ten (10) days after first observance of the conditions. The Architect and Construction Manager will promptly investigate such conditions and, if the Architect, in consultation with the Construction Manager, determines that they differ materially and cause an increase or decrease in the Contractor's cost of, or time required for, performance of any part of the Work, will recommend that an equitable adjustment be made in the Contract Sum or Contract Time, or both. If the Architect, in consultation with the Construction Manager,

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

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

§ 3.8 Allowances

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

§ 3.8.2 Unless otherwise provided in the Contract Documents:

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

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

§ 3.9 Superintendent

§ 3.9.1 The Contractor shall employ a competent superintendent and necessary assistants who shall be in attendance at the Project site during performance of the Work, including that performed by all Subcontractors. The superintendent shall represent the Contractor, and communications given to the superintendent shall be as binding as if given to the Contractor. Important communications including and not limited to communications regarding design changes, alterations, substitutions, clarifications, cost changes, etc. shall be confirmed in writing by the Contractor. Other communications shall be similarly confirmed on written request in each case.

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

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

§ 3.9.4 If requested by the Owner, the Contractor shall replace the superintendent at no additional cost to the Owner. No other change in this position shall be made without notice to and written consent of the Owner.

§ 3.10 Contractor's Construction and Submittal Schedules

§ 3.10.1 The Contractor, promptly after being awarded the Contract, shall submit for the Owner's and Architect's information, and the Construction Manager's use in developing the Project schedule, a Contractor's construction schedule for the Work. The schedule shall contain detail appropriate for the Project, including (1) the date of

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commencement of the Work, interim schedule milestone dates, critical path schedule milestones, major construction milestones, including and not limited to Civil, Demolition, Structural, Mechanical, Electrical, and Plumbing, and the date of Substantial Completion; (2) an apportionment of the Work by construction activity; and (3) the time required for completion of each portion of the Work. The schedule shall provide for the orderly progression of the Work to completion and shall not exceed time limits current under the Contract Documents. The schedule shall be revised at appropriate intervals as required by the conditions of the Work and Project. The Contractor shall cooperate with the Construction Manager in scheduling and performing the Contractor's Work to avoid conflict with, and as to cause no delay in, the work or activities of other Contractors, or the construction or operations of the Owner's own forces or Separate Contractors.

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

§ 3.10.3 The Contractor shall participate with other Contractors, the Construction Manager, and the Owner in reviewing and coordinating all schedules for incorporation into the Project schedule that is prepared by the Construction Manager. The Contractor shall make revisions to the construction schedule and submittal schedule as deemed necessary by the Construction Manager to conform to the Project schedule.

§ 3.10.4 The Contractor shall perform the Work in general accordance with the most recent schedules submitted to and accepted in writing by the Owner, Construction Manager, and Architect, and incorporated into the approved Project schedule.

§ 3.11 Documents and Samples at the Site

§ 3.11.1 The Contractor shall make available, at the Project site, one record copy of the Contract Documents, including Change Orders, Construction Change Directives, and other Modifications, in good order and updated daily to indicate field changes and selections made during construction, and in addition accepted and approved Shop Drawings, Product Data, Samples, and similar required submittals. These shall be in electronic form or paper copy, available to the Construction Manager, Architect, and Owner as required to complete routine inspections by Architect, Construction Manager and Owner prior to any approval of payments to the Contractor, and delivered to the Construction Manager for submittal to the Owner upon completion of the Work. The Architect and Contractor must verify that all "as-built" Drawings, Specifications, Addenda, Change Orders, and other Modifications are up-to-date before Contractor's Application for Payment is acceptable and before the Owner incurs any duty to pay Contractor in accordance with the Contract. The record documents shall be a separate set of documents labeled "Record Documents" and used only for record purposes and kept clean and undamaged.

§ 3.11.2 No review or receipt of such records by the Architect or Owner shall be considered a waiver of any deviation from the Contract Documents or approved shop drawings, or any way relieve the Contractor from its responsibility to perform the Work in accordance with the Contract Documents.

§ 3.12 Shop Drawings, Product Data, and Samples

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

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

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

§ 3.12.4 Shop Drawings, Product Data, Samples, and similar submittals are not Contract Documents. Their purpose is to demonstrate how the Contractor proposes to conform to the information given and the design concept expressed in the Contract Documents for those portions of the Work for which the Contract Documents require submittals. Review

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by the Architect and Construction Manager is subject to the limitations of Sections 4.2.10 through 4.2.12. Informational submittals upon which the Construction Manager and Architect are not expected to take responsive action may be so identified in the Contract Documents. Submittals that are not required by the Contract Documents may be returned by the Construction Manager or Architect without action.

§ 3.12.5 The Contractor shall review for compliance with the Contract Documents, approve, and submit to the Construction Manager, Shop Drawings, Product Data, Samples, and similar submittals required by the Contract Documents, in accordance with the Project submittal schedule approved by the Construction Manager and Architect or, in the absence of an approved Project submittal schedule, with reasonable promptness and in such sequence as to cause no delay in the Work or in the activities of other Contractors, Separate Contractors, or the Owner's own forces. The Contractor shall cooperate with the Construction Manager in the coordination of the Contractor's Shop Drawings, Product Data, Samples, and similar submittals with related documents submitted by other Contractors. The Contractor must provide the Owner and the Architect with copies of all submittals made to regulatory agencies.

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

§ 3.12.7 The Contractor shall perform no portion of the Work for which the Contract Documents require submittal and review of Shop Drawings, Product Data, Samples, or similar submittals, until the respective submittal has been reviewed and accepted by the Architect. The Contractor must correct at its cost, and without any adjustment in Contract Time, any Work the correction of which is required due to the Contractor's failure to obtain approval of a submittal required to have been obtained prior to proceeding with the Work, including, but not limited to, correction of any conflicts in the Work resulting from such failure.

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

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

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

§ 3.12.10.1 If professional design services or certifications by a design professional related to systems, materials, or equipment are specifically required of the Contractor by the Contract Documents, the Owner and the Architect will specify all performance and design criteria that such services must satisfy. The Contractor shall be entitled to rely upon the adequacy and accuracy of the performance and design criteria provided in the Contract Documents. The Contractor shall cause such services or certifications to be provided by an appropriately licensed design professional, whose signature and seal shall appear on all drawings, calculations, specifications, certifications, Shop Drawings, and other submittals prepared by such professional. Shop Drawings, and other submittals related to the Work, designed or certified by such professional, if prepared by others, shall bear such professional's written approval when submitted to the Architect. The Owner, the Architect, and the Construction Manager shall be entitled to rely upon the adequacy and accuracy of the services, certifications, and approvals performed or provided by such design professionals, provided the Owner and Architect have specified to the Contractor the performance and design criteria that such services must

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satisfy. Pursuant to this Section 3.12.10, the Architect will review and approve or take other appropriate action on submittals only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Construction Manager shall review submittals for sequencing, constructability, and coordination impacts on other Contractors.

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

§ 3.13 Use of Site

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

§ 3.13.2 The Contractor shall coordinate the Contractor's operations with, and secure the approval of, the Construction Manager before using any portion of the site.

§ 3.13.3 Except as may be specifically provided in the Contract Documents, the Contractor shall provide all necessary temporary facilities, including power, water, sanitation, scaffolding, storage, and security. If Owner makes any such facilities available to Contractor, it is without representation or warranty as to their adequacy for Contractor's use, and Contractor shall indemnify, defend, and hold Owner harmless from and against any claims arising out of Contractor's use of such facilities.

§ 3.14 Cutting and Patching

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

§ 3.14.2 The Contractor shall not damage or endanger a portion of the Work or fully or partially completed construction of the Owner, Separate Contractors, or of other Contractors by cutting, patching, or otherwise altering such construction, or by excavation. The Contractor shall not cut or otherwise alter construction by the Owner, Separate Contractors, or by other Contractors except with written consent of the Construction Manager, Owner, and such other Contractors or Separate Contractors. Consent shall not be unreasonably withheld. The Contractor shall hire a professional utilities locator to verify locations of all public and private utilities prior to initiating any cutting work. The Contractor shall not unreasonably withhold, from the Separate Contractors, other Contractors, or the Owner, its consent to cutting or otherwise altering the Work.

§ 3.15 Cleaning Up

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

§ 3.15.2 If the Contractor fails to clean up as provided in the Contract Documents, the Owner, or Construction Manager with the Owner's approval, may do so and the Owner shall be entitled to reimbursement from the Contractor.

§ 3.16 Access to Work

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

§ 3.17 Royalties, Patents and Copyrights

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

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Manager. However, if an infringement of a copyright or patent is discovered by, or made known to, the Contractor, the Contractor shall be responsible for the loss unless the information is promptly furnished to the Architect through the Construction Manager.

§ 3.18 Indemnification

§ 3.18.1 To the fullest extent permitted by law, the Contractor shall indemnify, defend and hold harmless the Owner, Construction Manager, Architect, Construction Manager's and Architect's consultants, and agents and employees of any of them from and against claims, damages, losses, and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), but only to the extent caused by the negligent acts or omissions of the Contractor, a Subcontractor, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss, or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity which would otherwise exist as to a party or person described in this Section 3.18. The Contractor, furthermore, agrees to obtain, maintain, and pay for such general liability coverage and endorsements (including product and completed operations coverage) as will ensure the provisions of this Section 3.18.1. The Contractor agrees to reimburse the Owner, its agents and employees for all costs and disbursements, including attorneys' fees, paid or incurred to enforce the provisions of this Section 3.18.1.

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

§ 3.18.3 To the fullest extent permitted by law and without limiting any other indemnification obligations of the Contractor, except to the extent caused by the uncured failure of the Owner to make payment when due and owing, the Contractor shall indemnify and defend the Owner, its officers, directors, assigns, lenders, agents, and employees from any liens, charges (including attorneys' fees) or encumbrances (including but not limited to mechanic's and materialmen's liens or bond claims) arising out of or in connection with the performance of the Work by Contractor, its Subcontractors, or its material suppliers. Upon request of the Owner, the Contractor shall within sixty (60) days remove any liens filed against the Owner or its property. If the Contractor fails to do so, the Owner is authorized by the Contractor to remove or satisfy any such liens, and the Contractor shall pay to the Owner all costs and damages incurred by the Owner to do so, including attorneys' fees.

ARTICLE 4 ARCHITECT AND CONSTRUCTION MANAGER

§ 4.1 General

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

§ 4.1.2 The Construction Manager is the person or entity retained by the Owner pursuant to Section 2.3.3 and identified as such in the Agreement.

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

§ 4.2 Administration of the Contract

§ 4.2.1 The Construction Manager and Architect will provide administration of the Contract as described in the Contract Documents and will be the Owner's consultants (1) during construction; (2) until final payment is due; and (3) with the Owner's concurrence, from time to time during the correction period described in Section 12.2. The Architect and Construction Manager will advise and consult with the Owner. The Construction Manager and Architect will have authority to act on behalf of the Owner only to the extent provided in the Contract Documents, unless otherwise modified in writing in accordance with other provisions of the Contract.

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§ 4.2.2 The Architect will visit the site at intervals appropriate to the stage of construction, or as otherwise agreed with the Owner, to become generally familiar with the progress and quality of the Work completed, to endeavor to guard the Owner against defects and deficiencies in the Work, and to determine in general if the Work is being performed in a manner indicating that the Work, when completed, will be in accordance with the Contract Documents. However, the Architect will not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. On the basis of the site visits, the Architect will keep the Owner and the Construction Manager reasonably informed about the progress and quality of the portion of the Work completed, and promptly report to the Owner and Construction Manager known deviations from the Contract Documents and defects and deficiencies observed in the Work.

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

§ 4.2.3 The Construction Manager shall provide one or more representatives who shall be in attendance at the Project site whenever the Work is being performed. The Construction Manager will determine in general if the Work observed is being performed in accordance with the Contract Documents, will keep the Owner and Architect reasonably informed of the progress of the Work, and will promptly report to the Owner and Architect known deviations from the Contract Documents and the most recent Project schedule, and defects and deficiencies observed in the Work.

§ 4.2.4 The Construction Manager will schedule and coordinate the activities of the Contractor and other Contractors in accordance with the latest approved Project schedule.

§ 4.2.5 The Construction Manager, except to the extent required by Section 4.2.4, and Architect will not have control over, charge of, or responsibility for, the construction means, methods, techniques, sequences or procedures, or for the safety precautions and programs in connection with the Work, since these are solely the Contractor's rights and responsibilities under the Contract Documents, and neither will be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. Neither the Construction Manager nor the Architect will have control over or charge of, or be responsible for acts or omissions of, the Contractor, Subcontractors, or their agents or employees, or of any other persons or entities performing portions of the Work.

§ 4.2.6 Communications. The Owner shall communicate with the Contractor and the Construction Manager's consultants through the Construction Manager about matters arising out of or relating to the Contract Documents. The Owner and Construction Manager shall include the Architect in all communications that relate to or affect the Architect's services or professional responsibilities. The Owner shall promptly notify the Architect of the substance of any direct communications between the Owner and the Construction Manager otherwise relating to the Project. Communications by and with the Architect's consultants shall be through the Architect. Communications by and with Subcontractors and suppliers shall be through the Contractor. Communications by and with other Contractors shall be through the Construction Manager. Communications by and with the Owner's own forces and Separate Contractors shall be through the Owner unless otherwise provided. The Contract Documents may specify other communication protocols. The Owner may require the Architect, Construction Manager and the Contractor to comply with Owner requirements in regards to public communications and site signage.

§ 4.2.7 The Construction Manager and Architect will review and certify all Applications for Payment by the Contractor, in accordance with the provisions of Article 9.

§ 4.2.8 The Architect and Construction Manager have authority to reject Work that does not conform to the Contract Documents, and will notify each other about the rejection. Whenever the Construction Manager considers it necessary or advisable for implementation of the intent of the Contract Documents, the Construction Manager will have authority to require additional inspection or testing of the Work in accordance with Sections 13.4.2 and 13.4.3, upon written authorization of the Owner, whether or not the Work is fabricated, installed or completed. The foregoing authority of the Construction Manager will be subject to the provisions of Sections 4.2.18 through 4.2.20 inclusive, with respect to interpretations and decisions of the Architect. However, neither the Architect's nor the Construction Manager's authority to act under this Section 4.2.8 nor a decision made by either of them in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect or the Construction Manager to the Contractor, Subcontractors, suppliers, their agents or employees, or other persons performing any of the Work.

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§ 4.2.9 Utilizing the submittal schedule provided by the Contractor, the Construction Manager shall prepare, and revise as necessary, a Project submittal schedule incorporating information from other Contractors, the Owner, Owner's consultants, Owner's Separate Contractors and vendors, governmental agencies, and participants in the Project under the management of the Construction Manager. The Project submittal schedule and any revisions shall be submitted to the Architect for approval.

§ 4.2.10 The Construction Manager will receive and promptly review for conformance with the submittal requirements of the Contract Documents, all submittals from the Contractor such as Shop Drawings, Product Data, and Samples. Where there are other Contractors, the Construction Manager will also check and coordinate the information contained within each submittal received from the Contractor and other Contractors, and transmit to the Architect those recommended for approval. By submitting Shop Drawings, Product Data, Samples, and similar submittals, the Construction Manager represents to the Owner and Architect that the Construction Manager has reviewed and recommended them for approval. The Construction Manager's actions will be taken in accordance with the Project submittal schedule approved by the Architect or, in the absence of an approved Project submittal schedule, with reasonable promptness while allowing sufficient time to permit adequate review by the Architect.

§ 4.2.11 The Architect will, and the Owner may, review and approve, or take other appropriate action upon, the Contractor's submittals such as Shop Drawings, Product Data, and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Architect's or Owner's action will be taken with such reasonable promptness as to cause no delay in the Work or in the activities of the Owner, Contractor or separate contractors, while allowing sufficient time in the Architect's professional judgment to permit adequate review. Upon the Architect's or the Owner's completed review, the Architect shall transmit its submittal review to the Construction Manager.

§ 4.2.12 Review of the Contractor's submittals by the Construction Manager and Architect is not conducted for the purpose of determining the accuracy and completeness of other details such as dimensions and quantities, or for substantiating instructions for installation or performance of equipment or systems, all of which remain the responsibility of the Contractor as required by the Contract Documents. The Construction Manager and Architect's review of the Contractor's submittals shall not relieve the Contractor of the obligations under Sections 3.3, 3.5, and 3.12. The Construction Manager and Architect's review shall not constitute approval of safety precautions or of any construction means, methods, techniques, sequences, or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

§ 4.2.13 The Construction Manager will prepare Change Orders and Construction Change Directives.

§ 4.2.14 The Construction Manager and the Architect will take appropriate action on Change Orders or Construction Change Directives in accordance with Article 7, and the Architect will have authority to order minor changes in the Work as provided in Section 7.4. The Architect, in consultation with the Construction Manager, will investigate and make determinations and recommendations regarding concealed and unknown conditions as provided in Section 3.7.4.

§ 4.2.15 Utilizing the documents provided by the Contractor, the Construction Manager will maintain at the site for the Owner one copy of all Contract Documents, approved Shop Drawings, Product Data, Samples, and similar required submittals, in good order and marked currently to record all changes and selections made during construction. These will be available to the Architect and the Contractor, and will be delivered to the Owner upon completion of the Project.

§ 4.2.16 The Construction Manager will assist the Architect in conducting inspections to determine the date or dates of Substantial Completion and the date of final completion; issue Certificates of Substantial Completion in conjunction with the Architect pursuant to Section 9.8; and receive and forward to the Owner written warranties and related documents required by the Contract and assembled by the Contractor pursuant to Section 9.10. The Construction Manager will forward to the Architect a final Application and Certificate for Payment or final Project Application and Project Certificate for Payment upon the Contractor's compliance with the requirements of the Contract Documents.

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

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§ 4.2.18 The Architect will interpret and decide matters concerning performance under the requirements of, the Contract Documents on written request of the Construction Manager, Owner, or Contractor through the Construction Manager. The Architect's response to such requests will be made with reasonable promptness and within any time limits agreed upon. If no agreement is made concerning the time within which interpretations required of the Architect shall be furnished in compliance with this Section 4.2.18, then delay shall not be recognized on account of failure by the Architect to furnish such interpretations until fifteen (15) days after written request is made to them.

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

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

(Paragraph deleted)

ARTICLE 5 SUBCONTRACTORS

§ 5.1 Definitions

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

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

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

§ 5.2.1 Unless otherwise stated in the Contract Documents, the Contractor, as soon as practicable after award of the Contract, shall notify in writing the Construction Manager, for review by the Owner, Construction Manager and Architect, of the persons or entities proposed for each principal portion of the Work, including those who are to furnish materials or equipment fabricated to a special design. Within 14 days of receipt of the information, the Construction Manager may notify the Contractor whether the Owner, the Construction Manager or the Architect (1) has reasonable objection to any such proposed person or entity or, (2) requires additional time for review. Failure of the Construction Manager to provide notice within the 14-day period shall constitute notice of no reasonable objection. The Contractor shall not employ any Subcontractor or use any material to which the Architect, Construction Manager or Owner may object. Prior to the employment of any Subcontractor, the Contractor must obtain the Owner's approval of such Subcontractor for the designated portion of the Work.

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

§ 5.2.3 If the Owner, Construction Manager or Architect has reasonable objection to a person or entity proposed by the Contractor, the Contractor shall propose another to whom the Owner, Construction Manager or Architect has no reasonable objection. The Contract Sum shall be increased or decreased by the difference in cost occasioned by such change, and an appropriate Change Order shall be issued. However, no increase in the Contract Sum or Contract Time shall be allowed for such change unless the Contractor has acted promptly and responsively in submitting names as required. Notwithstanding the foregoing, the Contractor shall have a continuing duty to the Owner, Construction Manager and Architect to find and propose such persons or entities as shall not result in material increase in the Contract Sum, or a material decrease in the quality of Work contemplated under the Contract Documents.

§ 5.2.4 The Contractor shall not substitute a Subcontractor, person, or entity for one previously selected if the Owner, Construction Manager or Architect makes reasonable objection to such substitution. Any proposed substitution of a Subcontractor, person, or entity for one previously selected shall be made in a separate writing to the Owner, Construction Manager and Architect. No substitution shall be deemed approved/accepted without written

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confirmation from the Owner, Construction Manager and Architect. Neither acceptance of, nor objection to a Subcontractor or Sub-subcontractor, material supplier, or other person or organization by the Owner, Construction Manager and Architect shall limit the responsibility of the Contractor to furnish materials, products, equipment, and services in conformance with the requirements of the Contract Documents.

§ 5.3 Subcontractual Relations

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

§ 5.3.2 The Contractor is responsible for the performance of, the actions of, the timeliness of, or interference caused by, Subcontractors, Sub-subcontractors (of any tier), and others directly or indirectly under contract to the Contractor.

§ 5.4 Contingent Assignment of Subcontracts

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

.1 assignment is effective only after termination of the Contract by the Owner for cause pursuant to Section 14.2 and only for those subcontract agreements that the Owner accepts by notifying the Subcontractor and Contractor; and

.2 assignment is subject to the prior rights of the surety, if any, obligated under bond relating to the Contract.

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

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

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

ARTICLE 6 CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTORS

§ 6.1 Owner's Right to Perform Construction with Own Forces and to Award Other Contracts

§ 6.1.1 The Owner reserves the right to perform construction or operations related to the Project with the Owner's own forces, and with Separate Contractors retained under Conditions of the Contract substantially similar to those of this Contract, including those provisions of the Conditions of the Contract related to insurance and waiver of subrogation.

§ 6.1.2 When the Owner performs construction or operations with the Owner's own forces or Separate Contractors, the Owner shall provide for coordination of such forces and Separate Contractors with the Work of the Contractor, who shall cooperate with them.

§ 6.1.3 Unless otherwise provided in the Contract Documents, when the Owner performs construction or operations related to the Project with the Owner's own forces or with Separate Contractors, the Owner or its Separate Contractors

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shall have the same obligations and rights that the Contractor has under the Conditions of the Contract, including, without excluding others, those stated in Article 3, this Article 6, and Articles 10, 11, and 12.

§ 6.2 Mutual Responsibility

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

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

§ 6.2.3 Costs caused by delays or by improperly timed activities or defective construction shall be borne by the party responsible therefor.

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

§ 6.2.5 Claims and other disputes and matters in question between the Contractor and a separate contractor shall be subject to the provisions of Article 15 provided the separate contractor has reciprocal obligations.

§ 6.2.6 The Owner, Separate Contractors, and other Contractors shall have the same responsibilities for cutting and patching as are described for the Contractor in Section 3.14.

§ 6.3 Owner's Right to Clean Up

If a dispute arises among the Contractor, Separate Contractors, other Contractors, and the Owner as to the responsibility under their respective contracts for maintaining the premises and surrounding area free from waste materials and rubbish as described in Section 3.15, the Owner may clean up allocate the cost among those responsible as the Architect determines to be just..

ARTICLE 7 CHANGES IN THE WORK

§ 7.1 General

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

§ 7.1.2 A Change Order shall be based upon agreement among the Owner, Construction Manager, Architect and Contractor. A Construction Change Directive requires agreement by the Owner, Construction Manager and Architect and may or may not be agreed to by the Contractor.

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

§ 7.1.4 The amount of credit to be allowed by the Contractor to the Owner for any deletion or change which results in a net decrease in the Contract Sum will be the amount of the actual net cost as confirmed by the Architect after consultation with the Owner and Construction Manager. When both additions and credits covering related Work or

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substitutions are involved in any one change, the allowance for both overhead and profit shall be figured on the basis of the net increase or decrease, if any, with respect to that change.

§ 7.1.5 In Section 7.3.6, the allowance for the combined overhead and profit included in the total cost to the Owner shall be based on the following schedule:

.1 For the Contractor, for Work performed by the Contractor's own forces, ten percent (10%) of the cost;

.2 For the Contractor, for Work performed by the Contractor's Subcontractor, five percent (5%) of the amount due the Subcontractor;

.3 For each Subcontractor or Sub-subcontractor involved for Work performed by the Subcontractor's or Sub-subcontractor's own forces, ten percent (10%) of the cost;

.4 For each Subcontractor for Work performed by the Subcontractor's Sub-subcontractor, five percent (5%) of the amount due the Subcontractor;

.5 Costs to which overhead and profit is to be applied shall be determined in accordance with Section 7.3.6;

.6 In order to facilitate checking of quotations for extras or credits, all proposals, expect those so minor that their propriety can be seen by inspection, shall be accompanied by a complete itemization of costs, including labor, materials and subcontracts. Labor and materials shall be itemized in the manner prescribed above. Where major cost items are subcontracts, they shall be itemized also. In no case will a change involving over $500 be approved without such itemization.

§ 7.2 Change Orders and Change Proposals

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

.1 The change in the Work;

.2 The amount of the adjustment, if any, in the Contract Sum; and

.3 The extent of the adjustment, if any, in the Contract Time.

§ 7.2.2 Change Order shall be prepared on AIA Document G731.

§ 7.2.3 The Contractor must submit Change Proposals covering a contemplated Change Order within ten (10) days after request of the Owner, or the Architect or within ten (10) days of the event, or Contractor's discovery of a condition, whichever is earlier, giving rise to the Contractor's claim for a change in the Contract Sum or Contract Time. No increase in the Contract Sum or extension of the Contract Time will be allowed the Contractor for the cost or time involved in making Change Proposals. Change Proposals will define or confirm in detail the Work which is proposed to be added, deleted, or changed and must include any adjustment which the Contractor believes to be necessary in (i) the Contract Sum, or (ii) the Contract Time. Any proposed adjustment must include detailed documentation including, but not limited to: cost, properly itemized and supported by sufficient substantiating data to permit evaluation including cost of labor, materials, supplies and equipment, rental cost of machinery and equipment, additional bond cost, plus a fixed fee for profit and overhead (which includes office overhead and Site-specific overhead and general conditions) of ten percent (10%) if the Work is performed by the Contractor, or five percent (5%) if the Work is performed by a Subcontractor or Sub-subcontractor. The Subcontractor's or Sub-subcontractor's overhead and profit in turn must not exceed a total aggregate of ten percent (10%). Change Proposals will be binding upon the Contractor and may be accepted or rejected by the Owner in its discretion. The Owner may, at its option, instruct the Contractor through a Construction Change Directive to proceed with the Work involved in the Change Proposal in accordance with Section 7.3 without accepting the Change Proposal in its entirety.

§ 7.2.4 If the Owner determines that a Change Proposal is appropriate, the Architect will prepare and submit a request for a Change Order or Contract Amendment providing for an appropriate adjustment in the Contract Sum or Contract Time, or both, for further action by the Owner. No such change is effective until the Owner and Architect sign the Change Order.

§ 7.3 Construction Change Directives

§ 7.3.1 A Construction Change Directive is a written order prepared by the Construction Manager and signed by the Owner, Construction Manager and Architect, directing a change in the Work prior to agreement on adjustment, if any, in the Contract Sum or Contract Time, or both. The Owner may by Construction Change Directive, without

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invalidating the Contract, order changes in the Work within the general scope of the Contract consisting of additions, deletions, or other revisions, the Contract Sum and Contract Time being adjusted accordingly.

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

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

.1 Mutual acceptance of a lump sum properly itemized and supported by sufficient substantiating data to permit evaluation;

.2 Unit prices stated in the Contract Documents or subsequently agreed upon;

.3 Cost to be determined in a manner agreed upon by the parties and a mutually acceptable fixed or percentage fee; or

.4 As provided in Section 7.3.4.

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

.1 Costs of labor, including applicable payroll taxes, fringe benefits required by agreement or custom, workers' compensation insurance, and other employee costs approved by the Construction Manager and Architect;

.2 Costs of materials, supplies, and equipment, including cost of transportation, whether incorporated or consumed;

.3 Rental costs of machinery and equipment, exclusive of hand tools, whether rented from the Contractor or others (at rates approved by the Owner);

.4 Costs of premiums for all bonds and insurance, permit fees, and sales, use, or similar taxes, directly related to the change; and

.5 Costs of supervision and field office personnel directly attributable to the change.

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

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

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

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

§ 7.3.9 Pending final determination of the total cost of a Construction Change Directive to the Owner, the Contractor may request payment for Work completed under the Construction Change Directive in Applications for Payment up to and not exceeding $25,000. The Construction Manager and Architect will make an interim determination for purposes of monthly certification for payment for those costs and certify for payment the amount that the Construction Manager and Architect determine to be reasonably justified. The interim determination of cost shall adjust the Contract Sum on

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the same basis as a Change Order, subject to the right of either party to disagree and assert a Claim in accordance with Article 15.

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

§ 7.4 Minor Changes in the Work

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

ARTICLE 8 TIME

§ 8.1 Definitions

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

§ 8.1.2 The date of commencement of the Work is the date established in the Agreement. The date shall not be postponed by the failure to act of the Contractor or of persons or entities for whom the Contractor is responsible.

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

§ 8.1.4 The term "day" shall mean calendar day of 24 hours beginning at 12:00 midnight. Calendar days as stated in the Contract Documents, shall include all days of a seven (7) day week including Saturdays, Sundays, and holidays. The term "Milestone Date" is, in each instance, the date established in the Contract Documents for the Substantial completion of all or a designated portion of the Work.

§ 8.2 Progress and Completion

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

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

§ 8.2.3 The Contractor shall proceed expeditiously with adequate forces and shall achieve Substantial Completion within the Contract Time and shall achieve specific contractual Milestone Dates (if any), Substantial Completion and final Completion within the time stated in the Contract Documents.

§ 8.2.4 Contractor understands and agrees that all Work must be performed in an orderly and closely coordinated sequence so that the dates for Substantial Completion, Final Completion, and Milestone Dates (if any) may be met by the Contractor.

§ 8.2.5 Timely final completion of the Project is of critical importance to the Owner. The Contractor agrees that it shall substantially complete all Work under the Contract documents within the time established herein and that it shall finally complete the Work in the detail required and in the time required by the Contract Documents.

§ 8.2.6 To the extent that the Contract Documents contain or provide for specific contractual Milestone Dates in addition to Final and Substantial Completion dates, such dates shall be adhered to and shall be the last acceptable dates for those milestones and completions, unless modified by the Owner.

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§ 8.2.7 Notwithstanding anything to the contrary contained in the Contract Documents, in the event that any Contractor fails, or appears likely, in the reasonable opinion of the Owner and Construction Manager, to fail to complete a critical portion of their Work on time or to complete any dates for Substantial Completion, Final Completion, or Milestone Dates as evidenced by the latest update of the CPM Schedule Report, the Owner shall have the right to select and require Contractor's performance under any or all of the following operations:

.1 Require the Contractor to substantiate their capability to get back on schedule within two (2) days;

.2 Require the Contractor, at no additional cost to the Owner, to increase their work force, work overtime and/or extra shifts and do whatever else is required by the Owner until the Contractor gets back on schedule as established by the CPM Schedule Report (including any updates thereto);

.3 Withhold progress payments or portions thereof until such time as the contractor returns to schedule, but only related to Substantial Completion or Final Completion;

.4 Contact or visit the factory, plant, or distribution center whose production or delivery schedule may be critical to the scheduled completion of a portion of the contract work and expedite such production delivery at Contractor's expense; or

.5 Require the Contractor to complete, in detail, and submit weekly a Short Interval Schedule (SIS) showing: (1) planning for the next two weeks; (2) work completed for the previous week; (3) sufficient detail to evaluate daily milestone (if any) and manpower/equipment loading, and shall identify/tie into the monthly updated CPM Schedule Report.

Any costs incurred by the Contractor in fulfilling the option(s) selected by the Owner shall be at the Contractor's expense.

§ 8.3 Delays and Extensions of Time

§ 8.3.1 If the Contractor is delayed at any time in the progress of the Work by (1) an act or neglect of the Owner, Architect, Construction Manager, or an employee of any of them, or of the Owner's own forces, Separate Contractors, or other Contractors; (2) by changes ordered in the Work; (3) by labor disputes, fire, unusual delay in deliveries, unavoidable casualties, adverse weather conditions documented in accordance with Section 15.1.6.2, or other causes beyond the Contractor's control; or (4) by other causes that the Contractor asserts and the Architect, based on the recommendation of the Construction Manager, determines justify delay, then subject to the conditions hereinafter set forth, the Contract Time shall be extended by Change Order for such reasonable time as the Architect may determine. Requests for extensions of time for causes enumerated above will be considered by the Architect subject to the following:

.1 Only those conditions enumerated above over which the Contractor has no control will be considered. The burden of proof to substantiate the claim for an extension shall rest with the Contractor, including evidence that the cause was beyond their control. It shall be deemed the Contractor has control over the supply of labor, materials, equipment, methods, techniques, and over their Subcontractors and suppliers;

.2 In the event of Changes in the Work, any consideration for a time extension will be made only at the time of authorizing the changes, and no later than when the Change Order is prepared, and only if the Change Order significantly affects the time and progress of the entire Work. For changes which do not affect the entire Work, time extension may be granted only for the area, phase, unit, or element affected by the change, if due to a valid reason for a time extension;

.3 Any unusual delay in deliveries will not be considered unless it is solely due to transportation issues wholly outside of Contractor's, Subcontractor's, Sub-subcontractor's or Supplier's control. An extension of time will not be granted for delays in deliveries where said delivery was not properly scheduled or when orders were not promptly and properly placed;

.4 With respect to a claim for an extension of time as a result of climatic conditions, the Contractor shall recognize the location of the site and the existence, as normal, or variations from "average" conditions. Foul weather in itself will not be a valid reason for a time extension. Requests for time extensions because of delay resulting from weather extremes will not be considered unless a substantial variation from usual weather conditions occurs for a significant period of time, during phases of the Work when operation necessarily were suspended to a significant degree when they would otherwise have been in progress. In considering the time extension, the weather conditions both before and after the period in which the delay is claimed will be evaluated with credit given to Owner for unseasonably favorable weather;

.5 Delays resulting from a labor dispute will not result in a time extension of a longer period than the dispute, plus a reasonable time for mobilization if justified and necessary as approved by the

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Architect, and may be less depending on the impact of the dispute, including what operations were suspended or curtailed;

.6 No time extension will be granted as a result of improper scheduling or for failure to have shop drawings or samples submitted in ample time for review under a reasonable and agreed upon schedule; or

.7 Delays by Subcontractors or suppliers will not be considered justification for a time extension, except for the same valid reasons and conditions enumerated under Section 8.3.1.

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

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

§ 8.3.4 The Contractor shall be responsible for all Owner incurred costs associated with a Contractor related to delay in completion of the Project. These costs may include, but are not limited to, Owner staff overtime, Consultant additional fees, additional testing, and/or additional rental or storage costs. A Change Order or Construction Change Directive will be issued to cover these costs. If a Change Order is not agreed to by the Contractor, the Owner, after presenting documentation to the Contractor, may deduct these amounts without a Change Order from the Contract Sum.

ARTICLE 9 PAYMENTS AND COMPLETION

§ 9.1 Contract Sum

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

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

§ 9.2 Schedule of Values

Before the first Application for Payment, the Contractor shall submit to the Architect and Construction Manager a schedule of values allocated to various portions of the Work, prepared in the form, and supported by the data to substantiate its accuracy, required by the Construction Manager and the Architect. The schedule, unless objected to by the Construction Manager or Architect, shall be used as a basis for reviewing the Contractor's Applications for Payment. The Construction Manager shall forward to the Architect the Contractor's schedule of values. Any changes to the schedule of values shall be submitted to the Construction Manager and supported by such data to substantiate its accuracy as the Construction Manager and the Architect may require, and unless objected to by the Construction Manager or the Architect, shall be used as a basis for reviewing the Contractor's subsequent Applications for Payment. The Contractor, after receipt of Notice to Proceed, shall meet with the Owner, Construction Manager and the Architect for the purpose of reviewing the Project CPM Schedule and the Contract Schedule of Values. The Contractor shall develop a CPM Schedule for completing their portion of the Work, in conjunction with all other Contractors or Bid Packages, at the Pre-Construction Meeting(s). The Schedule of Values is to be broken down into specification sections and by labor and materials.

§ 9.3 Applications for Payment

§ 9.3.1 At least fifteen days before the date established for each progress payment, the Contractor shall submit to the Construction Manager an itemized Application for Payment for operations completed in accordance with the Schedule of Values. Such application shall be notarized and supported by all data substantiating the Contractor's right to payment that the Owner, Construction Manager or Architect require, such as copies of requisitions, and releases of waivers of lien from Subcontractors and material suppliers, and reflecting retainage if provided for elsewhere in the Contract Documents. The form of Application for Payment shall be a notarized AIA Document G732–2019, Application and Certificate for Payment, supported by AIA Document G703–1992, Continuation Sheet.

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

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§ 9.3.1.2 Such applications shall not include requests for payment of amounts the Contractor does not intend to pay a Subcontractor or supplier because of a dispute or other reason, unless such Work has been performed by others whom the Contractor intends to pay.

§ 9.3.1.3 Following certification of the Application for Payment by the Architect and Construction Manager, the Owner shall pay ninety-five percent (95%) of its value, retaining five percent (5%) until Final Completion.

§ 9.3.1.4 Contractor shall provide lien waivers for itself for the current payment application and for Subcontractors, Sub-subcontractors, and suppliers for the previous payment application before the Contractor has earned or has the right to receive payment for the specific items of work or materials covered by the lien waivers. All lien waivers shall be provided in the form required by the Owner. This Section 9.3.1.4 shall not limit other obligations of the Contractor contained elsewhere to provide lien waivers.

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

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

§ 9.3.4 In each Application for Payment, the Contractor shall certify as follows:

> "That there are no known mechanics' or materialmen's liens or stop notice claims outstanding by the application or any of its subcontractors of any tier, or any of the applicant's or subcontractor's material suppliers, or laborers at the date of this application, that all due and payable bills with respect to the Work have been paid or are included in the amount requested in current application, and that, except for such bills, not paid by Owner, but so included, there is no known basis for the filing of any mechanics' or materialmen's liens or stop notice claims on the Work, and that waivers from Contractor, its subcontractors of any tier, or any of the applicant's or subcontractor's material suppliers and laborers have been obtained in such form as to constitute an effective waiver of liens or stop notice claims, under the laws of the State of Minnesota to the extent of payments made by Owner to Contractor."

Notwithstanding the foregoing Section 9.3.4, Contractor acknowledges its obligation to provide a Payment Bond in accordance with the Contract Documents, and that Contractor's failure to pay any of its Subcontractors, Sub-subcontractors, suppliers, or laborers will be resolved through a claim under the Payment Bond.

§ 9.4 Certificates for Payment

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

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§ 9.4.2 Where there is more than one Contractor performing portions of the Project, the Construction Manager will, within seven days after the Construction Manager receives all of the Contractors' Applications for Payment: (1) review the Applications and certify the amount the Construction Manager determines is due each of the Contractors; (2) prepare a Summary of Contractors' Applications for Payment by combining information from each Contractor's application with information from similar applications for progress payments from the other Contractors; (3) prepare a Project Application and Certificate for Payment; (4) certify the amount the Construction Manager determines is due all Contractors; and (5) forward the Summary of Contractors' Applications for Payment and Project Application and Certificate for Payment to the Architect.

§ 9.4.2.1 Within seven days after the Architect receives the Project Application and Project Certificate for Payment and the Summary of Contractors' Applications for Payment from the Construction Manager, the Architect will either (1) issue to the Owner a Project Certificate for Payment, with a copy to the Construction Manager; or (2) issue to the Owner a Project Certificate for Payment for such amount as the Architect determines is properly due, and notify the Construction Manager and Owner of the Architect's reasons for withholding certification in part as provided in Section 9.5.1; or (3) withhold certification of the entire Project Application for Payment, and notify the Construction Manager and Owner of the Architect's reason for withholding certification in whole as provided in Section 9.5.1. The Construction Manager will promptly forward the Architect's notice of withholding certification to the Contractors.

§ 9.4.3 The Construction Manager's certification of an Application for Payment or, in the case of more than one Contractor, a Project Application and Certificate for Payment, shall be based upon the Construction Manager's evaluation of the Work and the data in the Application or Applications for Payment. The Construction Manager's certification will constitute a representation that, to the best of the Construction Manager's knowledge, information, and belief, the Work has progressed to the point indicated, the quality of the Work is in accordance with the Contract Documents, and that the Contractor is, or Contractors are, entitled to payment in the amount certified.

§ 9.4.4 The Architect's issuance of a Certificate for Payment or, in the case of more than one Contractor, Project Application and Certificate for Payment, shall be based upon the Architect's evaluation of the Work, the recommendation of the Construction Manager, and data in the Application for Payment or Project Application for Payment. The Architect's certification will constitute a representation that, to the best of the Architect's knowledge, information, and belief, the Work has progressed to the point indicated, the quality of the Work is in accordance with the Contract Documents, and that the Contractor is, or Contractors are, entitled to payment in the amount certified.

§ 9.4.5 The representations made pursuant to Sections 9.4.3 and 9.4.4 are subject to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, to results of subsequent tests and inspections, to correction of minor deviations from the Contract Documents prior to completion, and to specific qualifications expressed by the Construction Manager or Architect.

§ 9.4.6 The issuance of a Certificate for Payment or a Project Certificate for Payment will not be a representation that the Construction Manager or Architect has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work; (2) reviewed construction means, methods, techniques, sequences, or procedures; (3) reviewed copies of requisitions received from Subcontractors and suppliers and other data requested by the Owner to substantiate the Contractor's right to payment; or (4) made examination to ascertain how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

§ 9.5 Decisions to Withhold Certification

§ 9.5.1 The Construction Manager or Architect may withhold a Certificate for Payment or Project Certificate for Payment in whole or in part, to the extent reasonably necessary to protect the Owner, if in the Construction Manager's or Architect's opinion the representations to the Owner required by Section 9.4.3 and 9.4.4 cannot be made. If the Construction Manager or Architect is unable to certify payment in the amount of the Application, the Construction Manager will notify the Contractor and Owner as provided in Section 9.4.1 and 9.4.2. If the Contractor, Construction Manager and Architect cannot agree on a revised amount, the Architect will promptly issue a Certificate for Payment or a Project Certificate for Payment for the amount for which the Architect is able to make such representations to the Owner. The Construction Manager or Architect may also withhold a Certificate for Payment or, because of subsequently discovered evidence, may nullify the whole or a part of a Certificate for Payment or Project Certificate for Payment previously issued, to such extent as may be necessary in the Construction Manager's or Architect's opinion to protect the Owner from loss for which the Contractor is responsible, including loss resulting from the acts and omissions described in Section 3.3.2 because of

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

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

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

§ 9.5.4 If the Architect or Construction Manager withholds certification for payment under Section 9.5.1, the Owner may, at its sole option, issue joint checks to the Contractor and to any Subcontractor or supplier to whom the Contractor failed to make payment for Work properly performed or material or equipment suitably delivered. If the Owner makes payments by joint check, the Owner shall notify the Architect and the Construction Manager, and both will reflect such payment on the next Certificate for Payment.

§ 9.6 Progress Payments

§ 9.6.1 After the Architect has issued a Certificate for Payment or Project Certificate for Payment, the Owner shall make payment within thirty (30) days of receipt by Owner of Certificate of Payment in the manner and within the time provided in the Contract Documents, and shall so notify the Construction Manager and Architect.

§ 9.6.2 The Contractor shall pay each Subcontractor, no later than seven days after receipt of payment from the Owner, the amount to which the Subcontractor is entitled, reflecting percentages actually retained from payments to the Contractor on account of the Subcontractor's portion of the Work. The Contractor shall, by appropriate agreement with each Subcontractor, require each Subcontractor to make payments to Sub-subcontractors in a similar manner. Per Minnesota Statutes, Section 471.425, within ten (10) days of Contractor's receipt of payment from Owner, the Contractor must pay any Subcontractor for any undisputed services provided by the Subcontractor. The Contractor shall pay interest of one and one-half percent (1-1/2%) per month, or any part of a month, to the Subcontractor on any undisputed amount not paid on time to the subcontractor. The minimum monthly interest penalty payment for an unpaid balance of $100 or more is $10.00. For an unpaid balance of less than $100, the Contractor shall pay the actual interest penalty due to the Subcontractor. Contractor is advised that by reason of Minnesota Statutes, Section 471.425, subd. 4a, if a Subcontractor prevails in a civil action to collect interest penalties from a prime contractor, the Subcontractor must be awarded its costs and disbursements, including attorneys' fees incurred in bringing the action.

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

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

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

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

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

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

§ 9.7 Failure of Payment

If the Construction Manager and Architect do not issue a Certificate for Payment or a Project Certificate for Payment, through no fault of the Contractor, within fourteen days after the Construction Manager's receipt of the Contractor's Application for Payment, or if the Owner does not pay the Contractor within thirty (30) days after the date established in the Contract Documents, the amount certified by the Construction Manager and Architect then the Contractor may, upon ten (10) additional days' notice to the Owner, Construction Manager and Architect, stop the Work until payment of the amount owing has been received. The Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable costs of shutdown, delay and start-up which shall be accomplished as provided in Article 7.

§ 9.8 Substantial Completion

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

§ 9.8.2 When the Contractor considers that the Work, or a portion thereof which the Owner agrees to accept separately, is substantially complete, the Contractor shall notify the Construction Manager, and the Contractor and Construction Manager shall jointly prepare and submit to the Architect a comprehensive list of items to be completed or corrected. The Contractor shall proceed promptly to complete and correct items on the list. Failure to include an item on such list does not alter the responsibility of the Contractor to complete all Work in accordance with the Contract Documents. Upon receipt of the Contractor's list, the Architect, assisted by the Construction Manager, will make an inspection to determine whether the Work or designated portion thereof is substantially complete. If the Architect's inspection discloses any item, whether or not included on the Contractor's list, which is not in accordance with the requirements of the Contract documents, the Contractor shall, before issuance of the Certificate of Substantial Completion, complete or correct such item, upon notification by the Architect. The Contractor shall then submit a request for another inspection by the Architect, assisted by the Construction Manager, to determine Substantial Completion. When the Work or designated portion thereof is substantially complete, the Architect will prepare a Certificate of Substantial Completion which shall establish the date of Substantial Completion, shall establish responsibilities of the Owner and Contractor for security, maintenance, heat, utilities, damage to the Work and insurance, and shall fix the time within which the Contractor shall finish all items on the list accompanying the Certificate. Warranties required by the Contract Document shall commence on the date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion.

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

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

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

§ 9.8.6 Upon Substantial completion of the Work or designated portion thereof and upon application by the Contractor and certification by the Architect, the Owner shall make payment, reflecting adjustment in retainage, pursuant to Minnesota Statutes, Section 15.72, for such Work or portion thereof as provided in the Contract Documents.

§ 9.8.7 The Architect, assisted by the Construction Manager, shall make one (1) inspection for Substantial Completion and Final Completion in accordance with the AIA Document B101–2017 Owner Architect Agreement. If additional inspections are required due to the Contractor's failure to complete previously listed corrective or uncompleted work, the Architect's expense for conducting such re-inspections and related time in processing, reviewing, and revision of requirements shall be charged to the Contractor and such payment shall be accomplished by a deductive Change Order to the Contractor.

§ 9.9 Partial Occupancy or Use

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

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

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

§ 9.10 Final Completion and Final Payment

§ 9.10.1 Upon completion of the Work, the Contractor shall forward to the Construction Manager a notice that the Work is ready for final inspection and acceptance, and shall also forward to the Construction Manager a final Contractor's Application for Payment. Upon receipt, the Construction Manager shall perform an inspection to confirm the completion of Work of the Contractor. The Construction Manager shall make recommendations to the Architect when the Work of all of the Contractors is ready for final inspection, and shall then forward the Contractors' notices and Application for Payment or Project Application for Payment, to the Architect, who will promptly make such inspection. When the Architect finds the Work acceptable under the Contract Documents and the Contract fully performed, the Construction Manager and Architect will promptly issue a final Certificate for Payment or Project Certificate for Payment stating that to the best of their knowledge, information and belief, and on the basis of their observations, on-site visits and inspections, the Work has been completed in accordance with the Contract Documents

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and that the entire balance found to be due the Contractor and noted in the final Certificate is due and payable. The Construction Manager's and Architect's final Certificate for Payment or Project Certificate for Payment will constitute a further representation that conditions listed in Section 9.10.2 as precedent to the Contractor's being entitled to final payment have been fulfilled.

§ 9.10.2 Neither final payment nor any remaining retained percentage shall become due until the Contractor submits to the Architect through the Construction Manager (1) an affidavit that payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which the Owner or the Owner's property might be responsible or encumbered (less amounts withheld by Owner) have been paid or otherwise satisfied, (2) a certificate evidencing that insurance required by the Contract Documents to remain in force after final payment is currently in effect and will not be cancelled or allowed to expire until at least (60) days' prior written notice has been given to the Owner, (3) a written statement that the Contractor knows of no reason that the insurance will not be renewable to cover the period required by the Contract Documents, (4) consent of surety, if any, to final payment (5) documentation of any special warranties, such as manufacturers' warranties or specific Subcontractor warranties, including a summary listing all applicable warranties both standard and extended, itemized by specification section and included at the front of the Operation and Maintenance manuals, and (6) other data establishing payment or satisfaction of obligations, such as receipts and releases and waivers of liens, claims, security interests, or encumbrances arising out of the Contract, to the extent and in such form as may be designated by the Owner. If a Subcontractor refuses to furnish a release or waiver required by the Owner, the Contractor may furnish a bond satisfactory to the Owner to indemnify the Owner against such lien, claim, security interest, or encumbrance. If a lien, claim, security interest, or encumbrance remains unsatisfied after payments are made, the Contractor shall refund to the Owner all money that the Owner may be compelled to pay in discharging the lien, claim, security interest, or encumbrance, including all costs and reasonable attorneys' fees.

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

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

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

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

§ 9.11 Damages for Delay

§ 9.11.1 The Contractor shall be responsible for damages incurred by the Owner and any other separate contractors for delay resulting from the Contractor's failure to complete the Work within the contract Time or resulting from the progress of the Work failing to substantially conform to the Project Construction Schedule. These damages are not included in liquidated damages and represent additional direct costs incurred by the Owner for the delay. These damages may include Owner incurred costs for temporary classrooms, temporary facilities, moving of programs, etc.

ARTICLE 10 PROTECTION OF PERSONS AND PROPERTY

§ 10.1 Safety Precautions and Programs

§ 10.1.1 The Contractor shall be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the performance of the Contract. The Contractor shall submit the Contractor's safety program to the Construction Manager for review and coordination with the safety programs of other Contractors. The Construction Manager's responsibilities for review and coordination of safety programs shall not extend to direct control over or charge of the acts or omissions of the Contractors, Subcontractors, agents or employees of the

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Contractors or Subcontractors, or any other persons performing portions of the Work and not directly employed by the Construction Manager.

§ 10.1.2 The Contractor shall comply with all applicable laws and regulations. Notwithstanding any language to the contrary, the Owner shall not have any responsibility for job site inspections or safety recommendations. Any inspections or observations by the Owner, Construction Manager or the Architect are solely for the benefit of the Owner and shall not create any duties or obligations to anyone else.

§ 10.2 Safety of Persons and Property

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

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

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

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

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

§ 10.2.5 The Contractor shall promptly remedy damage and loss (other than damage or loss insured under property insurance required by the Contract Documents) to property referred to in Sections 10.2.1.2, 10.2.1.3 and 10.2.1.4 caused in whole or in part by the Contractor, a Subcontractor, a Sub-subcontractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable and for which the Contractor is responsible under Sections 10.2.1.2, 10.2.1.3 and 10.2.1.4. The Contractor may make a Claim for the cost to remedy the damage or loss to the extent such damage or loss is attributable to acts or omissions of the Owner, Construction Manager or Architect or anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable, and not attributable to the fault or negligence of the Contractor. The foregoing obligations of the Contractor are in addition to the Contractor's obligations under Section 3.18.

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

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

§ 10.2.8 Injury or Damage to Person or Property

If either party suffers injury or damages to person or property because of an act or omission of the other party, of any of the other party's employees or agents, or of others for whose acts such party is legally responsible, notice of the injury or damage, whether or not insured, shall be given to the other party within a reasonable time not exceeding ten (10) days after first observance. The notice shall provide sufficient detail to enable the other party to investigate the matter. If a Claim for additional cost or time related to this Claim is to be asserted, it shall be filed as provided in Sections 15.1.4 and 15.1.5.

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§ 10.3 Hazardous Materials

§ 10.3.1 In the event the Contractor encounters on the site material reasonably believed to be asbestos or polychlorinated biphenyl (PCB) which has not been rendered harmless, the Contractor shall immediately stop Work in the area affected and report the condition to the Owner, Construction Manager and Architect in writing. The Work in the affected area shall not thereafter be resumed except by written agreement of the Owner and Contractor if in fact the material is asbestos or polychlorinated biphenyl (PCB) and has not been rendered harmless. The Work in the affected area shall be resumed in the absence of asbestos or polychlorinated biphenyl (PCB), or when it has been rendered harmless, by written agreement of the Owner and Contractor.

.1 Except where otherwise stated in the Contract Documents, no hazardous material work of any nature shall be performed by the Contractor pursuant to this Contract.

.2 The term "hazardous materials" includes, but is not limited to, asbestos, toxic chemicals, acids, alkalis, irritants, contaminants, or other pollutants, together with any other waste, material, substance, pollutants, or contaminant, all or a portion of which is or would be designated as hazardous waste or substance under applicable local, state, or federal laws, ordinances, codes, rules, or regulations.

§ 10.3.2 To the fullest extent permitted by law, the Owner shall indemnify and hold harmless the Contractor, Construction Manager, Architect, their consultants, and agents and employees of any of them from and against claims, damages, losses, and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work on Owner's property if in fact the material is asbestos or polychlorinated biphenyl (PCB) and has not been rendered harmless, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), including loss of use resulting therefrom, but only to the extent caused in whole or in part by negligent acts or omissions of the Owner, anyone directly or indirectly employed by the Owner, or anyone for whose acts the Owner may be liable, regardless of whether or not such claim, damage, loss, or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity which would otherwise exist as to a party or person described in this Subparagraph 10.3.2.

§ 10.3.3 If reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a material or substance encountered on the site by the contractor, the Contractor shall, upon recognizing the condition, immediately stop Work on Owner's property and report the condition to the Owner, Construction Manager and Architect in writing. The Owner, Construction Manager, Contractor, and Architect shall then proceed in the same manner described in Subparagraph 10.3.1.

(Paragraph deleted)

§ 10.3.5 The Contractor shall reimburse the Owner for the cost and expense the Owner incurs (1) for remediation of hazardous materials or substances the Contractor brings to the site and negligently handles, or (2) where the Contractor fails to perform its obligations under Section 10.3.1, except to the extent that the cost and expense are due to the Owner's fault or negligence. Owner shall be responsible for obtaining the services of a licensed laboratory to verify a presence or absence of the material or substance reported by the Contractor and, in the event such material or substance is found to be present, to verify that it has been rendered harmless.

§ 10.3.6 Regulations concerning the availability of information and employee training in the use and handling of "hazardous substances" and "harmful physical agents", as set forth in the Employee Right-to-Know Act of 1983, Minnesota Statutes, Sections 182.65 to 182.676 are incorporated herein by reference as if fully set forth herein.

§ 10.3.7 The Contractor shall furnish three Material Safety Data Sheets to the Owner for each material used in the Work that is classified by the Employee Right-to-Know Act of 1983 as a "hazardous substance" or a "harmful physical agent."

§ 10.3.8 The Contractor shall label, in generally accepted and/or standardized fashion, all containers on the work site containing "hazardous substances" or as "harmful physical agents." This shall include factory containers and all subsequent containers used in the Work.

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§ 10.4 Emergencies

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

ARTICLE 11 INSURANCE AND BONDS

§ 11.1 Contractor's Insurance and Bonds

§ 11.1.1 The Contractor shall purchase and maintain insurance of the types and limits of liability, containing the endorsements, and subject to the terms and conditions, as described in the Agreement, in EXH-C Owner Insurance or elsewhere in the Contract Documents. The Contractor shall purchase and maintain the required insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located and which carry a Best's rating of A- or higher or are otherwise acceptable to the Owner. The Owner, Construction Manager and Construction Manager's consultants, and the Architect and Architect's consultants, shall be named as additional insureds under the Contractor's commercial general liability policy or as otherwise described in the Contract Documents.

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

§ 11.1.3 Upon the request of any person or entity appearing to be a potential beneficiary of bonds covering payment of obligations arising under the Contract, the Contractor shall promptly furnish a copy of the bonds or shall authorize a copy to be furnished. The Contractor shall furnish Certificates of Insurance acceptable to the Owner which shall specifically set forth evidence of all coverage required by Article 11 and EXH-C Owner Insurance and shall be filed with the Owner and Construction Manager prior to commencement of the Work and thereafter upon renewal or replacement of each required policy of insurance.

The Contractor shall not allow insurance required by this Agreement to lapse, be canceled, reduced in limits or coverage, non-renewed, or materially changed or have restrictive modifications added during the life of this Agreement, including the periods of required coverage. The Contractor shall furnish to the Owner and Construction Manager copies of any endorsements that are subsequently issued amending coverage and limits.

If any of the foregoing insurance coverages are required to remain in force after final payment and are reasonably available, all additional certificates evidencing continuation of such coverage shall be submitted with the final Application for Payment. Information concerning reduction of coverage shall be furnished by the Contractor with reasonable promptness in accordance with the Contractor's information and belief.

§ 11.1.3.1 Acceptable insurance certificates are AIA Document G705, CICC of Minnesota Form 701, and/or ACORD form of the American Insurance Institute.

Failure of the Owner to collect certificates does not void the requirements to obtain insurance.

The acceptance of any certificate of insurance by the Owner shall not relieve or decrease the liability of the Contractor hereunder. It is to be understood the Owner, Construction Manager and Architect do not in any way represent that the insurance specified in these articles are sufficient or adequate to protect the Contractor's interest or liabilities, but are merely minimum requirements.

The Contractor shall furnish to the Owner copies of any endorsements that are subsequently issued amending coverage and limits.

§ 11.1.4 In the event the Contractor fails to procure or maintain any insurance coverage required under this Agreement, the Owner may purchase such coverage and deduct the cost thereof from any monies due to the Contractor, or terminate this Agreement under Paragraph 14.2. The Contractor shall be liable to the Owner for providing all coverage, defense, and payments that would have been provided by any insurance that the Contractor failed to procure and maintain as required by the Contract Documents.

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§ 11.1.5 Compliance by the Contractor with the foregoing insurance requirements shall not relieve it from liability for amounts in excess of the limits of insurance.

§ 11.1.6 The Contractor and any of its Subcontractors, Sub-subcontractors, agents and employees, and any separate contractors described in Article 6, if any, and any of their subcontractors, sub-subcontractors, agents and employees shall waive any of their subrogation rights on their Workers Compensation Policy in favor of the Owner, Construction Manager and Architect. The policies shall provide such waivers of subrogation by endorsement or otherwise. A waiver of subrogation shall be effective as to a person or entity even though that person or entity would otherwise have a duty of indemnification, contractual, or otherwise, did not pay the insurance premium directly or indirectly, and whether or not the person or entity had an insurable interest.

§ 11.2 Owner's Insurance

§ 11.2.1 The Owner shall purchase and maintain insurance of the types and limits of liability, containing the endorsements, and subject to the terms and conditions, as described in the Agreement or elsewhere in the Contract Documents. The Owner shall purchase and maintain the required insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The Owner may self-insure and maintain the Owner's usual liability insurance. Optionally, the Owner may purchase and maintain other insurance for self-protection against claims which may arise from operations under the Contract. The Contractor shall not be responsible for purchasing and maintaining this optional Owner's liability insurance unless specifically required by the Contract Documents.

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

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

§ 11.3 Waivers of Subrogation

§ 11.3.1 The Owner and Contractor waive all rights against (1) each other and any of their subcontractors, sub-subcontractors, agents, and employees, each of the other; (2) the Construction Manager and Construction Manager's consultants; (3) the Architect and Architect's consultants; (4) other Contractors and any of their subcontractors, sub-subcontractors, agents, and employees; and (5) Separate Contractors, if any, and any of their subcontractors, sub-subcontractors, agents, and employees, for damages caused by fire, or other causes of loss, to the extent those losses are covered by property insurance required by the Agreement or other property insurance applicable to the Project, except such rights as they have to proceeds of such insurance. The Owner or Contractor, as appropriate, shall require similar written waivers in favor of the individuals and entities identified above from the Construction Manager, Construction Manager's consultants, Architect, Architect's consultants, other Contractors,

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Separate Contractors, subcontractors, and sub-subcontractors. The policies of insurance purchased and maintained by each person or entity agreeing to waive claims pursuant to this Section 11.3.1 shall not prohibit this waiver of subrogation. This waiver of subrogation shall be effective as to a person or entity (1) even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, (2) even though that person or entity did not pay the insurance premium directly or indirectly, or (3) whether or not the person or entity had an insurable interest in the damaged property.

(Paragraph deleted)

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

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

§ 11.5 Adjustment and Settlement of Insured Loss

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

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

§ 11.6 Bonds

§ 11.6.1 Contractor shall furnish a Performance Bond and a Payment Bond to the Owner in the amount of one hundred percent (100%) of the Contract Sum and issued by a Surety Company authorized to do business in the State of Minnesota, rated "A" or better, and approved by the Owner. The Performance Bond shall be in accordance with Minnesota Statutory requirements, and shall be in the form included in the Project Manual. The Bonds shall allow for any additions or deductions to the Contract Sum.

§ 11.6.2 In order to be acceptable as a surety, Contractor's bonding company bust hold a "Certificate of Authority acceptable to the U.S. Treasury Department and be listed in the Department's current publication of "Bond Qualifiers" with underwriting limitations not less than ten percent (10%) above the Contract Sum.

§ 11.6.3 The surety of the Bonds shall be by a corporate surety company authorized to do business in the state in which Work is being performed under this Contract and acceptable to the Owner. The conditions of the bonds shall meet requirements of the statutes of the state where Work is being performed and all other applicable provisions of state law.

§ 11.6.4 The Contractor shall furnish two (2) originals of the Bonds to the Owner, with copies to the Architect and Construction Manager, within ten (10) days after notification of award and before execution of the Contract. Failure to do so shall constitute a violation of terms of the proposal and provide grounds for forfeiture of bid security.

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ARTICLE 12 UNCOVERING AND CORRECTION OF WORK

§ 12.1 Uncovering of Work

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

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

§ 12.2 Correction of Work

§ 12.2.1 Before Substantial Completion

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

§ 12.2.2 After Substantial Completion

(Paragraphs deleted)

§ 12.2.2.1 If within one year after the date of Substantial Completion of the Work or designated portion thereof, or after the date for commencement of warranties established under Section 9.9.1, or by terms of any applicable special warranty required by the Contract Documents, any of the Work is found to be not in accordance with the requirements of the Contract Documents, the Contractor shall correct it promptly (and any other property damaged or removed in effecting the correction) after receipt of notice from the Owner, Construction Manager or Architect to do so, unless the Owner has previously given the Contractor a written acceptance of such condition. The Owner, Construction Manager or Architect shall give such notice promptly after discovery of the condition. This period of one year shall be extended with respect to portions of Work first performed after Substantial completion by the period of time between Substantial completion and the actual performance of the Work. This obligation under this Subparagraph 12.2.2.1 shall survive acceptance of the Work under the contract and termination of the Contract. The Owner, Construction Manager or Architect shall give such notice promptly after discovery of the condition. The expiration of the above one year or any other specified time period, or any other period prescribed by the law, shall not relieve the Contractor of the obligation form the expense to correct any latent defect in the work or deficiencies which are not readily ascertained, including but not limited to, defective materials and quality of work performed, defects attributable to material substitutions for special materials, substandard performance or otherwise not in compliance with the Contract Documents. Such latent defects or deficiencies shall be corrected as provided in this Paragraph 12.2. Following the correction or replacement of any of the Work, as above specified, the Contractor shall correct any defects or deficiencies in the corrected or replaced materials and workmanship which is found within one year after the date of correction or replacement.

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

§ 12.2.4 If the Contractor fails to correct nonconforming Work within a reasonable time, the Owner may correct it in accordance with Paragraph 2.4. If the Contractor does not proceed with correction of such nonconforming Work within a reasonable time fixed by written notice from the Architect or Construction Manager, the Owner may correct or remove it and store the salvageable materials or equipment all at the Contractor's expense. If the Contractor does not pay costs of such removal and storage within ten (10) days after written notice, the Owner may upon ten (10) additional days' written notice sell such materials and equipment at auction or at private sale and shall account for the proceeds thereof, after deducting costs and damages that should have been borne by the Contractor, the Contract Sum shall be reduced by the deficiency. If payments then or thereafter due the Contractor are not sufficient to cover such amount, the Contractor shall pay the difference to the Owner.

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

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

§ 12.3 Acceptance of Nonconforming Work

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

ARTICLE 13 MISCELLANEOUS PROVISIONS

§ 13.1 Governing Law

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

§ 13.2 Successors and Assigns

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

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

§ 13.3 Rights and Remedies

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

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

§ 13.4 Tests and Inspections

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

§ 13.4.2 If the Construction Manager, Architect, Owner, or public authorities having jurisdiction determine that portions of the Work require additional testing, inspection, or approval not included under Section 13.4.1, the Construction Manager and Architect will, upon written authorization from the Owner, instruct the Contractor to make arrangements for such additional testing, inspection, or approval, by an entity acceptable to the Owner, and the

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Contractor shall give a minimum of two (2) working days' notice to the Construction Manager and Architect of when and where tests and inspections are to be made so that the Construction Manager and Architect may observe procedures. The Owner shall bear such costs, except as provided in Section 13.4.3.

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

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

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

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

§ 13.5 Interest

All payments to the Contractor shall be governed by the Prompt Payment of Local Government Bills, Minnesota Statutes, Section 471.125 ("Prompt Payment Act") and Article 5 of the A132–2019 Agreement on this Project.

§ 13.6 Non-Discrimination

§ 13.6.1 All contracts between the Owner and companies providing goods and services under the Contract Documents shall contain the following equal opportunity and civil right clause:

> "During the performance of this Agreement, the provider agrees to the following: No contractor, material supplier, vendor, or other person shall on the basis of sex, race, creed, color, religion, national origin, age, marital status, sexual orientation, or disability be excluded from full employment rights in, participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program, service, or activity under the provisions of any and all applicable Federal and State laws against discrimination, including the Minnesota Human Rights Act and the Civil Rights Act of 1964."

Upon request, the Contractor shall furnish all information and reports required by the Owner, or by the rules and regulations of investigation to ascertain compliance with all applicable rules and regulations. The Contractor shall also comply with any applicable licensing requirements of the Minnesota Department of Human Services in employment of personnel.

The Contractor acknowledges that the violation of the above-stated paragraph is a misdemeanor pursuant to Minnesota Statutes, Section 181.59.

This Agreement may be cancelled or terminated by the Owner or any other person authorized to grant the contracts for employment under this Agreement, and all money due, or to become due under this Agreement may be forfeited for a second or any subsequent violation of the non-discriminatory terms stated above.

§ 13.6.2 During the completion of the work and all other services required by the Contract Documents, the Contractor agrees that no contractor, material supplier, vendor, or other person shall, on the basis of sex, race, creed, color, religion, national origin, age, marital status, sexual orientation, or disability be excluded from full employment rights in participation in, be denied the benefits of, or be otherwise subjected to discrimination under the provisions of any and all applicable Federal and State laws against discrimination, including the Minnesota Human Rights Act and the Civil Rights Act of 1964. Upon request, the Architect, Construction Manager and Contractor shall furnish all information and reports required by the Owner, or by the rules and regulations of investigation to ascertain compliance with all applicable rules and regulations. The Contractor shall also comply with any applicable licensing requirements of the Minnesota Department of Human Services in employment of personnel.

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Contractor acknowledges that the violation of the above-states paragraph is a misdemeanor pursuant to Minnesota Statutes Section 181.59.

The Contract Documents may be cancelled or terminated by the Owner or any other person authorized to grant the contracts for employment under this Agreement, and all money due, or to become due under the Agreement may be forfeited for a second or any subsequent violation of the non-discriminatory terms stated above.

§ 13.7 No action or failure to act by the Owner shall constitute a waiver of a right or duty afforded the Owner under the Contract Documents, nor shall such action or failure to act constitute approval of or acquiescence of the Owner in a breach of the Contract Documents, except as may be specifically agreed in writing. None of the approval of any Application for Payment, the making of any payment, the giving of any approval or consent, the use or occupancy of the Work, or any part thereof, the making of final payment, or any other action or inaction on the part of the Owner, Construction Manager or Architect shall constitute a waiver of claims by or rights of the Owner or an acceptance of any Work that is not in accordance with the Contract Documents. The Contractor shall not be relieved from its obligations to perform the Work in accordance with the Contract Documents either by the activities or duties of the representations of the Owner, Construction Manager or Architect, or by inspections, tests, or approvals required or performed by the Owner, Construction Manager or Architect or anyone else.

ARTICLE 14 TERMINATION OR SUSPENSION OF THE CONTRACT

§ 14.1 Termination by the Contractor

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

.1 Issuance of an order of a court or other public authority having jurisdiction that requires all Work to be stopped;

.2 An act of government, such as a declaration of national emergency, that requires all Work to be stopped;

.3 Because the Construction Manager has not certified or the Architect has not issued a Certificate for Payment and has not notified the Contractor of the reason for withholding certification as provided in Section 9.4, or because the Owner has not made payment on a Certificate for Payment within the time stated in the Contract Documents; or

.4 The Owner has failed to furnish to the Contractor reasonable evidence as required by Section 2.2.

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

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

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

§ 14.1.5 No Right to Stop Work for Non-Payment

The Contractor has no right to stop Work as a consequence of non-payment. In the event of any disagreement between the Contractor and Owner involving the Contractor's entitlement to payment, the Contractor's only remedy is to file a Claim in accordance with Article 15. The Contractor must diligently proceed with the Work pending resolution of the Claim. If, however, an Application for Payment has been approved for payment by the Owner, and the Owner fails to make payment within sixty (60) days of the approval for payment by the Owner, the Contractor may upon ten (10)

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days written notice to the Owner, stop work if payment is not made by the Owner within ten (10) days following the notice.

§ 14.2 Termination by the Owner for Cause

§ 14.2.1 The Owner may terminate the Contract if the Contractor

.1 repeatedly refuses or fails to supply enough properly skilled workers or proper materials;

.2 fails to make payment to Subcontractors or suppliers in accordance with the respective agreements between the Contractor and the Subcontractors or suppliers;

.3 repeatedly disregards applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of a public authority; or

.4 otherwise is guilty of substantial breach of a provision of the Contract Documents.

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

.1 Exclude the Contractor from the site and take possession of all materials, equipment, tools, and construction equipment and machinery thereon owned by the Contractor;

.2 Accept assignment of subcontracts pursuant to Section 5.4; and

.3 Finish the Work by whatever reasonable method the Owner may deem expedient. Upon written request of the Contractor, the Owner shall furnish to the Contractor a detailed accounting of the costs incurred by the Owner in finishing the Work.

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

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

§ 14.3 Suspension by the Owner for Convenience

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

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

.1 that performance is, was, or would have been, so suspended, delayed, or interrupted, by another cause for which the Contractor is responsible; or

.2 that an equitable adjustment is made or denied under another provision of this Contract.

§ 14.4 Termination by the Owner for Convenience

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

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

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

.2 take actions necessary, or that the Owner may direct, for the protection and preservation of the Work; and

.3 except for Work directed to be performed prior to the effective date of termination stated in the notice, terminate all existing subcontracts and purchase orders and enter into no further subcontracts and purchase orders.

(Paragraph deleted)

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ARTICLE 15 CLAIMS AND DISPUTES

§ 15.1 Claims

§ 15.1.1 Definition. A Claim is a demand or assertion by the Contractor seeking, as a matter of right, payment of money, a change in the Contract Time, or other relief with respect to the terms of the Contract. The responsibility to substantiate Claims shall rest with the Contractor. Nothing in this paragraph 15.1.1 is intended to apply to or in any way limit the Owner's right to make Claims related to or arising out of the Contract. This Section 15.1.1 does not require the Owner to file a Claim in order to impose liquidated damages in accordance with the Contract Documents.

§ 15.1.2 Time Limits on Claims

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

§ 15.1.3 Notice of Claims

§ 15.1.3.1 Claims by Contractor, where the condition giving rise to the Claim is first discovered prior to expiration of the period for correction of the Work set forth in Section 12.2.2, shall be initiated by written notice to the Owner and to the Initial Decision Maker with a copy sent to the Construction Manager and Architect, if the Architect is not serving as the Initial Decision Maker. Claims by the Contractor under this Section 15.1.3.1 shall be initiated within ten (10) days after occurrence of the event giving rise to such Claim or within ten (10) days after the Contractor first recognizes the condition giving rise to the Claim, whichever is later. Any additional Claim made after and relating to the initial Claim has been implemented by Change Order will not be considered unless submitted in a timely manner. As a condition to making a claim for additional costs, the Contractor shall maintain and produce accurate records to substantiate all additional costs actually incurred. If a Claim for actual costs is approved, the Owner shall pay the Contractor actual costs incurred, plus either (a) ten percent (10%) for overhead and profit for work performed by the Contractor, or (b) five percent (5%) overhead and profit for work performed by a Subcontractor, as applicable.

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

§ 15.1.4 Continuing Contract Performance

§ 15.1.4.1 Pending final resolution of a Claim, except as otherwise agreed in writing or as provided in Section 9.7 and Article 14, the Contractor shall proceed diligently with performance of the Contract and the Owner shall continue to make payments in accordance with the Contract Documents. Subject to Paragraph 15.1.5, no such continuing performance by the Contractor, nor payment by the Owner shall be deemed a waiver of, or to otherwise impair any such Claim.

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

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

§ 15.1.6 Claims for Additional Time

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

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

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(Paragraphs deleted)

§ 15.2 Initial Decision

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

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

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

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

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

§ 15.2.6 In the event of a Claim against the Contractor, the Owner may, but is not obligated to notify the surety, if any, of the nature and amount of the Claim. If the Claim relates to a possibility of a Contractor's default, the Owner may, but is not obligated to notify the surety and initiate a Claim on the performance bond.

(Paragraphs deleted)

§ 15.3 Mediation

§ 15.3.1 Any claim, dispute or other matter in question or arising out of or related to the Contract shall be subject to mediation. Mediation is not a condition precedent to commencing litigation, but if litigation is commenced before mediation is held, the Parties agree to mediate before any dispositive motions or trial.

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

(Paragraphs deleted)

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1500 James Avenue, Minneapolis, MN 55411

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Kraus-Anderson Construction Company
501 South 8th Street, Minneapolis, MN 55404

...

Minneapolis Public Schools Special School District #1
1250 West Broadway Avenue
Minneapolis, MN 55411

...

LSE Architects 1401 Glenwood Avenue
Minneapolis, MN 55405

PAGE 3

§ 1.1.1.1 Notwithstanding the foregoing, it is understood and agreed that the Owner is an intended third-party beneficiary of all contracts between the Contractor and Subcontractors or suppliers who provide labor and/or materials for the Work.

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§ 1.1.10 Initial Decision Maker. The Initial Decision Maker is the person identified in the Agreement to render initial decisions on Claims in accordance with Section 15.2. The ~~Initial Decision Maker shall not show partiality to the Owner or Contractor and shall not be liable for results of interpretations or decisions rendered in good faith.~~Architect will serve as the Initial Decision Maker pursuant to Section 15.2 of AIA Document A232–2019.

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

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

...

§ 1.4.1 In the case of inconsistency between Drawings and Specifications or within Contract Documents not clarified by Addenda, the better quality or greater quantity of Work shall be provided in accordance with the Architect's interpretation.

§ 1.5.1 The Architect and the Architect's consultants shall be deemed the authors and owners of their respective Instruments of Service, including the Drawings and Specifications, and retain all common law, statutory, and other reserved rights in their Instruments of Service, including copyrights. The Contractor, Subcontractors, sub-subcontractors, and suppliers shall not own or claim a copyright in the Instruments of Service. Submittal or distribution to meet official regulatory requirements or for other purposes in connection with the Project is not to be construed as publication in derogation of the Architect's or Architect's consultants' reserved rights. The Owner retains rights to the Instruments of Service pursuant to Article 7 of AIA Document B101-2017.

...

§ 1.5.3 The Architect shall furnish to the Contractor a version of the Instruments of Service in electronic form for the sole purpose of the construction of the Project for which the Instruments of Service were created.

PAGE 5

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

...

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

...

§ 2.1.1 The Owner is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The Owner shall designate in writing a representative who shall have express authority to bind the Owner with respect to all matters requiring the Owner's approval or ~~authorization.~~ authorization in accordance with Owner's Delegation of Authority Policy, a copy of which will be provided at Contractor's request. Except as otherwise provided in Section 4.2.1, the Construction Manager and the Architect do not have such authority. The term "Owner" means the Owner or the Owner's authorized representative.

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

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

§ 2.3.6 The Owner shall furnish information or services required of the Owner by the Contract Documents with reasonable promptness. The Owner shall also furnish any other information or services under the Owner's control and relevant to the Contractor's performance of the Work with reasonable promptness after receiving the Contractor's written request for such information or services. The Contractor is responsible for the timeliness of, or interference caused by, Subcontractors, Sub-subcontractors (of any tier), and others directly or indirectly under contract to the Contractor.

...

If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within a ~~ten-day~~ three-business-day (3) period after receipt of notice from the Owner to commence and continue correction of such default or neglect with diligence and promptness, the Owner may, without prejudice to other remedies the Owner may have, correct such default or neglect. Such action by the Owner and amounts charged to the Contractor are both subject to review by the Construction Manager and prior approval of the Architect, and the Construction Manager or Architect may, pursuant to Section 9.5.1, withhold or nullify a Certificate for Payment in whole or in part, to the extent reasonably necessary to reimburse the Owner for the reasonable cost of correcting such deficiencies, including Owner's expenses and compensation for the Construction Manager's and Architect's and their respective consultants' additional services and expenses made necessary by such default, neglect, or failure. If current and future payments are not sufficient to cover such amounts, the Contractor shall pay the difference to the ~~Owner.~~ Owner within ten (10) days following written request for payment delivered by the Owner to the Contractor. If the Contractor disagrees with the actions of the Owner or the Architect, or the amounts claimed as costs to the Owner, the Contractor may file a Claim pursuant to Article 15.

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§ 3.1.3 The Contractor shall ~~not be relieved of its obligations to perform the Work in accordance with the Contract Documents either by activities or duties of the Construction Manager or Architect in their administration of the Contract, or by tests, inspections or approvals required or performed by persons or entities other than the Contractor.~~hire a professional utilities locator to investigate and verify all private utility locations prior to excavation and cutting into of existing Work. The Contractor is responsible for locating, terminating, and reinstallation of all private utilities. Private site utilities may not be in the Drawings and Project Manual and as such, verification of private utilities is the sole responsibility of the Contractor. Costs associated with moving and repairing of unknown and undocumented utilities will be by appropriate Change Order. The Contractor shall comply with Gopher State One Call, or other public utility service locator to locate all public utilities prior to any work on the site. This shall not relieve Contractor from obligations under Article 3.

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

...

§ 3.2.1 ~~Execution of the Contract by the Contractor is a representation that the Contractor has visited the site, become generally~~ The Contractor shall carefully study and compare the Contract Documents with each other and with information furnished by the Owner pursuant to Section 2.2.3, and shall immediately report to the Architect and Construction Manager errors, inconsistencies, or omissions discovered. The Contractor shall not be liable to the Owner or Architect for damage resulting from errors, inconsistencies, or omissions in the Contract Document unless the Contractor recognized such error, inconsistency, or omission and knowingly failed to report it to the Architect. If the Contractor performs any construction activity knowing or believing it involves a recognized error, inconsistency, or omission in the Contract Documents without such notice to the Architect, the Contractor shall assume full responsibility for such performance and shall bear the attributable costs for correction and shall bear responsibility for any additional costs, delays, and damages resulting from such failure to immediately report any such errors,

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inconsistencies, or omissions which the Contractor may discover. By executing the Contract, the Contractor represents that the Contractor has reviewed and understands the Contract Documents, has visited the Site and is familiar with local conditions under which the Work is to be performed, ~~and correlated personal observations with requirements of the Contract Documents.~~has correlated personal observations with the requirements of the Contract Documents, and has notified the Architect of and obtained clarification of any discrepancies which have become apparent during the bidding or proposal period.

§ 3.2.1.1 The Contractor shall take field measurements and verify field conditions and shall carefully compare such field measurements and conditions and other information known to the Contractor with the Contract Documents before commencing activities. Errors, inconsistencies, or omissions discovered shall be reported to the Architect immediately in writing.

§ 3.2.1.2 The Contractor shall carefully study and compare the Contract Documents with existing conditions at the job site and shall immediately report in writing to the Architect any error, inconsistency, or omission which the Contractor may discover or any materials, systems, procedures, or methods of construction, either shown on the Drawings or specified, which the Contractor has reason to believe are incorrect, inadequate, obsolete, unsuitable for the purpose intended or which the Contractor has reason to believe would constitute or result in a violation of the Contractor's warranty under Section 3.5 or applicable law. The Contractor shall not proceed with any work in such areas until written instructions are received from the Architect.

§ 3.2.2 ~~Because the Contract Documents are complementary, the Contractor shall, before starting each portion of the Work, carefully study and compare the various Contract Documents relative to that portion of the Work, as well as the information furnished by the Owner pursuant to Section 2.3.5, shall take field measurements of any existing conditions related to that portion of the Work, and shall observe any conditions at the site affecting it. These obligations are for the purpose of facilitating coordination and construction by the Contractor and are not for the purpose of discovering errors, omissions, or inconsistencies in the Contract Documents; however, the Contractor shall promptly report to the Construction Manager and Architect any errors, inconsistencies or omissions discovered by or made known to the Contractor as a request for information submitted to the Construction Manager in such form as the Construction Manager and Architect may require. It is recognized that the Contractor's review is made in the Contractor's capacity as a contractor and not as a licensed design professional, unless otherwise specifically provided in the Contract Documents.~~The Contractor shall perform the Work in accordance with the Contract Documents and submittals accepted pursuant to Section 3.12.

§ 3.2.3 The ~~Contractor is not required to ascertain that the Contract Documents are in accordance with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, but the Contractor shall promptly report to the Construction Manager and Architect any nonconformity discovered by or made known to the Contractor as a request for information submitted to Construction Manager in such form as the Construction Manager and Architect may require.~~Owner shall be entitled to deduct from the Contract Sum amounts paid to the Architect for the Architect to evaluate and respond to the Contractor's requests for interpretation or information where such information was available to the Contractor from a careful study and comparison of the Contract Documents, Filed Conditions, Owner Provided Information, Contractor Prepared Coordination Drawings, or prior Project Correspondence or Documentation.

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§ 3.2.4 If the Contractor believes that ~~additional cost or time is involved because of clarifications or instructions the Architect issues in response to the Contractor's notices or requests for information pursuant to Sections 3.2.2 or 3.2.3, the Contractor shall submit Claims as provided in Article 15. If the Contractor fails to perform the obligations of Sections 3.2.2 or 3.2.3, the Contractor shall pay such costs and damages to the Owner, subject to section 15.1.7, as would have been avoided if the Contractor had performed such obligations. If the Contractor performs those obligations, the Contractor shall not be liable to the Owner or Architect for damages resulting from errors, inconsistencies or omissions in the Contract Documents, for differences between field measurements or conditions and the Contract Documents, or for nonconformities of the Contract Documents to applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities.~~any portions of the Contract Documents do not comply with applicable laws, statutes, ordinances, building codes, and rules and regulations, or any orders by code enforcement officials or the Owner or its designees acting in the capacity of building code inspectors or Referenced Standards, the Contractor must promptly notify the Owner and the Architect of the non-compliance as provided in Section 3.2.6 and request direction before proceeding with the affected Work.

§ 3.2.5 The Contractor must promptly notify the Owner and the Architect in writing of any apparent errors, inconsistencies, omissions, ambiguities, construction impracticalities or code violations discovered as a result of the Contractor's review of the Contract Documents including any differences between actual and indicated dimensions, locations and descriptions, and must give the Owner and the Architect timely notice in writing of same and of any corrections, clarifications, additional Drawings or Specifications, or other information required to define the Work in greater detail or to permit the proper progress of the Work. The Contractor must provide similar notice with respect to any variance between its review of the Site and physical data and Site conditions observed.

§ 3.2.6 If the Contractor performs any Work involving an apparent error, inconsistency, ambiguity, construction impracticality, omission or code violation in the Contract Documents of which the Contractor is aware, or which could reasonably have been discovered by the review required by Section 3.2, without prompt written notice to the Owner and the Architect and request for correction, clarification or additional information, as appropriate, the Contractor does so at its own risk and expense and all Claims relating thereafter are specifically waived.

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§ 3.3.4 The Contractor shall at all times staff the Project adequately to allow the Project to be managed and completed in a timely and professional manner. The Contractor shall have competent supervision on the job during work hours and readily available at all times upon call.

§ 3.3.5 The Contractor shall at all times make reasonable provisions to protect any Work performed by any separate contractors, adjacent property, and the existing building (if any) from damage due to the Work or due to the weather.

§ 3.3.6 The Owner or its approved representative (heretofore referred to as Owner's Representative) shall have access to the Work site and all Work. No supervision or inspection by the Owner or the Owner's Representative, nor the authority to act, nor any other actions taken by the Owner's Representative shall relieve the Contractor of any of its obligations under the Contract Documents or give rise to any duty on the part of the Owner.

§ 3.3.7 The Contract shall take appropriate precautions to ensure that the Work does not materially disrupt any ongoing operation by the Owner at the Project (if any) except to the extent any such disruption is a necessary result of performing a particular portion of the Work, in which case the Contractor shall provide the Owner with reasonable advanced written notice and shall take all commercially reasonable measures to minimize the impact on the Owner and the Owner's operations.

§ 3.4.1 Unless otherwise provided in the Contract Documents, the Contractor shall provide and pay for labor, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation, and other facilities and services necessary for proper execution and completion of the Work, whether temporary or permanent and whether or not incorporated or to be incorporated in the Work. Should the Contract Documents require Work to be performed after regular working hours or should the Contractor elect to perform Work after regular working hours, the additional cost of such Work shall be borne by the Contractor.

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§ 3.4.4 The Contractor shall be responsible for all additional costs incurred to incorporate into the Project substitute materials, products, or equipment approved by Owner during the bidding period.

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§ 3.4.5 In the event of a Change related to substitute or additional materials, and which shall comply with Article 7, the Contractor shall exercise reasonable efforts, consistent with the provisions of the Contract Documents to obtain the maximum available case discounts on all materials, provided that, in doing so, the Contractor shall not accept or use materials for incorporation into the Project which are of a type or quality not reasonably contemplated under the terms of the Contract Documents.

§ 3.4.6 After award of the Contract, a request for substitution of a material, product, or piece of equipment at no change in the Contract Sum will not be approved by the Owner or the Architect, unless the specified item is no longer manufactured, the specified item is unavailable as a result of an act of government such as a declaration of a national emergency, or delivery of the specified items is substantially delayed as a result of labor disputes affecting the manufacturer, unusual delay in transportation, or any other cause beyond control of the Contractor or a Subcontractor or material supplier which the Architect determines justified the delay. Requests will not be approved where the delay in delivery results from failure to promptly place subcontracts and material orders. Requests for substitution shall be submitted in writing to the Architect and shall clearly describe the proposed substitution, state the reason for the unavailability of a specified item and be accompanied by such additional data and information as may be necessary in the discretion of the Owner and the Architect to establish the acceptability of the proposed substitute.

§ 3.4.7 The Owner shall be entitled to deduct from the Contract Sum amounts paid to the Architect to evaluate the Contractor's proposed Substitutions and for changes made to the Contract Documents as a result of Owner's acceptance of such Substitutions.

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§ 3.5.2 All material, equipment, or other special warranties required by the Contract Documents shall be issued in the name of the Owner, or shall be transferable to the Owner, and shall commence in accordance with Section 9.8.4. The Contractor shall arrange for the Owner to have the benefit of and right to enforce all warranties by Subcontractors, Sub-subcontractors, suppliers, and manufacturers.

§ 3.5.3 Manufacturers' warranties and warranties by other shall not relieve the Contractor of any of its responsibilities.

§ 3.5.4 The Contractor's general warranty and any additional or special warranties are not limited by the Contractor's obligations to specifically correct defective or nonconforming Work as provided in Article 12, nor are they limited by any other remedies provided in the Contract Documents. The Contractor shall also be liable for any damage to property or persons (including death) including consequential and direct damages relating to any breach of the Contractor's general warranty or any additional or special warranties required by the Contract Documents.

§ 3.5.5 The Contractor must furnish all special warranties required by the Contract Documents to the Owner no later than Substantial Completion. The Owner may require additional special warranties in connection with the approval of "Or-Equals" or Substitutions, Allowance items, Work that is defective or nonconforming, or the acceptance of nonconforming Work pursuant to Article 12.

...

§ 3.7.1 Unless otherwise provided in the Contract Documents, the Owner, assisted by the Construction Manager, shall secure and pay for the building permit. The Contractor shall secure and pay for other permits, fees, licenses, and inspections by government agencies necessary for proper execution and completion of the Work that are customarily secured after execution of the Contract and legally required at the time bids are received or negotiations concluded. The Contractor shall be responsible for the Sewer Access (SAC) and Water Access (WAC) fees for the Project. The Contractor shall pay the SAC/WAC costs to the authorities having jurisdiction from the Allowance in the Base Bid for such charges as defined in the Construction Documents.

...

§ 3.7.3 If the Contractor performs Work knowing or believing it to be contrary to applicable laws, statutes, ordinances, building codes, rules and regulations, or lawful orders of public authorities, without such notice to the Architect and Owner, the Contractor shall assume ~~appropriate~~ full responsibility for such Work and shall bear the ~~costs attributable~~

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~~to correction.~~attributable costs, delays, and damages resulting from such failure to immediately notify the Architect and Owner of any such violation..

§ 3.7.4 Concealed or Unknown Conditions. If the Contractor encounters conditions at the site that are (1) subsurface or otherwise concealed physical conditions that differ materially from those indicated in the Contract Documents or (2) unknown physical conditions of an unusual nature that differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents, the Contractor shall promptly provide notice to the Owner, Construction Manager, and the Architect before conditions are disturbed and in no event later than ~~14~~ ten (10) days after first observance of the conditions. The Architect and Construction Manager will promptly investigate such conditions and, if the Architect, in consultation with the Construction Manager, determines that they differ materially and cause an increase or decrease in the Contractor's cost of, or time required for, performance of any part of the Work, will recommend that an equitable adjustment be made in the Contract Sum or Contract Time, or both. If the Architect, in consultation with the Construction Manager, determines that the conditions at the site are not materially different from those indicated in the Contract Documents and that no change in the terms of the Contract is justified, the Architect shall promptly notify the Owner, Construction Manager, and Contractor, stating the reasons. If the Owner or Contractor disputes the Architect's determination or recommendation, either party may submit a Claim as provided in Article 15.

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§ 3.9.1 The Contractor shall employ a competent superintendent and necessary assistants who shall be in attendance at the Project site during performance of the ~~Work.~~ Work, including that performed by all Subcontractors. The superintendent shall represent the Contractor, and communications given to the superintendent shall be as binding as if given to the Contractor. Important communications including and not limited to communications regarding design changes, alterations, substitutions, clarifications, cost changes, etc. shall be confirmed in writing by the Contractor. Other communications shall be similarly confirmed on written request in each case.

...

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

§ 3.9.4 If requested by the Owner, the Contractor shall replace the superintendent at no additional cost to the Owner. No other change in this position shall be made without notice to and written consent of the Owner.

...

§ 3.10.1 The Contractor, promptly after being awarded the Contract, shall submit for the Owner's and Architect's information, and the Construction Manager's use in developing the Project schedule, a Contractor's construction schedule for the Work. The schedule shall contain detail appropriate for the Project, including (1) the date of commencement of the Work, interim schedule milestone dates, critical path schedule milestones, major construction milestones, including and not limited to Civil, Demolition, Structural, Mechanical, Electrical, and Plumbing, and the date of Substantial Completion; (2) an apportionment of the Work by construction activity; and (3) the time required for completion of each portion of the Work. The schedule shall provide for the orderly progression of the Work to completion and shall not exceed time limits current under the Contract Documents. The schedule shall be revised at appropriate intervals as required by the conditions of the Work and Project. The Contractor shall cooperate with the Construction Manager in scheduling and performing the Contractor's Work to avoid conflict with, and as to cause no delay in, the work or activities of other Contractors, or the construction or operations of the Owner's own forces or Separate Contractors.

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§ 3.10.4 The Contractor shall perform the Work in general accordance with the most recent schedules submitted to and accepted in writing by the Owner, Construction Manager, and Architect, and incorporated into the approved Project schedule.

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~~The Contractor shall make available, at the Project site, the Contract Documents, including Change Orders, Construction Change Directives, and other Modifications, in good order and marked currently to indicate field changes and selections made during construction, and the approved Shop Drawings, Product Data, Samples, and similar required submittals. These shall be in electronic form or paper copy, available to the Construction Manager, Architect, and Owner, and delivered to the Construction Manager for submittal to the Owner upon completion of the Work as a record of the Work as constructed.~~**§ 3.11.1** The Contractor shall make available, at the Project site, one record copy of the Contract Documents, including Change Orders, Construction Change Directives, and other Modifications, in good order and updated daily to indicate field changes and selections made during construction, and in addition accepted and approved Shop Drawings, Product Data, Samples, and similar required submittals. These shall be in electronic form or paper copy, available to the Construction Manager, Architect, and Owner as required to complete routine inspections by Architect, Construction Manager and Owner prior to any approval of payments to the Contractor, and delivered to the Construction Manager for submittal to the Owner upon completion of the Work. The Architect and Contractor must verify that all "as-built" Drawings, Specifications, Addenda, Change Orders, and other Modifications are up-to-date before Contractor's Application for Payment is acceptable and before the Owner incurs any duty to pay Contractor in accordance with the Contract. The record documents shall be a separate set of documents labeled "Record Documents" and used only for record purposes and kept clean and undamaged.

§ 3.11.2 No review or receipt of such records by the Architect or Owner shall be considered a waiver of any deviation from the Contract Documents or approved shop drawings, or any way relieve the Contractor from its responsibility to perform the Work in accordance with the Contract Documents.

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§ 3.12.5 The Contractor shall review for compliance with the Contract Documents, approve, and submit to the Construction Manager, Shop Drawings, Product Data, Samples, and similar submittals required by the Contract Documents, in accordance with the Project submittal schedule approved by the Construction Manager and Architect or, in the absence of an approved Project submittal schedule, with reasonable promptness and in such sequence as to cause no delay in the Work or in the activities of other Contractors, Separate Contractors, or the Owner's own forces. The Contractor shall cooperate with the Construction Manager in the coordination of the Contractor's Shop Drawings, Product Data, Samples, and similar submittals with related documents submitted by other Contractors. The Contractor must provide the Owner and the Architect with copies of all submittals made to regulatory agencies.

...

§ 3.12.7 The Contractor shall perform no portion of the Work for which the Contract Documents require submittal and review of Shop Drawings, Product Data, Samples, or similar submittals, until the respective submittal has been reviewed and ~~approved by the Architect.~~accepted by the Architect. The Contractor must correct at its cost, and without any adjustment in Contract Time, any Work the correction of which is required due to the Contractor's failure to obtain approval of a submittal required to have been obtained prior to proceeding with the Work, including, but not limited to, correction of any conflicts in the Work resulting from such failure.

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

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

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§ 3.13.3 Except as may be specifically provided in the Contract Documents, the Contractor shall provide all necessary temporary facilities, including power, water, sanitation, scaffolding, storage, and security. If Owner makes any such

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facilities available to Contractor, it is without representation or warranty as to their adequacy for Contractor's use, and Contractor shall indemnify, defend, and hold Owner harmless from and against any claims arising out of Contractor's use of such facilities.

...

§ 3.14.2 The Contractor shall not damage or endanger a portion of the Work or fully or partially completed construction of the Owner, Separate Contractors, or of other Contractors by cutting, patching, or otherwise altering such construction, or by excavation. The Contractor shall not cut or otherwise alter construction by the Owner, Separate Contractors, or by other Contractors except with written consent of the Construction Manager, Owner, and such other Contractors or Separate Contractors. Consent shall not be unreasonably withheld. The Contractor shall hire a professional utilities locator to verify locations of all public and private utilities prior to initiating any cutting work. The Contractor shall not unreasonably withhold, from the Separate Contractors, other Contractors, or the Owner, its consent to cutting or otherwise altering the Work.

...

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

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§ 3.18.1 To the fullest extent permitted by law, the Contractor shall ~~indemnify~~ indemnify, defend and hold harmless the Owner, Construction Manager, Architect, Construction Manager's and Architect's consultants, and agents and employees of any of them from and against claims, damages, losses, and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), but only to the extent caused by the negligent acts or omissions of the Contractor, a Subcontractor, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss, or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity ~~that~~ which would otherwise exist as to a party or person described in this Section 3.18. The Contractor, furthermore, agrees to obtain, maintain, and pay for such general liability coverage and endorsements (including product and completed operations coverage) as will ensure the provisions of this Section 3.18.1. The Contractor agrees to reimburse the Owner, its agents and employees for all costs and disbursements, including attorneys' fees, paid or incurred to enforce the provisions of this Section 3.18.1.

...

§ 3.18.3 To the fullest extent permitted by law and without limiting any other indemnification obligations of the Contractor, except to the extent caused by the uncured failure of the Owner to make payment when due and owing, the Contractor shall indemnify and defend the Owner, its officers, directors, assigns, lenders, agents, and employees from any liens, charges (including attorneys' fees) or encumbrances (including but not limited to mechanic's and materialmen's liens or bond claims) arising out of or in connection with the performance of the Work by Contractor, its Subcontractors, or its material suppliers. Upon request of the Owner, the Contractor shall within sixty (60) days remove any liens filed against the Owner or its property. If the Contractor fails to do so, the Owner is authorized by the Contractor to remove or satisfy any such liens, and the Contractor shall pay to the Owner all costs and damages incurred by the Owner to do so, including attorneys' fees.

...

§ 4.2.1 The Construction Manager and Architect will provide administration of the Contract as described in the Contract Documents and will be the Owner's ~~representatives during construction until the date the Architect issues the final Certificate for Payment.~~ consultants (1) during construction; (2) until final payment is due; and (3) with the

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Owner's concurrence, from time to time during the correction period described in Section 12.2. The Architect and Construction Manager will advise and consult with the Owner. The Construction Manager and Architect will have authority to act on behalf of the Owner only to the extent provided in the Contract ~~Documents.~~Documents, unless otherwise modified in writing in accordance with other provisions of the Contract.

§ 4.2.2 The Architect will visit the site at intervals appropriate to the stage of construction, or as otherwise agreed with the Owner, to become generally familiar with the progress and quality of the ~~portion of the Work completed,~~ Work completed, to endeavor to guard the Owner against defects and deficiencies in the Work, and to determine in general if the Work ~~observed~~ is being performed in a manner indicating that the Work, when ~~fully~~ completed, will be in accordance with the Contract Documents. However, the Architect will not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. On the basis of the site visits, the Architect will keep the Owner and the Construction Manager reasonably informed about the progress and quality of the portion of the Work completed, and promptly report to the Owner and Construction Manager known deviations from the Contract Documents and defects and deficiencies observed in the Work.

§ 4.2.2.2 The Contractor shall reimburse the Owner for compensation paid to the Architect for additional site visits made necessary by fault, neglect, or request of the Contractor.
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§ 4.2.6 Communications. The Owner shall communicate with the Contractor and the Construction Manager's consultants through the Construction Manager about matters arising out of or relating to the Contract Documents. The Owner and Construction Manager shall include the Architect in all communications that relate to or affect the Architect's services or professional responsibilities. The Owner shall promptly notify the Architect of the substance of any direct communications between the Owner and the Construction Manager otherwise relating to the Project. Communications by and with the Architect's consultants shall be through the Architect. Communications by and with Subcontractors and suppliers shall be through the Contractor. Communications by and with other Contractors shall be through the Construction Manager. Communications by and with the Owner's own forces and Separate Contractors shall be through the ~~Owner.~~ Owner unless otherwise provided. The Contract Documents may specify other communication protocols. The Owner may require the Architect, Construction Manager and the Contractor to comply with Owner requirements in regards to public communications and site signage.

...

§ 4.2.8 The Architect and Construction Manager have authority to reject Work that does not conform to the Contract Documents, and will notify each other about the rejection. Whenever the Construction Manager considers it necessary or ~~advisable,~~ advisable for implementation of the intent of the Contract Documents, the Construction Manager will have authority to require additional inspection or testing of the Work in accordance with Sections 13.4.2 and 13.4.3, upon written authorization of the Owner, whether or not the Work is fabricated, installed or completed. The foregoing authority of the Construction Manager will be subject to the provisions of Sections 4.2.18 through 4.2.20 inclusive, with respect to interpretations and decisions of the Architect. However, neither the Architect's nor the Construction Manager's authority to act under this Section 4.2.8 nor a decision made by either of them in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect or the Construction Manager to the Contractor, Subcontractors, suppliers, their agents or employees, or other persons performing any of the Work.
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§ 4.2.11 The Architect ~~will~~ will, and the Owner may, review and approve, or take other appropriate action upon, the Contractor's submittals such as Shop Drawings, Product Data, and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Architect's ~~action will be taken in accordance with the submittal schedule approved by the Architect or, in the absence of an approved submittal schedule, with reasonable promptness~~ or Owner's action will be taken with such reasonable promptness as to cause no delay in the Work or in the activities of the Owner, Contractor or separate contractors, while allowing sufficient time in the Architect's professional judgment to permit adequate review. Upon the Architect's or the Owner's completed review, the Architect shall transmit its submittal review to the Construction Manager.
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§ 4.2.18 The Architect will interpret and decide matters concerning performance ~~under, and~~ under the requirements of, the Contract Documents on written request of the Construction Manager, Owner, or Contractor through the Construction Manager. The Architect's response to such requests will be made ~~in writing within any time limits agreed upon or otherwise with reasonable promptness.~~ with reasonable promptness and within any time limits agreed upon. If no agreement is made concerning the time within which interpretations required of the Architect shall be furnished in compliance with this Section 4.2.18, then delay shall not be recognized on account of failure by the Architect to furnish such interpretations until fifteen (15) days after written request is made to them.

§ 4.2.19 ~~Interpretations and decisions of the Architect will be consistent with the intent of, and reasonably inferable from, the Contract Documents and will be in writing or in the form of drawings. When making such interpretations and decisions, the Architect will endeavor to secure faithful performance by both Owner and Contractor, will not show partiality to either, and will not be liable for results of interpretations or decisions so rendered in good faith.~~Architect's decisions on matters relating to aesthetic effect will be final if consistent with the intent expressed in the Contract Documents.

§ 4.2.20 ~~The Architect's decisions on matters relating to aesthetic effect will be final if consistent with the intent expressed in the Contract Documents.~~Architect will review and respond to requests for information about the Contract Documents. The Architect's response to such requests will be made in writing within any time limits agreed upon or otherwise with reasonable promptness. If appropriate, the Architect will prepare and issue supplemental Drawings and Specifications in response to the requests for information.

~~**§ 4.2.21** The Construction Manager will receive and review requests for information from the Contractor, and forward each request for information to the Architect, with the Construction Manager's recommendation. The Architect will review and respond in writing, through the Construction Manager, to requests for information about the Contract Documents. The Construction Manager's recommendation and the Architect's response to each request will be made in writing within any time limits agreed upon or otherwise with reasonable promptness. If appropriate, the Architect will prepare and issue supplemental Drawings and Specifications in response to the requests for information.~~

...

§ 5.2.1 Unless otherwise stated in the Contract Documents, the Contractor, as soon as practicable after award of the Contract, shall notify in writing the Construction Manager, for review by the Owner, Construction Manager and Architect, of the persons or entities proposed for each principal portion of the Work, including those who are to furnish materials or equipment fabricated to a special design. Within 14 days of receipt of the information, the Construction Manager may notify the Contractor whether the Owner, the Construction Manager or the Architect (1) has reasonable objection to any such proposed person or entity or, (2) requires additional time for review. Failure of the Construction Manager to provide notice within the 14-day period shall constitute notice of no reasonable objection. The Contractor shall not employ any Subcontractor or use any material to which the Architect, Construction Manager or Owner may object. Prior to the employment of any Subcontractor, the Contractor must obtain the Owner's approval of such Subcontractor for the designated portion of the Work.

...

§ 5.2.3 If the Owner, Construction Manager or Architect has reasonable objection to a person or entity proposed by the Contractor, the Contractor shall propose another to whom the Owner, Construction Manager or Architect has no reasonable objection. ~~If the proposed but rejected Subcontractor was reasonably capable of performing the Work, the Contract Sum and Contract Time~~ The Contract Sum shall be increased or decreased by the ~~difference, if any,~~ difference in cost occasioned by such change, and an appropriate Change Order shall be ~~issued before commencement of the substitute Subcontractor's Work.~~ issued. However, no increase in the Contract Sum or Contract Time shall be allowed for such change unless the Contractor has acted promptly and responsively in submitting names as required. Notwithstanding the foregoing, the Contractor shall have a continuing duty to the Owner, Construction Manager and Architect to find and propose such persons or entities as shall not result in material increase in the Contract Sum, or a material decrease in the quality of Work contemplated under the Contract Documents.

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§ 5.2.4 The Contractor shall not substitute a Subcontractor, person, or entity for one previously selected if the Owner, Construction Manager or Architect makes reasonable objection to such substitution. Any proposed substitution of a Subcontractor, person, or entity for one previously selected shall be made in a separate writing to the Owner, Construction Manager and Architect. No substitution shall be deemed approved/accepted without written confirmation from the Owner, Construction Manager and Architect. Neither acceptance of, nor objection to a Subcontractor or Sub-subcontractor, material supplier, or other person or organization by the Owner, Construction Manager and Architect shall limit the responsibility of the Contractor to furnish materials, products, equipment, and services in conformance with the requirements of the Contract Documents.

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~~By appropriate written agreement, the Contractor shall require each Subcontractor, to the extent of the Work to be performed by the Subcontractor, to be bound to the Contractor by terms of the Contract Documents, and to assume toward the Contractor all the obligations and responsibilities, including the responsibility for safety of the Subcontractor's Work, that the Contractor, by these Contract Documents, assumes toward the Owner, Construction Manager and Architect. Each subcontract agreement shall preserve and protect the rights of the Owner, Construction Manager and Architect under the Contract Documents with respect to the Work to be performed by the Subcontractor so that subcontracting thereof will not prejudice such rights, and shall allow to the Subcontractor, unless specifically provided otherwise in the subcontract agreement, the benefit of all rights, remedies, and redress against the Contractor that the Contractor, by the Contract Documents, has against the Owner. Where appropriate, the Contractor shall require each Subcontractor to enter into similar agreements with Sub-subcontractors. The Contractor shall make available to each proposed Subcontractor, prior to the execution of the subcontract agreement, copies of the Contract Documents to which the Subcontractor will be bound, and, upon written request of the Subcontractor, identify to the Subcontractor terms and conditions of the proposed subcontract agreement that may be at variance with the Contract Documents. Subcontractors will similarly make copies of applicable portions of such documents available to their respective proposed Sub-subcontractors.~~**§ 5.3.1** By appropriate written agreement, the Contractor shall require each Subcontractor, to the extent of the Work to be performed by the Subcontractor, to be bound to the Contractor by terms of the Contract Documents, and to assume toward the Contractor all the obligations and responsibilities, including the responsibility for safety of the Subcontractor's Work, that the Contractor, by these Contract Documents, assumes toward the Owner, Construction Manager and Architect. Each subcontract agreement shall preserve and protect the rights of the Owner, Construction Manager and Architect under the Contract Documents with respect to the Work to be performed by the Subcontractor so that subcontracting thereof will not prejudice such rights, and shall allow to the Subcontractor, unless specifically provided otherwise in the subcontract agreement, the benefit of all rights, remedies, and redress against the Contractor that the Contractor, by the Contract Documents, has against the Owner. Where appropriate, the Contractor shall require each Subcontractor to enter into similar agreements with Sub-subcontractors. The Contractor shall make available to each proposed Subcontractor, prior to the execution of the subcontract agreement, copies of the Contract Documents to which the Subcontractor will be bound, and, upon written request of the Subcontractor, identify to the Subcontractor terms and conditions of the proposed subcontract agreement that may be at variance with the Contract Documents. Subcontractors shall similarly make copies of applicable portions of such documents available to their respective proposed Sub-subcontractors.

§ 5.3.2 The Contractor is responsible for the performance of, the actions of, the timeliness of, or interference caused by, Subcontractors, Sub-subcontractors (of any tier), and others directly or indirectly under contract to the Contractor.

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

§ 6.2.3 ~~The Contractor shall reimburse the Owner for costs the Owner incurs, including costs that are payable to a Separate Contractors or to other Contractors, because of the Contractor's delays, improperly timed activities or~~

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~~defective construction. The Owner shall be responsible to the Contractor for costs the Contractor incurs because of delays, improperly timed activities, damage to the Work or defective construction by the Owner's own forces, Separate Contractors, or other Contractors.~~Costs caused by delays or by improperly timed activities or defective construction shall be borne by the party responsible therefor.

...

§ 6.2.5 ~~The Owner, Separate Contractors, and other Contractors shall have the same responsibilities for cutting and patching as are described for the Contractor in Section 3.14.~~Claims and other disputes and matters in question between the Contractor and a separate contractor shall be subject to the provisions of Article 15 provided the separate contractor has reciprocal obligations.

§ 6.2.6 The Owner, Separate Contractors, and other Contractors shall have the same responsibilities for cutting and patching as are described for the Contractor in Section 3.14.

...

If a dispute arises among the Contractor, Separate Contractors, other Contractors, and the Owner as to the responsibility under their respective contracts for maintaining the premises and surrounding area free from waste materials and ~~rubbish, the Owner may clean up and the Construction Manager, with notice to the Architect, will allocate the cost among those responsible.~~rubbish as described in Section 3.15, the Owner may clean up allocate the cost among those responsible as the Architect determines to be just..

...

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

...

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

§ 7.1.5 In Section 7.3.6, the allowance for the combined overhead and profit included in the total cost to the Owner shall be based on the following schedule:

.1 For the Contractor, for Work performed by the Contractor's own forces, ten percent (10%) of the cost;

.2 For the Contractor, for Work performed by the Contractor's Subcontractor, five percent (5%) of the amount due the Subcontractor;

.3 For each Subcontractor or Sub-subcontractor involved for Work performed by the Subcontractor's or Sub-subcontractor's own forces, ten percent (10%) of the cost;

.4 For each Subcontractor for Work performed by the Subcontractor's Sub-subcontractor, five percent (5%) of the amount due the Subcontractor;

.5 Costs to which overhead and profit is to be applied shall be determined in accordance with Section 7.3.6;

.6 In order to facilitate checking of quotations for extras or credits, all proposals, expect those so minor that their propriety can be seen by inspection, shall be accompanied by a complete itemization of costs, including labor, materials and subcontracts. Labor and materials shall be itemized in the manner prescribed above. Where major cost items are subcontracts, they shall be itemized also. In no case will a change involving over $500 be approved without such itemization.

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§ 7.2 Change Orders and Change Proposals

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

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.3 The extent of the adjustment, if any, in the Contract Time.

§ 7.2.2 Change Order shall be prepared on AIA Document G731.

§ 7.2.3 The Contractor must submit Change Proposals covering a contemplated Change Order within ten (10) days after request of the Owner, or the Architect or within ten (10) days of the event, or Contractor's discovery of a condition, whichever is earlier, giving rise to the Contractor's claim for a change in the Contract Sum or Contract Time. No increase in the Contract Sum or extension of the Contract Time will be allowed the Contractor for the cost or time involved in making Change Proposals. Change Proposals will define or confirm in detail the Work which is proposed to be added, deleted, or changed and must include any adjustment which the Contractor believes to be necessary in (i) the Contract Sum, or (ii) the Contract Time. Any proposed adjustment must include detailed documentation including, but not limited to: cost, properly itemized and supported by sufficient substantiating data to permit evaluation including cost of labor, materials, supplies and equipment, rental cost of machinery and equipment, additional bond cost, plus a fixed fee for profit and overhead (which includes office overhead and Site-specific overhead and general conditions) of ten percent (10%) if the Work is performed by the Contractor, or five percent (5%) if the Work is performed by a Subcontractor or Sub-subcontractor. The Subcontractor's or Sub-subcontractor's overhead and profit in turn must not exceed a total aggregate of ten percent (10%). Change Proposals will be binding upon the Contractor and may be accepted or rejected by the Owner in its discretion. The Owner may, at its option, instruct the Contractor through a Construction Change Directive to proceed with the Work involved in the Change Proposal in accordance with Section 7.3 without accepting the Change Proposal in its entirety.

§ 7.2.4 If the Owner determines that a Change Proposal is appropriate, the Architect will prepare and submit a request for a Change Order or Contract Amendment providing for an appropriate adjustment in the Contract Sum or Contract Time, or both, for further action by the Owner. No such change is effective until the Owner and Architect sign the Change Order.

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

...

.3 Rental costs of machinery and equipment, exclusive of hand tools, whether rented from the Contractor or ~~others;~~others (at rates approved by the Owner);

...

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

...

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§ 7.3.9 Pending final determination of the total cost of a Construction Change Directive to the Owner, the Contractor may request payment for Work completed under the Construction Change Directive in Applications for ~~Payment.~~ Payment up to and not exceeding $25,000. The Construction Manager and Architect will make an interim determination for purposes of monthly certification for payment for those costs and certify for payment the amount that the Construction Manager and Architect determine to be reasonably justified. The interim determination of cost shall adjust the Contract Sum on the same basis as a Change Order, subject to the right of either party to disagree and assert a Claim in accordance with Article 15.

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

...

§ 8.1.2 The date of commencement of the Work is the date established in the Agreement. The date shall not be postponed by the failure to act of the Contractor or of persons or entities for whom the Contractor is responsible.

...

§ 8.1.4 The term "day" ~~as used in the Contract Documents shall mean calendar day unless otherwise specifically defined.~~shall mean calendar day of 24 hours beginning at 12:00 midnight. Calendar days as stated in the Contract Documents, shall include all days of a seven (7) day week including Saturdays, Sundays, and holidays. The term "Milestone Date" is, in each instance, the date established in the Contract Documents for the Substantial completion of all or a designated portion of the Work.

...

§ 8.2.3 The Contractor shall proceed expeditiously with adequate forces and shall achieve Substantial Completion within the Contract ~~Time.~~Time and shall achieve specific contractual Milestone Dates (if any), Substantial Completion and final Completion within the time stated in the Contract Documents.

§ 8.2.4 Contractor understands and agrees that all Work must be performed in an orderly and closely coordinated sequence so that the dates for Substantial Completion, Final Completion, and Milestone Dates (if any) may be met by the Contractor.

§ 8.2.5 Timely final completion of the Project is of critical importance to the Owner. The Contractor agrees that it shall substantially complete all Work under the Contract documents within the time established herein and that it shall finally complete the Work in the detail required and in the time required by the Contract Documents.

§ 8.2.6 To the extent that the Contract Documents contain or provide for specific contractual Milestone Dates in addition to Final and Substantial Completion dates, such dates shall be adhered to and shall be the last acceptable dates for those milestones and completions, unless modified by the Owner.

§ 8.2.7 Notwithstanding anything to the contrary contained in the Contract Documents, in the event that any Contractor fails, or appears likely, in the reasonable opinion of the Owner and Construction Manager, to fail to complete a critical portion of their Work on time or to complete any dates for Substantial Completion, Final Completion, or Milestone Dates as evidenced by the latest update of the CPM Schedule Report, the Owner shall have the right to select and require Contractor's performance under any or all of the following operations:

.1 Require the Contractor to substantiate their capability to get back on schedule within two (2) days;

.2 Require the Contractor, at no additional cost to the Owner, to increase their work force, work overtime and/or extra shifts and do whatever else is required by the Owner until the Contractor gets

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back on schedule as established by the CPM Schedule Report (including any updates thereto);

.3 Withhold progress payments or portions thereof until such time as the contractor returns to schedule, but only related to Substantial Completion or Final Completion;

.4 Contact or visit the factory, plant, or distribution center whose production or delivery schedule may be critical to the scheduled completion of a portion of the contract work and expedite such production delivery at Contractor's expense; or

.5 Require the Contractor to complete, in detail, and submit weekly a Short Interval Schedule (SIS) showing: (1) planning for the next two weeks; (2) work completed for the previous week; (3) sufficient detail to evaluate daily milestone (if any) and manpower/equipment loading, and shall identify/tie into the monthly updated CPM Schedule Report.

Any costs incurred by the Contractor in fulfilling the option(s) selected by the Owner shall be at the Contractor's expense.

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§ 8.3.1 If the Contractor is delayed at any time in the ~~commencement or~~ progress of the Work by (1) an act or neglect of the Owner, Architect, Construction Manager, or an employee of any of them, or of the Owner's own forces, Separate Contractors, or other Contractors; (2) by changes ordered in the Work; (3) by labor disputes, fire, unusual delay in deliveries, unavoidable casualties, adverse weather conditions documented in accordance with Section 15.1.6.2, or other causes beyond the Contractor's control; ~~(4) by delay authorized by the Owner pending mediation and binding dispute resolution; or (5)~~ or (4) by other causes that the Contractor asserts and the Architect, based on the recommendation of the Construction Manager, determines justify delay, then subject to the conditions hereinafter set forth, the Contract Time shall be extended by Change Order for such reasonable time as the Architect may determine. Requests for extensions of time for causes enumerated above will be considered by the Architect subject to the following:

.1 Only those conditions enumerated above over which the Contractor has no control will be considered. The burden of proof to substantiate the claim for an extension shall rest with the Contractor, including evidence that the cause was beyond their control. It shall be deemed the Contractor has control over the supply of labor, materials, equipment, methods, techniques, and over their Subcontractors and suppliers;

.2 In the event of Changes in the Work, any consideration for a time extension will be made only at the time of authorizing the changes, and no later than when the Change Order is prepared, and only if the Change Order significantly affects the time and progress of the entire Work. For changes which do not affect the entire Work, time extension may be granted only for the area, phase, unit, or element affected by the change, if due to a valid reason for a time extension;

.3 Any unusual delay in deliveries will not be considered unless it is solely due to transportation issues wholly outside of Contractor's, Subcontractor's, Sub-subcontractor's or Supplier's control. An extension of time will not be granted for delays in deliveries where said delivery was not properly scheduled or when orders were not promptly and properly placed;

.4 With respect to a claim for an extension of time as a result of climatic conditions, the Contractor shall recognize the location of the site and the existence, as normal, or variations from "average" conditions. Foul weather in itself will not be a valid reason for a time extension. Requests for time extensions because of delay resulting from weather extremes will not be considered unless a substantial variation from usual weather conditions occurs for a significant period of time, during phases of the Work when operation necessarily were suspended to a significant degree when they would otherwise have been in progress. In considering the time extension, the weather conditions both before and after the period in which the delay is claimed will be evaluated with credit given to Owner for unseasonably favorable weather;

.5 Delays resulting from a labor dispute will not result in a time extension of a longer period than the dispute, plus a reasonable time for mobilization if justified and necessary as approved by the Architect, and may be less depending on the impact of the dispute, including what operations were suspended or curtailed;

.6 No time extension will be granted as a result of improper scheduling or for failure to have shop drawings or samples submitted in ample time for review under a reasonable and agreed upon schedule; or

.7 Delays by Subcontractors or suppliers will not be considered justification for a time extension, except for the same valid reasons and conditions enumerated under Section 8.3.1.

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§ 8.3.4 The Contractor shall be responsible for all Owner incurred costs associated with a Contractor related to delay in completion of the Project. These costs may include, but are not limited to, Owner staff overtime, Consultant additional fees, additional testing, and/or additional rental or storage costs. A Change Order or Construction Change Directive will be issued to cover these costs. If a Change Order is not agreed to by the Contractor, the Owner, after presenting documentation to the Contractor, may deduct these amounts without a Change Order from the Contract Sum.

...

~~Where the Contract is based on a stipulated sum or Guaranteed Maximum Price, the Contractor shall submit a schedule of values to the Construction Manager, before the first Application for Payment, allocating the entire Contract Sum to the various portions of the Work. The schedule of values shall be~~ Before the first Application for Payment, the Contractor shall submit to the Architect and Construction Manager a schedule of values allocated to various portions of the Work, prepared in the form, and supported by the data to substantiate its accuracy, required by the Construction Manager and the Architect. ~~This~~ The schedule, unless objected to by the Construction Manager or Architect, shall be used as a basis for reviewing the Contractor's Applications for Payment. The Construction Manager shall forward to the Architect the Contractor's schedule of values. Any changes to the schedule of values shall be submitted to the Construction Manager and supported by such data to substantiate its accuracy as the Construction Manager and the Architect may require, and unless objected to by the Construction Manager or the Architect, shall be used as a basis for reviewing the Contractor's subsequent Applications for Payment. The Contractor, after receipt of Notice to Proceed, shall meet with the Owner, Construction Manager and the Architect for the purpose of reviewing the Project CPM Schedule and the Contract Schedule of Values. The Contractor shall develop a CPM Schedule for completing their portion of the Work, in conjunction with all other Contractors or Bid Packages, at the Pre-Construction Meeting(s). The Schedule of Values is to be broken down into specification sections and by labor and materials.

...

§ 9.3.1 At least fifteen days before the date established for each progress payment, the Contractor shall submit to the Construction Manager an itemized Application for Payment ~~prepared in accordance with the schedule of values, if required under Section 9.2, for completed portions of the Work. The application shall be notarized, if required,~~ for operations completed in accordance with the Schedule of Values. Such application shall be notarized and supported by all data substantiating the Contractor's right to payment that the Owner, Construction Manager or Architect require, such as copies of requisitions, and releases of waivers of lien from Subcontractors and ~~suppliers, and shall reflect retainage if provided for in the Contract Documents.~~material suppliers, and reflecting retainage if provided for elsewhere in the Contract Documents. The form of Application for Payment shall be a notarized AIA Document G732–2019, Application and Certificate for Payment, supported by AIA Document G703–1992, Continuation Sheet.

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

§ 9.3.1.3 Following certification of the Application for Payment by the Architect and Construction Manager, the Owner shall pay ninety-five percent (95%) of its value, retaining five percent (5%) until Final Completion.

§ 9.3.1.4 Contractor shall provide lien waivers for itself for the current payment application and for Subcontractors, Sub-subcontractors, and suppliers for the previous payment application before the Contractor has earned or has the right to receive payment for the specific items of work or materials covered by the lien waivers. All lien waivers shall be provided in the form required by the Owner. This Section 9.3.1.4 shall not limit other obligations of the Contractor contained elsewhere to provide lien waivers.

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§ 9.3.4 In each Application for Payment, the Contractor shall certify as follows:

"That there are no known mechanics' or materialmen's liens or stop notice claims outstanding by the application or any of its subcontractors of any tier, or any of the applicant's or subcontractor's material suppliers, or laborers at the date of this application, that all due and payable bills with respect to the Work have been paid or are included in the amount requested in current application, and that, except for such bills, not paid by Owner, but so included, there is no known basis for the filing of any mechanics' or materialmen's liens or stop notice claims on the Work, and that waivers from Contractor, its subcontractors of any tier, or any of the applicant's or subcontractor's material suppliers and laborers have been obtained in such form as to constitute an effective waiver of liens or stop notice claims, under the laws of the State of Minnesota to the extent of payments made by Owner to Contractor."

Notwithstanding the foregoing Section 9.3.4, Contractor acknowledges its obligation to provide a Payment Bond in accordance with the Contract Documents, and that Contractor's failure to pay any of its Subcontractors, Sub-subcontractors, suppliers, or laborers will be resolved through a claim under the Payment Bond.

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§ 9.6.1 After the Architect has issued a Certificate for Payment or Project Certificate for Payment, the Owner shall make payment within thirty (30) days of receipt by Owner of Certificate of Payment in the manner and within the time provided in the Contract Documents, and shall so notify the Construction Manager and Architect.

§ 9.6.2 The Contractor shall pay each Subcontractor, no later than seven days after receipt of payment from the Owner, the amount to which the Subcontractor is entitled, reflecting percentages actually retained from payments to the Contractor on account of the Subcontractor's portion of the Work. The Contractor shall, by appropriate agreement with each Subcontractor, require each Subcontractor to make payments to Sub-subcontractors in a similar manner. Per Minnesota Statutes, Section 471.425, within ten (10) days of Contractor's receipt of payment from Owner, the Contractor must pay any Subcontractor for any undisputed services provided by the Subcontractor. The Contractor shall pay interest of one and one-half percent (1-1/2%) per month, or any part of a month, to the Subcontractor on any undisputed amount not paid on time to the subcontractor. The minimum monthly interest penalty payment for an unpaid balance of $100 or more is $10.00. For an unpaid balance of less than $100, the Contractor shall pay the actual interest penalty due to the Subcontractor. Contractor is advised that by reason of Minnesota Statutes, Section 471.425, subd. 4a, if a Subcontractor prevails in a civil action to collect interest penalties from a prime contractor, the Subcontractor must be awarded its costs and disbursements, including attorneys' fees incurred in bringing the action.

...

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

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If the Construction Manager and Architect do not issue a Certificate for Payment or a Project Certificate for Payment, through no fault of the Contractor, within fourteen days after the Construction Manager's receipt of the Contractor's Application for Payment, or if the Owner does not pay the Contractor within ~~seven~~ thirty (30) days after the date established in the Contract Documents, the amount certified by the Construction Manager and Architect ~~or awarded by binding dispute resolution,~~ then the Contractor may, upon ~~seven~~ ten (10) additional days' notice to the Owner, Construction Manager and Architect, stop the Work until payment of the amount owing has been received. The Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable costs of shutdown, delay and ~~start-up, plus interest as provided for in the Contract Documents.~~start-up which shall be accomplished as provided in Article 7.

...

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

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§ 9.8.2 When the Contractor considers that the Work, or a portion thereof which the Owner agrees to accept separately, is substantially complete, the Contractor shall notify the Construction Manager, and the Contractor and Construction Manager shall jointly prepare and submit to the Architect a comprehensive list of items to be completed or ~~corrected prior to final payment.~~ corrected. The Contractor shall proceed promptly to complete and correct items on the list. Failure to include an item on such list does not alter the responsibility of the Contractor to complete all Work in accordance with the Contract Documents. Upon receipt of the Contractor's list, the Architect, assisted by the Construction Manager, will make an inspection to determine whether the Work or designated portion thereof is substantially complete. If the Architect's inspection discloses any item, whether or not included on the Contractor's list, which is not in accordance with the requirements of the Contract documents, the Contractor shall, before issuance of the Certificate of Substantial Completion, complete or correct such item, upon notification by the Architect. The Contractor shall then submit a request for another inspection by the Architect, assisted by the Construction Manager, to determine Substantial Completion. When the Work or designated portion thereof is substantially complete, the Architect will prepare a Certificate of Substantial Completion which shall establish the date of Substantial Completion, shall establish responsibilities of the Owner and Contractor for security, maintenance, heat, utilities, damage to the Work and insurance, and shall fix the time within which the Contractor shall finish all items on the list accompanying the Certificate. Warranties required by the Contract Document shall commence on the date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion.

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§ 9.8.6 Upon Substantial completion of the Work or designated portion thereof and upon application by the Contractor and certification by the Architect, the Owner shall make payment, reflecting adjustment in retainage, pursuant to Minnesota Statutes, Section 15.72, for such Work or portion thereof as provided in the Contract Documents.

§ 9.8.7 The Architect, assisted by the Construction Manager, shall make one (1) inspection for Substantial Completion and Final Completion in accordance with the AIA Document B101–2017 Owner Architect Agreement. If additional inspections are required due to the Contractor's failure to complete previously listed corrective or uncompleted work, the Architect's expense for conducting such re-inspections and related time in processing, reviewing, and revision of requirements shall be charged to the Contractor and such payment shall be accomplished by a deductive Change Order to the Contractor.

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§ 9.10.1 Upon completion of the Work, the Contractor shall forward to the Construction Manager a notice that the Work is ready for final inspection and acceptance, and shall also forward to the Construction Manager a final Contractor's Application for Payment. Upon receipt, the Construction Manager shall perform an inspection to confirm the completion of Work of the Contractor. The Construction Manager shall make recommendations to the Architect when the Work of all of the Contractors is ready for final inspection, and shall then forward the Contractors' notices and Application for Payment or Project Application for Payment, to the Architect, who will promptly make such inspection. When the Architect finds the Work acceptable under the Contract Documents and the Contract fully performed, the Construction Manager and Architect will promptly issue a final Certificate for Payment or Project Certificate for Payment stating that to the best of their knowledge, information and belief, and on the basis of their observations, on-site visits and inspections, the Work has been completed in accordance with the Contract Documents and that the entire balance found to be due the Contractor and noted in the final Certificate is due and payable. The Construction Manager's and Architect's final Certificate for Payment or Project Certificate for Payment will constitute a further representation that conditions listed in Section 9.10.2 as precedent to the Contractor's being entitled to final payment have been fulfilled.

§ 9.10.2 Neither final payment nor any remaining retained percentage shall become due until the Contractor submits to the Architect through the Construction Manager (1) an affidavit that payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which the Owner or the Owner's property might be responsible or encumbered (less amounts withheld by Owner) have been paid or otherwise satisfied, (2) a certificate evidencing that insurance required by the Contract Documents to remain in force after final payment is currently in ~~effect,~~ effect and will not be cancelled or allowed to expire until at least (60) days' prior written notice has been given to the Owner, (3) a written statement that the Contractor knows of no reason that the insurance will not be renewable to cover the period required by the Contract Documents, (4) consent of surety, if any, to final payment (5) documentation of any special

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

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§ 9.11 Damages for Delay

§ 9.11.1 The Contractor shall be responsible for damages incurred by the Owner and any other separate contractors for delay resulting from the Contractor's failure to complete the Work within the contract Time or resulting from the progress of the Work failing to substantially conform to the Project Construction Schedule. These damages are not included in liquidated damages and represent additional direct costs incurred by the Owner for the delay. These damages may include Owner incurred costs for temporary classrooms, temporary facilities, moving of programs, etc.

...

~~The Contractor shall be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the performance of the Contract. The Contractor shall submit the Contractor's safety program to the Construction Manager for review and coordination with the safety programs of other Contractors. The Construction Manager's responsibilities for review and coordination of safety programs shall not extend to direct control over or charge of the acts or omissions of the Contractors, Subcontractors, agents or employees of the Contractors or Subcontractors, or any other persons performing portions of the Work and not directly employed by the Construction Manager.~~**§ 10.1.1** The Contractor shall be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the performance of the Contract. The Contractor shall submit the Contractor's safety program to the Construction Manager for review and coordination with the safety programs of other Contractors. The Construction Manager's responsibilities for review and coordination of safety programs shall not extend to direct control over or charge of the acts or omissions of the Contractors, Subcontractors, agents or employees of the Contractors or Subcontractors, or any other persons performing portions of the Work and not directly employed by the Construction Manager.

§ 10.1.2 The Contractor shall comply with all applicable laws and regulations. Notwithstanding any language to the contrary, the Owner shall not have any responsibility for job site inspections or safety recommendations. Any inspections or observations by the Owner, Construction Manager or the Architect are solely for the benefit of the Owner and shall not create any duties or obligations to anyone else.

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If either party suffers injury or ~~damage~~ damages to person or property because of an act or omission of the other party, of any of the other party's employees or agents, or of others for whose acts such party is legally responsible, notice of the injury or damage, whether or not insured, shall be given to the other party within a reasonable time not exceeding ~~21~~ ten (10) days after ~~discovery.~~ first observance. The notice shall provide sufficient detail to enable the other party to investigate the matter. If a Claim for additional cost or time related to this Claim is to be asserted, it shall be filed as provided in Sections 15.1.4 and 15.1.5.

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

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the Contractor shall immediately stop Work in the area affected and report the condition to the Owner, Construction Manager and Architect ~~of the condition.~~in writing. The Work in the affected area shall not thereafter be resumed except by written agreement of the Owner and Contractor if in fact the material is asbestos or polychlorinated biphenyl (PCB) and has not been rendered harmless. The Work in the affected area shall be resumed in the absence of asbestos or polychlorinated biphenyl (PCB), or when it has been rendered harmless, by written agreement of the Owner and Contractor.

.1 Except where otherwise stated in the Contract Documents, no hazardous material work of any nature shall be performed by the Contractor pursuant to this Contract.

.2 The term "hazardous materials" includes, but is not limited to, asbestos, toxic chemicals, acids, alkalis, irritants, contaminants, or other pollutants, together with any other waste, material, substance, pollutants, or contaminant, all or a portion of which is or would be designated as hazardous waste or substance under applicable local, state, or federal laws, ordinances, codes, rules, or regulations.

§ 10.3.2 ~~Upon receipt of the Contractor's notice, the Owner shall obtain the services of a licensed laboratory to verify the presence or absence of the material or substance reported by the Contractor and, in the event such material or substance is found to be present, to cause it to be rendered harmless. Unless otherwise required by the Contract Documents, the Owner shall furnish in writing to the Contractor, Construction Manager and Architect the names and qualifications of persons or entities who are to perform tests verifying the presence or absence of the material or substance or who are to perform the task of removal or safe containment of the material or substance. The Contractor, the Construction Manager and the Architect will promptly reply to the Owner in writing stating whether or not any of them has reasonable objection to the persons or entities proposed by the Owner. If the Contractor, Construction Manager or Architect has an objection to a person or entity proposed by the Owner, the Owner shall propose another to whom the Contractor, the Construction Manager and the Architect have no reasonable objection. When the material or substance has been rendered harmless, Work in the affected area shall resume upon written agreement of the Owner and Contractor. By Change Order, the Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable additional costs of shutdown, delay, and start-up.~~To the fullest extent permitted by law, the Owner shall indemnify and hold harmless the Contractor, Construction Manager, Architect, their consultants, and agents and employees of any of them from and against claims, damages, losses, and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work on Owner's property if in fact the material is asbestos or polychlorinated biphenyl (PCB) and has not been rendered harmless, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), including loss of use resulting therefrom, but only to the extent caused in whole or in part by negligent acts or omissions of the Owner, anyone directly or indirectly employed by the Owner, or anyone for whose acts the Owner may be liable, regardless of whether or not such claim, damage, loss, or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity which would otherwise exist as to a party or person described in this Subparagraph 10.3.2.

§ 10.3.3 ~~To the fullest extent permitted by law, the Owner shall indemnify and hold harmless the Contractor, Subcontractors, Construction Manager, Architect, their consultants, and agents and employees of any of them from and against claims, damages, losses, and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work in the affected area if in fact the material or substance presents the risk of bodily injury or death as described in Section 10.3.1 and has not been rendered harmless, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), except to the extent that such damage, loss, or expense is due to the fault or negligence of the party seeking indemnity.~~If reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a material or substance encountered on the site by the contractor, the Contractor shall, upon recognizing the condition, immediately stop Work on Owner's property and report the condition to the Owner, Construction Manager and Architect in writing. The Owner, Construction Manager, Contractor, and Architect shall then proceed in the same manner described in Subparagraph 10.3.1.

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

§ 10.3.5 The Contractor shall reimburse the Owner for the cost and expense the Owner incurs (1) for remediation of hazardous materials or substances the Contractor brings to the site and negligently handles, or (2) where the

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Contractor fails to perform its obligations under Section 10.3.1, except to the extent that the cost and expense are due to the Owner's fault or negligence. Owner shall be responsible for obtaining the services of a licensed laboratory to verify a presence or absence of the material or substance reported by the Contractor and, in the event such material or substance is found to be present, to verify that it has been rendered harmless.

§ 10.3.6 ~~If, without negligence on the part of the Contractor, the Contractor is held liable by a government agency for the cost of remediation of a hazardous material or substance solely by reason of performing Work as required by the Contract Documents, the Owner shall reimburse the Contractor for all cost and expense thereby incurred.~~Regulations concerning the availability of information and employee training in the use and handling of "hazardous substances" and "harmful physical agents", as set forth in the Employee Right-to-Know Act of 1983, Minnesota Statutes, Sections 182.65 to 182.676 are incorporated herein by reference as if fully set forth herein.

§ 10.3.7 The Contractor shall furnish three Material Safety Data Sheets to the Owner for each material used in the Work that is classified by the Employee Right-to-Know Act of 1983 as a "hazardous substance" or a "harmful physical agent."

§ 10.3.8 The Contractor shall label, in generally accepted and/or standardized fashion, all containers on the work site containing "hazardous substances" or as "harmful physical agents." This shall include factory containers and all subsequent containers used in the Work.

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

...

§ 11.1.1 The Contractor shall purchase and maintain insurance of the types and limits of liability, containing the endorsements, and subject to the terms and conditions, as described in the ~~Agreement~~ Agreement, in EXH-C Owner Insurance or elsewhere in the Contract Documents. The Contractor shall purchase and maintain the required insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is ~~located.~~ located and which carry a Best's rating of A- or higher or are otherwise acceptable to the Owner. The Owner, Construction Manager and Construction Manager's consultants, and the Architect and Architect's consultants, shall be named as additional insureds under the Contractor's commercial general liability policy or as otherwise described in the Contract Documents.

...

§ 11.1.3 Upon the request of any person or entity appearing to be a potential beneficiary of bonds covering payment of obligations arising under the Contract, the Contractor shall promptly furnish a copy of the bonds or shall authorize a copy to be furnished. The Contractor shall furnish Certificates of Insurance acceptable to the Owner which shall specifically set forth evidence of all coverage required by Article 11 and EXH-C Owner Insurance and shall be filed with the Owner and Construction Manager prior to commencement of the Work and thereafter upon renewal or replacement of each required policy of insurance.

The Contractor shall not allow insurance required by this Agreement to lapse, be canceled, reduced in limits or coverage, non-renewed, or materially changed or have restrictive modifications added during the life of this Agreement, including the periods of required coverage. The Contractor shall furnish to the Owner and Construction Manager copies of any endorsements that are subsequently issued amending coverage and limits.

If any of the foregoing insurance coverages are required to remain in force after final payment and are reasonably available, all additional certificates evidencing continuation of such coverage shall be submitted with the final Application for Payment. Information concerning reduction of coverage shall be furnished by the Contractor with reasonable promptness in accordance with the Contractor's information and belief.

§ 11.1.3.1 Acceptable insurance certificates are AIA Document G705, CICC of Minnesota Form 701, and/or ACORD form of the American Insurance Institute.

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Failure of the Owner to collect certificates does not void the requirements to obtain insurance.

The acceptance of any certificate of insurance by the Owner shall not relieve or decrease the liability of the Contractor hereunder. It is to be understood the Owner, Construction Manager and Architect do not in any way represent that the insurance specified in these articles are sufficient or adequate to protect the Contractor's interest or liabilities, but are merely minimum requirements.

The Contractor shall furnish to the Owner copies of any endorsements that are subsequently issued amending coverage and limits.

§ 11.1.4 ~~Notice of Cancellation or Expiration of Contractor's Required Insurance.~~ ~~Within three (3) business days of the date the Contractor becomes aware of an impending or actual cancellation or expiration of any insurance required by the Contract Documents, the Contractor shall provide notice directly to the Owner, and separately to the Construction Manager, of such impending or actual cancellation or expiration. Upon receipt of notice from the Contractor, the Owner shall, unless the lapse in coverage arises from an act or omission of the Owner, have the right to stop the Work until the lapse in coverage has been cured by the procurement of replacement coverage by the Contractor. The furnishing of notice by the Contractor shall not relieve the Contractor of any contractual obligation to provide any required coverage.~~In the event the Contractor fails to procure or maintain any insurance coverage required under this Agreement, the Owner may purchase such coverage and deduct the cost thereof from any monies due to the Contractor, or terminate this Agreement under Paragraph 14.2. The Contractor shall be liable to the Owner for providing all coverage, defense, and payments that would have been provided by any insurance that the Contractor failed to procure and maintain as required by the Contract Documents.

§ 11.1.5 Compliance by the Contractor with the foregoing insurance requirements shall not relieve it from liability for amounts in excess of the limits of insurance.

§ 11.1.6 The Contractor and any of its Subcontractors, Sub-subcontractors, agents and employees, and any separate contractors described in Article 6, if any, and any of their subcontractors, sub-subcontractors, agents and employees shall waive any of their subrogation rights on their Workers Compensation Policy in favor of the Owner, Construction Manager and Architect. The policies shall provide such waivers of subrogation by endorsement or otherwise. A waiver of subrogation shall be effective as to a person or entity even though that person or entity would otherwise have a duty of indemnification, contractual, or otherwise, did not pay the insurance premium directly or indirectly, and whether or not the person or entity had an insurable interest.

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§ 11.2.1 The Owner shall purchase and maintain insurance of the types and limits of liability, containing the endorsements, and subject to the terms and conditions, as described in the Agreement or elsewhere in the Contract Documents. The Owner shall purchase and maintain the required insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The Owner may self-insure and maintain the Owner's usual liability insurance. Optionally, the Owner may purchase and maintain other insurance for self-protection against claims which may arise from operations under the Contract. The Contractor shall not be responsible for purchasing and maintaining this optional Owner's liability insurance unless specifically required by the Contract Documents.

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

...

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

§ 11.6 Bonds

§ 11.6.1 Contractor shall furnish a Performance Bond and a Payment Bond to the Owner in the amount of one hundred percent (100%) of the Contract Sum and issued by a Surety Company authorized to do business in the State of Minnesota, rated "A" or better, and approved by the Owner. The Performance Bond shall be in accordance with Minnesota Statutory requirements, and shall be in the form included in the Project Manual. The Bonds shall allow for any additions or deductions to the Contract Sum.

§ 11.6.2 In order to be acceptable as a surety, Contractor's bonding company bust hold a "Certificate of Authority acceptable to the U.S. Treasury Department and be listed in the Department's current publication of "Bond Qualifiers" with underwriting limitations not less than ten percent (10%) above the Contract Sum.

§ 11.6.3 The surety of the Bonds shall be by a corporate surety company authorized to do business in the state in which Work is being performed under this Contract and acceptable to the Owner. The conditions of the bonds shall meet requirements of the statutes of the state where Work is being performed and all other applicable provisions of state law.

§ 11.6.4 The Contractor shall furnish two (2) originals of the Bonds to the Owner, with copies to the Architect and Construction Manager, within ten (10) days after notification of award and before execution of the Contract. Failure to do so shall constitute a violation of terms of the proposal and provide grounds for forfeiture of bid security.

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

...

~~**§ 12.2.2.1** In addition to the Contractor's obligations under Section 3.5, if, within one year after the date of Substantial Completion of the Work or designated portion thereof, or after the date for commencement of warranties established under Section 9.9.1, or by terms of any applicable special warranty required by the Contract Documents, any of the Work is found to be not in accordance with the requirements of the Contract Documents, the Contractor shall correct it promptly after receipt of notice from the Owner to do so, unless the Owner has previously given the Contractor a written acceptance of such condition. The Owner shall give such notice promptly after discovery of the condition. During the one-year period for correction of Work, if the Owner fails to notify the Contractor and give the Contractor an opportunity to make the correction, the Owner waives the rights to require correction by the Contractor and to make a claim for breach of warranty. If the Contractor fails to correct nonconforming Work within a reasonable time during that period after receipt of notice from the Owner, Construction Manager or Architect, the Owner may correct it in accordance with Section 2.5.~~

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

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

§ 12.2.2.1 If within one year after the date of Substantial Completion of the Work or designated portion thereof, or after the date for commencement of warranties established under Section 9.9.1, or by terms of any applicable special warranty required by the Contract Documents, any of the Work is found to be not in accordance with the requirements of the Contract Documents, the Contractor shall correct it promptly (and any other property damaged or removed in effecting the correction) after receipt of notice from the Owner, Construction Manager or Architect to do so, unless the Owner has previously given the Contractor a written acceptance of such condition. The Owner, Construction Manager or Architect shall give such notice promptly after discovery of the condition. This period of one year shall be extended with respect to portions of Work first performed after Substantial completion by the period of time between Substantial completion and the actual performance of the Work. This obligation under this Subparagraph 12.2.2.1 shall survive acceptance of the Work under the contract and termination of the Contract. The Owner, Construction Manager or Architect shall give such notice promptly after discovery of the condition. The expiration of the above one year or any other specified time period, or any other period prescribed by the law, shall not relieve the Contractor of the obligation form the expense to correct any latent defect in the work or deficiencies which are not readily ascertained, including but not limited to, defective materials and quality of work performed, defects attributable to material substitutions for special materials, substandard performance or otherwise not in compliance with the Contract Documents. Such latent defects or deficiencies shall be corrected as provided in this Paragraph 12.2. Following the correction or replacement of any of the Work, as above specified, the Contractor shall correct any defects or deficiencies in the corrected or replaced materials and workmanship which is found within one year after the date of correction or replacement.

§ 12.2.4 ~~The Contractor shall bear the cost of correcting destroyed or damaged construction of the Owner, Separate Contractors, or other Contractors, whether completed or partially completed, caused by the Contractor's correction or removal of Work that is not in accordance with the requirements of the Contract Documents.~~ If the Contractor fails to correct nonconforming Work within a reasonable time, the Owner may correct it in accordance with Paragraph 2.4. If the Contractor does not proceed with correction of such nonconforming Work within a reasonable time fixed by written notice from the Architect or Construction Manager, the Owner may correct or remove it and store the salvageable materials or equipment all at the Contractor's expense. If the Contractor does not pay costs of such removal and storage within ten (10) days after written notice, the Owner may upon ten (10) additional days' written notice sell such materials and equipment at auction or at private sale and shall account for the proceeds thereof, after deducting costs and damages that should have been borne by the Contractor, the Contract Sum shall be reduced by the deficiency. If payments then or thereafter due the Contractor are not sufficient to cover such amount, the Contractor shall pay the difference to the Owner.

§ 12.2.5 ~~Nothing contained in this Section 12.2 shall be construed to establish a period of limitation with respect to other obligations the Contractor has under the Contract Documents. Establishment of the one-year period for correction of Work as described in Section 12.2.2 relates only to the specific obligation of the Contractor to correct the Work, and has no relationship to the time within which the obligation to comply with the Contract Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Contractor's liability with respect to the Contractor's obligations other than specifically to correct the Work.~~ The Contractor shall bear the cost of correcting destroyed or damaged construction whether completed or partially completed, of the Owner or separate contractors caused by the Contractor's correction or removal of Work which is not in accordance with the requirements of the Contract Documents.

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

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

§ 13.4.2 If the Construction Manager, Architect, Owner, or public authorities having jurisdiction determine that portions of the Work require additional testing, inspection, or approval not included under Section 13.4.1, the Construction Manager and Architect will, upon written authorization from the Owner, instruct the Contractor to make arrangements for such additional testing, inspection, or approval, by an entity acceptable to the Owner, and the Contractor shall give ~~timely~~ a minimum of two (2) working days' notice to the Construction Manager and Architect of when and where tests and inspections are to be made so that the Construction Manager and Architect may ~~be present for such procedures. Such~~ observe procedures. The Owner shall bear such costs, except as provided in Section ~~13.4.3, shall be at the Owner's expense.~~13.4.3.

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~~Payments due and unpaid under the Contract Documents shall bear interest from the date payment is due at the rate the parties agree upon in writing or, in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located.~~All payments to the Contractor shall be governed by the Prompt Payment of Local Government Bills, Minnesota Statutes, Section 471.125 ("Prompt Payment Act") and Article 5 of the A132–2019 Agreement on this Project.

§ 13.6 Non-Discrimination

§ 13.6.1 All contracts between the Owner and companies providing goods and services under the Contract Documents shall contain the following equal opportunity and civil right clause:

> "During the performance of this Agreement, the provider agrees to the following: No contractor, material supplier, vendor, or other person shall on the basis of sex, race, creed, color, religion, national origin, age, marital status, sexual orientation, or disability be excluded from full employment rights in, participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program, service, or activity under the provisions of any and all applicable Federal and State laws against discrimination, including the Minnesota Human Rights Act and the Civil Rights Act of 1964."

Upon request, the Contractor shall furnish all information and reports required by the Owner, or by the rules and regulations of investigation to ascertain compliance with all applicable rules and regulations. The Contractor shall also comply with any applicable licensing requirements of the Minnesota Department of Human Services in employment of personnel.

The Contractor acknowledges that the violation of the above-stated paragraph is a misdemeanor pursuant to Minnesota Statutes, Section 181.59.

This Agreement may be cancelled or terminated by the Owner or any other person authorized to grant the contracts for employment under this Agreement, and all money due, or to become due under this Agreement may be forfeited for a second or any subsequent violation of the non-discriminatory terms stated above.

§ 13.6.2 During the completion of the work and all other services required by the Contract Documents, the Contractor agrees that no contractor, material supplier, vendor, or other person shall, on the basis of sex, race, creed, color, religion, national origin, age, marital status, sexual orientation, or disability be excluded from full employment rights in participation in, be denied the benefits of, or be otherwise subjected to discrimination under the provisions of any and all applicable Federal and State laws against discrimination, including the Minnesota Human Rights Act and the

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Civil Rights Act of 1964. Upon request, the Architect, Construction Manager and Contractor shall furnish all information and reports required by the Owner, or by the rules and regulations of investigation to ascertain compliance with all applicable rules and regulations. The Contractor shall also comply with any applicable licensing requirements of the Minnesota Department of Human Services in employment of personnel.

Contractor acknowledges that the violation of the above-states paragraph is a misdemeanor pursuant to Minnesota Statutes Section 181.59.

The Contract Documents may be cancelled or terminated by the Owner or any other person authorized to grant the contracts for employment under this Agreement, and all money due, or to become due under the Agreement may be forfeited for a second or any subsequent violation of the non-discriminatory terms stated above.

§ 13.7 No action or failure to act by the Owner shall constitute a waiver of a right or duty afforded the Owner under the Contract Documents, nor shall such action or failure to act constitute approval of or acquiescence of the Owner in a breach of the Contract Documents, except as may be specifically agreed in writing. None of the approval of any Application for Payment, the making of any payment, the giving of any approval or consent, the use or occupancy of the Work, or any part thereof, the making of final payment, or any other action or inaction on the part of the Owner, Construction Manager or Architect shall constitute a waiver of claims by or rights of the Owner or an acceptance of any Work that is not in accordance with the Contract Documents. The Contractor shall not be relieved from its obligations to perform the Work in accordance with the Contract Documents either by the activities or duties of the representations of the Owner, Construction Manager or Architect, or by inspections, tests, or approvals required or performed by the Owner, Construction Manager or Architect or anyone else.

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§ 14.1.5 No Right to Stop Work for Non-Payment

The Contractor has no right to stop Work as a consequence of non-payment. In the event of any disagreement between the Contractor and Owner involving the Contractor's entitlement to payment, the Contractor's only remedy is to file a Claim in accordance with Article 15. The Contractor must diligently proceed with the Work pending resolution of the Claim. If, however, an Application for Payment has been approved for payment by the Owner, and the Owner fails to make payment within sixty (60) days of the approval for payment by the Owner, the Contractor may upon ten (10) days written notice to the Owner, stop work if payment is not made by the Owner within ten (10) days following the notice.

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

...

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

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§ 15.1.1 Definition. A Claim is a demand or assertion by ~~one of the parties~~ the Contractor seeking, as a matter of right, payment of money, a change in the Contract Time, or other relief with respect to the terms ~~of the Contract. The term "Claim" also includes other disputes and matters in question between the Owner and Contractor arising out~~ of ~~or relating to~~ the Contract. The responsibility to substantiate Claims shall rest with ~~the party making the Claim.~~ the Contractor. Nothing in this paragraph 15.1.1 is intended to apply to or in any way limit the Owner's right to make Claims related to or arising out of the Contract. This Section 15.1.1 does not require the Owner to file a Claim in order to impose liquidated damages in accordance with the Contract Documents.

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§ 15.1.3.1 Claims by ~~either the Owner or~~ Contractor, where the condition giving rise to the Claim is first discovered prior to expiration of the period for correction of the Work set forth in Section 12.2.2, shall be initiated by written notice to the ~~other party~~ Owner and to the Initial Decision Maker with a copy sent to the Construction Manager and Architect, if the Architect is not serving as the Initial Decision Maker. Claims by ~~either party~~ the Contractor under this Section 15.1.3.1 shall be initiated within ~~21~~ ten (10) days after occurrence of the event giving rise to such Claim or within ~~21~~ ten (10) days after the ~~claimant~~ Contractor first recognizes the condition giving rise to the Claim, whichever is later. Any additional Claim made after and relating to the initial Claim has been implemented by Change Order will not be considered unless submitted in a timely manner. As a condition to making a claim for additional costs, the Contractor shall maintain and produce accurate records to substantiate all additional costs actually incurred. If a Claim for actual costs is approved, the Owner shall pay the Contractor actual costs incurred, plus either (a) ten percent (10%) for overhead and profit for work performed by the Contractor, or (b) five percent (5%) overhead and profit for work performed by a Subcontractor, as applicable.

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

...

§ 15.1.4.1 Pending final resolution of a Claim, except as otherwise agreed in writing or as provided in Section 9.7 and Article 14, the Contractor shall proceed diligently with performance of the Contract and the Owner shall continue to make payments in accordance with the Contract Documents. Subject to Paragraph 15.1.5, no such continuing performance by the Contractor, nor payment by the Owner shall be deemed a waiver of, or to otherwise impair any such Claim.

...

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

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~~**§ 15.1.7 Waiver of Claims for Consequential Damages.** The Contractor and Owner waive Claims against each other for consequential damages arising out of or relating to this Contract. This mutual waiver includes~~

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

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

...

§ 15.2.6 ~~Either party may file for mediation of an initial decision at any time, subject to the terms of Section 15.2.6.1.~~In the event of a Claim against the Contractor, the Owner may, but is not obligated to notify the surety, if any, of the nature and amount of the Claim. If the Claim relates to a possibility of a Contractor's default, the Owner may, but is not obligated to notify the surety and initiate a Claim on the performance bond.

~~**§ 15.2.6.1** Either party may, within 30 days from the date of receipt of an initial decision, demand in writing that the other party file for mediation. If such a demand is made and the party receiving the demand fails to file for mediation~~

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~~within 30 days of receipt thereof, then both parties waive their rights to mediate or pursue binding dispute resolution proceedings with respect to the initial decision.~~

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

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

§ 15.3.1 ~~Claims, disputes, or other matters in controversy~~ Any claim, dispute or other matter in question or arising out of or related to the ~~Contract, except those waived as provided for in Sections 9.10.4, 9.10.5, and 15.1.7, shall be subject to mediation as a condition precedent to binding dispute resolution.~~Contract shall be subject to mediation. Mediation is not a condition precedent to commencing litigation, but if litigation is commenced before mediation is held, the Parties agree to mediate before any dispositive motions or trial.

§ 15.3.2 The parties shall ~~endeavor to resolve their Claims by mediation which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Mediation Procedures in effect on the date of the Agreement. A request for mediation shall be made in writing, delivered to the other party to the Contract, and filed with the person or entity administering the mediation. The request may be made concurrently with the filing of binding dispute resolution proceedings but, in such event, mediation shall proceed in advance of binding dispute resolution proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order. If an arbitration is stayed pursuant to this Section 15.3.2, the parties may nonetheless proceed to the selection of the arbitrator(s) and agree upon a schedule for later proceedings.~~share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located unless another location is mutually agreed upon. Agreements reached in mediation and ratified by the Owner's Council shall be enforceable as settlement agreements in any court having jurisdiction thereof.

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

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

~~§ 15.4 Arbitration~~

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

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

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

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

~~**§ 15.4.4 Consolidation or Joinder**~~

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

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

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

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User Notes: (1315011150)

Certification of Document's Authenticity

AIA® Document D401™ – 2003

I, , hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with its associated Additions and Deletions Report and this certification at 13:16:28 CT on 02/01/2025 under Order No. 4104251278 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document A232™ – 2019, General Conditions of the Contract for Construction, Construction Manager as Adviser Edition, other than those additions and deletions shown in the associated Additions and Deletions Report.



(Signed)

Curtis Hartog, Executive Director

(Title)

2/1/2025

(Dated)

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User Notes: (1315011150)

Exhibit B – Project Charter

FY21 North High School Renovations-Bid Pack 4

Work Scope 03-A Concrete and Masonry

Description

Perform concrete and masonry work in accordance with Work Scope 03-A for the North High School Phase 4 renovations

Contract Sum

The Contract Sum shall be $530,650.00

Alternates

Item	Price	Status
Alt #1: Health Office	$15,800	rejected
Alt #2: Athletic and Counseling Offices	$13,000	rejected
Alt #3: Electrical panel replacements	$0	accepted
Alt #4: AHU-41 replacement	$0	accepted
Alt #5: Direct digital controls	$0	accepted

EXHIBIT C Owner Insurance

Insurance Requirements

1. CONSULTANT'S INSURANCE – to be used with AIA B101-2017, AIA C103-2015, or similar non-contractor consultants:
   The Consultant shall at its own expense maintain in effect at all times during the performance of the Work under the Agreement at least the following coverage and limits of insurance:

   a. Worker's Compensation and Employer's Liability Insurance

      i. Coverage A is statutory.

      ii. Coverage B
      $500,000 Each Accident
      $500,000 Each Employee
      $500,000 Policy Limit (Disease)

   b. Comprehensive General Liability Insurance *

General Aggregate	$1,000,000
Products/Completed Operations Aggregate	$1,000,000
Per Occurrence	$1,000,000
Medical Payments	$10,000

   * The Owner should be named as an additional insured for Comprehensive General Liability Insurance.

   c. Automobile Insurance

Per Occurrence	$1,000,000
PIP	Basic
Underinsured Motorist	$1,000,000
Uninsured Motorist	$1,000,000

   d. Professional Liability Insurance

      i. Per Claim $2,000,000

ii. For projects with an estimated construction Contract Sum of over $10,000,000 or major structural work an aggregate is required as follows:
Aggregate $4,000,000

e. Umbrella Liability Insurance

i. Per Occurrence $2,000,000

ii. For projects with an estimated construction Contract Sum of over $10,000,000 or major structural work an aggregate is required as follows:
Aggregate $2,000,000

f. Manned or Unmanned Aircraft Coverage (if used)

i. Per Claim $1,000,000

ii. Aggregate $1,000,000

For specialty consultants used for commissioning activities, studies, asbestos surveys and security, items A, B, C and F shall apply.

Special Asbestos Abatement Liability Insurance is required for Asbestos Abatement Contractors. The limits are $1,500,000 per claim, for liability arising from the encapsulation, removal, handling, storage, transportation, and disposal of asbestos-containing materials.

2. CONSULTANT'S OBLIGATIONS

Consultant shall not violate or knowingly permit any violation of any conditions or terms of the policies of insurance required to be carried under the terms hereof and shall endeavor to satisfy the requirements of the insurance companies issuing them. In the event Consultant neglects, refuses or fails to provide or maintain any of the insurance required to be carried under the Agreement, or if such insurance is canceled for any reason, the Owner or the Owner's lender(s) shall have the right, but not the duty, to procure or maintain the same.

In the event the Owner or the Owner's lender(s) do procure or maintain such insurance, the Owner or the Owner's lender(s) shall have, in additional to any and all other available remedies, the right to recover from the Consultant (including the right of set-off against sums otherwise due the Consultant) all of the costs associated with procuring or maintaining such insurance.

3. PROFESSIONAL LIABILITY INSURANCE

   a. Professional Liability Coverage of $2,000,000 shall be maintained for one (1) year from the date of Substantial Completion. If the Consultant discontinues its business and if directed by Owner in writing, Consultant shall purchase such insurance in such amount for an extended discovery period beyond the one (1) year after the date of Substantial Completion, with the premium cost to be a reimbursable expense paid by the Owner. The limit of liability for such policy may not be reduced below $2,000,000 without the Owner giving its prior, written consent. All policies of insurance that Consultant is required under the terms of this Exhibit C Owner's Insurance to secure and maintain shall bear the endorsement "Not to be canceled until sixty (60) calendar days after Owner has received a written notice from insurer as evidence by a return receipt of registered or certified mail."

   b. The Owner shall not be responsible for obtaining or paying premiums or other expenses in connection with insurance required to be carried under the Agreement or normally carried by the Consultant's consultants, and the obligation to obtain such insurance and to pay such premiums and other expenses shall be solely that of the Consultant.

   c. The Consultant shall bear all the costs of any and all deductible amounts under any insurance policies required to be carried under the Agreement and shall remain solely and fully liable for the full amount of any claim or item not compensated by insurance (to the extent that any amount resulted from damages that arose out of the Consultant's sole negligence.)

4. COVERAGE
   The coverage's referred to above are set forth in full in the respective policy forms, and the foregoing descriptions of such policies are not intended to be complete.

5. GENERALLY

   a. The Consultant thereby represents and warrants to the Owner that, as of the date of the execution of the Agreement, the Consultant is not aware of any claims or potential claims which have been made, filed or threatened against any of the insurance or for damages covered by any of the insurance required to be carried under the Agreement that would affect the Consultant's ability to provide the insurance coverage required by this agreement.

b. It is understood that the provisions in the Agreement requiring the Consultant to carry insurance shall not be construed as in any manner waiving or restricting the liability of the Consultant as to any obligations imposed under the Agreement, including, but not limited to, obligations imposed under the provisions of Article 11 of the AIA A201-2017 General Conditions.

Insurance requirements for Contractors

1. CONTRACTOR'S INSURANCE – to be used with AIA A101-2017
   The Contractor shall at its own expense maintain in effect at all times during the performance of the Work under the Agreement at least the following coverage and limits of insurance:

   a. Commercial General Liability

      i. General Aggregate $1,500,000

      ii. Products/Completed Operations Aggregate $1,500,000

      iii. Per Occurrence $1,500,000

      The Owner shall be named as additional insured for Commercial General Liability Insurance

   b. Automobile Insurance

      i. Per Occurrence $1,000,000

      ii. PIP Basic

      iii. Underinsured Motorist $1,000,000

      iv. Uninsured Motorist $1,000,000

   c. Workers Compensation

      i. Coverage A is statutory.

      ii. Coverage B $500,000 Each Accident

      iii. $500,000 Each Employee

d. Professional Liability (if the Contractor is hiring professionals)

   i. Per Claim $2,000,000

   For Projects with an estimated construction cost of over $10,000,000 or major structural work, additional Aggregate coverage of $4,000,000 is required.

e. Manned or Unmanned Aircraft Coverage (if used)

   i. Per Claim $1,000,000

   ii. Aggregate $1,000,000

f. Property Insurance

   i. Per Claim $1,000,000

   ii. Aggregate $1,000,000

   This insurance is only required for materials stored offsite and not incorporated into the project at delivery. For material stored on site, no additional insurance is required.

g. Builders “all risk” Insurance

   i. Per Claim $2,000,000

   ii. Aggregate $4,000,000

   This insurance is only required for additions exceeding $10,000,000. Renovations to existing schools are not required to have builders all risk insurance.

h. Umbrella Liability

   i. Aggregate limit $5,000,000

   This insurance is required only for projects larger than $10,000,000 in total construction costs.

Exhibit D – Project Schedule

FY21 North High School Renovations-Bid Pack 4 Work Scope 03-A Concrete and Masonry

OP#:25-2512

Description

Perform concrete and masonry work in accordance with Work Scope 03-A for the North High School Phase 4 renovations.

Schedule

Start Construction: On or about March 2025 but within 5 days of notice to proceed as directed by the Construction Manager. Please refer to schedule provided in Specifications.
To be completed in 2025-June 2025 to August 2025
Base Bid Level 1 Area E
Base Bid Level 2 Area F, Area G, Area E
Area D Bathrooms March 2025 – May 2025 and September 2025 to December 2025.
Base Bid Level 2 Area E classrooms March 2025-May 2025
Base Bid Area Level 1 Area C – June 2026-August 2026
Base Bid Level 2 Area G – June 2026-August 2026
Bae Bid Level2 Area D – January 2026-August 2026
Alternate #3 – March 2025 through August 2026
Alternate #4 – June 2025-August 2025
Alternate #5 – June 2025-August 2026
Substantial Completion: August 21, 2026.

Major School Days
Recordkeeping Day – March 28, 2025
Spring Break – March 31 – April 4, 2025
Memorial Day – May 26, 2025
Last Day of School – June 6, 2025
Juneteenth – June 19, 2025
Independence Day – July 4, 2025
Last day for Staff – June 30, 2025
Labor Day – September 1, 2025
First Day of School – September 2, 2025

Rosh Hashanah – September 23, 2025
Yom Kippur – October 2, 2025
MEA – October 16-17, 2025
Recordkeeping Day – November 4, 2025
Thanksgiving – November 26-28, 2025
Winter Break – December 22, 2025 to January 2, 2026
Martin Luther King Day – January 19, 2026
Recordkeeping Day – January 23, 2026
Presidents Day – February 16, 2026
Professional Development – February 17, 2026
Eid al-Fitr – March 20, 2026
Recordkeeping Day – March 27, 2026
Memorial Day – May 25, 2026
Professional Development – May 26, 2026
Eid al Adha – May 27, 2026
Juneteenth – June 19, 2026
Independence Day – July 4, 2026
Labor Day – September 7, 2026
First day of School – September 8, 2026

Substantial Completion

The Work will be substantially complete on or before August 21, 2026

Contract Summary of Approval

Contract Group: IT Department

Contract Type: Services

VENDOR DETAILS

Vendor Name:	Carahsoft
Reason Vendor Selected:	State, Cooperative or Joint Power Contract
Vetted/State/Cooperatives End Date:	

CONTRACT INFORMATION

Contract Purpose:	District wide Phone System
Contract Description:	New phone system
Amendment Description:	N/A
Deliverables/Outcomes:	Zoom - Professional Services
Site(s) Affected:	District wide
Effective Start Date:	7/1/2026
Effective End Date:	6/30/2027
Contract Manager:	Tim Wilson

FUNDING INFORMATION

Shopping Cart No.:	TBD
Contract Value:	$441,616.48
Original Contract Amount:	Click or tap to enter text
Accumulative Contract Value:	Click or tap to enter text
Primary Fund Source:	Bond Funds

APPROVED BY

Tim Wilson	Executive Director, IT Services		3/4/2025
LEVEL 1 APPROVER	TITLE	SIGNATURE	DATE
Tom Parent	Senior Information Officer		
LEVEL 2 APPROVER	TITLE	SIGNATURE	DATE

ZOOM PRICE QUOTATION

ZOOM TEAM at CARAHSOFT

CARAHSOFT TECHNOLOGY CORP
11493 SUNSET HILLS ROAD | SUITE 100 | RESTON, VA 20190
PHONE (703) 871-8500 | FAX (703) 871-8505 | TOLL FREE (833) 544-ZOOM

TO:	Emily Newman Minnesota Public Schools 1250 W Broadway Minneapolis, MN 55411 USA	**FROM:**	Braeden Whitlock Zoom Team at Carahsoft 11493 Sunset Hills Road Suite 100 Reston, VA 20190
EMAIL:	emily.newman@mpls.k12.mn.us	**EMAIL:**	Braeden.Whitlock@carahsoft.com
PHONE:	(612) 668--0000	**PHONE:**	(571) 662--3421

TERMS:
OMNIA EDU contract: R191902
Term: April 30, 2025
FTIN:52-2189693
Shipping Point: FOB Destination
Credit Cards: VISA/MasterCard/AMEX
Remit To: Same as Above
Payment Terms: Net 30 (On Approved Credit)

Sales Tax May Apply

QUOTE NO:	53052613
QUOTE DATE:	03/04/2025
QUOTE EXPIRES:	04/03/2025
RFQ NO:	
SHIPPING:	ESD
TOTAL PRICE:	$441,616.48
TOTAL QUOTE:	$441,616.48

LINE NO.	PART NO.	DESCRIPTION	-	QUOTE PRICE		QTY	EXTENDED PRICE
1	ZM-PS-PH-1-756	Professional Services - Phone Zoom Video Communications, Inc. - ZM-PS-PH-1		$412,578.75	COOP	1.	$412,578.75
2	ZM-PS-ZCC-1-756	Zoom Contact Center Professional Services Zoom Video Communications, Inc. - ZM-PS-ZCC-1		$29,037.73	COOP	1.	$29,037.73
		SUBTOTAL:					$441,616.48
			TOTAL PRICE:				**$441,616.48**
			TOTAL QUOTE:				**$441,616.48**

Auto Renew: Yes
Initial Paid Subscription Term: 36 Months
Renewal Subscription Term: 24 Months
Paid Period Start Date: 03/03/2025
Licensee agrees that any order for public sector customers will be governed by the terms and conditions of the Zoom Terms of Service which are found at https://www.carahsoft.com/application/files/3115/7246/0744/Zoom_TOS_-_Final_10.19.pdf as well as Zoom Service's description, located at https://explore.zoom.us/en/services-description/.

The Privacy Policy has been updated and may be found here https://zoomgov.com/privacy.

The Terms of Service for non public sector customers may be found here https://zoom.us/terms as well as Zoom Service's description, located at https://explore.zoom.us/en/services-description/.

Overage charges can be incurred for cloud recording and audio conferencing licenses. Policy and pricing information may be found here https://support.zoom.us/hc/en-us/articles/360060661511-Cloud-recording-storage-capacity https://zoom.us/zoomconference/rates

MINNEAPOLIS PUBLIC SCHOOLS

Capital Planning, Construction & Maintenance Department

Construction Contract Change Order Cover Sheet

		Request Date	1/21/2025
Project Name	North High School CTE Renovation PH3	Project Number	21NORTCTE
Contractor Name	Work Scope 7H Roofing - Central Roofing	Substantial Completion Date:	8/18/2024
Board Authorized Amount	$ 438,257.60	Board Authorized Date	3/12/2024
Original Contract Amount	$ 398,416.00	Contract Date:	1/31/2024
MAS	**14385**	**PO**	2100085163

Summary of Change Orders

Change Order #1	$ 184,319.00	roof replacement under new chiller
Change Order #2		
Change Order #3		
Change Order #4		
Change Order #5		
	Total of Change Orders	$ 184,319.00

AMOUNT OF THIS CHANGE ORDER #	**1**	

Total Amount of Change Orders to Date	**$**	**184,319.00**
REVISED CONTRACT AMOUNT	**$**	**582,735.00**
Revised Date of Substantial Completion	NA	
Date of Requested Board Action		3/11/2025

Approved By: _____ Date: 2/13/2025
Executive Director, CPCM

Reviewed by: Girish Bhatnagar Date: 2/28/2025
Director of Contracts and Payroll

Approved By: _____ Date: _____
Senior Operations Officer

Docusign Envelope ID: B2F4D48A-96EC-4F30-9D97-9CA5A71A0127

KRAUS-ANDERSON®
Construction Company

501 South Eighth Street
Minneapolis MN 55404

Contract Change Order

Project: 2210222-04 MPS - BP#3 North High School Renovations & CTE OP#24-2
1500 James Avenue
Minneapolis, MN 55411

Contract #: 2210222-04 - WS 07H
Contract Change Order #: 1
Change Order Date: 1/21/25

To Contractor : Central Roofing Company
4550 Main Street NE
Minneapolis, MN 55421

THE CONTRACT IS CHANGED AS FOLLOWS:

PCO	Item	Description	Amount
4	1	Schedule Update	$0.00
19	2	Roofing - No cost per PR #11	$0.00
93R	2	Roofing cost changes per PR #36R	$184,319.00
		Total	**$184,319.00**

The original Contract Sum was	**$398,416.00**
The net change by previously authorized Change Orders was	**$0.00**
The Contract Sum prior to this Change Order was	**$398,416.00**
The Contract Sum will be increased by this Change Order	**$184,319.00**
The new Contract Sum will be	**$582,735.00**

NOT VALID UNTIL SIGNED BY THE OWNER, CONSTRUCTION MANAGER, ARCHITECT AND CONTRACTOR

Kraus-Anderson Construction Company
CONSTRUCTION MANAGER *(Firm name)*
501 South Eighth Street
Minneapolis MN 55404
ADDRESS
DocuSigned by:
Bre Nava
362A82533C1431...
BY *(Signature)*
Bre Nava 1/23/2025 | 11:34 AM PST
(Typed name) **DATE:**

LSE Architects, Inc.
ARCHITECT *(Firm name)*
1401 Glenwood Ave.
Minneapolis. MN 55405
ADDRESS
DocuSigned by:
Deborah Bauknight
F05D4C431D924FB...
BY *(Signature)*
Deborah Bauknight 1/23/2025 | 5:28 PM CS
(Typed name) **DATE:**

Central Roofing Company
CONTRACTOR *(Firm name)*
4550 Main Street NE
Minneapolis, MN 55421
ADDRESS
DocuSigned by:
Michael Olson
6783B40DFA9441C9...
BY *(Signature)*
Michael Olson 1/23/2025 | 10:01 AM CST
(Typed name) **DATE:**

Mpls Public Schools Special School Dist #1
OWNER *(Firm name)*
1250 West Broadway Avenue
Minneapolis, MN 55411
ADDRESS
BY *(Signature)*
Curtis Hartog
(Typed name) **DATE:**

Docusign Envelope ID: B2F4D48A-96EC-4F30-9D97-9CA5A71A0127

KRAUS-ANDERSON®
Construction Company

501 South Eighth Street
Minneapolis, MN 55404

Supplementary Instructions

Project:	2210222-04 MPS - BP#3 North High School Renovations & CTE OP#24-2405 1500 James Avenue Minneapolis, MN 55411	PCO #:	4
		Date:	03/06/2024

To: Terry Coleman, Kraus-Anderson Construction Company
Bre Nava, Kraus-Anderson Construction Company
Curtis Hartog, Mpls Public Schools Special School Dist #1
Phil Levine, H2I Group, Inc.
Brady Selken, B & D Associates, Inc.
Michael Olson, Central Roofing Company
Sam Martens, Ford Metro, Inc.
Lee Ahola, Grazzini Brothers & Company
Jeffrey Moore, Kellington Construction, Inc.
Dan Debee, Red Cedar Steel Erectors, Inc.
Jason Plumley, Sonus Interiors, Inc.
Brent Weckwerth, Summit Fire Protection Company
Nick Haglin, Thelen Heating & Roofing, Inc.
Josh Peklo, Gopher Stage Lighting, Inc.
Deborah Bauknight, LSE Architects, Inc.
Melanie Leblanc, Horizon Equipment, LLC
John Kolbow, Painting By Nakasone, Inc.
Matt Troendle, NAC Mechanical & Electrical Services

Pursuant to General and Supplementary Conditions of the Contract, the following instructions are included in the work. All responses are required within seven (7) days.

DESCRIPTION OF THE WORK:

Attachments: KA Schedule

☐ We have reviewed the PCO and acknowledge that it is a “no change” item and does not affect our completion date.

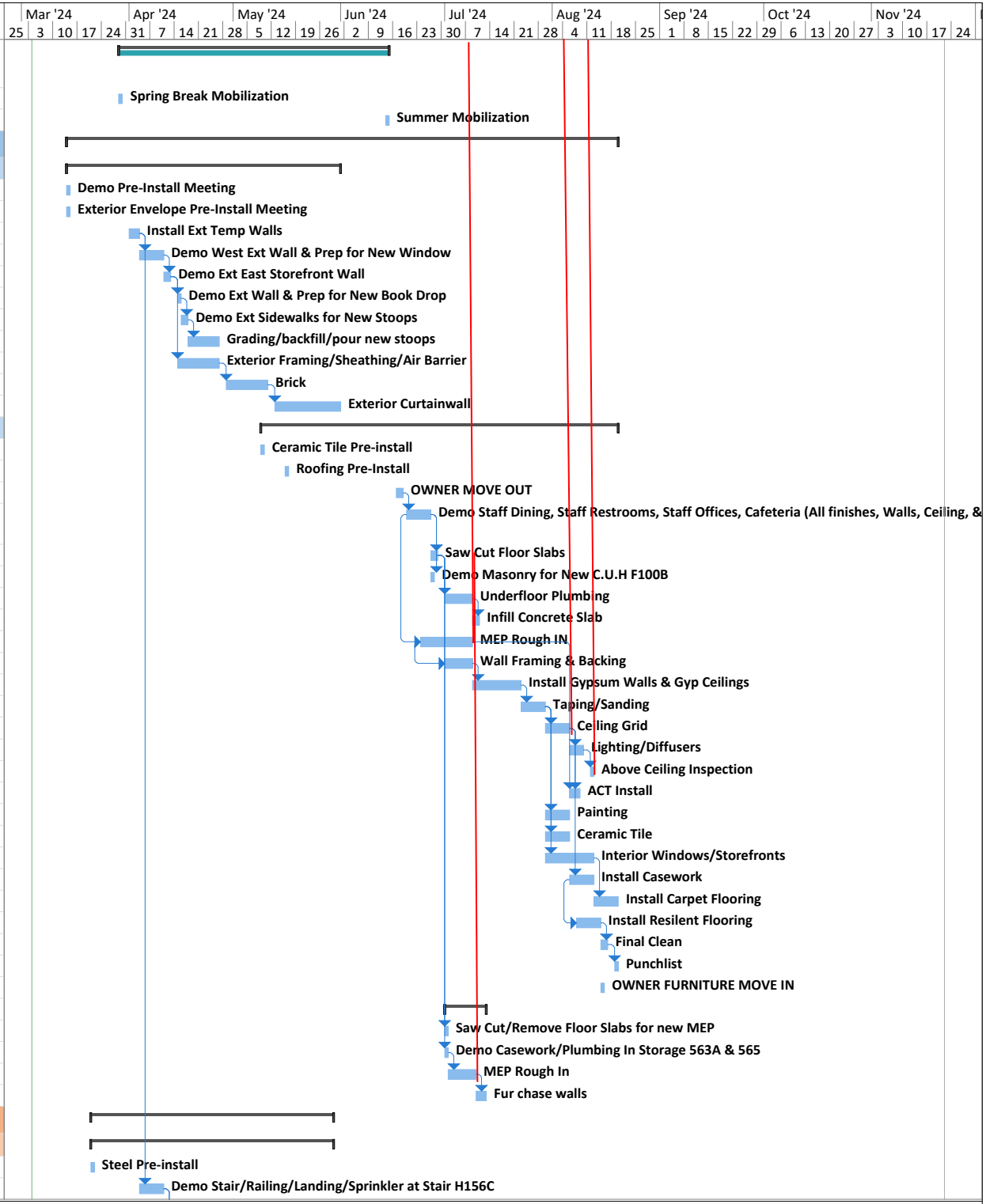
Signed By: _____ Date: _____

Company Name: _____

Docusign Envelope ID: B2F4D48A-96EC-4F30-9D97-9CA5A71A0127

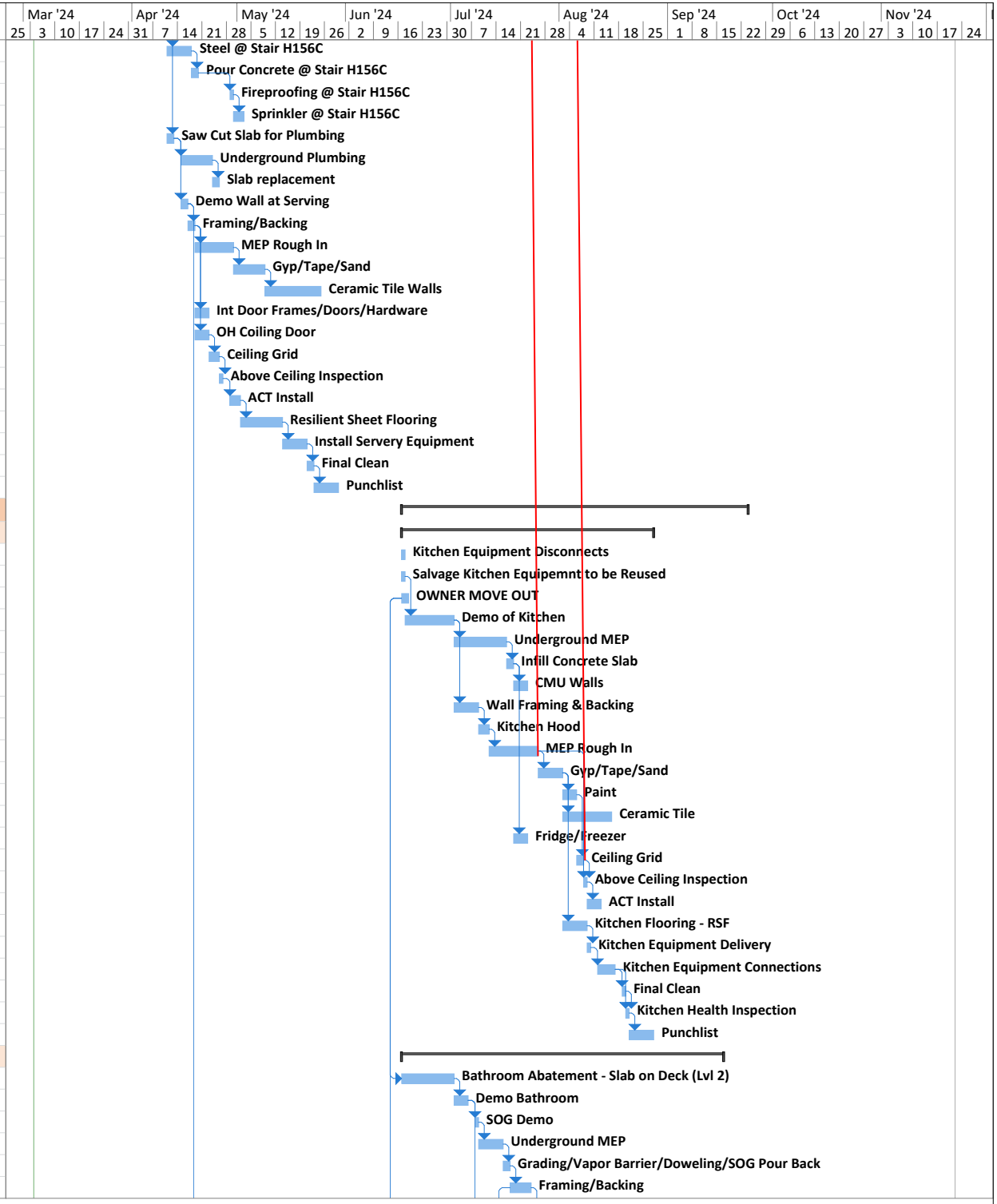
MPS North HS BP#3

ID	Task Mode	Task Name	Duration
1		**MPS North HS BP#3**	
2		Spring Break Mobilization	
3		Summer Mobilization	
4		**AREA F LVL 1**	**111 days**
5		**SPRING BREAK MOBILIZTION - Exterior/Enclosure**	**57 days**
6		Demo Pre-Install Meeting	1 day
7		Exterior Envelope Pre-Install Meeting	1 day
8		Install Ext Temp Walls	3 days
9		Demo West Ext Wall & Prep for New Window	5 days
10		Demo Ext East Storefront Wall	2 days
11		Demo Ext Wall & Prep for New Book Drop	1 day
12		Demo Ext Sidewalks for New Stoops	2 days
13		Grading/backfill/pour new stoops	7 days
14		Exterior Framing/Sheathing/Air Barrier	10 days
15		Brick	10 days
16		Exterior Curtainwall	15 days
17		**SUMMER MOBILIZATION**	**71 days**
18		Ceramic Tile Pre-install	1 day
19		Roofing Pre-Install	1 day
20		OWNER MOVE OUT	2 days
21		Demo Staff Dining, Staff Restrooms, Staff Offices, Cafeteria (All finishes, Walls, Ceiling, & Floors)	5 days
22		Saw Cut Floor Slabs	2 days
23		Demo Masonry for New C.U.H F100B	1 day
24		Underfloor Plumbing	5 days
25		Infill Concrete Slab	2 days
26		MEP Rough IN	10 days
27		Wall Framing & Backing	5 days
28		Install Gypsum Walls & Gyp Ceilings	10 days
29		Taping/Sanding	5 days
30		Ceiling Grid	5 days
31		Lighting/Diffusers	4 days
32		Above Ceiling Inspection	1 day
33		ACT Install	3 days
34		Painting	5 days
35		Ceramic Tile	5 days
36		Interior Windows/Storefronts	10 days
37		Install Casework	5 days
38		Install Carpet Flooring	5 days
39		Install Resilent Flooring	5 days
40		Final Clean	2 days
41		Punchlist	1 day
42		OWNER FURNITURE MOVE IN	1 day
43		**AREA F LVL 2 - SUMMER MOBILIZATION**	**9 days**
44		Saw Cut/Remove Floor Slabs for new MEP	1 day
45		Demo Casework/Plumbing In Storage 563A & 565	1 day
46		MEP Rough In	5 days
47		Fur chase walls	3 days
48		**AREA G LVL 1**	**50 days**
49		**SPRING BREAK MOBILIZATION - Servery Area**	**50 days**
50		Steel Pre-install	1 day
51		Demo Stair/Railing/Landing/Sprinkler at Stair H156C	5 days



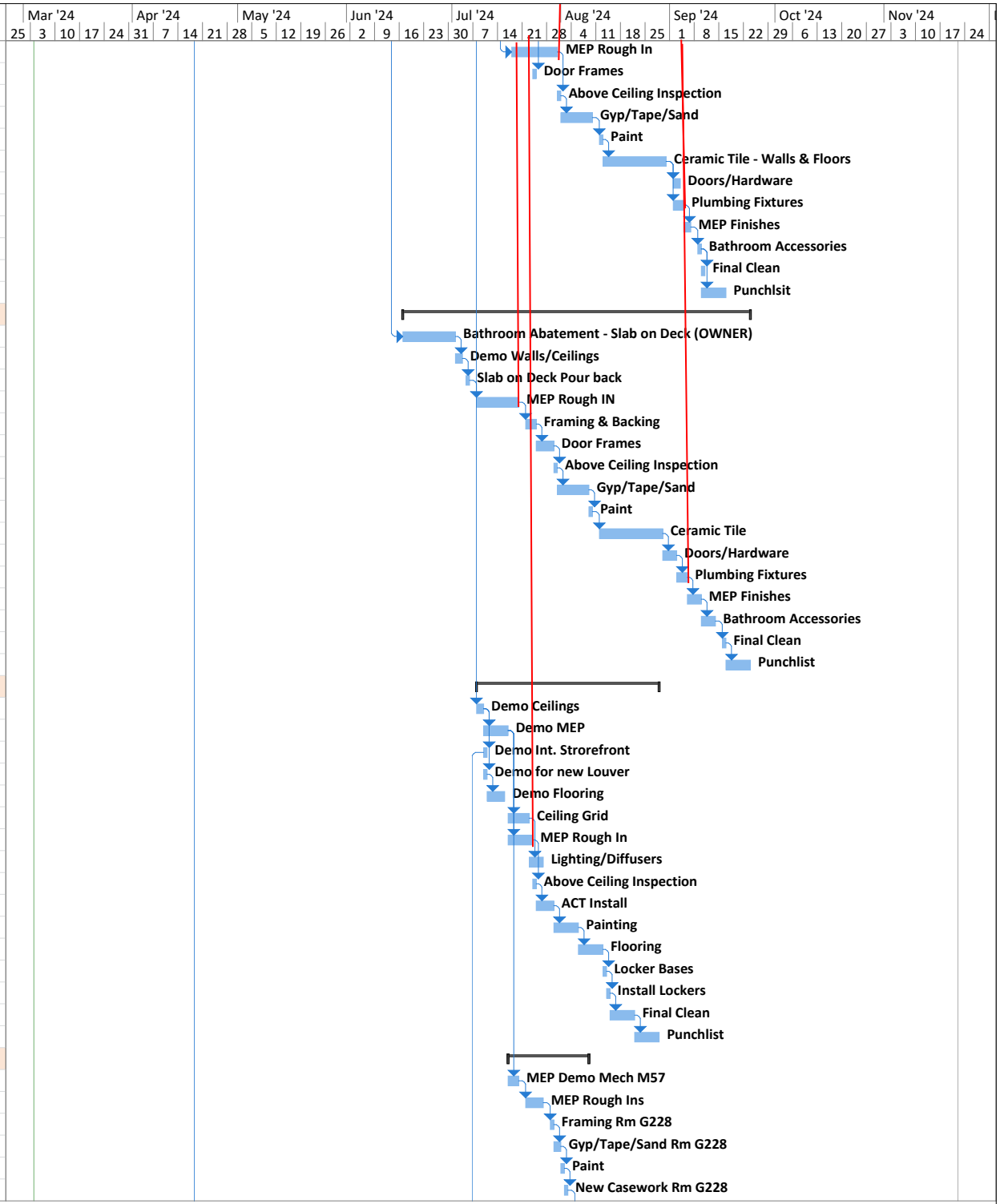
Docusign Envelope ID: B2F4D48A-96EC-4F30-9D97-9CA5A71A0127

ID	Task Mode	Task Name	Duration
52		Steel @ Stair H156C	5 days
53		Pour Concrete @ Stair H156C	2 days
54		Fireproofing @ Stair H156C	1 day
55		Sprinkler @ Stair H156C	3 days
56		Saw Cut Slab for Plumbing	2 days
57		Underground Plumbing	7 days
58		Slab replacement	2 days
59		Demo Wall at Serving	2 days
60		Framing/Backing	2 days
61		MEP Rough In	7 days
62		Gyp/Tape/Sand	7 days
63		Ceramic Tile Walls	12 days
64		Int Door Frames/Doors/Hardware	2 days
65		OH Coiling Door	2 days
66		Ceiling Grid	3 days
67		Above Ceiling Inspection	1 day
68		ACT Install	3 days
69		Resilient Sheet Flooring	8 days
70		Install Servery Equipment	5 days
71		Final Clean	2 days
72		Punchlist	5 days
73		**SUMMER MOBIIZATION - Kitchen & Bathroom Area**	**69 days**
74		**Area G Lvl 1 - Kitchen**	**50 days**
75		Kitchen Equipment Disconnects	1 day
76		Salvage Kitchen Equipemnt to be Reused	1 day
77		OWNER MOVE OUT	2 days
78		Demo of Kitchen	9 days
79		Underground MEP	10 days
80		Infill Concrete Slab	2 days
81		CMU Walls	2 days
82		Wall Framing & Backing	4 days
83		Kitchen Hood	3 days
84		MEP Rough In	10 days
85		Gyp/Tape/Sand	5 days
86		Paint	2 days
87		Ceramic Tile	10 days
88		Fridge/Freezer	2 days
89		Ceiling Grid	2 days
90		Above Ceiling Inspection	1 day
91		ACT Install	2 days
92		Kitchen Flooring - RSF	5 days
93		Kitchen Equipment Delivery	1 day
94		Kitchen Equipment Connections	5 days
95		Final Clean	1 day
96		Kitchen Health Inspection	1 day
97		Punchlist	5 days
98		**Area G Lvl 1 - Bathroom G106**	**64 days**
99		Bathroom Abatement - Slab on Deck (Lvl 2)	10 days
100		Demo Bathroom	3 days
101		SOG Demo	1 day
102		Underground MEP	5 days
103		Grading/Vapor Barrier/Doweling/SOG Pour Back	2 days
104		Framing/Backing	4 days



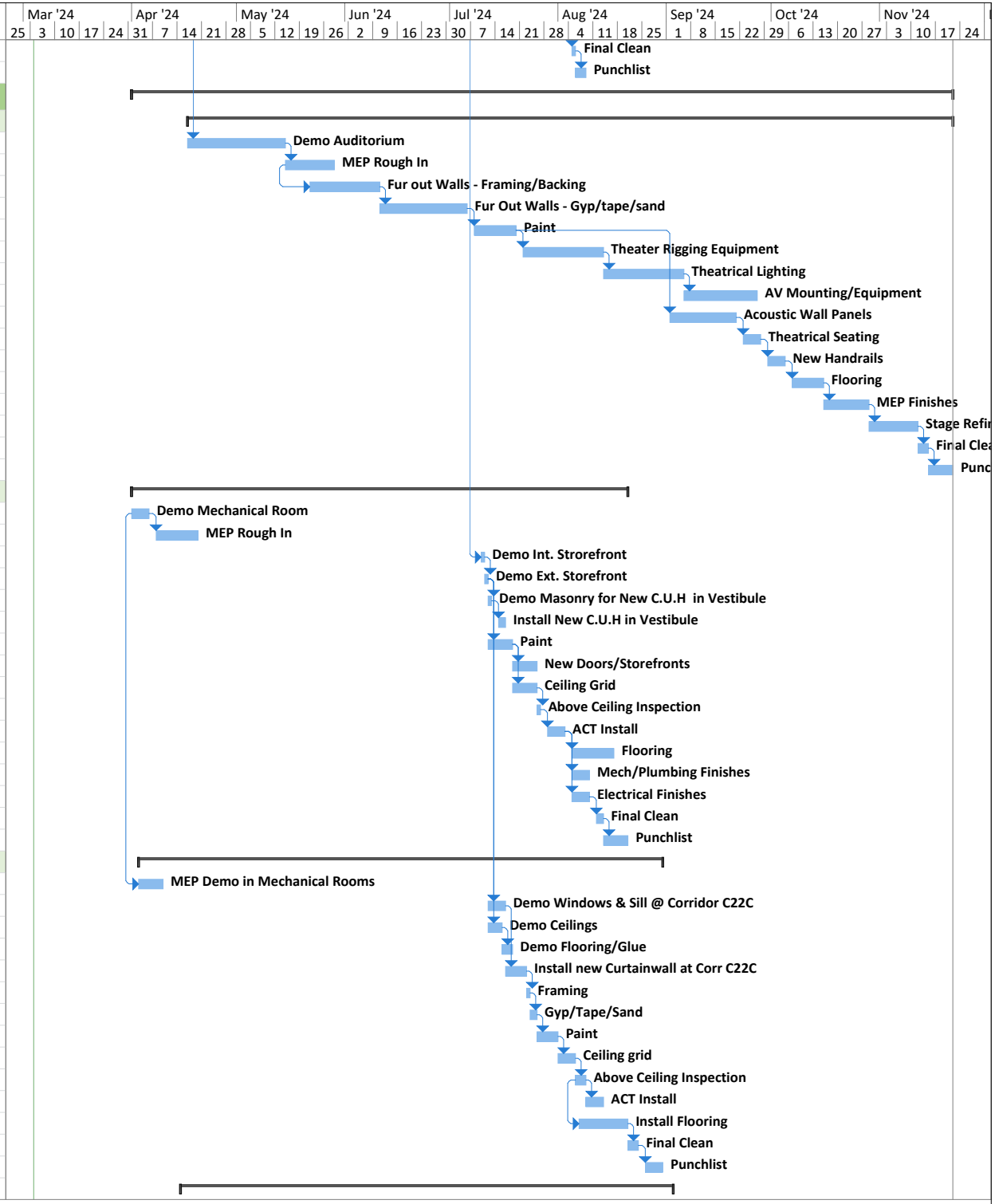
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ID	Task Mode	Task Name	Duration
105		MEP Rough In	9 days
106		Door Frames	1 day
107		Above Ceiling Inspection	1 day
108		Gyp/Tape/Sand	7 days
109		Paint	1 day
110		Ceramic Tile - Walls & Floors	14 days
111		Doors/Hardware	2 days
112		Plumbing Fixtures	3 days
113		MEP Finishes	2 days
114		Bathroom Accessories	1 day
115		Final Clean	1 day
116		Punchlsit	5 days
117		**Area G LVL 2 - Bathroom G206**	**69 days**
118		Bathroom Abatement - Slab on Deck (OWNER)	10 days
119		Demo Walls/Ceilings	2 days
120		Slab on Deck Pour back	1 day
121		MEP Rough IN	10 days
122		Framing & Backing	3 days
123		Door Frames	3 days
124		Above Ceiling Inspection	1 day
125		Gyp/Tape/Sand	7 days
126		Paint	1 day
127		Ceramic Tile	14 days
128		Doors/Hardware	2 days
129		Plumbing Fixtures	3 days
130		MEP Finishes	2 days
131		Bathroom Accessories	4 days
132		Final Clean	1 day
133		Punchlist	5 days
134		**Area G LVL 1 - Halls/Misc Area**	**38 days**
135		Demo Ceilings	2 days
136		Demo MEP	5 days
137		Demo Int. Strorefront	1 day
138		Demo for new Louver	1 day
139		Demo Flooring	3 days
140		Ceiling Grid	4 days
141		MEP Rough In	5 days
142		Lighting/Diffusers	4 days
143		Above Ceiling Inspection	1 day
144		ACT Install	3 days
145		Painting	5 days
146		Flooring	5 days
147		Locker Bases	1 day
148		Install Lockers	1 day
149		Final Clean	5 days
150		Punchlist	5 days
151		**AREA G LVL 2 - Classrooms/Misc**	**17 days**
152		MEP Demo Mech M57	3 days
153		MEP Rough Ins	5 days
154		Framing Rm G228	1 day
155		Gyp/Tape/Sand Rm G228	2 days
156		Paint	1 day
157		New Casework Rm G228	1 day



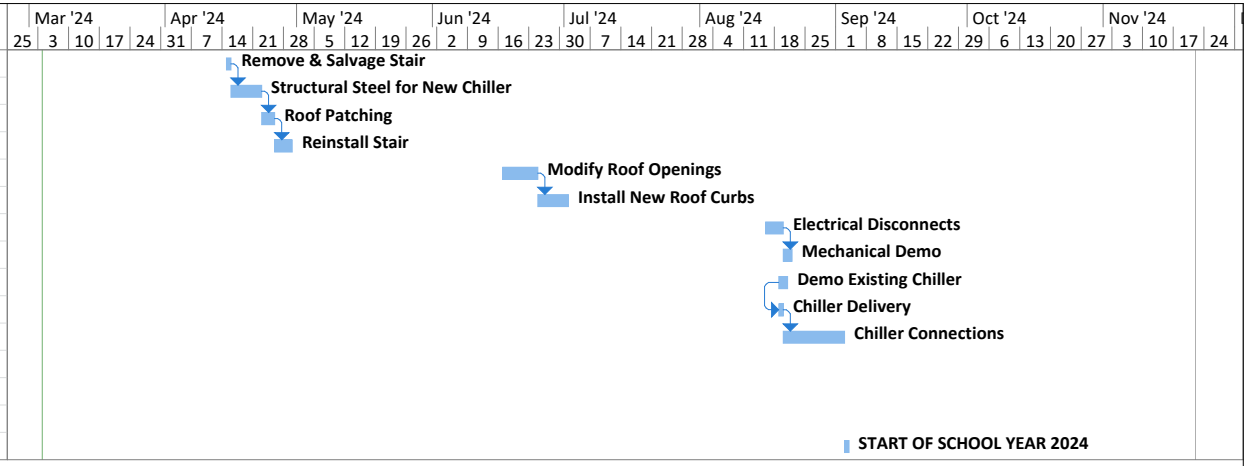
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ID	Task Mode	Task Name	Duration
158		Final Clean	1 day
159		Punchlist	3 days
160		**AREA D LVL 1 - AUDITORIUM**	**167 days**
161		**Area D - Auditorium - SPRING BREAK MOBILIZATION**	**155 days**
162		Demo Auditorium	20 days
163		MEP Rough In	10 days
164		Fur out Walls - Framing/Backing	14 days
165		Fur Out Walls - Gyp/tape/sand	17 days
166		Paint	10 days
167		Theater Rigging Equipment	17 days
168		Theatrical Lighting	17 days
169		AV Mounting/Equipment	15 days
170		Acoustic Wall Panels	15 days
171		Theatrical Seating	5 days
172		New Handrails	5 days
173		Flooring	7 days
174		MEP Finishes	9 days
175		Stage Refinishing (Owner)	10 days
176		Final Clean	3 days
177		Punchlist	5 days
178		**Area D - Hallways & Rooms**	**100 days**
179		Demo Mechanical Room	5 days
180		MEP Rough In	10 days
181		Demo Int. Strorefront	1 day
182		Demo Ext. Storefront	1 day
183		Demo Masonry for New C.U.H in Vestibule	1 day
184		Install New C.U.H in Vestibule	2 days
185		Paint	5 days
186		New Doors/Storefronts	5 days
187		Ceiling Grid	5 days
188		Above Ceiling Inspection	1 day
189		ACT Install	5 days
190		Flooring	10 days
191		Mech/Plumbing Finishes	5 days
192		Electrical Finishes	5 days
193		Final Clean	2 days
194		Punchlist	5 days
195		**AREA D LVL 2 - Hallways & Rooms**	**106 days**
196		MEP Demo in Mechanical Rooms	5 days
197		Demo Windows & Sill @ Corridor C22C	3 days
198		Demo Ceilings	2 days
199		Demo Flooring/Glue	3 days
200		Install new Curtainwall at Corr C22C	4 days
201		Framing	1 day
202		Gyp/Tape/Sand	2 days
203		Paint	4 days
204		Ceiling grid	3 days
205		Above Ceiling Inspection	3 days
206		ACT Install	3 days
207		Install Flooring	10 days
208		Final Clean	3 days
209		Punchlist	5 days
210		**ROOF**	**99 days**



Docusign Envelope ID: B2F4D48A-96EC-4F30-9D97-9CA5A71A0127

ID	Task Mode	Task Name	Duration
211		Remove & Salvage Stair	1 day
212		Structural Steel for New Chiller	5 days
213		Roof Patching	3 days
214		Reinstall Stair	2 days
215		Modify Roof Openings	5 days
216		Install New Roof Curbs	5 days
217		Electrical Disconnects	2 days
218		Mechanical Demo	2 days
219		Demo Existing Chiller	2 days
220		Chiller Delivery	1 day
221		Chiller Connections	10 days
222			
223			
224			
225		START OF SCHOOL YEAR 2024	1 day



Docusign Envelope ID: B2F4D48A-96EC-4F30-9D97-9CA5A71A0127

KRAUS-ANDERSON®
Construction Company

Change Order Request

Project: 2210222-04
MPS - BP#3 North High School Renovations & CTE OP#24-2405
1500 James Avenue
Minneapolis, MN 55411

COR # 20.00

Date: 5/23/2024

To: Owner Mpls Public Schools Special School Dist #1
1250 West Broadway Avenue
Minneapolis, MN 55411

From: Kraus-Anderson Construction Company
501 South Eighth Street
Minneapolis, MN 55404

PCO # ***19 - LSE PR #11: Add 4 Work Scopes not re-bid***

Item #	Description	Vendor	Amount
1	Structural Steel - No cost per PR #11	Red Cedar Steel Erectors, Inc.	$0.00
2	Roofing - No cost per PR #11	Central Roofing Company	$0.00
3	Carpentry per PR #11	Kellington Construction, Inc.	$15,443.78
4	Ceiling/Acoustical - no cost per PR #11	Sonus Interiors, Inc.	$0.00
		Total For Change Order	**$15,443.78**

Approved By: Mpls Public Schools Special School Dist #1 **Signed:** DocuSigned by: Curtis Hartog 53601F68E644483... **Date:** 5/31/2024 | 7:58 AM CD

Submitted By: Kraus-Anderson Construction Company **Signed:** DocuSigned by: Bre Nava 562A882533C1431... **Date:** 5/23/2024 | 1:50 PM CD

Accepted By: LSE Architects, Inc. **Signed:** DocuSigned by: Deborah Bauknight F63D4C431D924FB... **Date:** 5/28/2024 | 9:50 AM CD

Docusign Envelope ID: B2F4D48A-96EC-4F30-9D97-9CA5A71A0127

KRAUS-ANDERSON®
Construction Company

501 South Eighth Street
Minneapolis, MN 55404

Request For Proposal

Project:	2210222-04 MPS - BP#3 North High School Renovations & CTE OP#24-2405 1500 James Avenue Minneapolis, MN 55411	PCO #:	19
		Date:	04/12/2024
To:	Terry Coleman, Kraus-Anderson Construction Company Bre Nava, Kraus-Anderson Construction Company Curtis Hartog, Mpls Public Schools Special School Dist #1 Michael Olson, Central Roofing Company Kambria Morris, Central Roofing Company Jeffrey Moore, Kellington Construction, Inc. Dan Debee, Red Cedar Steel Erectors, Inc. Jason Plumley, Sonus Interiors, Inc. Deborah Bauknight, LSE Architects, Inc.		

Please provide a cost breakdown in accordance with the Contract Documents and a Summary for the Change described herein and on the attachments (if any) listed. All responses are required within seven (7) days.

This is not an authorization to proceed with the work described herein unless and until approved by the Owner. On approval, this change will be included in a Change Order, which will provide the formal Contract Change.

DESCRIPTION OF PROPOSAL:

Please provide a cost estimate per the attached PR #11 regarding add 4 work scopes not re-bid.

Attachments: LSE PR #11 dated 4/8/2024

☐ We have reviewed the PCO and acknowledge that it is a “no change” item and does not affect our completion date.

Signed By: _____ Date: _____

Company Name: _____

Docusign Envelope ID: B2F4D48A-96EC-4F30-9D97-9CA5A71A0127

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Proposal Request

PROJECT: *(name and address)*
North High School - BP3
Special School District No. 1
1500 James Avenue
Minneapolis, MN 55411

CONTRACT INFORMATION:
Contract For: General Construction
Date: 3/12/2024

Architect's Project Number: 21.1002.01
Proposal Request Number: 11
Proposal Request Date: 4/8/2024

OWNER: *(name and address)*
Minneapolis Public Schools
SSD 1
1250 West Broadway Avenue
Minneapolis, MN 55411

ARCHITECT: *(name and address)*
LSE Architects, Inc.
1401 Glenwood Ave
Minneapolis, MN 55405

CONTRACTOR: *(name and address)*
Kraus-Anderson Construction
501 South 8th Street
Minneapolis, MN 55404

The Owner requests an itemized proposal for changes to the Contract Sum and Contract Time for proposed modifications to the Contract Documents described herein. The Contractor shall submit this proposal within Fourteen (14) days or notify the Architect in writing of the anticipated date of submission.
(Insert a detailed description of the proposed modifications to the Contract Documents and, if applicable, attach or reference specific exhibits.)

BP3 – Add. 4 Work Scopes Not Re-Bid

Provide pricing for work scopes revised in Addendum 4 that were not re-bid. Work includes the chiller platform information originally issued in BP1, listing those 2 drawings on the title sheet, and updated auditorium wall panel legend and keynotes.

Provide detailed breakdown of additions and/or credits per project manual.

Attachments:
BP1 - S134.2 - Roof Framing Plan - Area D
BP1 - S923.1 - Sections and Details
BP's - G001 - Title Sheet Volume 1
BP3 - AD101.3 - Level 1 Overall Floor Plan - Demolition
BP3 - AD102.3 - Level 2 Overall Floor Plan - Demolition
BP3 - A114.3 - Level 1 Floor Plan - Area D
BP3 - A124.3 - Level 2 Floor Plan - Area D
BP3 - A466.3 - Interior Elevations - Auditorium

THIS IS NOT A CHANGE ORDER, A CONSTRUCTION CHANGE DIRECTIVE, OR A DIRECTION TO PROCEED WITH THE WORK DESCRIBED IN THE PROPOSED MODIFICATIONS.

REQUESTED BY THE ARCHITECT:

Deborah Bauknight, PM/Contract Admin
PRINTED NAME AND TITLE

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User Notes: (3B9ADA54)

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KRAUS-ANDERSON®
Construction Company

Change Order Request

Project: 2210222-04
MPS - BP#3 North High School Renovations & CTE OP#24-2405
1500 James Avenue
Minneapolis, MN 55411

COR # 102.00

Date: 1/6/2025

To: Owner Mpls Public Schools Special School Dist #1
1250 West Broadway Avenue
Minneapolis, MN 55411

From: Kraus-Anderson Construction Company
501 South Eighth Street
Minneapolis, MN 55404

PCO # ***93R - LSE PR #36R: Owner Requested Roof Replacement Under Chiller***

Item #	Description	Vendor	Amount
1	Mechanical cost per PR #36R	Thelen Heating & Roofing, Inc.	$111,395.00
2	Roofing cost changes per PR #36R	Central Roofing Company	$184,319.00
3	Combined Steel - No cost per PR #36R	Red Cedar Steel Erectors, Inc.	$0.00
		Total For Change Order	**$295,714.00**

Approved By: Mpls Public Schools Special School Dist #1 **Signed:** DocuSigned by: Curtis Hartog 53601F68E644483... **Date:** 1/13/2025 | 12:03 PM P

Submitted By: Kraus-Anderson Construction Company **Signed:** DocuSigned by: Bre Nava 562A882533C1431... **Date:** 1/6/2025 | 12:38 PM PST

Accepted By: LSE Architects, Inc. **Signed:** DocuSigned by: Deborah Bauknight F63D4C431D924FB... **Date:** 1/10/2025 | 5:43 PM CS

Docusign Envelope ID: B2F4D48A-96EC-4F30-9D97-9CA5A71A0127

CENTRAL
ROOFING COMPANY
- Since 1929 -

TO: KRAUS-ANDERSON CONST.

DATE: OCTOBER 10, 2024

PROJECT:
NORTH HIGH SCHOOL RENOVATIONS
AND CTE CENTER BID PACKAGE 3

ATTENTION: Bre Nava

MPS - North High School PCO 93 PR 36 Roof Replacement

The following is an additional work pricing request.
See below for breakdown of labor and materials.

Provide all roofing, carpentry and sheet metal flashing work for the reroofing of the areas as shown on PR 36.

LABOR:		
Roofing / Carpentry	**616 hours x $133.00/HR =**	**$ 81,928.00**
Trucking / Hoist	**96 hours x $133.00/HR =**	**$ 12,768.00**
Sheet Metal Fab / Install	**320 hours x $138.00/HR =**	**$ 44,160.00**
Sub Total		**$138,856.00**
MATERIALS:		
Roofing		**$32,443.00**
Sheet Metal		**$ 8,887.00**
Sub Total		**$41,330.00**
Mark-Up 10%		**$ 4,133.00**
TOTAL COST:		**$184,319.00**
Labor Increase cost for 2025		**ADD: $3,983.00**

CENTRAL ROOFING COMPANY

Michael Olson

Michael Olson
Estimator/Project Manager

4550 Main Street NE - Minneapolis, MN 55421
(763)572-0660 - Fax (763)572-0230
www.centralroofing.com

Docusign Envelope ID: B2F4D48A-96EC-4F30-9D97-9CA5A71A0127

KRAUS-ANDERSON®
Construction Company

501 South Eighth Street
Minneapolis, MN 55404

Request For Proposal

Project:	2210222-04 MPS - BP#3 North High School Renovations & CTE OP#24-2405 1500 James Avenue Minneapolis, MN 55411	PCO #:	93R
		Date:	10/07/2024
To:	Terry Coleman, Kraus-Anderson Construction Company Bre Nava, Kraus-Anderson Construction Company Curtis Hartog, Mpls Public Schools Special School Dist #1 Michael Olson, Central Roofing Company Dan Debee, Red Cedar Steel Erectors, Inc. Nick Haglin, Thelen Heating & Roofing, Inc. Deborah Bauknight, LSE Architects, Inc. Mariaha Dean, Eden Resources Natasha Brown, Eden Resources Joseph Grant, Eden Resources		

Please provide a cost breakdown in accordance with the Contract Documents and a Summary for the Change described herein and on the attachments (if any) listed. All responses are required within seven (7) days.

This is not an authorization to proceed with the work described herein unless and until approved by the Owner. On approval, this change will be included in a Change Order, which will provide the formal Contract Change.

DESCRIPTION OF PROPOSAL:

Please provide a cost estimate per the attached PR #36 regarding Owner Requested Roof Replacement under Chiller.

Attachments: LSE PR #36 dated 7/3/2024

☐ We have reviewed the PCO and acknowledge that it is a “no change” item and does not affect our completion date.

Signed By: _____ Date: _____

Company Name: _____

Docusign Envelope ID: B2F4D48A-96EC-4F30-9D97-9CA5A71A0127

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Proposal Request

PROJECT: *(name and address)*
North High School - BP3
Special School District No. 1
1500 James Avenue
Minneapolis, MN 55411

CONTRACT INFORMATION:
Contract For: General Construction
Date: 3/12/2024

Architect's Project Number: 21.1002.01
Proposal Request Number: 36R
Proposal Request Date: 10/3/2024

OWNER: *(name and address)*
Minneapolis Public Schools
SSD 1
1250 West Broadway Avenue
Minneapolis, MN 55411

ARCHITECT: *(name and address)*
LSE Architects, Inc.
1401 Glenwood Ave
Minneapolis, MN 55405

CONTRACTOR: *(name and address)*
Kraus-Anderson Construction
501 South 8th Street
Minneapolis, MN 55404

The Owner requests an itemized proposal for changes to the Contract Sum and Contract Time for proposed modifications to the Contract Documents described herein. The Contractor shall submit this proposal within Fourteen (14) days or notify the Architect in writing of the anticipated date of submission.
(Insert a detailed description of the proposed modifications to the Contract Documents and, if applicable, attach or reference specific exhibits.)

BP3 – Owner Requested Roof Replacement Under Chiller - REVISED SCOPE

Provide pricing for new roof under the chiller while the chiller and steel structure is being replaced. Existing BUR is in bad shape and does not slope to the drains. Owner wants to replace with an EPDM roof membrane due to the difficulty of maintaining a BUR in this area with low head height access under the chiller, ductwork, and steel. Scope is identified within roof curbs to provide separation points to the existing roof. Refer to attached new spec section, new roof system type, plans, and details including demolition of the existing roof and insulation.
Note HEI adds that the existing roof drain heights should be adjusted (assume adjustable) to accommodate new roof insulation depth. In addition one section needs an additional roof drain added in hall currently under construction in order to make the new roof insulation pitch properly. Refer to HEI documents.
Provide submittals for this scope of work incuding sloped insulation.
ADDED SCOPE this revision per pre-install meeting on site: removal and reinstallation of a roof ladder for roofing access, removal and reinstallation of ductwork and large piping to access roof area underneath, enlargement of opening in divider curbs to facilitate roof insulation pitch, and coordination with initial roof insulation shop drawing which confirms approximately maximum 10" insulation height at existing curbs. Provide minimum if any additional blocking on top of existing divider curbs and roof perimeter as needed to accommodate insulation.

Provide detailed breakdown of additions and/or credits per project manual.

Attachments:
07 53 23 EPDM Roofing - new spec section
BP's - G071 - Building Assemblies
BP3 - AD103.3 - Roof Plan - Demolition
BP3 - A103.3 - Roof Plan
BP3 - A551.3 - Roof Details
HEI written narrative
BP3 - MD181.3 - Roof Demolition Plan - Areas D, F and G
BP3 - P124.3 - Level 2 Plumbing Plan - Area D
BP3 - M182.3 - Roof Plan - Areas D, F, and G
BP3 - M501.3 - Details
BP3 - M602.3 - Schedules

THIS IS NOT A CHANGE ORDER, A CONSTRUCTION CHANGE DIRECTIVE, OR A DIRECTION TO PROCEED WITH THE WORK DESCRIBED IN THE PROPOSED MODIFICATIONS.

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REQUESTED BY THE ARCHITECT:



Deborah Bauknight, PM/Contract Admin

PRINTED NAME AND TITLE

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FY21 North High School Phase 3

Contract Sum: $398,416

Contractor: Central Roofing Company

Project Name and Number

North High School Phase 3 Work Scope 7H Roofing
1500 James Avenue
Minneapolis, MN 55411
Minneapolis Public Schools Project Number 21NORTCTE
OP 24-2405

Description

Phase 3 of the North High School Renovations. The project includes the auditorium renovation, childcare and kitchen and serving area renovations at North High School.

Contract Sum details

Item	Price	Status
Base Bid	$398,416	accepted
Alt #1: Toilets D140 & D240	$0	rejected
Alt #2: Toilets D106 & D206	$0	rejected
Alt #3: 2nd Floor Auditorium Classrooms	$0	rejected
Alt #4: Auditorium Seating	$0	Accepted

Contract Documents

AIA Document A132-2019
AIA Document A132 Exhibit A-2019
Exhibit B – Project Charter
Exhibit C – Owner Insurance
Exhibit D – Project Schedule
AIA Document E203-2013
AIA Document A232-2019

AIA® Document A132® – 2019

Standard Form of Agreement Between Owner and Contractor, Construction Manager as Adviser Edition

AGREEMENT made as of the __31____ day of ___January_____ in the year __2024____ January
(In words, indicate day, month, and year.)

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

Minneapolis Public Schools Special School District #1
1250 West Broadway Avenue
Minneapolis, MN 55411

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

Central Roofing Company
4550 Main Street NE
Minneapolis, MN 55421

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

North High School Phase 3 Work Scope 7H Roofing
1500 James Avenue
Minneapolis, MN 55411

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

Kraus-Anderson Construction Company
501 South 8th Street
Minneapolis, MN 55405

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

LSE Architects
1401 Glenwood Avenue
Minneapolis, MN 55405

The Owner and Contractor agree as follows.

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

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

This document is intended to be used in conjunction with AIA Documents A232™–2019, General Conditions of the Contract for Construction, Construction Manager as Adviser Edition; B132™–2019, Standard Form of Agreement Between Owner and Architect, Construction Manager as Adviser Edition; and C132™–2019, Standard Form of Agreement Between Owner and Construction Manager as Adviser. AIA Document A232™–2019 is adopted in this document by reference. Do not use with other general conditions unless this document is modified.

Init.
/
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User Notes: (893671016)

TABLE OF ARTICLES

1 THE CONTRACT DOCUMENTS

2 THE WORK OF THIS CONTRACT

3 DATE OF COMMENCEMENT AND DATES OF SUBSTANTIAL COMPLETION

4 CONTRACT SUM

5 PAYMENTS

6 DISPUTE RESOLUTION

7 TERMINATION OR SUSPENSION

8 MISCELLANEOUS PROVISIONS

9 ENUMERATION OF CONTRACT DOCUMENTS

EXHIBIT A INSURANCE AND BONDS
EXHIBIT B DETERMINATION OF THE COST OF THE WORK

ARTICLE 1 THE CONTRACT DOCUMENTS

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

§ 1.2 In the event that there are inconsistencies between any of the Project Contract Documents, all Contract Documents shall be construed together and shall be read with a purpose and intent to provide that the Contractor shall commit to fully complete its Project Work and services with the greater degree of commitment as referenced in the Contract Documents, including the plans and specifications, to work diligently to ensure completion of the Project in a timely and workmanlike manner and at the earliest stated times provided for in Project schedules, as they may be revised, and to ensure that Contractor, and all of its Subcontractors and suppliers complete the Project on schedule and within Project Contract Price, subject to approved change orders.

§ 1.3 Contractor acknowledges that it has had full, fair, and adequate opportunity to review all of the Project bidding and Contract Documents, that it has fully satisfied itself as to the scope and requirements of the Project, that it has fully and fairly investigated all Project site conditions and circumstances and Contract Documents, including any potential difficulties or interferences present in the same, that it has had the opportunity to ask questions during the bidding phase and that it has received adequate answers to any such questions, that it has had the opportunity to attend and fairly participate in all pre-bid conferences and pre-construction conferences, and that it has required the same of all of its Subcontractors.

ARTICLE 2 THE WORK OF THIS CONTRACT

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

ARTICLE 3 DATE OF COMMENCEMENT AND DATES OF SUBSTANTIAL COMPLETION

§ 3.1 The date of commencement of the Work shall be:
(Check one of the following boxes.)

[ ] The date of this Agreement.

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[X] A date set forth in a notice to proceed issued by the Owner.

[ ] Established as follows:
(Insert a date or a means to determine the date of commencement of the Work.)

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

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

§ 3.3 Substantial Completion of the Project or Portions Thereof
§ 3.3.1 Subject to adjustments of the Contract Time as provided in the Contract Documents, the date of Substantial Completion of the Work of all of the Contractors for the Project will be:
(Insert the date of Substantial Completion of the Work of all Contractors for the Project.)

Defined in EXH-D Project Schedule

§ 3.3.2 Subject to adjustments of the Contract Time as provided in the Contract Documents, if portions of the Work of all of the Contractors for the Project are to be completed prior to Substantial Completion of the entire Work of all of the Contractors for the Project, the Contractors shall achieve Substantial Completion of such portions by the following dates defined in EXH-D Project Schedule. Such portions of the Work not completed as defined in EXH-D Project Schedule shall be subject to liquidated damages as set forth in Article 4.5.

(Table deleted)
(Table deleted)
(Paragraphs deleted)
§ 3.4.3 If the Contractor fails to substantially complete the Work of this Contract, or portions thereof, as provided in this Section 3.4, liquidated damages, if any, shall be assessed as set forth in Section 4.5.

ARTICLE 4 CONTRACT SUM
§ 4.1 The Owner shall pay the Contractor the Contract Sum in current funds for the Contractor's performance of the
(Paragraphs deleted)
Contract as defined in EXH-B Project Charter, subject to additions and deductions as provided in the Contract Documents.
§ 4.2 Stipulated Sum
§ 4.2.1 The Contract Sum shall be three hundred, ninety-eight thousand, four hundred, sixteen dollars ($ 398,416), subject to additions and deductions as provided in the Contract Documents.

§ 4.2.2 Alternates
§ 4.2.2.1 Alternates, if any, included in the Contract Sum are defined in EXH-B Project Charter.
(Table deleted)
§ 4.2.2.2 Subject to the conditions noted in EXH-B Project Charter, alternates may be accepted by the Owner following execution of this Agreement. Upon acceptance, the Owner shall issue a Modification to this Agreement.
(Paragraphs deleted)
(Table deleted)
§ 4.2.3 Allowances, if any, included in the Contract Sum are defined in EXH-B Project Charter.
(Identify each allowance.)

Item	Price

§ 4.2.4 Unit prices, if any are defined in EXH-B Project Charter.

(Table deleted)

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§ 4.3 Allowances, if any, included in the Contract Sum are defined in EXH-B Project Charter.

(Paragraph deleted)
(Table deleted)
(Paragraphs deleted)
§ 4.4 Unit prices, if any, are defined in EXH-B Project Charter.

(Paragraphs deleted)
(Table deleted)
(Paragraphs deleted)
(Table deleted)
(Paragraphs deleted)
(Table deleted)
(Paragraphs deleted)
(Table deleted)
(Paragraphs deleted)
§ 4.5 Liquidated damages, if any:
(Insert terms and conditions for liquidated damages, if any, to be assessed in accordance with Section 3.4.)

Contractor and Owner recognize that time is of the essence for the Project and the Owner will suffer financial loss if the Work is not completed in the time specified in the Contract Documents. The parties also recognize the delays, expenses, and difficulties involved in proving in a legal proceeding the actual loss suffered by the Owner if the Work is not completed on time. Accordingly, instead of requiring such proof, the Owner and Contractor agree that as liquidated damages for delay (but not as penalty), Contractor shall pay Owner One Thousand Dollars ($1,000.00) per calendar day for each day that expires after the time specified for Substantial Completion in EXH-D Project Schedule until such time the Work is determined to be substantially complete by the Owner.

After Substantial Completion, if Contractor neglects, refuses, or fails to complete the remaining Work within the Contract Time specified in the Contract Documents, the Contractor shall pay the Owner One Thousand Dollars ($1,000.00) per day that expires after the time specified in the Contract Documents for Final Completion and readiness for Final Payment until the Work is completed.

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

None

ARTICLE 5 PAYMENTS

§ 5.1 Progress Payments

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

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

§ 5.1.3 When an Application for Payment is received by the Construction Manager, payment of the amount certified shall be made by the Owner not later than forty-five (45) days after the Construction Manager receives the Application for Payment. Unless expressly otherwise agreed in this Contract, payments and payment disputes shall be governed by the Prompt Payment of Local Government Bills, Minnesota Statutes, Section 471.425 ("Prompt Payment Act").
(Federal, state or local laws may require payment within a certain period of time.)

§ 5.1.4 Progress Payments Where the Contract Sum is Based on a Stipulated Sum

§ 5.1.4.1 Each Application for Payment shall be based on the most recent schedule of values submitted by the Contractor on AIA G702 Application and Certificate for Payment in accordance with the Contract Documents. The schedule of

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values shall allocate the entire Contract Sum among the various portions of the Work. The schedule of values shall be prepared in such form, and supported by such data to substantiate its accuracy, as the Construction Manager and Architect may require. This schedule of values shall be used as a basis for reviewing the Contractor's Applications for Payment.

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

§ 5.1.4.3 In accordance with AIA Document A232™–2019, General Conditions of the Contract for Construction, Construction Manager as Adviser Edition, as modified and subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

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

.1 That portion of the Contract Sum properly allocable to completed Work;

.2 That portion of the Contract Sum properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction, or, if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing; and

.3 That portion of Construction Change Directives that the Architect determines, in the Architect's professional judgment, to be reasonably justified.

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

.1 The aggregate of any amounts previously paid by the Owner;

.2 The amount, if any, for Work that remains uncorrected and for which the Architect has previously withheld a Certificate for Payment as provided in Article 9 of AIA Document A232–2019;

.3 Any amount for which the Contractor does not intend to pay a Subcontractor or material supplier, unless the Work has been performed by others the Contractor intends to pay;

.4 For Work performed or defects discovered since the last payment application, any amount for which the Architect may withhold payment, or nullify a Certificate of Payment in whole or in part, as provided in Article 9 of AIA Document A232–2019; and

.5 Retainage withheld pursuant to Section 5.1.7.

(Paragraphs deleted)

§ 5.1.7 Retainage

§ 5.1.7.1 For each progress payment made prior to when the Work of this Contract is substantially complete, the Owner may withhold the following amount, as retainage, from the payment otherwise due:
(Insert a percentage or amount to be withheld as retainage from each Application for Payment. The amount of retainage may be limited by governing law.)

Five Percent (5%)

§ 5.1.7.1.1 The following items are not subject to retainage:
(Insert any items not subject to the withholding of retainage, such as general conditions, insurance, etc.)

For major items installed into the Work, the Contractor may request full payment for the items to ensure prompt delivery and fabrication. Such items shall be recommended by the Architect and approved by the Owner as not requiring retainage. Prompt payment for the items shall be documented by the Contractor to the Owner in the subsequent payment application by submitting a full lien release for the items. Major items may include mechanical units with long lead times, structural systems with long lead times, critical path systems or items, etc. Major items will be discussed and defined by Owner, Architect, Construction Manager and Contractor.

§ 5.1.7.2 Reduction or limitation of retainage, if any, shall be as follows:
(If the retainage established in Section 5.1.7.1 is to be modified prior to when the entire Work of this Contract is substantially complete, including modifications for completion of portions of the Work as provided in Section 3.4.2, insert provisions for such modifications.)

Prior to Substantial Completion and at the discretion of the Owner, retainage may be reduced. If the Work has been fifty percent (50%) completed as determined by the Architect and is satisfactory to the Owner, then ninety percent (90%) of the

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retained amount may be released to the Contractor for completed Work (with ten percent (10%) of the total retained by the Owner).

§ 5.1.7.3 Except as set forth in this Section 5.1.7.3, when the Work of this Contract is substantially complete, the Contractor may submit an Application for Payment that includes the retainage withheld from prior Applications for Payment pursuant to this Section 5.1.7. The Application for Payment submitted when the Work of this Contract is substantially complete shall not include retainage as follows:
(Insert any other conditions for release of retainage when the Work of this Contract is substantially complete, or upon Substantial Completion of the Work of all Contractors on the Project or portions thereof.)

Upon Substantial Completion, additional retainage may be returned to the Contractor as recommended by the Architect and Construction Manager and approved by the Owner to an amount sufficient to satisfactorily complete the Work. Retainage release will comply with Minnesota Statutes, Section 15.72 after Substantial Completion and punch list acceptance by the Owner.

§ 5.2 Final Payment
§ 5.2.1 Final Payment Where the Contract Sum is Based on a Stipulated Sum
§ 5.2.1.1 Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Contractor when

.1 the Contractor has fully performed the Contract except for the Contractor's responsibility to correct Work as provided in Article 12 of AIA Document A232–2019, and to satisfy other requirements, if any, which extend beyond final payment;
.2 a final Certificate for Payment or Project Certificate for Payment has been issued by the Architect; and
.3 all lien waivers and IC134 forms have been delivered to the Owner.

§ 5.2.1.2 The Owner's final payment to the Contractor shall be made no later than forty-five (45) days after the issuance of the Architect's final Certificate for Payment or Project Certificate for Payment, or as follows:

§ 5.2.2 Final Payment Where the Contract Sum is Based on the Cost of the Work with or without a Guaranteed Maximum Price
§ 5.2.2.1 Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Contractor when

.1 the Contractor has fully performed the Contract except for the Contractor's responsibility to correct Work as provided in Article 12 of AIA Document A232–2019, and to satisfy other requirements, if any, which extend beyond final payment;
.2 the Contractor has submitted a final accounting for the Cost of the Work, pursuant to Exhibit B, Determination of the Cost of the Work and a final Application for Payment; and
.3 a final Certificate for Payment or Project Certificate for Payment has been issued by the Architect in accordance with Exhibit B, Determination of the Cost of the Work.

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

§ 5.3 Payments due and unpaid under the Contract shall bear interest from the date payment is due at the rate stated below.
(Insert rate of interest agreed upon, if any.)

Zero %

ARTICLE 6 DISPUTE RESOLUTION
§ 6.1 Initial Decision Maker
The Architect will serve as Initial Decision Maker pursuant to Article 15 of AIA Document
(Paragraphs deleted)
A232–2019.

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§ 6.1.1 Mediation

The Owner or the Contractor may request mediation of any Claim submitted to the Initial Decision Maker before the decision becomes final and binding. The mediation shall be governed by the Construction Industry Mediation Rules of the American Arbitration Association in effect at the date of this contract. The request for mediation shall be made in writing by the party requesting mediation and the other party of this contract. The Owner and Contractor shall participate in mediation in good faith. The mediation shall be concluded within 60 days of the request. Mediation is not a condition precedent to commencing litigation. If litigation is commenced, the Owner and Contractor agree to mediate before any dispositive motion or trial.

§ 6.2 Binding Dispute Resolution

For any Claim subject to, but not resolved by, mediation pursuant to Article 15 of AIA Document A232–2019, the method of binding dispute resolution shall be as follows:
(Check the appropriate box.)

[ ] Arbitration pursuant to Article 15 of AIA Document A232–2019.

[X] Litigation in a state or federal court of competent jurisdiction located in Hennepin County, Minnesota.

[ ] Other: *(Specify)*

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

ARTICLE 7 TERMINATION OR SUSPENSION

§ 7.1 Where the Contract Sum is a Stipulated Sum

§ 7.1.1 The Contract may be terminated by the Owner or the Contractor as provided in Article 14 of AIA Document A232–2019.

§ 7.1.1.1 If the Contract is terminated for the Owner's convenience in accordance with Article 14 of AIA Document A232–2019, then the Owner shall pay the Contractor a termination fee as follows:
(Insert the amount of, or method for determining, the fee, if any, payable to the Contractor following a termination for the Owner's convenience.)

Termination fee will be based on the percentage of Work completed and any materials purchased or in production at the time of termination. Said fee and justification shall be provided to the Owner by the Contractor within ten (10) days' notice of the termination.

§ 7.1.2 The Work may be suspended by the Owner as provided in Article 14 of AIA Document A232–2019.

(Paragraphs deleted)

ARTICLE 8 MISCELLANEOUS PROVISIONS

§ 8.1 Where reference is made in this Agreement to a provision of AIA Document A232–2019 or another Contract Document, the reference refers to that provision as amended or supplemented by other provisions of the Contract Documents.

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

Curtis Hartog, PE, Executive Director
Minneapolis Public Schools, SSD#1
Capital Planning, Construction & Maintenance
1250 West Broadway Avenue, Minneapolis, MN 55411

§ 8.3 The Contractor's representative:

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

Jason Stock
CFO/Vice President
Central Roofing Company
4550 Main Steet NE
Minneapolis, MN 55421

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

§ 8.5 Record Keeping—Availability and Retention
Pursuant to Minnesota Statutes, Section 16C.05, subd. 5, Contractor agrees that the books, records, documents and accounting procedures and practices of Contractor, that are relevant to the Contract or transaction, are subject to examination by the Owner, the Owner's auditor, and the state auditor for a minimum of six (6) years. Contractor shall maintain such records for a minimum of six (6) years after final payment.

§ 8.6 Data Practices
Pursuant to Minnesota Statutes, Section 13.05, subd. 11, all of the data created, collected, received, stored, used, maintained, or disseminated by Contractor in performing this contract is subject to the requirements of the Minnesota Government Data Practices Act ("MGDPA"), Minnesota Statutes Chapter 13, and Contractor must comply with those requirements as if it were a government entity. The remedies in Minnesota Statutes, Section 13.08 apply to Contractor. Contractor does not have a duty to provide access to public data to the public if the public data are available from the Owner, except as required by the terms of this contract.

§ 8.7 Non-Discrimination
Pursuant to Minnesota Statutes, Section 181.59, the Contractor will take affirmative action to ensure that applicants are selected, and that employees are treated during employment, without regard to their race, color, creed, religion, national origin, sex, sexual orientation, marital status, status with regard to public assistance, membership or activity in a local civil rights commission, disability or age. The Contractor agrees to be bound by the provisions of Minnesota Statutes, Section 181.59, that prohibits certain discriminatory practices and the terms of said section are incorporated into this contract.

§ 8.8 Prompt Payment to Subcontractors
In accordance with the Prompt Payment Act, each Prime Contractor must pay any subcontractor within ten (10) days of the Prime Contractor's receipt of payment from the municipality for undisputed services provided by the subcontractor. The Subcontract must require the Prime Contractor to pay interest of 1-1/2 percent per month or any part of a month to the subcontractor on any undisputed amount not paid on time to the subcontractor. The minimum monthly interest penalty payment for an unpaid balance of $100 or more is $10. For an unpaid balance of less than $100, the Prime Contractor shall pay the actual penalty due to the subcontractor. A subcontractor who prevails in a civil action to collect interest penalties from a Prime Contractor must be awarded its costs and disbursements, including attorney's fees, incurred in bringing the action.

§ 8.9 Prevailing Wage
Contractor agrees that all laborers or mechanics working on the Project shall receive at least the prevailing wage rate in accordance with Minnesota Statutes Section 177.42, *et seq*. Contractor agrees further that it will incorporate any and all necessary contract language in its agreements with any subcontractors to allow Contractor to monitor and enforce the prevailing wage requirement for subcontractors of any tier.

§ 8.5 Insurance and Bonds
§ 8.5.1 The Owner and the Contractor shall purchase and maintain insurance as set forth EXH-C Owner Insurance.

§ 8.5.2 The Contractor shall provide bonds as set forth in AIA Document A132™–2019, Exhibit A, and elsewhere in the Contract Documents.

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§ 8.6 Notice in electronic format, pursuant to Article 1 of AIA Document A232–2019, may be given in accordance with AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, if completed, or as otherwise set forth below:
(If other than in accordance with AIA Document E203–2013, insert requirements for delivering notice in electronic format such as name, title, and email address of the recipient and whether and how the system will be required to generate a read receipt for the transmission.)

email to Owner's representative identified in Section 8.2

§ 8.7 Relationship of the Parties
Where the Contract is based on the Cost of the Work plus the Contractor's Fee, with or without a Guaranteed Maximum Price, the Contractor accepts the relationship of trust and confidence established by this Agreement and covenants with the Owner to cooperate with the Architect and exercise the Contractor's skill and judgment in furthering the interests of the Owner; to furnish efficient business administration and supervision; to furnish at all times an adequate supply of workers and materials; and to perform the Work in an expeditious and economical manner consistent with the Owner's interests. The Owner agrees to furnish and approve, in a timely manner, information required by the Contractor and to make payments to the Contractor in accordance with the requirements of the Contract Documents.

§ 8.8 Other provisions:

Owner prohibits Contractor from using the Work in any marketing material or business development practice. Contractor is prohibited from communication with any news outlet or public without Owner's written approval.

Floor plans, designs, wiring, safety and security measures shall be kept confidential by the Contractor, the Subcontractors, the Sub-Subcontractors (of any tier) during and after completion of the Work.

ARTICLE 9 ENUMERATION OF CONTRACT DOCUMENTS

§ 9.1 This Agreement is comprised of the following documents:

.1 AIA Document A132™–2019, Standard Form of Agreement Between Owner and Contractor, Construction Manager as Adviser Edition

.2 AIA Document A132™–2019, Exhibit A, Insurance and Bonds Exhibit

.3 AIA Document A232™–2019, General Conditions of the Contract for Construction, Construction Manager as Adviser Edition

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

January 31, 2024

.5 Drawings

Number	Title	Date
165	North Renovations Vol. 1 of 2	October 30, 2023
156	North Renovations Vol. 2 of 2	October 30, 2023

.6 Specifications

Section	Title	Date	Pages
All specifications	North Renovations Bid Package 3	October 30, 2023	1565

.7 Addenda, if any:

Number	Date	Pages
1	11/10/2023	110

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2	11/21/2023	222
3	11/30/2023	140

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

.8 Other Exhibits:

EXH-B Project Charter
EXH-C Owner Insurance
EXH-D Project Schedule
(Check all boxes that apply and include appropriate information identifying the exhibit where required.)

[ ]
(Paragraphs deleted)

[ ] Supplementary and other Conditions of the Contract:

Document	Title	Date	Pages

.9 Other documents, if any, listed below:
(List here any additional documents that are intended to form part of the Contract Documents. AIA Document A232–2019 provides that the advertisement or invitation to bid, Instructions to Bidders, sample forms, the Contractor's bid or proposal, portions of Addenda relating to bidding or proposal requirements, and other information furnished by the Owner in anticipation of receiving bids or proposals, are not part of the Contract Documents unless enumerated in this Agreement. Any such documents should be listed here only if intended to be part of the Contract Documents.)

contractors complete bid documents

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

Ibrahima Diop
OWNER *(Signature)*

Ibrahima Diop Sr. Officer of Finance and Operations
(Printed name and title)

CONTRACTOR *(Signature)*

Jason Stark CFO/UP
(Printed name and title)

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Additions and Deletions Report for

AIA® Document A132® – 2019

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

Note: This Additions and Deletions Report is provided for information purposes only and is not incorporated into or constitute any part of the associated AIA document. This Additions and Deletions Report and its associated document were generated simultaneously by AIA software at 13:24:31 CT on 01/30/2024.

PAGE 1

AGREEMENT made as of the 31 day of January in the year 2024 ~~January~~

...

Minneapolis Public Schools Special School District #1
1250 West Broadway Avenue
Minneapolis, MN 55411

...

Central Roofing Company
4550 Main Street NE
Minneapolis, MN 55421

...

North High School Phase 3 Work Scope 7H Roofing
1500 James Avenue
Minneapolis, MN 55411

...

Kraus-Anderson Construction Company
501 South 8th Street
Minneapolis, MN 55405

...

LSE Architects
1401 Glenwood Avenue
Minneapolis, MN 55405

PAGE 2

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

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§ 1.2 In the event that there are inconsistencies between any of the Project Contract Documents, all Contract Documents shall be construed together and shall be read with a purpose and intent to provide that the Contractor shall commit to fully complete its Project Work and services with the greater degree of commitment as referenced in the Contract Documents, including the plans and specifications, to work diligently to ensure completion of the Project in a timely and workmanlike manner and at the earliest stated times provided for in Project schedules, as they may be revised, and to ensure that Contractor, and all of its Subcontractors and suppliers complete the Project on schedule and within Project Contract Price, subject to approved change orders.

§ 1.3 Contractor acknowledges that it has had full, fair, and adequate opportunity to review all of the Project bidding and Contract Documents, that it has fully satisfied itself as to the scope and requirements of the Project, that it has fully and fairly investigated all Project site conditions and circumstances and Contract Documents, including any potential difficulties or interferences present in the same, that it has had the opportunity to ask questions during the bidding phase and that it has received adequate answers to any such questions, that it has had the opportunity to attend and fairly participate in all pre-bid conferences and pre-construction conferences, and that it has required the same of all of its Subcontractors.

PAGE 3

[**X**] A date set forth in a notice to proceed issued by the Owner.

...

Defined in EXH-D Project Schedule

§ 3.3.2 Subject to adjustments of the Contract Time as provided in the Contract Documents, if portions of the Work of all of the Contractors for the Project are to be completed prior to Substantial Completion of the entire Work of all of the Contractors for the Project, the Contractors shall achieve Substantial Completion of such portions by the following ~~dates:~~dates defined in EXH-D Project Schedule. Such portions of the Work not completed as defined in EXH-D Project Schedule shall be subject to liquidated damages as set forth in Article 4.5.

~~**Portion of Work** **Substantial Completion Date**~~

~~**§ 3.4 When the Work of this Contract, or any Portion Thereof, is Substantially Complete**~~
~~**§ 3.4.1** Subject to adjustments of the Contract Time as provided in the Contract Documents, the Contractor shall substantially complete the entire Work of this Contract:~~
~~*(Check one of the following boxes and complete the necessary information.)*~~

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

~~[–] By the following date:~~

~~**§ 3.4.2** Subject to adjustments of the Contract Time as provided in the Contract Documents, if portions of the Work of this Contract are to be substantially complete prior to when the entire Work of this Contract shall be substantially complete, the Contractor shall substantially complete such portions by the following dates:~~

~~**Portion of Work** **Date to be substantially complete**~~

...

§ 4.1 The Owner shall pay the Contractor the Contract Sum in current funds for the Contractor's performance of the ~~Contract. The Contract Sum shall be one of the following:~~
~~*(Check the appropriate box.)*~~

~~[–] Stipulated Sum, in accordance with Section 4.2 below~~

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[–] Cost of the Work plus the Contractor's Fee, in accordance with Section 4.3 below

[–] Cost of the Work plus the Contractor's Fee with a Guaranteed Maximum Price, in accordance with Section 4.4 below

(Based on the selection above, complete Section 4.2, 4.3 or 4.4 below.)
Contract as defined in EXH-B Project Charter, subject to additions and deductions as provided in the Contract Documents.

...

§ 4.2.1 The Contract Sum shall be three hundred, ninety-eight thousand, four hundred, sixteen dollars ($ 398,416), subject to additions and deductions as provided in the Contract Documents.

...

§ 4.2.2.1 Alternates, if any, included in the Contract Sum:
Sum are defined in EXH-B Project Charter.

Item	Price

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

Item	Price	Conditions for Acceptance

§ 4.2.3 Allowances, if any, included in the Contract Sum:Sum are defined in EXH-B Project Charter.

...

§ 4.2.4 Unit prices, if any:
(Identify the item and state the unit price, and quantity limitations, if any, to which the unit price will be applicable.)any are defined in EXH-B Project Charter.

Item	Units and Limitations	Price per Unit ($0.00)

§ 4.3 Cost of the Work Plus Contractor's Fee without a Guaranteed Maximum PriceAllowances, if any, included in the Contract Sum are defined in EXH-B Project Charter.
§ 4.3.1 The Cost of the Work is as defined in Exhibit B, Determination of the Cost of the Work.

§ 4.3.2 The Contractor's Fee:
(State a lump sum, percentage of Cost of the Work or other provision for determining the Contractor's Fee.)

§ 4.3.3 The method of adjustment of the Contractor's Fee for changes in the Work:

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

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~~§ 4.3.5 Rental rates for Contractor-owned equipment shall not exceed ( ) percent (%) of the standard rental rate paid at the place of the Project.~~

~~§ 4.3.6 Unit prices, if any:~~
~~*(Identify the item and state the unit price and quantity limitations, if any, to which the unit price will be applicable.)*~~

~~Item~~	~~Units and Limitations~~	~~Price per Unit ($0.00)~~

~~§ 4.3.7 The Contractor shall prepare and submit to the Construction Manager, within 14 days of executing this Agreement, a written Control Estimate for the Owner's review and approval. The Control Estimate shall include the items in Section B.1 of Exhibit B, Determination of the Cost of the Work.~~

~~§ 4.4 Cost of the Work Plus Contractor's Fee with a Guaranteed Maximum Price~~Unit prices, if any, are defined in EXH-B Project Charter.
~~§ 4.4.1 The Cost of the Work is as defined in Exhibit B, Determination of the Cost of the Work.~~

~~§ 4.4.2 The Contractor's Fee:~~
~~*(State a lump sum, percentage of Cost of the Work or other provision for determining the Contractor's Fee.)*~~

~~§ 4.4.3 The method of adjustment of the Contractor's Fee for changes in the Work:~~

~~§ 4.4.4 Limitations, if any, on a Subcontractor's overhead and profit for increases in the cost of its portion of the Work:~~

~~§ 4.4.5 Rental rates for Contractor-owned equipment shall not exceed ( ) percent (%) of the standard rental rate paid at the place of the Project.~~

~~§ 4.4.6 Unit Prices, if any:~~
~~*(Identify the item and state the unit price and quantity limitations, if any, to which the unit price will be applicable.)*~~

~~Item~~	~~Units and Limitations~~	~~Price per Unit ($0.00)~~

~~§ 4.4.7 Guaranteed Maximum Price~~
~~§ 4.4.7.1 The Contract Sum is guaranteed by the Contractor not to exceed ($), subject to additions and deductions by Change Order as provided in the Contract Documents. This maximum sum is referred to in the Contract Documents as the Guaranteed Maximum Price. Costs which would cause the Guaranteed Maximum Price to be exceeded shall be paid by the Contractor without reimbursement by the Owner.~~

~~§ 4.4.7.2 Alternates~~
~~§ 4.4.7.2.1 Alternates, if any, included in the Guaranteed Maximum Price:~~

~~Item~~	~~Price~~

~~§ 4.4.7.2.2 Subject to the conditions noted below, the following alternates may be accepted by the Owner following execution of this Agreement. Upon acceptance, the Owner shall issue a Modification to this Agreement.~~
~~*(Insert below each alternate and the conditions that must be met for the Owner to accept the alternate.)*~~

~~Item~~	~~Price~~	~~Conditions for Acceptance~~

~~§ 4.4.7.3 Allowances, if any, included in the Guaranteed Maximum Price:~~
~~*(Identify each allowance.)*~~

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~~Item~~ ~~Price~~

~~§ 4.4.7.4 Assumptions, if any, upon which the Guaranteed Maximum Price is based:~~
~~*(Identify each assumption.)*~~

~~§ 4.4.8 To the extent that the Contract Documents are anticipated to require further development, the Guaranteed Maximum Price includes the costs attributable to such further development consistent with the Contract Documents and reasonably inferable therefrom. Such further development does not include changes in scope, systems, kinds and quality of materials, finishes, or equipment, all of which, if required, shall be incorporated by Change Order.~~

~~§ 4.4.9 The Owner shall authorize preparation of revisions to the Contract Documents that incorporate the agreed-upon assumptions contained in Section 4.4.7.4. The Owner shall promptly furnish such revised Contract Documents to the Contractor. The Contractor shall notify the Owner and Architect of any inconsistencies between the agreed-upon assumptions contained in Section 4.4.7.4 and the revised Contract Documents.~~

PAGE 4

Contractor and Owner recognize that time is of the essence for the Project and the Owner will suffer financial loss if the Work is not completed in the time specified in the Contract Documents. The parties also recognize the delays, expenses, and difficulties involved in proving in a legal proceeding the actual loss suffered by the Owner if the Work is not completed on time. Accordingly, instead of requiring such proof, the Owner and Contractor agree that as liquidated damages for delay (but not as penalty), Contractor shall pay Owner One Thousand Dollars ($1,000.00) per calendar day for each day that expires after the time specified for Substantial Completion in EXH-D Project Schedule until such time the Work is determined to be substantially complete by the Owner.

After Substantial Completion, if Contractor neglects, refuses, or fails to complete the remaining Work within the Contract Time specified in the Contract Documents, the Contractor shall pay the Owner One Thousand Dollars ($1,000.00) per day that expires after the time specified in the Contract Documents for Final Completion and readiness for Final Payment until the Work is completed.

...

None

...

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

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

§ 5.1.3 ~~Provided that~~ When an Application for Payment is received by the Construction ~~Manager not later than the day of a month, the Owner shall make payment of the amount certified to the Contractor not later than the day of the month. If an Application for Payment is received by the Construction Manager after the application date fixed above, payment of the amount certified~~ Manager, payment of the amount certified shall be made by the Owner not later than forty-five (45) days after the Construction Manager receives the Application for Payment. Unless expressly otherwise agreed in this Contract, payments and payment disputes shall be governed by the Prompt Payment of Local Government Bills, Minnesota Statutes, Section 471.425 ("Prompt Payment Act").

...

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§ 5.1.4.1 Each Application for Payment shall be based on the most recent schedule of values submitted by the Contractor on AIA G702 Application and Certificate for Payment in accordance with the Contract Documents. The schedule of values shall allocate the entire Contract Sum among the various portions of the Work. The schedule of values shall be prepared in such form, and supported by such data to substantiate its accuracy, as the Construction Manager and Architect may require. This schedule of values shall be used as a basis for reviewing the Contractor's Applications for Payment.
PAGE 5

§ 5.1.4.3 In accordance with AIA Document A232™–2019, General Conditions of the Contract for Construction, Construction Manager as Adviser Edition, as modified and subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

...

~~**§ 5.1.5 Progress Payments Where the Contract Sum is Based on the Cost of the Work without a Guaranteed Maximum Price**~~

~~**§ 5.1.5.1** With each Application for Payment, the Contractor shall submit the cost control information required in Exhibit B, Determination of the Cost of the Work, along with payrolls, petty cash accounts, receipted invoices, or invoices with check vouchers attached, and any other evidence required by the Owner, Construction Manager or Architect to demonstrate that payments already made by the Contractor on account of the Cost of the Work equal or exceed progress payments already received by the Contractor, plus payrolls for the period covered by the present Application for Payment, less that portion of the payments attributable to the Contractor's Fee.~~

~~**§ 5.1.5.2** Applications for Payment shall show the Cost of the Work actually incurred by the Contractor through the end of the period covered by the Application for Payment and for which the Contractor has made or intends to make actual payment prior to the next Application for Payment.~~

~~**§ 5.1.5.3** In accordance with AIA Document A232–2019 and subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:~~

~~**§ 5.1.5.3.1** The amount of each progress payment shall first include:~~

- ~~**.1** The Cost of the Work as described in Exhibit B, Determination of the Cost of the Work;~~
- ~~**.2** That portion of Construction Change Directives that the Architect determines, in the Architect's professional judgment, to be reasonably justified; and~~
- ~~**.3** The Contractor's Fee computed upon the Cost of the Work described in the preceding Section 5.1.5.3.1.1 at the rate stated in Section 4.3.2; or if the Contractor's Fee is stated as a fixed sum in Section 4.3.2 an amount which bears the same ratio to that fixed-sum Fee as the Cost of the Work included in Section 5.1.5.3.1.1 bears to a reasonable estimate of the probable Cost of the Work upon its completion.~~

~~**§ 5.1.5.3.2** The amount of each progress payment shall then be reduced by:~~

- ~~**.1** The aggregate of any amounts previously paid by the Owner;~~
- ~~**.2** The amount, if any, for Work that remains uncorrected and for which the Architect has previously withheld a Certificate for Payment as provided in Article 9 of AIA Document A232–2019;~~
- ~~**.3** Any amount for which the Contractor does not intend to pay a Subcontractor or material supplier, unless the Work has been performed by others the Contractor intends to pay;~~
- ~~**.4** For Work performed or defects discovered since the last payment application, any amount for which the Architect may withhold payment, or nullify a Certificate of Payment in whole or in part, as provided in Article 9 of AIA Document A232–2019;~~
- ~~**.5** The shortfall, if any, indicated by the Contractor in the documentation required by Section 5.1.5.1 to substantiate prior Applications for Payment, or resulting from errors subsequently discovered by the Owner's auditors in such documentation; and~~
- ~~**.6** Retainage withheld pursuant to Section 5.1.7.~~

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

§ 5.1.5.5 In taking action on the Contractor's Applications for Payment, the Construction Manager and Architect shall be entitled to rely on the accuracy and completeness of the information furnished by the Contractor, and such action shall not be deemed to be a representation that (1) the Construction Manager and Architect have made a detailed examination, audit or arithmetic verification of the documentation submitted in accordance with Article 5 or other supporting data; (2) that the Construction Manager and Architect have made exhaustive or continuous on-site inspections; or (3) that the Construction Manager and Architect have made examinations to ascertain how or for what purposes the Contractor has used amounts previously paid on account of the Contract. Such examinations, audits and verifications, if required by the Owner, will be performed by the Owner's auditors acting in the sole interest of the Owner.

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

§ 5.1.5.7 If final completion of the Work is materially delayed through no fault of the Contractor, then the Owner shall pay the Contractor any additional amounts in accordance with Article 9 of AIA Document A232–2019.

§ 5.1.6 Progress Payments Where the Contract Sum is Based on the Cost of the Work with a Guaranteed Maximum Price

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

§ 5.1.6.2 Each Application for Payment shall be based on the most recent schedule of values submitted by the Contractor in accordance with the Contract Documents. The schedule of values shall allocate the entire Guaranteed Maximum Price among: (1) the various portions of the Work; (2) any contingency for costs that are included in the Guaranteed Maximum Price but not otherwise allocated to another line item or included in a Change Order; and (3) the Contractor's Fee.

§ 5.1.6.2.1 The schedule of values shall be prepared in such form, and supported by such data to substantiate its accuracy, as the Construction Manager and Architect may require. This schedule of values shall be used as a basis for reviewing the Contractor's Applications for Payment.

§ 5.1.6.2.2 The allocation of the Guaranteed Maximum Price under this Section 5.1.6.2 shall not constitute a separate guaranteed maximum price for the Cost of the Work of each individual line item in the schedule of values.

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

§ 5.1.6.3 Applications for Payment shall show the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment. The percentage of completion shall be the lesser of (1) the percentage of that portion of the Work which has actually been completed; or (2) the percentage obtained by dividing (a) the expense that has actually been incurred by the Contractor on account of that portion of the Work and for which the Contractor has made payment or intends to make payment prior to the next Application for Payment by (b) the share of the Guaranteed Maximum Price allocated to that portion of the Work in the schedule of values.

§ 5.1.6.4 In accordance with AIA Document A232–2019, and subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

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

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.1 That portion of the Guaranteed Maximum Price properly allocable to completed Work as determined by multiplying the percentage of completion of each portion of the Work by the share of the Guaranteed Maximum Price allocated to that portion of the Work in the most recent schedule of values;

.2 That portion of the Guaranteed Maximum Price properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction or, if approved in writing in advance by the Owner, suitably stored off the site at a location agreed upon in writing;

.3 That portion of Construction Change Directives that the Architect determines, in the Architect's professional judgment, to be reasonably justified; and

.4 The Contractor's Fee, computed upon the Cost of the Work described in the preceding Sections 5.1.6.4.1.1 and 5.1.6.4.1.2 at the rate stated in Section 4.4.2 or, if the Contractor's Fee is stated as a fixed sum in that Section, an amount that bears the same ratio to that fixed-sum fee as the Cost of the Work included in Sections 5.1.6.4.1.1 and 5.1.6.4.1.2 bears to a reasonable estimate of the probable Cost of the Work upon its completion.

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

.1 The aggregate of any amounts previously paid by the Owner;

.2 The amount, if any, for Work that remains uncorrected and for which the Architect has previously withheld a Certificate for Payment as provided in Article 9 of AIA Document A232–2019;

.3 Any amount for which the Contractor does not intend to pay a Subcontractor or material supplier, unless the Work has been performed by others the Contractor intends to pay;

.4 For Work performed or defects discovered since the last payment application, any amount for which the Architect may withhold payment, or nullify a Certificate of Payment in whole or in part, as provided in Article 9 of AIA Document A232–2019;

.5 The shortfall, if any, indicated by the Contractor in the documentation required by Section 5.1.6.1 to substantiate prior Applications for Payment, or resulting from errors subsequently discovered by the Owner's auditors in such documentation; and

.6 Retainage withheld pursuant to Section 5.1.7.

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

§ 5.1.6.6 In taking action on the Contractor's Applications for Payment, the Construction Manager and Architect shall be entitled to rely on the accuracy and completeness of the information furnished by the Contractor and such action shall not be deemed to be a representation that (1) the Construction Manager or Architect have made a detailed examination, audit, or arithmetic verification of the documentation submitted in accordance with Section 5.1.6.1 or other supporting data; (2) that the Construction Manager or Architect have made exhaustive or continuous on-site inspections; or (3) that the Construction Manager or Architect have made examinations to ascertain how or for what purposes the Contractor has used amounts previously paid on account of the Contract. Such examinations, audits, and verifications, if required by the Owner, will be performed by the Owner's auditors acting in the sole interest of the Owner.

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

§ 5.1.6.8 If final completion of the Work is materially delayed through no fault of the Contractor, then the Owner shall pay the Contractor any additional amounts in accordance with Article 9 of AIA Document A232-2019.

...

Five Percent (5%)

...

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For major items installed into the Work, the Contractor may request full payment for the items to ensure prompt delivery and fabrication. Such items shall be recommended by the Architect and approved by the Owner as not requiring retainage. Prompt payment for the items shall be documented by the Contractor to the Owner in the subsequent payment application by submitting a full lien release for the items. Major items may include mechanical units with long lead times, structural systems with long lead times, critical path systems or items, etc. Major items will be discussed and defined by Owner, Architect, Construction Manager and Contractor.

...

Prior to Substantial Completion and at the discretion of the Owner, retainage may be reduced. If the Work has been fifty percent (50%) completed as determined by the Architect and is satisfactory to the Owner, then ninety percent (90%) of the retained amount may be released to the Contractor for completed Work (with ten percent (10%) of the total retained by the Owner).

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Upon Substantial Completion, additional retainage may be returned to the Contractor as recommended by the Architect and Construction Manager and approved by the Owner to an amount sufficient to satisfactorily complete the Work. Retainage release will comply with Minnesota Statutes, Section 15.72 after Substantial Completion and punch list acceptance by the Owner.

...

.1 the Contractor has fully performed the Contract except for the Contractor's responsibility to correct Work as provided in Article 12 of AIA Document A232–2019, and to satisfy other requirements, if any, which extend beyond final payment; ~~and~~

.2 a final Certificate for Payment or Project Certificate for Payment has been issued by ~~the Architect.~~the Architect; and

.3 all lien waivers and IC134 forms have been delivered to the Owner.

§ 5.2.1.2 The Owner's final payment to the Contractor shall be made no later than ~~30~~ forty-five (45) days after the issuance of the Architect's final Certificate for Payment or Project Certificate for Payment, or as follows:

...

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

...

Zero %

...

The Architect will serve as Initial Decision Maker pursuant to Article 15 of AIA Document ~~A232–2019, unless the parties appoint below another individual, not a party to this Agreement, to serve as Initial Decision Maker.~~
~~*(If the parties mutually agree, insert the name, address and other contact information of the Initial Decision Maker, if other than the Architect.)*~~

A232–2019.

§ 6.1.1 Mediation

The Owner or the Contractor may request mediation of any Claim submitted to the Initial Decision Maker before the decision becomes final and binding. The mediation shall be governed by the Construction Industry Mediation Rules of the American Arbitration Association in effect at the date of this contract. The request for mediation shall be made in

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writing by the party requesting mediation and the other party of this contract. The Owner and Contractor shall participate in mediation in good faith. The mediation shall be concluded within 60 days of the request. Mediation is not a condition precedent to commencing litigation. If litigation is commenced, the Owner and Contractor agree to mediate before any dispositive motion or trial.

PAGE 7

[ ] ~~Litigation in a court of competent jurisdiction.~~ [X] Litigation in a state or federal court of competent jurisdiction located in Hennepin County, Minnesota.

...

Termination fee will be based on the percentage of Work completed and any materials purchased or in production at the time of termination. Said fee and justification shall be provided to the Owner by the Contractor within ten (10) days' notice of the termination.

...

~~**§ 7.2 Where the Contract Sum is Based on the Cost of the Work with or without a Guaranteed Maximum Price**~~

~~**§ 7.2.1 Termination**~~

~~**§ 7.2.1.1** The Contract may be terminated by the Owner or the Contractor as provided in Article 14 of AIA Document A232–2019.~~

~~**§ 7.2.1.2 Termination by the Owner for Cause**~~

~~**§ 7.2.1.2.1** If the Owner terminates the Contract for cause as provided in Article 14 of AIA Document A232–2019, the Owner shall then only pay the Contractor an amount as follows:~~

- ~~**.1** Take the Cost of the Work incurred by the Contractor to the date of termination;~~
- ~~**.2** Add the Contractor's Fee, computed upon the Cost of the Work to the date of termination at the rate stated in Section 4.3.2 or 4.4.2, as applicable, or, if the Contractor's Fee is stated as a fixed sum in that Section, an amount that bears the same ratio to that fixed-sum Fee as the Cost of the Work at the time of termination bears to a reasonable estimate of the probable Cost of the Work upon its completion;~~
- ~~**.3** Subtract the aggregate of previous payments made by the Owner; and~~
- ~~**.4** Subtract the costs and damages incurred, or to be incurred, by the Owner under Article 14 of AIA Document A232–2019.~~

~~**§ 7.2.1.2.2** When the Contract Sum is based on the Cost of the Work with a Guaranteed Maximum Price, if the Owner terminates the Contract for cause as provided in Article 14 of AIA Document A232-2019, the amount, if any, to be paid to the Contractor under Article 14 of AIA Document A232-2019 shall not cause the Guaranteed Maximum Price to be exceeded, nor shall it exceed the amount calculated in Section 7.2.1.2.1.~~

~~**§ 7.2.1.2.3** The Owner shall also pay the Contractor fair compensation, either by purchase or rental at the election of the Owner, for any equipment owned by the Contractor that the Owner elects to retain and that is not otherwise included in the Cost of the Work under Section 7.2.1.2.1.1. To the extent that the Owner elects to take legal assignment of subcontracts and purchase orders (including rental agreements), the Contractor shall, as a condition of receiving the payments referred to in this Article 7, execute and deliver all such papers and take all such steps, including the legal assignment of such subcontracts and other contractual rights of the Contractor, as the Owner may require for the purpose of fully vesting in the Owner the rights and benefits of the Contractor under such subcontracts or purchase orders. All Subcontracts, purchase orders and rental agreements entered into by the Contractor will contain provisions allowing for assignment to the Owner as described above.~~

~~**§ 7.2.1.3 Termination by the Owner for Convenience**~~

~~If the Owner terminates the Contract for convenience in accordance with Article 14 of AIA Document A232–2019, then the Owner shall pay the Contractor a termination fee as follows:~~

~~*(Insert the amount of or method for determining the fee, if any, payable to the Contractor following a termination for the Owner's convenience.)*~~

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~~§ 7.3 Suspension~~

~~The Work may be suspended by the Owner as provided in Article 14 of AIA Document A232–2019; in such case, the Contract Sum and Contract Time shall be increased as provided in Article 14 of AIA Document A232–2019, except that the term "profit" shall be understood to mean the Contractor's Fee as described in Section 4.3.2 or 4.4.2, as applicable, of this Agreement.~~

...

Curtis Hartog, PE, Executive Director
Minneapolis Public Schools, SSD#1
Capital Planning, Construction & Maintenance
1250 West Broadway Avenue, Minneapolis, MN 55411
PAGE 8

Jason Stock
CFO/Vice President
Central Roofing Company
4550 Main Steet NE
Minneapolis, MN 55421

...

§ 8.5 ~~Insurance and Bonds~~**Record Keeping—Availability and Retention**

Pursuant to Minnesota Statutes, Section 16C.05, subd. 5, Contractor agrees that the books, records, documents and accounting procedures and practices of Contractor, that are relevant to the Contract or transaction, are subject to examination by the Owner, the Owner's auditor, and the state auditor for a minimum of six (6) years. Contractor shall maintain such records for a minimum of six (6) years after final payment.

§ 8.6 Data Practices

Pursuant to Minnesota Statutes, Section 13.05, subd. 11, all of the data created, collected, received, stored, used, maintained, or disseminated by Contractor in performing this contract is subject to the requirements of the Minnesota Government Data Practices Act ("MGDPA"), Minnesota Statutes Chapter 13, and Contractor must comply with those requirements as if it were a government entity. The remedies in Minnesota Statutes, Section 13.08 apply to Contractor. Contractor does not have a duty to provide access to public data to the public if the public data are available from the Owner, except as required by the terms of this contract.

§ 8.7 Non-Discrimination

Pursuant to Minnesota Statutes, Section 181.59, the Contractor will take affirmative action to ensure that applicants are selected, and that employees are treated during employment, without regard to their race, color, creed, religion, national origin, sex, sexual orientation, marital status, status with regard to public assistance, membership or activity in a local civil rights commission, disability or age. The Contractor agrees to be bound by the provisions of Minnesota Statutes, Section 181.59, that prohibits certain discriminatory practices and the terms of said section are incorporated into this contract.

§ 8.8 Prompt Payment to Subcontractors

In accordance with the Prompt Payment Act, each Prime Contractor must pay any subcontractor within ten (10) days of the Prime Contractor's receipt of payment from the municipality for undisputed services provided by the subcontractor. The Subcontract must require the Prime Contractor to pay interest of 1-1/2 percent per month or any part of a month to the subcontractor on any undisputed amount not paid on time to the subcontractor. The minimum monthly interest penalty payment for an unpaid balance of $100 or more is $10. For an unpaid balance of less than $100, the Prime Contractor shall pay the actual penalty due to the subcontractor. A subcontractor who prevails in a civil action to collect interest penalties from a Prime Contractor must be awarded its costs and disbursements, including attorney's fees, incurred in bringing the action.

§ 8.9 Prevailing Wage

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Contractor agrees that all laborers or mechanics working on the Project shall receive at least the prevailing wage rate in accordance with Minnesota Statutes Section 177.42, *et seq*. Contractor agrees further that it will incorporate any and all necessary contract language in its agreements with any subcontractors to allow Contractor to monitor and enforce the prevailing wage requirement for subcontractors of any tier.

§ 8.5 Insurance and Bonds

§ 8.5.1 The Owner and the Contractor shall purchase and maintain insurance as set forth ~~in AIA Document A132™–2019, Standard Form of Agreement Between Owner and Contractor, Construction Manager as Adviser Edition, Exhibit A, Insurance and Bonds, and elsewhere in the Contract Documents.~~EXH-C Owner Insurance.

PAGE 9

email to Owner's representative identified in Section 8.2

...

Owner prohibits Contractor from using the Work in any marketing material or business development practice. Contractor is prohibited from communication with any news outlet or public without Owner's written approval.

Floor plans, designs, wiring, safety and security measures shall be kept confidential by the Contractor, the Subcontractors, the Sub-Subcontractors (of any tier) during and after completion of the Work.

...

January 31, 2024

...

165	North Renovations Vol. 1 of 2	October 30, 2023
156	North Renovations Vol. 2 of 2	October 30, 2023

...

All specifications	North Renovations Bid Package 3	October 30, 2023	1565

...

1	11/10/2023	110
2	11/21/2023	222
3	11/30/2023	140

PAGE 10

EXH-B Project Charter
EXH-C Owner Insurance
EXH-D Project Schedule
(Check all boxes that apply and include appropriate information identifying the exhibit where required.)

~~*[–] AIA Document A132™–2019, Exhibit B, Determination of the Cost of the Work*~~

[ ] ~~AIA Document E235™–2019, Sustainable Projects Exhibit, Construction Manager as Adviser Edition, dated as indicated below:~~
~~*(Insert the date of the E235-2019 incorporated into this Agreement.)*~~

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User Notes: (893671016)

~~[~~ ~~]~~ ~~The Sustainability Plan:~~

~~Title~~	~~Date~~	~~Pages~~

...

contractors complete bid documents

...

Ibrahima Diop Sr. Officer of Finance and Operations

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Certification of Document's Authenticity

AIA® Document D401™ – 2003

I, , hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with its associated Additions and Deletions Report and this certification at 13:24:31 CT on 01/30/2024 under Order No. 4104240957 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document A132™ – 2019, Standard Form of Agreement Between Owner and Contractor, Construction Manager as Adviser Edition, other than those additions and deletions shown in the associated Additions and Deletions Report.



(Signed)

Curtis Hartog, Executive Director

(Title)

1/30/2024

(Dated)

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AIA® Document A132® – 2019 Exhibit A

Insurance and Bonds

This Insurance and Bonds Exhibit is part of the Agreement, between the Owner and the Contractor, dated the __31st____ day of ___January_____ in the year __2024____
(In words, indicate day, month, and year.)

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

North High School Phase 3 Work Scope 03A Concrete and Masonry
1500 James Avenue, Minneapolis, MN 55411

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

Minneapolis Public Schools Special School District #1
1250 West Broadway Avenue
Minneapolis, MN 55411

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

Central Roofing Company 4550 Main Street NE
Minneapolis, MN 55421

TABLE OF ARTICLES

A.1 GENERAL

A.2 OWNER'S INSURANCE

A.3 CONTRACTOR'S INSURANCE AND BONDS

A.4 SPECIAL TERMS AND CONDITIONS

ARTICLE A.1 GENERAL

The Owner and Contractor shall purchase and maintain insurance, and provide bonds, as set forth in this Exhibit. As used in this Exhibit, the term General Conditions refers to AIA Document A232™–2019, General Conditions of the Contract for Construction.

ARTICLE A.2 OWNER'S INSURANCE

§ A.2.1 General

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

§ A.2.2 Liability Insurance

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

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

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

This document is intended to be used in conjunction with AIA Document A232™–2019, General Conditions of the Contract for Construction. Article 11 of A232™–2019 contains additional insurance provisions

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§ A.2.3 Required Property Insurance

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

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

Causes of Loss	Sub-Limit

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

Coverage	Sub-Limit

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

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

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

§ A.2.3.3 Insurance for Existing Structures

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

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§ A.2.4 Optional Extended Property Insurance.
The Owner shall purchase and maintain the insurance selected and described below.
(Select the types of insurance the Owner is required to purchase and maintain by placing an X in the box(es) next to the description(s) of selected insurance. For each type of insurance selected, indicate applicable limits of coverage or other conditions in the fill point below the selected item.)

[ ] **§ A.2.4.1 Loss of Use, Business Interruption, and Delay in Completion Insurance**, to reimburse the Owner for loss of use of the Owner's property, or the inability to conduct normal operations due to a covered cause of loss.

[ ] **§ A.2.4.2 Ordinance or Law Insurance**, for the reasonable and necessary costs to satisfy the minimum requirements of the enforcement of any law or ordinance regulating the demolition, construction, repair, replacement or use of the Project.

[ ] **§ A.2.4.3 Expediting Cost Insurance**, for the reasonable and necessary costs for the temporary repair of damage to insured property, and to expedite the permanent repair or replacement of the damaged property.

[ ] **§ A.2.4.4 Extra Expense Insurance**, to provide reimbursement of the reasonable and necessary excess costs incurred during the period of restoration or repair of the damaged property that are over and above the total costs that would normally have been incurred during the same period of time had no loss or damage occurred.

[ ] **§ A.2.4.5 Civil Authority Insurance**, for losses or costs arising from an order of a civil authority prohibiting access to the Project, provided such order is the direct result of physical damage covered under the required property insurance.

[ ] **§ A.2.4.6 Ingress/Egress Insurance**, for loss due to the necessary interruption of the insured's business due to physical prevention of ingress to, or egress from, the Project as a direct result of physical damage.

[ ] **§ A.2.4.7 Soft Costs Insurance**, to reimburse the Owner for costs due to the delay of completion of the Work, arising out of physical loss or damage covered by the required property insurance: including construction loan fees; leasing and marketing expenses; additional fees, including those of architects, engineers, consultants, attorneys and accountants, needed for the completion of the construction, repairs, or reconstruction; and carrying costs such as property taxes, building permits, additional interest on loans, realty taxes, and insurance premiums over and above normal expenses.

§ A.2.5 Other Optional Insurance.
The Owner shall purchase and maintain the insurance selected below.
(Select the types of insurance the Owner is required to purchase and maintain by placing an X in the box(es) next to the description(s) of selected insurance.)

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

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

Coverage	Limits

ARTICLE A.3 CONTRACTOR'S INSURANCE AND BONDS

§ A.3.1 General

§ A.3.1.1 Certificates of Insurance. The Contractor shall provide certificates of insurance acceptable to the Owner evidencing compliance with the requirements in this Article A.3 at the following times: (1) prior to commencement of the Work; (2) upon renewal or replacement of each required policy of insurance; and (3) upon the Owner's written request. An additional certificate evidencing continuation of commercial liability coverage, including coverage for completed operations, shall be submitted with the final Application for Payment and thereafter upon renewal or replacement of such coverage until the expiration of the periods required by Section A.3.2.1 and Section A.3.3.1. The certificates will show the Owner as an additional insured on the Contractor's Commercial General Liability and excess or umbrella liability policy or policies.

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

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

§ A.3.2 Contractor's Required Insurance Coverage

§ A.3.2.1 The Contractor shall purchase and maintain the types and limits of insurance as defined in EXH-C Owner Insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The Contractor shall maintain the required insurance until the expiration of the period for correction of Work as set forth in Section 12.2.2 of the General Conditions, unless a different duration is stated below:
(If the Contractor is required to maintain insurance for a duration other than the expiration of the period for correction of Work, state the duration.)

§ A.3.2.2 Commercial General Liability

§ A.3.2.2.1 Commercial General Liability insurance for the Project written on an occurrence form with policy limits as defined in EXH-C Owner Insurance providing coverage for claims including

.1 damages because of bodily injury, sickness or disease, including occupational sickness or disease, and death of any person;
.2 personal injury and advertising injury;
.3 damages because of physical damage to or destruction of tangible property, including the loss of use of such property;
.4 bodily injury or property damage arising out of completed operations; and

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.5 the Contractor's indemnity obligations under Section 3.18 of the General Conditions.

§ A.3.2.2.2 The Contractor's Commercial General Liability policy under this Section A.3.2.2 shall not contain an exclusion or restriction of coverage for the following:

.1 Claims by one insured against another insured, if the exclusion or restriction is based solely on the fact that the claimant is an insured, and there would otherwise be coverage for the claim.

.2 Claims for property damage to the Contractor's Work arising out of the products-completed operations hazard where the damaged Work or the Work out of which the damage arises was performed by a Subcontractor.

.3 Claims for bodily injury other than to employees of the insured.

.4 Claims for indemnity under Section 3.18 of the General Conditions arising out of injury to employees of the insured.

.5 Claims or loss excluded under a prior work endorsement or other similar exclusionary language.

.6 Claims or loss due to physical damage under a prior injury endorsement or similar exclusionary language.

.7 Claims related to residential, multi-family, or other habitational projects, if the Work is to be performed on such a project.

.8 Claims related to roofing, if the Work involves roofing.

.9 Claims related to exterior insulation finish systems (EIFS), synthetic stucco or similar exterior coatings or surfaces, if the Work involves such coatings or surfaces.

.10 Claims related to earth subsidence or movement, where the Work involves such hazards.

.11 Claims related to explosion, collapse and underground hazards, where the Work involves such hazards.

§ A.3.2.3 Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Contractor, with policy limits as defined in EXH-C Owner Insurance.

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

§ A.3.2.5 Workers' Compensation at statutory limits for Coverage A as defined in EXH-C Owner Insurance.

§ A.3.2.6 Employers' Liability Coverage B as defined in EXH-C Owner Insurance.

§ A.3.2.7 If the Contractor is required to furnish professional services as part of the Work, the Contractor shall procure Professional Liability insurance covering performance of the professional services, with policy limits as defined in EXH-C Owner Insurance.

§ A.3.2.8 Insurance for the use or operation of manned or unmanned aircraft, if the Work requires such activities, with policy limits as defined in EXH-C Owner Insurance.

(Paragraphs deleted)

§ A.3.3 Contractor's Other Insurance Coverage

§ A.3.3.1 Insurance selected and described in this Section A.3.3 shall be purchased from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The Contractor shall maintain the required insurance until the expiration of the period for correction of Work as set forth in Section 12.2.2 of the General Conditions, unless a different duration is stated below:

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

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If Professional Liability insurance is required as part of the Contract, the Contractor shall maintain coverage for one year beyond the date of Substantial Completion.

§ A.3.3.2 The Contractor shall purchase and maintain the types and limits of insurance as defined in EXH-C Owner Insurance.

(Paragraphs deleted)

§ A.3.4 Performance Bond and Payment Bond

The Contractor shall provide surety bonds, from a company or companies lawfully authorized to issue surety bonds in the jurisdiction where the Project is located, as follows:
(Specify type and penal sum of bonds.)

Type	Penal Sum ($0.00)
Payment Bond	$398,416
Performance Bond	$398,416

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

ARTICLE A.4 SPECIAL TERMS AND CONDITIONS

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

None

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Additions and Deletions Report for
AIA® Document A132® – 2019 Exhibit A

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

Note: This Additions and Deletions Report is provided for information purposes only and is not incorporated into or constitute any part of the associated AIA document. This Additions and Deletions Report and its associated document were generated simultaneously by AIA software at 13:25:17 CT on 01/30/2024.

PAGE 1

This Insurance and Bonds Exhibit is part of the Agreement, between the Owner and the Contractor, dated the __31st____day of ___January_____in the year __2024____

...

North High School Phase 3 Work Scope 03A Concrete and Masonry
1500 James Avenue, Minneapolis, MN 55411

...

Minneapolis Public Schools Special School District #1
1250 West Broadway Avenue
Minneapolis, MN 55411

...

Central Roofing Company 4550 Main Street NE
Minneapolis, MN 55421

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

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§ A.3.2.1 The Contractor shall purchase and maintain the ~~following~~ types and limits of insurance as defined in EXH-C Owner Insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The Contractor shall maintain the required insurance until the expiration of the period for correction of Work as set forth in Section 12.2.2 of the General Conditions, unless a different duration is stated below:

...

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§ A.3.2.2.1 Commercial General Liability insurance for the Project written on an occurrence form with policy limits ~~of not less than ($) each occurrence, ($) general aggregate, and ($) aggregate for products-completed operations hazard,~~ as defined in EXH-C Owner Insurance providing coverage for claims including

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§ A.3.2.3 Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Contractor, with policy limits ~~of not less than ($) per accident, for bodily injury, death of any person, and property damage arising out of the ownership, maintenance and use of those motor vehicles along with any other statutorily required automobile coverage.~~as defined in EXH-C Owner Insurance.

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

§ A.3.2.5 Workers' Compensation at statutory ~~limits.~~limits for Coverage A as defined in EXH-C Owner Insurance.

§ A.3.2.6 Employers' Liability ~~with policy limits not less than ($) each accident, ($) each employee, and ($) policy limit.~~Coverage B as defined in EXH-C Owner Insurance.

§ A.3.2.7 ~~Jones Act, and the Longshore & Harbor Workers' Compensation Act, as required, if the Work involves hazards arising from work on or near navigable waterways, including vessels and docks~~ If the Contractor is required to furnish professional services as part of the Work, the Contractor shall procure Professional Liability insurance covering performance of the professional services, with policy limits as defined in EXH-C Owner Insurance.

§ A.3.2.8 ~~If the Contractor is required to furnish professional services as part of the Work, the Contractor shall procure Professional Liability insurance covering performance of the professional services, with policy limits of not less than ($) per claim and ($) in the aggregate.~~Insurance for the use or operation of manned or unmanned aircraft, if the Work requires such activities, with policy limits as defined in EXH-C Owner Insurance.

~~**§ A.3.2.9** If the Work involves the transport, dissemination, use, or release of pollutants, the Contractor shall procure Pollution Liability insurance, with policy limits of not less than ($) per claim and ($) in the aggregate.~~

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

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

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

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If Professional Liability insurance is required as part of the Contract, the Contractor shall maintain coverage for one year beyond the date of Substantial Completion.

§ A.3.3.2 The Contractor shall purchase and maintain the ~~following~~ types and limits of insurance ~~in accordance with Section A.3.3.1.~~as defined in EXH-C Owner Insurance.

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

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

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

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

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

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

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

Coverage	**Limits**

§ A.3.4 Performance Bond and Payment Bond

...

Payment Bond	$398,416
Performance Bond	$398,416

...

None

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AIA® Document A232® – 2019

General Conditions of the Contract for Construction, *Construction Manager as Adviser Edition*

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

North High School Phase 3 Work Scope 7H Roofing
1500 James Avenue, Minneapolis, MN 55411

THE CONSTRUCTION MANAGER:
(Name, legal status, and address)

Kraus-Anderson Construction Company
501 South 8th Street, Minneapolis, MN 55404

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

Minneapolis Public Schools Special School District #1
1250 West Broadway Avenue
Minneapolis, MN 55411

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

LSE Architects 1401 Glenwood Avenue
Minneapolis, MN 55405

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

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

This document is intended to be used in conjunction with AIA Documents A132™–2019, Standard Form of Agreement Between Owner and Contractor, Construction Manager as Adviser Edition; B132™–2019, Standard Form of Agreement Between Owner and Architect, Construction Manager as Adviser Edition; and C132™–2019, Standard Form of Agreement Between Owner and Construction Manager as Adviser.

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ARTICLE 1 GENERAL PROVISIONS

§ 1.1 Basic Definitions

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

§ 1.1.1.1 Notwithstanding the foregoing, it is understood and agreed that the Owner is an intended third-party beneficiary of all contracts between the Contractor and Subcontractors or suppliers who provide labor and/or materials for the Work.

§ 1.1.2 The Contract. The Contract Documents form the Contract for Construction. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations, or agreements, either written or oral. The Contract may be amended or modified only by a Modification. The Contract Documents shall not be construed to create a contractual relationship of any kind (1) between the Contractor and the Architect or the Architect's consultants, (2) between the Owner and the Construction Manager or the Construction Manager's consultants, (3) between the Owner and the Architect or the Architect's consultants, (4) between the Contractor and the Construction Manager or the Construction Manager's consultants, (5) between the Owner and a Subcontractor or Sub-subcontractor (6) between the Construction Manager and the Architect, or (7) between any persons or entities other than the Owner and Contractor. The Construction Manager and Architect shall, however, be entitled to performance and enforcement of obligations under the Contract intended to facilitate performance of their duties.

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

§ 1.1.4 The Project. The Project is the total construction of which the Work performed under the Contract Documents may be the whole or a part and which may include construction by other Contractors, and by the Owner's own forces and Separate Contractors.

§ 1.1.5 Contractors. Contractors are persons or entities, other than the Contractor or Separate Contractors, who perform Work under contracts with the Owner that are administered by the Architect and Construction Manager.

§ 1.1.6 Separate Contractors. Separate Contractors are persons or entities who perform construction under separate contracts with the Owner not administered by the Architect and Construction Manager.

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

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

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

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§ 1.1.10 Initial Decision Maker. The Initial Decision Maker is the person identified in the Agreement to render initial decisions on Claims in accordance with Section 15.2. The Architect will serve as the Initial Decision Maker pursuant to Section 15.2 of AIA Document A232–2019.

§ 1.2 Correlation and Intent of the Contract Documents

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

§ 1.2.1.1 The invalidity of any provision of the Contract Documents shall not invalidate the Contract or its remaining provisions. In such case the Contract Documents shall be construed, to the fullest extent permitted by law, to give effect to the parties' intentions and purposes in executing the Contract.

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

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

§ 1.3 Capitalization

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

§ 1.4 Interpretation

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

§ 1.4.1 In the case of inconsistency between Drawings and Specifications or within Contract Documents not clarified by Addenda, the better quality or greater quantity of Work shall be provided in accordance with the Architect's interpretation.

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

§ 1.5.1 The Architect and the Architect's consultants shall be deemed the authors and owners of their respective Instruments of Service, including the Drawings and Specifications, and retain all common law, statutory, and other reserved rights in their Instruments of Service, including copyrights. The Contractor, Subcontractors, sub-subcontractors, and suppliers shall not own or claim a copyright in the Instruments of Service. Submittal or distribution to meet official regulatory requirements or for other purposes in connection with the Project is not to be construed as publication in derogation of the Architect's or Architect's consultants' reserved rights. The Owner retains rights to the Instruments of Service pursuant to Article 7 of AIA Document B101-2017.

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

§ 1.5.3 The Architect shall furnish to the Contractor a version of the Instruments of Service in electronic form for the sole purpose of the construction of the Project for which the Instruments of Service were created.

§ 1.6 Notice

§ 1.6.1 Except as otherwise provided in Section 1.6.2, where the Contract Documents require one party to notify or give notice to the other party, such notice shall be provided in writing to the designated representative of the party to

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whom the notice is addressed and shall be deemed to have been duly served if delivered in person, by mail, by courier, or by electronic transmission if a method for electronic transmission is set forth in the Agreement.

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

§ 1.7 Digital Data Use and Transmission

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

§ 1.8 Building Information Models Use and Reliance

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

ARTICLE 2 OWNER

§ 2.1 General

§ 2.1.1 The Owner is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The Owner shall designate in writing a representative who shall have express authority to bind the Owner with respect to all matters requiring the Owner's approval or authorization in accordance with Owner's Delegation of Authority Policy, a copy of which will be provided at Contractor's request. Except as otherwise provided in Section 4.2.1, the Construction Manager and the Architect do not have such authority. The term "Owner" means the Owner or the Owner's authorized representative.

(Paragraph deleted)

§ 2.2 Evidence of the Owner's Financial Arrangements

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

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

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

§ 2.2.4 Where the Owner has designated information furnished under this Section 2.2 as "confidential," the Contractor shall keep the information confidential and shall not disclose it to any other person. However, the Contractor may disclose "confidential" information, after seven (7) days' notice to the Owner, where disclosure is required by law, including a subpoena or other form of compulsory legal process issued by a court or governmental entity, or by court

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or arbitrator(s) order. The Contractor may also disclose "confidential" information to its employees, consultants, sureties, Subcontractors and their employees, Sub-subcontractors, and others who need to know the content of such information solely and exclusively for the Project and who agree to maintain the confidentiality of such information.

§ 2.3 Information and Services Required of the Owner

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

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

§ 2.3.3 The Owner shall retain a construction manager adviser lawfully practicing construction management in the jurisdiction where the Project is located. That person or entity is identified as the Construction Manager in the Agreement and is referred to throughout the Contract Documents as if singular in number.

§ 2.3.4 If the employment of the Construction Manager or Architect terminates, the Owner shall employ a successor construction manager or architect to whom the Contractor has no reasonable objection and whose status under the Contract Documents shall be that of the Construction Manager or Architect, respectively.

§ 2.3.5 If requested by the Contractor and reasonably required for the Project, the Owner shall furnish surveys describing physical characteristics, legal limitations and utility locations for the site of the Project, and a written legal description of the site. The Contractor shall exercise proper precautions relating to the safe performance of the Work.

§ 2.3.6 The Owner shall furnish information or services required of the Owner by the Contract Documents with reasonable promptness. The Owner shall also furnish any other information or services under the Owner's control and relevant to the Contractor's performance of the Work with reasonable promptness after receiving the Contractor's written request for such information or services. The Contractor is responsible for the timeliness of, or interference caused by, Subcontractors, Sub-subcontractors (of any tier), and others directly or indirectly under contract to the Contractor.

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

§ 2.3.8 The Owner shall forward all communications to the Contractor through the Construction Manager. Other communication shall be made as set forth in Section 4.2.6.

§ 2.4 Owner's Right to Stop the Work

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

§ 2.5 Owner's Right to Carry Out the Work

If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within a three-business-day (3) period after receipt of notice from the Owner to commence and continue correction of such default or neglect with diligence and promptness, the Owner may, without prejudice to other remedies the Owner may have, correct such default or neglect. Such action by the Owner and amounts charged to the Contractor are both subject to review by the Construction Manager and prior approval of the Architect, and the Construction Manager or Architect may, pursuant to Section 9.5.1, withhold or nullify a Certificate for Payment in whole or in part, to the extent reasonably necessary to reimburse the Owner for the reasonable cost of correcting such deficiencies, including Owner's expenses and compensation for the Construction Manager's and Architect's and their respective consultants'

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additional services and expenses made necessary by such default, neglect, or failure. If current and future payments are not sufficient to cover such amounts, the Contractor shall pay the difference to the Owner within ten (10) days following written request for payment delivered by the Owner to the Contractor. If the Contractor disagrees with the actions of the Owner or the Architect, or the amounts claimed as costs to the Owner, the Contractor may file a Claim pursuant to Article 15.

ARTICLE 3 CONTRACTOR

§ 3.1 General

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

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

§ 3.1.3 The Contractor shall hire a professional utilities locator to investigate and verify all private utility locations prior to excavation and cutting into of existing Work. The Contractor is responsible for locating, terminating, and reinstallation of all private utilities. Private site utilities may not be in the Drawings and Project Manual and as such, verification of private utilities is the sole responsibility of the Contractor. Costs associated with moving and repairing of unknown and undocumented utilities will be by appropriate Change Order. The Contractor shall comply with Gopher State One Call, or other public utility service locator to locate all public utilities prior to any work on the site. This shall not relieve Contractor from obligations under Article 3.

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

§ 3.2 Review of Contract Documents and Field Conditions by Contractor

§ 3.2.1 The Contractor shall carefully study and compare the Contract Documents with each other and with information furnished by the Owner pursuant to Section 2.2.3, and shall immediately report to the Architect and Construction Manager errors, inconsistencies, or omissions discovered. The Contractor shall not be liable to the Owner or Architect for damage resulting from errors, inconsistencies, or omissions in the Contract Document unless the Contractor recognized such error, inconsistency, or omission and knowingly failed to report it to the Architect. If the Contractor performs any construction activity knowing or believing it involves a recognized error, inconsistency, or omission in the Contract Documents without such notice to the Architect, the Contractor shall assume full responsibility for such performance and shall bear the attributable costs for correction and shall bear responsibility for any additional costs, delays, and damages resulting from such failure to immediately report any such errors, inconsistencies, or omissions which the Contractor may discover. By executing the Contract, the Contractor represents that the Contractor has reviewed and understands the Contract Documents, has visited the Site and is familiar with local conditions under which the Work is to be performed, has correlated personal observations with the requirements of the Contract Documents, and has notified the Architect of and obtained clarification of any discrepancies which have become apparent during the bidding or proposal period.

§ 3.2.1.1 The Contractor shall take field measurements and verify field conditions and shall carefully compare such field measurements and conditions and other information known to the Contractor with the Contract Documents before commencing activities. Errors, inconsistencies, or omissions discovered shall be reported to the Architect immediately in writing.

§ 3.2.1.2 The Contractor shall carefully study and compare the Contract Documents with existing conditions at the job site and shall immediately report in writing to the Architect any error, inconsistency, or omission which the Contractor may discover or any materials, systems, procedures, or methods of construction, either shown on the Drawings or specified, which the Contractor has reason to believe are incorrect, inadequate, obsolete, unsuitable for the purpose intended or which the Contractor has reason to believe would constitute or result in a violation of the Contractor's warranty under Section 3.5 or applicable law. The Contractor shall not proceed with any work in such areas until written instructions are received from the Architect.

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§ 3.2.2 The Contractor shall perform the Work in accordance with the Contract Documents and submittals accepted pursuant to Section 3.12.

§ 3.2.3 The Owner shall be entitled to deduct from the Contract Sum amounts paid to the Architect for the Architect to evaluate and respond to the Contractor's requests for interpretation or information where such information was available to the Contractor from a careful study and comparison of the Contract Documents, Filed Conditions, Owner Provided Information, Contractor Prepared Coordination Drawings, or prior Project Correspondence or Documentation.

§ 3.2.4 If the Contractor believes that any portions of the Contract Documents do not comply with applicable laws, statutes, ordinances, building codes, and rules and regulations, or any orders by code enforcement officials or the Owner or its designees acting in the capacity of building code inspectors or Referenced Standards, the Contractor must promptly notify the Owner and the Architect of the non-compliance as provided in Section 3.2.6 and request direction before proceeding with the affected Work.

§ 3.2.5 The Contractor must promptly notify the Owner and the Architect in writing of any apparent errors, inconsistencies, omissions, ambiguities, construction impracticalities or code violations discovered as a result of the Contractor's review of the Contract Documents including any differences between actual and indicated dimensions, locations and descriptions, and must give the Owner and the Architect timely notice in writing of same and of any corrections, clarifications, additional Drawings or Specifications, or other information required to define the Work in greater detail or to permit the proper progress of the Work. The Contractor must provide similar notice with respect to any variance between its review of the Site and physical data and Site conditions observed.

§ 3.2.6 If the Contractor performs any Work involving an apparent error, inconsistency, ambiguity, construction impracticality, omission or code violation in the Contract Documents of which the Contractor is aware, or which could reasonably have been discovered by the review required by Section 3.2, without prompt written notice to the Owner and the Architect and request for correction, clarification or additional information, as appropriate, the Contractor does so at its own risk and expense and all Claims relating thereafter are specifically waived.

§ 3.3 Supervision and Construction Procedures

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

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

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

§ 3.3.4 The Contractor shall at all times staff the Project adequately to allow the Project to be managed and completed in a timely and professional manner. The Contractor shall have competent supervision on the job during work hours and readily available at all times upon call.

§ 3.3.5 The Contractor shall at all times make reasonable provisions to protect any Work performed by any separate contractors, adjacent property, and the existing building (if any) from damage due to the Work or due to the weather.

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§ 3.3.6 The Owner or its approved representative (heretofore referred to as Owner's Representative) shall have access to the Work site and all Work. No supervision or inspection by the Owner or the Owner's Representative, nor the authority to act, nor any other actions taken by the Owner's Representative shall relieve the Contractor of any of its obligations under the Contract Documents or give rise to any duty on the part of the Owner.

§ 3.3.7 The Contract shall take appropriate precautions to ensure that the Work does not materially disrupt any ongoing operation by the Owner at the Project (if any) except to the extent any such disruption is a necessary result of performing a particular portion of the Work, in which case the Contractor shall provide the Owner with reasonable advanced written notice and shall take all commercially reasonable measures to minimize the impact on the Owner and the Owner's operations.

§ 3.4 Labor and Materials

§ 3.4.1 Unless otherwise provided in the Contract Documents, the Contractor shall provide and pay for labor, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation, and other facilities and services necessary for proper execution and completion of the Work, whether temporary or permanent and whether or not incorporated or to be incorporated in the Work. Should the Contract Documents require Work to be performed after regular working hours or should the Contractor elect to perform Work after regular working hours, the additional cost of such Work shall be borne by the Contractor.

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

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

§ 3.4.4 The Contractor shall be responsible for all additional costs incurred to incorporate into the Project substitute materials, products, or equipment approved by Owner during the bidding period.

§ 3.4.5 In the event of a Change related to substitute or additional materials, and which shall comply with Article 7, the Contractor shall exercise reasonable efforts, consistent with the provisions of the Contract Documents to obtain the maximum available case discounts on all materials, provided that, in doing so, the Contractor shall not accept or use materials for incorporation into the Project which are of a type or quality not reasonably contemplated under the terms of the Contract Documents.

§ 3.4.6 After award of the Contract, a request for substitution of a material, product, or piece of equipment at no change in the Contract Sum will not be approved by the Owner or the Architect, unless the specified item is no longer manufactured, the specified item is unavailable as a result of an act of government such as a declaration of a national emergency, or delivery of the specified items is substantially delayed as a result of labor disputes affecting the manufacturer, unusual delay in transportation, or any other cause beyond control of the Contractor or a Subcontractor or material supplier which the Architect determines justified the delay. Requests will not be approved where the delay in delivery results from failure to promptly place subcontracts and material orders. Requests for substitution shall be submitted in writing to the Architect and shall clearly describe the proposed substitution, state the reason for the unavailability of a specified item and be accompanied by such additional data and information as may be necessary in the discretion of the Owner and the Architect to establish the acceptability of the proposed substitute.

§ 3.4.7 The Owner shall be entitled to deduct from the Contract Sum amounts paid to the Architect to evaluate the Contractor's proposed Substitutions and for changes made to the Contract Documents as a result of Owner's acceptance of such Substitutions.

§ 3.5 Warranty

§ 3.5.1 The Contractor warrants to the Owner, Construction Manager, and Architect that materials and equipment furnished under the Contract will be of good quality and new unless the Contract Documents require or permit otherwise. The Contractor further warrants that the Work will conform to the requirements of the Contract Documents

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

§ 3.5.2 All material, equipment, or other special warranties required by the Contract Documents shall be issued in the name of the Owner, or shall be transferable to the Owner, and shall commence in accordance with Section 9.8.4. The Contractor shall arrange for the Owner to have the benefit of and right to enforce all warranties by Subcontractors, Sub-subcontractors, suppliers, and manufacturers.

§ 3.5.3 Manufacturers' warranties and warranties by other shall not relieve the Contractor of any of its responsibilities.

§ 3.5.4 The Contractor's general warranty and any additional or special warranties are not limited by the Contractor's obligations to specifically correct defective or nonconforming Work as provided in Article 12, nor are they limited by any other remedies provided in the Contract Documents. The Contractor shall also be liable for any damage to property or persons (including death) including consequential and direct damages relating to any breach of the Contractor's general warranty or any additional or special warranties required by the Contract Documents.

§ 3.5.5 The Contractor must furnish all special warranties required by the Contract Documents to the Owner no later than Substantial Completion. The Owner may require additional special warranties in connection with the approval of "Or-Equals" or Substitutions, Allowance items, Work that is defective or nonconforming, or the acceptance of nonconforming Work pursuant to Article 12.

§ 3.6 Taxes

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

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

§ 3.7.1 Unless otherwise provided in the Contract Documents, the Owner, assisted by the Construction Manager, shall secure and pay for the building permit. The Contractor shall secure and pay for other permits, fees, licenses, and inspections by government agencies necessary for proper execution and completion of the Work that are customarily secured after execution of the Contract and legally required at the time bids are received or negotiations concluded. The Contractor shall be responsible for the Sewer Access (SAC) and Water Access (WAC) fees for the Project. The Contractor shall pay the SAC/WAC costs to the authorities having jurisdiction from the Allowance in the Base Bid for such charges as defined in the Construction Documents.

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

§ 3.7.3 If the Contractor performs Work knowing or believing it to be contrary to applicable laws, statutes, ordinances, building codes, rules and regulations, or lawful orders of public authorities, without such notice to the Architect and Owner, the Contractor shall assume full responsibility for such Work and shall bear the attributable costs, delays, and damages resulting from such failure to immediately notify the Architect and Owner of any such violation..

§ 3.7.4 Concealed or Unknown Conditions. If the Contractor encounters conditions at the site that are (1) subsurface or otherwise concealed physical conditions that differ materially from those indicated in the Contract Documents or (2) unknown physical conditions of an unusual nature that differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents, the Contractor shall promptly provide notice to the Owner, Construction Manager, and the Architect before conditions are disturbed and in no event later than ten (10) days after first observance of the conditions. The Architect and Construction Manager will promptly investigate such conditions and, if the Architect, in consultation with the Construction Manager, determines that they differ materially and cause an increase or decrease in the Contractor's cost of, or time required for, performance of any part of the Work, will recommend that an equitable adjustment be made in the Contract Sum or Contract Time, or both. If the Architect, in consultation with the Construction Manager,

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

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

§ 3.8 Allowances

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

§ 3.8.2 Unless otherwise provided in the Contract Documents:

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

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

§ 3.9 Superintendent

§ 3.9.1 The Contractor shall employ a competent superintendent and necessary assistants who shall be in attendance at the Project site during performance of the Work, including that performed by all Subcontractors. The superintendent shall represent the Contractor, and communications given to the superintendent shall be as binding as if given to the Contractor. Important communications including and not limited to communications regarding design changes, alterations, substitutions, clarifications, cost changes, etc. shall be confirmed in writing by the Contractor. Other communications shall be similarly confirmed on written request in each case.

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

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

§ 3.9.4 If requested by the Owner, the Contractor shall replace the superintendent at no additional cost to the Owner. No other change in this position shall be made without notice to and written consent of the Owner.

§ 3.10 Contractor's Construction and Submittal Schedules

§ 3.10.1 The Contractor, promptly after being awarded the Contract, shall submit for the Owner's and Architect's information, and the Construction Manager's use in developing the Project schedule, a Contractor's construction schedule for the Work. The schedule shall contain detail appropriate for the Project, including (1) the date of

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commencement of the Work, interim schedule milestone dates, critical path schedule milestones, major construction milestones, including and not limited to Civil, Demolition, Structural, Mechanical, Electrical, and Plumbing, and the date of Substantial Completion; (2) an apportionment of the Work by construction activity; and (3) the time required for completion of each portion of the Work. The schedule shall provide for the orderly progression of the Work to completion and shall not exceed time limits current under the Contract Documents. The schedule shall be revised at appropriate intervals as required by the conditions of the Work and Project. The Contractor shall cooperate with the Construction Manager in scheduling and performing the Contractor's Work to avoid conflict with, and as to cause no delay in, the work or activities of other Contractors, or the construction or operations of the Owner's own forces or Separate Contractors.

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

§ 3.10.3 The Contractor shall participate with other Contractors, the Construction Manager, and the Owner in reviewing and coordinating all schedules for incorporation into the Project schedule that is prepared by the Construction Manager. The Contractor shall make revisions to the construction schedule and submittal schedule as deemed necessary by the Construction Manager to conform to the Project schedule.

§ 3.10.4 The Contractor shall perform the Work in general accordance with the most recent schedules submitted to and accepted in writing by the Owner, Construction Manager, and Architect, and incorporated into the approved Project schedule.

§ 3.11 Documents and Samples at the Site

§ 3.11.1 The Contractor shall make available, at the Project site, one record copy of the Contract Documents, including Change Orders, Construction Change Directives, and other Modifications, in good order and updated daily to indicate field changes and selections made during construction, and in addition accepted and approved Shop Drawings, Product Data, Samples, and similar required submittals. These shall be in electronic form or paper copy, available to the Construction Manager, Architect, and Owner as required to complete routine inspections by Architect, Construction Manager and Owner prior to any approval of payments to the Contractor, and delivered to the Construction Manager for submittal to the Owner upon completion of the Work. The Architect and Contractor must verify that all "as-built" Drawings, Specifications, Addenda, Change Orders, and other Modifications are up-to-date before Contractor's Application for Payment is acceptable and before the Owner incurs any duty to pay Contractor in accordance with the Contract. The record documents shall be a separate set of documents labeled "Record Documents" and used only for record purposes and kept clean and undamaged.

§ 3.11.2 No review or receipt of such records by the Architect or Owner shall be considered a waiver of any deviation from the Contract Documents or approved shop drawings, or any way relieve the Contractor from its responsibility to perform the Work in accordance with the Contract Documents.

§ 3.12 Shop Drawings, Product Data, and Samples

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

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

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

§ 3.12.4 Shop Drawings, Product Data, Samples, and similar submittals are not Contract Documents. Their purpose is to demonstrate how the Contractor proposes to conform to the information given and the design concept expressed in the Contract Documents for those portions of the Work for which the Contract Documents require submittals. Review

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by the Architect and Construction Manager is subject to the limitations of Sections 4.2.10 through 4.2.12. Informational submittals upon which the Construction Manager and Architect are not expected to take responsive action may be so identified in the Contract Documents. Submittals that are not required by the Contract Documents may be returned by the Construction Manager or Architect without action.

§ 3.12.5 The Contractor shall review for compliance with the Contract Documents, approve, and submit to the Construction Manager, Shop Drawings, Product Data, Samples, and similar submittals required by the Contract Documents, in accordance with the Project submittal schedule approved by the Construction Manager and Architect or, in the absence of an approved Project submittal schedule, with reasonable promptness and in such sequence as to cause no delay in the Work or in the activities of other Contractors, Separate Contractors, or the Owner's own forces. The Contractor shall cooperate with the Construction Manager in the coordination of the Contractor's Shop Drawings, Product Data, Samples, and similar submittals with related documents submitted by other Contractors. The Contractor must provide the Owner and the Architect with copies of all submittals made to regulatory agencies.

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

§ 3.12.7 The Contractor shall perform no portion of the Work for which the Contract Documents require submittal and review of Shop Drawings, Product Data, Samples, or similar submittals, until the respective submittal has been reviewed and accepted by the Architect. The Contractor must correct at its cost, and without any adjustment in Contract Time, any Work the correction of which is required due to the Contractor's failure to obtain approval of a submittal required to have been obtained prior to proceeding with the Work, including, but not limited to, correction of any conflicts in the Work resulting from such failure.

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

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

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

§ 3.12.10.1 If professional design services or certifications by a design professional related to systems, materials, or equipment are specifically required of the Contractor by the Contract Documents, the Owner and the Architect will specify all performance and design criteria that such services must satisfy. The Contractor shall be entitled to rely upon the adequacy and accuracy of the performance and design criteria provided in the Contract Documents. The Contractor shall cause such services or certifications to be provided by an appropriately licensed design professional, whose signature and seal shall appear on all drawings, calculations, specifications, certifications, Shop Drawings, and other submittals prepared by such professional. Shop Drawings, and other submittals related to the Work, designed or certified by such professional, if prepared by others, shall bear such professional's written approval when submitted to the Architect. The Owner, the Architect, and the Construction Manager shall be entitled to rely upon the adequacy and accuracy of the services, certifications, and approvals performed or provided by such design professionals, provided the Owner and Architect have specified to the Contractor the performance and design criteria that such services must

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satisfy. Pursuant to this Section 3.12.10, the Architect will review and approve or take other appropriate action on submittals only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Construction Manager shall review submittals for sequencing, constructability, and coordination impacts on other Contractors.

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

§ 3.13 Use of Site

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

§ 3.13.2 The Contractor shall coordinate the Contractor's operations with, and secure the approval of, the Construction Manager before using any portion of the site.

§ 3.13.3 Except as may be specifically provided in the Contract Documents, the Contractor shall provide all necessary temporary facilities, including power, water, sanitation, scaffolding, storage, and security. If Owner makes any such facilities available to Contractor, it is without representation or warranty as to their adequacy for Contractor's use, and Contractor shall indemnify, defend, and hold Owner harmless from and against any claims arising out of Contractor's use of such facilities.

§ 3.14 Cutting and Patching

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

§ 3.14.2 The Contractor shall not damage or endanger a portion of the Work or fully or partially completed construction of the Owner, Separate Contractors, or of other Contractors by cutting, patching, or otherwise altering such construction, or by excavation. The Contractor shall not cut or otherwise alter construction by the Owner, Separate Contractors, or by other Contractors except with written consent of the Construction Manager, Owner, and such other Contractors or Separate Contractors. Consent shall not be unreasonably withheld. The Contractor shall hire a professional utilities locator to verify locations of all public and private utilities prior to initiating any cutting work. The Contractor shall not unreasonably withhold, from the Separate Contractors, other Contractors, or the Owner, its consent to cutting or otherwise altering the Work.

§ 3.15 Cleaning Up

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

§ 3.15.2 If the Contractor fails to clean up as provided in the Contract Documents, the Owner, or Construction Manager with the Owner's approval, may do so and the Owner shall be entitled to reimbursement from the Contractor.

§ 3.16 Access to Work

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

§ 3.17 Royalties, Patents and Copyrights

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

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Manager. However, if an infringement of a copyright or patent is discovered by, or made known to, the Contractor, the Contractor shall be responsible for the loss unless the information is promptly furnished to the Architect through the Construction Manager.

§ 3.18 Indemnification

§ 3.18.1 To the fullest extent permitted by law, the Contractor shall indemnify, defend and hold harmless the Owner, Construction Manager, Architect, Construction Manager's and Architect's consultants, and agents and employees of any of them from and against claims, damages, losses, and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), but only to the extent caused by the negligent acts or omissions of the Contractor, a Subcontractor, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss, or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity which would otherwise exist as to a party or person described in this Section 3.18. The Contractor, furthermore, agrees to obtain, maintain, and pay for such general liability coverage and endorsements (including product and completed operations coverage) as will ensure the provisions of this Section 3.18.1. The Contractor agrees to reimburse the Owner, its agents and employees for all costs and disbursements, including attorneys' fees, paid or incurred to enforce the provisions of this Section 3.18.1.

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

§ 3.18.3 To the fullest extent permitted by law and without limiting any other indemnification obligations of the Contractor, except to the extent caused by the uncured failure of the Owner to make payment when due and owing, the Contractor shall indemnify and defend the Owner, its officers, directors, assigns, lenders, agents, and employees from any liens, charges (including attorneys' fees) or encumbrances (including but not limited to mechanic's and materialmen's liens or bond claims) arising out of or in connection with the performance of the Work by Contractor, its Subcontractors, or its material suppliers. Upon request of the Owner, the Contractor shall within sixty (60) days remove any liens filed against the Owner or its property. If the Contractor fails to do so, the Owner is authorized by the Contractor to remove or satisfy any such liens, and the Contractor shall pay to the Owner all costs and damages incurred by the Owner to do so, including attorneys' fees.

ARTICLE 4 ARCHITECT AND CONSTRUCTION MANAGER

§ 4.1 General

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

§ 4.1.2 The Construction Manager is the person or entity retained by the Owner pursuant to Section 2.3.3 and identified as such in the Agreement.

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

§ 4.2 Administration of the Contract

§ 4.2.1 The Construction Manager and Architect will provide administration of the Contract as described in the Contract Documents and will be the Owner's consultants (1) during construction; (2) until final payment is due; and (3) with the Owner's concurrence, from time to time during the correction period described in Section 12.2. The Architect and Construction Manager will advise and consult with the Owner. The Construction Manager and Architect will have authority to act on behalf of the Owner only to the extent provided in the Contract Documents, unless otherwise modified in writing in accordance with other provisions of the Contract.

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§ 4.2.2 The Architect will visit the site at intervals appropriate to the stage of construction, or as otherwise agreed with the Owner, to become generally familiar with the progress and quality of the Work completed, to endeavor to guard the Owner against defects and deficiencies in the Work, and to determine in general if the Work is being performed in a manner indicating that the Work, when completed, will be in accordance with the Contract Documents. However, the Architect will not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. On the basis of the site visits, the Architect will keep the Owner and the Construction Manager reasonably informed about the progress and quality of the portion of the Work completed, and promptly report to the Owner and Construction Manager known deviations from the Contract Documents and defects and deficiencies observed in the Work.

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

§ 4.2.3 The Construction Manager shall provide one or more representatives who shall be in attendance at the Project site whenever the Work is being performed. The Construction Manager will determine in general if the Work observed is being performed in accordance with the Contract Documents, will keep the Owner and Architect reasonably informed of the progress of the Work, and will promptly report to the Owner and Architect known deviations from the Contract Documents and the most recent Project schedule, and defects and deficiencies observed in the Work.

§ 4.2.4 The Construction Manager will schedule and coordinate the activities of the Contractor and other Contractors in accordance with the latest approved Project schedule.

§ 4.2.5 The Construction Manager, except to the extent required by Section 4.2.4, and Architect will not have control over, charge of, or responsibility for, the construction means, methods, techniques, sequences or procedures, or for the safety precautions and programs in connection with the Work, since these are solely the Contractor's rights and responsibilities under the Contract Documents, and neither will be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. Neither the Construction Manager nor the Architect will have control over or charge of, or be responsible for acts or omissions of, the Contractor, Subcontractors, or their agents or employees, or of any other persons or entities performing portions of the Work.

§ 4.2.6 Communications. The Owner shall communicate with the Contractor and the Construction Manager's consultants through the Construction Manager about matters arising out of or relating to the Contract Documents. The Owner and Construction Manager shall include the Architect in all communications that relate to or affect the Architect's services or professional responsibilities. The Owner shall promptly notify the Architect of the substance of any direct communications between the Owner and the Construction Manager otherwise relating to the Project. Communications by and with the Architect's consultants shall be through the Architect. Communications by and with Subcontractors and suppliers shall be through the Contractor. Communications by and with other Contractors shall be through the Construction Manager. Communications by and with the Owner's own forces and Separate Contractors shall be through the Owner unless otherwise provided. The Contract Documents may specify other communication protocols. The Owner may require the Architect, Construction Manager and the Contractor to comply with Owner requirements in regards to public communications and site signage.

§ 4.2.7 The Construction Manager and Architect will review and certify all Applications for Payment by the Contractor, in accordance with the provisions of Article 9.

§ 4.2.8 The Architect and Construction Manager have authority to reject Work that does not conform to the Contract Documents, and will notify each other about the rejection. Whenever the Construction Manager considers it necessary or advisable for implementation of the intent of the Contract Documents, the Construction Manager will have authority to require additional inspection or testing of the Work in accordance with Sections 13.4.2 and 13.4.3, upon written authorization of the Owner, whether or not the Work is fabricated, installed or completed. The foregoing authority of the Construction Manager will be subject to the provisions of Sections 4.2.18 through 4.2.20 inclusive, with respect to interpretations and decisions of the Architect. However, neither the Architect's nor the Construction Manager's authority to act under this Section 4.2.8 nor a decision made by either of them in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect or the Construction Manager to the Contractor, Subcontractors, suppliers, their agents or employees, or other persons performing any of the Work.

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§ 4.2.9 Utilizing the submittal schedule provided by the Contractor, the Construction Manager shall prepare, and revise as necessary, a Project submittal schedule incorporating information from other Contractors, the Owner, Owner's consultants, Owner's Separate Contractors and vendors, governmental agencies, and participants in the Project under the management of the Construction Manager. The Project submittal schedule and any revisions shall be submitted to the Architect for approval.

§ 4.2.10 The Construction Manager will receive and promptly review for conformance with the submittal requirements of the Contract Documents, all submittals from the Contractor such as Shop Drawings, Product Data, and Samples. Where there are other Contractors, the Construction Manager will also check and coordinate the information contained within each submittal received from the Contractor and other Contractors, and transmit to the Architect those recommended for approval. By submitting Shop Drawings, Product Data, Samples, and similar submittals, the Construction Manager represents to the Owner and Architect that the Construction Manager has reviewed and recommended them for approval. The Construction Manager's actions will be taken in accordance with the Project submittal schedule approved by the Architect or, in the absence of an approved Project submittal schedule, with reasonable promptness while allowing sufficient time to permit adequate review by the Architect.

§ 4.2.11 The Architect will, and the Owner may, review and approve, or take other appropriate action upon, the Contractor's submittals such as Shop Drawings, Product Data, and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Architect's or Owner's action will be taken with such reasonable promptness as to cause no delay in the Work or in the activities of the Owner, Contractor or separate contractors, while allowing sufficient time in the Architect's professional judgment to permit adequate review. Upon the Architect's or the Owner's completed review, the Architect shall transmit its submittal review to the Construction Manager.

§ 4.2.12 Review of the Contractor's submittals by the Construction Manager and Architect is not conducted for the purpose of determining the accuracy and completeness of other details such as dimensions and quantities, or for substantiating instructions for installation or performance of equipment or systems, all of which remain the responsibility of the Contractor as required by the Contract Documents. The Construction Manager and Architect's review of the Contractor's submittals shall not relieve the Contractor of the obligations under Sections 3.3, 3.5, and 3.12. The Construction Manager and Architect's review shall not constitute approval of safety precautions or of any construction means, methods, techniques, sequences, or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

§ 4.2.13 The Construction Manager will prepare Change Orders and Construction Change Directives.

§ 4.2.14 The Construction Manager and the Architect will take appropriate action on Change Orders or Construction Change Directives in accordance with Article 7, and the Architect will have authority to order minor changes in the Work as provided in Section 7.4. The Architect, in consultation with the Construction Manager, will investigate and make determinations and recommendations regarding concealed and unknown conditions as provided in Section 3.7.4.

§ 4.2.15 Utilizing the documents provided by the Contractor, the Construction Manager will maintain at the site for the Owner one copy of all Contract Documents, approved Shop Drawings, Product Data, Samples, and similar required submittals, in good order and marked currently to record all changes and selections made during construction. These will be available to the Architect and the Contractor, and will be delivered to the Owner upon completion of the Project.

§ 4.2.16 The Construction Manager will assist the Architect in conducting inspections to determine the date or dates of Substantial Completion and the date of final completion; issue Certificates of Substantial Completion in conjunction with the Architect pursuant to Section 9.8; and receive and forward to the Owner written warranties and related documents required by the Contract and assembled by the Contractor pursuant to Section 9.10. The Construction Manager will forward to the Architect a final Application and Certificate for Payment or final Project Application and Project Certificate for Payment upon the Contractor's compliance with the requirements of the Contract Documents.

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

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§ 4.2.18 The Architect will interpret and decide matters concerning performance under the requirements of, the Contract Documents on written request of the Construction Manager, Owner, or Contractor through the Construction Manager. The Architect's response to such requests will be made with reasonable promptness and within any time limits agreed upon. If no agreement is made concerning the time within which interpretations required of the Architect shall be furnished in compliance with this Section 4.2.18, then delay shall not be recognized on account of failure by the Architect to furnish such interpretations until fifteen (15) days after written request is made to them.

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

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

(Paragraph deleted)

ARTICLE 5 SUBCONTRACTORS

§ 5.1 Definitions

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

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

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

§ 5.2.1 Unless otherwise stated in the Contract Documents, the Contractor, as soon as practicable after award of the Contract, shall notify in writing the Construction Manager, for review by the Owner, Construction Manager and Architect, of the persons or entities proposed for each principal portion of the Work, including those who are to furnish materials or equipment fabricated to a special design. Within 14 days of receipt of the information, the Construction Manager may notify the Contractor whether the Owner, the Construction Manager or the Architect (1) has reasonable objection to any such proposed person or entity or, (2) requires additional time for review. Failure of the Construction Manager to provide notice within the 14-day period shall constitute notice of no reasonable objection. The Contractor shall not employ any Subcontractor or use any material to which the Architect, Construction Manager or Owner may object. Prior to the employment of any Subcontractor, the Contractor must obtain the Owner's approval of such Subcontractor for the designated portion of the Work.

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

§ 5.2.3 If the Owner, Construction Manager or Architect has reasonable objection to a person or entity proposed by the Contractor, the Contractor shall propose another to whom the Owner, Construction Manager or Architect has no reasonable objection. The Contract Sum shall be increased or decreased by the difference in cost occasioned by such change, and an appropriate Change Order shall be issued. However, no increase in the Contract Sum or Contract Time shall be allowed for such change unless the Contractor has acted promptly and responsively in submitting names as required. Notwithstanding the foregoing, the Contractor shall have a continuing duty to the Owner, Construction Manager and Architect to find and propose such persons or entities as shall not result in material increase in the Contract Sum, or a material decrease in the quality of Work contemplated under the Contract Documents.

§ 5.2.4 The Contractor shall not substitute a Subcontractor, person, or entity for one previously selected if the Owner, Construction Manager or Architect makes reasonable objection to such substitution. Any proposed substitution of a Subcontractor, person, or entity for one previously selected shall be made in a separate writing to the Owner, Construction Manager and Architect. No substitution shall be deemed approved/accepted without written

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confirmation from the Owner, Construction Manager and Architect. Neither acceptance of, nor objection to a Subcontractor or Sub-subcontractor, material supplier, or other person or organization by the Owner, Construction Manager and Architect shall limit the responsibility of the Contractor to furnish materials, products, equipment, and services in conformance with the requirements of the Contract Documents.

§ 5.3 Subcontractual Relations

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

§ 5.3.2 The Contractor is responsible for the performance of, the actions of, the timeliness of, or interference caused by, Subcontractors, Sub-subcontractors (of any tier), and others directly or indirectly under contract to the Contractor.

§ 5.4 Contingent Assignment of Subcontracts

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

.1 assignment is effective only after termination of the Contract by the Owner for cause pursuant to Section 14.2 and only for those subcontract agreements that the Owner accepts by notifying the Subcontractor and Contractor; and

.2 assignment is subject to the prior rights of the surety, if any, obligated under bond relating to the Contract.

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

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

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

ARTICLE 6 CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTORS

§ 6.1 Owner's Right to Perform Construction with Own Forces and to Award Other Contracts

§ 6.1.1 The Owner reserves the right to perform construction or operations related to the Project with the Owner's own forces, and with Separate Contractors retained under Conditions of the Contract substantially similar to those of this Contract, including those provisions of the Conditions of the Contract related to insurance and waiver of subrogation.

§ 6.1.2 When the Owner performs construction or operations with the Owner's own forces or Separate Contractors, the Owner shall provide for coordination of such forces and Separate Contractors with the Work of the Contractor, who shall cooperate with them.

§ 6.1.3 Unless otherwise provided in the Contract Documents, when the Owner performs construction or operations related to the Project with the Owner's own forces or with Separate Contractors, the Owner or its Separate Contractors

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shall have the same obligations and rights that the Contractor has under the Conditions of the Contract, including, without excluding others, those stated in Article 3, this Article 6, and Articles 10, 11, and 12.

§ 6.2 Mutual Responsibility

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

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

§ 6.2.3 Costs caused by delays or by improperly timed activities or defective construction shall be borne by the party responsible therefor.

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

§ 6.2.5 Claims and other disputes and matters in question between the Contractor and a separate contractor shall be subject to the provisions of Article 15 provided the separate contractor has reciprocal obligations.

§ 6.2.6 The Owner, Separate Contractors, and other Contractors shall have the same responsibilities for cutting and patching as are described for the Contractor in Section 3.14.

§ 6.3 Owner's Right to Clean Up

If a dispute arises among the Contractor, Separate Contractors, other Contractors, and the Owner as to the responsibility under their respective contracts for maintaining the premises and surrounding area free from waste materials and rubbish as described in Section 3.15, the Owner may clean up allocate the cost among those responsible as the Architect determines to be just..

ARTICLE 7 CHANGES IN THE WORK

§ 7.1 General

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

§ 7.1.2 A Change Order shall be based upon agreement among the Owner, Construction Manager, Architect and Contractor. A Construction Change Directive requires agreement by the Owner, Construction Manager and Architect and may or may not be agreed to by the Contractor.

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

§ 7.1.4 The amount of credit to be allowed by the Contractor to the Owner for any deletion or change which results in a net decrease in the Contract Sum will be the amount of the actual net cost as confirmed by the Architect after consultation with the Owner and Construction Manager. When both additions and credits covering related Work or

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substitutions are involved in any one change, the allowance for both overhead and profit shall be figured on the basis of the net increase or decrease, if any, with respect to that change.

§ 7.1.5 In Section 7.3.6, the allowance for the combined overhead and profit included in the total cost to the Owner shall be based on the following schedule:

.1 For the Contractor, for Work performed by the Contractor's own forces, ten percent (10%) of the cost;

.2 For the Contractor, for Work performed by the Contractor's Subcontractor, five percent (5%) of the amount due the Subcontractor;

.3 For each Subcontractor or Sub-subcontractor involved for Work performed by the Subcontractor's or Sub-subcontractor's own forces, ten percent (10%) of the cost;

.4 For each Subcontractor for Work performed by the Subcontractor's Sub-subcontractor, five percent (5%) of the amount due the Subcontractor;

.5 Costs to which overhead and profit is to be applied shall be determined in accordance with Section 7.3.6;

.6 In order to facilitate checking of quotations for extras or credits, all proposals, expect those so minor that their propriety can be seen by inspection, shall be accompanied by a complete itemization of costs, including labor, materials and subcontracts. Labor and materials shall be itemized in the manner prescribed above. Where major cost items are subcontracts, they shall be itemized also. In no case will a change involving over $500 be approved without such itemization.

§ 7.2 Change Orders and Change Proposals

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

.1 The change in the Work;

.2 The amount of the adjustment, if any, in the Contract Sum; and

.3 The extent of the adjustment, if any, in the Contract Time.

§ 7.2.2 Change Order shall be prepared on AIA Document G731.

§ 7.2.3 The Contractor must submit Change Proposals covering a contemplated Change Order within ten (10) days after request of the Owner, or the Architect or within ten (10) days of the event, or Contractor's discovery of a condition, whichever is earlier, giving rise to the Contractor's claim for a change in the Contract Sum or Contract Time. No increase in the Contract Sum or extension of the Contract Time will be allowed the Contractor for the cost or time involved in making Change Proposals. Change Proposals will define or confirm in detail the Work which is proposed to be added, deleted, or changed and must include any adjustment which the Contractor believes to be necessary in (i) the Contract Sum, or (ii) the Contract Time. Any proposed adjustment must include detailed documentation including, but not limited to: cost, properly itemized and supported by sufficient substantiating data to permit evaluation including cost of labor, materials, supplies and equipment, rental cost of machinery and equipment, additional bond cost, plus a fixed fee for profit and overhead (which includes office overhead and Site-specific overhead and general conditions) of ten percent (10%) if the Work is performed by the Contractor, or five percent (5%) if the Work is performed by a Subcontractor or Sub-subcontractor. The Subcontractor's or Sub-subcontractor's overhead and profit in turn must not exceed a total aggregate of ten percent (10%). Change Proposals will be binding upon the Contractor and may be accepted or rejected by the Owner in its discretion. The Owner may, at its option, instruct the Contractor through a Construction Change Directive to proceed with the Work involved in the Change Proposal in accordance with Section 7.3 without accepting the Change Proposal in its entirety.

§ 7.2.4 If the Owner determines that a Change Proposal is appropriate, the Architect will prepare and submit a request for a Change Order or Contract Amendment providing for an appropriate adjustment in the Contract Sum or Contract Time, or both, for further action by the Owner. No such change is effective until the Owner and Architect sign the Change Order.

§ 7.3 Construction Change Directives

§ 7.3.1 A Construction Change Directive is a written order prepared by the Construction Manager and signed by the Owner, Construction Manager and Architect, directing a change in the Work prior to agreement on adjustment, if any, in the Contract Sum or Contract Time, or both. The Owner may by Construction Change Directive, without

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invalidating the Contract, order changes in the Work within the general scope of the Contract consisting of additions, deletions, or other revisions, the Contract Sum and Contract Time being adjusted accordingly.

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

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

.1 Mutual acceptance of a lump sum properly itemized and supported by sufficient substantiating data to permit evaluation;

.2 Unit prices stated in the Contract Documents or subsequently agreed upon;

.3 Cost to be determined in a manner agreed upon by the parties and a mutually acceptable fixed or percentage fee; or

.4 As provided in Section 7.3.4.

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

.1 Costs of labor, including applicable payroll taxes, fringe benefits required by agreement or custom, workers' compensation insurance, and other employee costs approved by the Construction Manager and Architect;

.2 Costs of materials, supplies, and equipment, including cost of transportation, whether incorporated or consumed;

.3 Rental costs of machinery and equipment, exclusive of hand tools, whether rented from the Contractor or others (at rates approved by the Owner);

.4 Costs of premiums for all bonds and insurance, permit fees, and sales, use, or similar taxes, directly related to the change; and

.5 Costs of supervision and field office personnel directly attributable to the change.

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

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

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

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

§ 7.3.9 Pending final determination of the total cost of a Construction Change Directive to the Owner, the Contractor may request payment for Work completed under the Construction Change Directive in Applications for Payment up to and not exceeding $25,000. The Construction Manager and Architect will make an interim determination for purposes of monthly certification for payment for those costs and certify for payment the amount that the Construction Manager and Architect determine to be reasonably justified. The interim determination of cost shall adjust the Contract Sum on

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the same basis as a Change Order, subject to the right of either party to disagree and assert a Claim in accordance with Article 15.

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

§ 7.4 Minor Changes in the Work

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

ARTICLE 8 TIME

§ 8.1 Definitions

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

§ 8.1.2 The date of commencement of the Work is the date established in the Agreement. The date shall not be postponed by the failure to act of the Contractor or of persons or entities for whom the Contractor is responsible.

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

§ 8.1.4 The term "day" shall mean calendar day of 24 hours beginning at 12:00 midnight. Calendar days as stated in the Contract Documents, shall include all days of a seven (7) day week including Saturdays, Sundays, and holidays. The term "Milestone Date" is, in each instance, the date established in the Contract Documents for the Substantial completion of all or a designated portion of the Work.

§ 8.2 Progress and Completion

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

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

§ 8.2.3 The Contractor shall proceed expeditiously with adequate forces and shall achieve Substantial Completion within the Contract Time and shall achieve specific contractual Milestone Dates (if any), Substantial Completion and final Completion within the time stated in the Contract Documents.

§ 8.2.4 Contractor understands and agrees that all Work must be performed in an orderly and closely coordinated sequence so that the dates for Substantial Completion, Final Completion, and Milestone Dates (if any) may be met by the Contractor.

§ 8.2.5 Timely final completion of the Project is of critical importance to the Owner. The Contractor agrees that it shall substantially complete all Work under the Contract documents within the time established herein and that it shall finally complete the Work in the detail required and in the time required by the Contract Documents.

§ 8.2.6 To the extent that the Contract Documents contain or provide for specific contractual Milestone Dates in addition to Final and Substantial Completion dates, such dates shall be adhered to and shall be the last acceptable dates for those milestones and completions, unless modified by the Owner.

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§ 8.2.7 Notwithstanding anything to the contrary contained in the Contract Documents, in the event that any Contractor fails, or appears likely, in the reasonable opinion of the Owner and Construction Manager, to fail to complete a critical portion of their Work on time or to complete any dates for Substantial Completion, Final Completion, or Milestone Dates as evidenced by the latest update of the CPM Schedule Report, the Owner shall have the right to select and require Contractor's performance under any or all of the following operations:

.1 Require the Contractor to substantiate their capability to get back on schedule within two (2) days;

.2 Require the Contractor, at no additional cost to the Owner, to increase their work force, work overtime and/or extra shifts and do whatever else is required by the Owner until the Contractor gets back on schedule as established by the CPM Schedule Report (including any updates thereto);

.3 Withhold progress payments or portions thereof until such time as the contractor returns to schedule, but only related to Substantial Completion or Final Completion;

.4 Contact or visit the factory, plant, or distribution center whose production or delivery schedule may be critical to the scheduled completion of a portion of the contract work and expedite such production delivery at Contractor's expense; or

.5 Require the Contractor to complete, in detail, and submit weekly a Short Interval Schedule (SIS) showing: (1) planning for the next two weeks; (2) work completed for the previous week; (3) sufficient detail to evaluate daily milestone (if any) and manpower/equipment loading, and shall identify/tie into the monthly updated CPM Schedule Report.

Any costs incurred by the Contractor in fulfilling the option(s) selected by the Owner shall be at the Contractor's expense.

§ 8.3 Delays and Extensions of Time

§ 8.3.1 If the Contractor is delayed at any time in the progress of the Work by (1) an act or neglect of the Owner, Architect, Construction Manager, or an employee of any of them, or of the Owner's own forces, Separate Contractors, or other Contractors; (2) by changes ordered in the Work; (3) by labor disputes, fire, unusual delay in deliveries, unavoidable casualties, adverse weather conditions documented in accordance with Section 15.1.6.2, or other causes beyond the Contractor's control; or (4) by other causes that the Contractor asserts and the Architect, based on the recommendation of the Construction Manager, determines justify delay, then subject to the conditions hereinafter set forth, the Contract Time shall be extended by Change Order for such reasonable time as the Architect may determine. Requests for extensions of time for causes enumerated above will be considered by the Architect subject to the following:

.1 Only those conditions enumerated above over which the Contractor has no control will be considered. The burden of proof to substantiate the claim for an extension shall rest with the Contractor, including evidence that the cause was beyond their control. It shall be deemed the Contractor has control over the supply of labor, materials, equipment, methods, techniques, and over their Subcontractors and suppliers;

.2 In the event of Changes in the Work, any consideration for a time extension will be made only at the time of authorizing the changes, and no later than when the Change Order is prepared, and only if the Change Order significantly affects the time and progress of the entire Work. For changes which do not affect the entire Work, time extension may be granted only for the area, phase, unit, or element affected by the change, if due to a valid reason for a time extension;

.3 Any unusual delay in deliveries will not be considered unless it is solely due to transportation issues wholly outside of Contractor's, Subcontractor's, Sub-subcontractor's or Supplier's control. An extension of time will not be granted for delays in deliveries where said delivery was not properly scheduled or when orders were not promptly and properly placed;

.4 With respect to a claim for an extension of time as a result of climatic conditions, the Contractor shall recognize the location of the site and the existence, as normal, or variations from "average" conditions. Foul weather in itself will not be a valid reason for a time extension. Requests for time extensions because of delay resulting from weather extremes will not be considered unless a substantial variation from usual weather conditions occurs for a significant period of time, during phases of the Work when operation necessarily were suspended to a significant degree when they would otherwise have been in progress. In considering the time extension, the weather conditions both before and after the period in which the delay is claimed will be evaluated with credit given to Owner for unseasonably favorable weather;

.5 Delays resulting from a labor dispute will not result in a time extension of a longer period than the dispute, plus a reasonable time for mobilization if justified and necessary as approved by the

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Architect, and may be less depending on the impact of the dispute, including what operations were suspended or curtailed;

.6 No time extension will be granted as a result of improper scheduling or for failure to have shop drawings or samples submitted in ample time for review under a reasonable and agreed upon schedule; or

.7 Delays by Subcontractors or suppliers will not be considered justification for a time extension, except for the same valid reasons and conditions enumerated under Section 8.3.1.

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

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

§ 8.3.4 The Contractor shall be responsible for all Owner incurred costs associated with a Contractor related to delay in completion of the Project. These costs may include, but are not limited to, Owner staff overtime, Consultant additional fees, additional testing, and/or additional rental or storage costs. A Change Order or Construction Change Directive will be issued to cover these costs. If a Change Order is not agreed to by the Contractor, the Owner, after presenting documentation to the Contractor, may deduct these amounts without a Change Order from the Contract Sum.

ARTICLE 9 PAYMENTS AND COMPLETION

§ 9.1 Contract Sum

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

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

§ 9.2 Schedule of Values

Before the first Application for Payment, the Contractor shall submit to the Architect and Construction Manager a schedule of values allocated to various portions of the Work, prepared in the form, and supported by the data to substantiate its accuracy, required by the Construction Manager and the Architect. The schedule, unless objected to by the Construction Manager or Architect, shall be used as a basis for reviewing the Contractor's Applications for Payment. The Construction Manager shall forward to the Architect the Contractor's schedule of values. Any changes to the schedule of values shall be submitted to the Construction Manager and supported by such data to substantiate its accuracy as the Construction Manager and the Architect may require, and unless objected to by the Construction Manager or the Architect, shall be used as a basis for reviewing the Contractor's subsequent Applications for Payment. The Contractor, after receipt of Notice to Proceed, shall meet with the Owner, Construction Manager and the Architect for the purpose of reviewing the Project CPM Schedule and the Contract Schedule of Values. The Contractor shall develop a CPM Schedule for completing their portion of the Work, in conjunction with all other Contractors or Bid Packages, at the Pre-Construction Meeting(s). The Schedule of Values is to be broken down into specification sections and by labor and materials.

§ 9.3 Applications for Payment

§ 9.3.1 At least fifteen days before the date established for each progress payment, the Contractor shall submit to the Construction Manager an itemized Application for Payment for operations completed in accordance with the Schedule of Values. Such application shall be notarized and supported by all data substantiating the Contractor's right to payment that the Owner, Construction Manager or Architect require, such as copies of requisitions, and releases of waivers of lien from Subcontractors and material suppliers, and reflecting retainage if provided for elsewhere in the Contract Documents. The form of Application for Payment shall be a notarized AIA Document G732–2019, Application and Certificate for Payment, supported by AIA Document G703–1992, Continuation Sheet.

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

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§ 9.3.1.2 Such applications shall not include requests for payment of amounts the Contractor does not intend to pay a Subcontractor or supplier because of a dispute or other reason, unless such Work has been performed by others whom the Contractor intends to pay.

§ 9.3.1.3 Following certification of the Application for Payment by the Architect and Construction Manager, the Owner shall pay ninety-five percent (95%) of its value, retaining five percent (5%) until Final Completion.

§ 9.3.1.4 Contractor shall provide lien waivers for itself for the current payment application and for Subcontractors, Sub-subcontractors, and suppliers for the previous payment application before the Contractor has earned or has the right to receive payment for the specific items of work or materials covered by the lien waivers. All lien waivers shall be provided in the form required by the Owner. This Section 9.3.1.4 shall not limit other obligations of the Contractor contained elsewhere to provide lien waivers.

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

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

§ 9.3.4 In each Application for Payment, the Contractor shall certify as follows:

> "That there are no known mechanics' or materialmen's liens or stop notice claims outstanding by the application or any of its subcontractors of any tier, or any of the applicant's or subcontractor's material suppliers, or laborers at the date of this application, that all due and payable bills with respect to the Work have been paid or are included in the amount requested in current application, and that, except for such bills, not paid by Owner, but so included, there is no known basis for the filing of any mechanics' or materialmen's liens or stop notice claims on the Work, and that waivers from Contractor, its subcontractors of any tier, or any of the applicant's or subcontractor's material suppliers and laborers have been obtained in such form as to constitute an effective waiver of liens or stop notice claims, under the laws of the State of Minnesota to the extent of payments made by Owner to Contractor."

Notwithstanding the foregoing Section 9.3.4, Contractor acknowledges its obligation to provide a Payment Bond in accordance with the Contract Documents, and that Contractor's failure to pay any of its Subcontractors, Sub-subcontractors, suppliers, or laborers will be resolved through a claim under the Payment Bond.

§ 9.4 Certificates for Payment

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

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§ 9.4.2 Where there is more than one Contractor performing portions of the Project, the Construction Manager will, within seven days after the Construction Manager receives all of the Contractors' Applications for Payment: (1) review the Applications and certify the amount the Construction Manager determines is due each of the Contractors; (2) prepare a Summary of Contractors' Applications for Payment by combining information from each Contractor's application with information from similar applications for progress payments from the other Contractors; (3) prepare a Project Application and Certificate for Payment; (4) certify the amount the Construction Manager determines is due all Contractors; and (5) forward the Summary of Contractors' Applications for Payment and Project Application and Certificate for Payment to the Architect.

§ 9.4.2.1 Within seven days after the Architect receives the Project Application and Project Certificate for Payment and the Summary of Contractors' Applications for Payment from the Construction Manager, the Architect will either (1) issue to the Owner a Project Certificate for Payment, with a copy to the Construction Manager; or (2) issue to the Owner a Project Certificate for Payment for such amount as the Architect determines is properly due, and notify the Construction Manager and Owner of the Architect's reasons for withholding certification in part as provided in Section 9.5.1; or (3) withhold certification of the entire Project Application for Payment, and notify the Construction Manager and Owner of the Architect's reason for withholding certification in whole as provided in Section 9.5.1. The Construction Manager will promptly forward the Architect's notice of withholding certification to the Contractors.

§ 9.4.3 The Construction Manager's certification of an Application for Payment or, in the case of more than one Contractor, a Project Application and Certificate for Payment, shall be based upon the Construction Manager's evaluation of the Work and the data in the Application or Applications for Payment. The Construction Manager's certification will constitute a representation that, to the best of the Construction Manager's knowledge, information, and belief, the Work has progressed to the point indicated, the quality of the Work is in accordance with the Contract Documents, and that the Contractor is, or Contractors are, entitled to payment in the amount certified.

§ 9.4.4 The Architect's issuance of a Certificate for Payment or, in the case of more than one Contractor, Project Application and Certificate for Payment, shall be based upon the Architect's evaluation of the Work, the recommendation of the Construction Manager, and data in the Application for Payment or Project Application for Payment. The Architect's certification will constitute a representation that, to the best of the Architect's knowledge, information, and belief, the Work has progressed to the point indicated, the quality of the Work is in accordance with the Contract Documents, and that the Contractor is, or Contractors are, entitled to payment in the amount certified.

§ 9.4.5 The representations made pursuant to Sections 9.4.3 and 9.4.4 are subject to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, to results of subsequent tests and inspections, to correction of minor deviations from the Contract Documents prior to completion, and to specific qualifications expressed by the Construction Manager or Architect.

§ 9.4.6 The issuance of a Certificate for Payment or a Project Certificate for Payment will not be a representation that the Construction Manager or Architect has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work; (2) reviewed construction means, methods, techniques, sequences, or procedures; (3) reviewed copies of requisitions received from Subcontractors and suppliers and other data requested by the Owner to substantiate the Contractor's right to payment; or (4) made examination to ascertain how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

§ 9.5 Decisions to Withhold Certification

§ 9.5.1 The Construction Manager or Architect may withhold a Certificate for Payment or Project Certificate for Payment in whole or in part, to the extent reasonably necessary to protect the Owner, if in the Construction Manager's or Architect's opinion the representations to the Owner required by Section 9.4.3 and 9.4.4 cannot be made. If the Construction Manager or Architect is unable to certify payment in the amount of the Application, the Construction Manager will notify the Contractor and Owner as provided in Section 9.4.1 and 9.4.2. If the Contractor, Construction Manager and Architect cannot agree on a revised amount, the Architect will promptly issue a Certificate for Payment or a Project Certificate for Payment for the amount for which the Architect is able to make such representations to the Owner. The Construction Manager or Architect may also withhold a Certificate for Payment or, because of subsequently discovered evidence, may nullify the whole or a part of a Certificate for Payment or Project Certificate for Payment previously issued, to such extent as may be necessary in the Construction Manager's or Architect's opinion to protect the Owner from loss for which the Contractor is responsible, including loss resulting from the acts and omissions described in Section 3.3.2 because of

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

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

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

§ 9.5.4 If the Architect or Construction Manager withholds certification for payment under Section 9.5.1, the Owner may, at its sole option, issue joint checks to the Contractor and to any Subcontractor or supplier to whom the Contractor failed to make payment for Work properly performed or material or equipment suitably delivered. If the Owner makes payments by joint check, the Owner shall notify the Architect and the Construction Manager, and both will reflect such payment on the next Certificate for Payment.

§ 9.6 Progress Payments

§ 9.6.1 After the Architect has issued a Certificate for Payment or Project Certificate for Payment, the Owner shall make payment within thirty (30) days of receipt by Owner of Certificate of Payment in the manner and within the time provided in the Contract Documents, and shall so notify the Construction Manager and Architect.

§ 9.6.2 The Contractor shall pay each Subcontractor, no later than seven days after receipt of payment from the Owner, the amount to which the Subcontractor is entitled, reflecting percentages actually retained from payments to the Contractor on account of the Subcontractor's portion of the Work. The Contractor shall, by appropriate agreement with each Subcontractor, require each Subcontractor to make payments to Sub-subcontractors in a similar manner. Per Minnesota Statutes, Section 471.425, within ten (10) days of Contractor's receipt of payment from Owner, the Contractor must pay any Subcontractor for any undisputed services provided by the Subcontractor. The Contractor shall pay interest of one and one-half percent (1-1/2%) per month, or any part of a month, to the Subcontractor on any undisputed amount not paid on time to the subcontractor. The minimum monthly interest penalty payment for an unpaid balance of $100 or more is $10.00. For an unpaid balance of less than $100, the Contractor shall pay the actual interest penalty due to the Subcontractor. Contractor is advised that by reason of Minnesota Statutes, Section 471.425, subd. 4a, if a Subcontractor prevails in a civil action to collect interest penalties from a prime contractor, the Subcontractor must be awarded its costs and disbursements, including attorneys' fees incurred in bringing the action.

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

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

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

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

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

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

§ 9.7 Failure of Payment

If the Construction Manager and Architect do not issue a Certificate for Payment or a Project Certificate for Payment, through no fault of the Contractor, within fourteen days after the Construction Manager's receipt of the Contractor's Application for Payment, or if the Owner does not pay the Contractor within thirty (30) days after the date established in the Contract Documents, the amount certified by the Construction Manager and Architect then the Contractor may, upon ten (10) additional days' notice to the Owner, Construction Manager and Architect, stop the Work until payment of the amount owing has been received. The Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable costs of shutdown, delay and start-up which shall be accomplished as provided in Article 7.

§ 9.8 Substantial Completion

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

§ 9.8.2 When the Contractor considers that the Work, or a portion thereof which the Owner agrees to accept separately, is substantially complete, the Contractor shall notify the Construction Manager, and the Contractor and Construction Manager shall jointly prepare and submit to the Architect a comprehensive list of items to be completed or corrected. The Contractor shall proceed promptly to complete and correct items on the list. Failure to include an item on such list does not alter the responsibility of the Contractor to complete all Work in accordance with the Contract Documents. Upon receipt of the Contractor's list, the Architect, assisted by the Construction Manager, will make an inspection to determine whether the Work or designated portion thereof is substantially complete. If the Architect's inspection discloses any item, whether or not included on the Contractor's list, which is not in accordance with the requirements of the Contract documents, the Contractor shall, before issuance of the Certificate of Substantial Completion, complete or correct such item, upon notification by the Architect. The Contractor shall then submit a request for another inspection by the Architect, assisted by the Construction Manager, to determine Substantial Completion. When the Work or designated portion thereof is substantially complete, the Architect will prepare a Certificate of Substantial Completion which shall establish the date of Substantial Completion, shall establish responsibilities of the Owner and Contractor for security, maintenance, heat, utilities, damage to the Work and insurance, and shall fix the time within which the Contractor shall finish all items on the list accompanying the Certificate. Warranties required by the Contract Document shall commence on the date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion.

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

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

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

§ 9.8.6 Upon Substantial completion of the Work or designated portion thereof and upon application by the Contractor and certification by the Architect, the Owner shall make payment, reflecting adjustment in retainage, pursuant to Minnesota Statutes, Section 15.72, for such Work or portion thereof as provided in the Contract Documents.

§ 9.8.7 The Architect, assisted by the Construction Manager, shall make one (1) inspection for Substantial Completion and Final Completion in accordance with the AIA Document B101–2017 Owner Architect Agreement. If additional inspections are required due to the Contractor's failure to complete previously listed corrective or uncompleted work, the Architect's expense for conducting such re-inspections and related time in processing, reviewing, and revision of requirements shall be charged to the Contractor and such payment shall be accomplished by a deductive Change Order to the Contractor.

§ 9.9 Partial Occupancy or Use

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

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

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

§ 9.10 Final Completion and Final Payment

§ 9.10.1 Upon completion of the Work, the Contractor shall forward to the Construction Manager a notice that the Work is ready for final inspection and acceptance, and shall also forward to the Construction Manager a final Contractor's Application for Payment. Upon receipt, the Construction Manager shall perform an inspection to confirm the completion of Work of the Contractor. The Construction Manager shall make recommendations to the Architect when the Work of all of the Contractors is ready for final inspection, and shall then forward the Contractors' notices and Application for Payment or Project Application for Payment, to the Architect, who will promptly make such inspection. When the Architect finds the Work acceptable under the Contract Documents and the Contract fully performed, the Construction Manager and Architect will promptly issue a final Certificate for Payment or Project Certificate for Payment stating that to the best of their knowledge, information and belief, and on the basis of their observations, on-site visits and inspections, the Work has been completed in accordance with the Contract Documents

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and that the entire balance found to be due the Contractor and noted in the final Certificate is due and payable. The Construction Manager's and Architect's final Certificate for Payment or Project Certificate for Payment will constitute a further representation that conditions listed in Section 9.10.2 as precedent to the Contractor's being entitled to final payment have been fulfilled.

§ 9.10.2 Neither final payment nor any remaining retained percentage shall become due until the Contractor submits to the Architect through the Construction Manager (1) an affidavit that payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which the Owner or the Owner's property might be responsible or encumbered (less amounts withheld by Owner) have been paid or otherwise satisfied, (2) a certificate evidencing that insurance required by the Contract Documents to remain in force after final payment is currently in effect and will not be cancelled or allowed to expire until at least (60) days' prior written notice has been given to the Owner, (3) a written statement that the Contractor knows of no reason that the insurance will not be renewable to cover the period required by the Contract Documents, (4) consent of surety, if any, to final payment (5) documentation of any special warranties, such as manufacturers' warranties or specific Subcontractor warranties, including a summary listing all applicable warranties both standard and extended, itemized by specification section and included at the front of the Operation and Maintenance manuals, and (6) other data establishing payment or satisfaction of obligations, such as receipts and releases and waivers of liens, claims, security interests, or encumbrances arising out of the Contract, to the extent and in such form as may be designated by the Owner. If a Subcontractor refuses to furnish a release or waiver required by the Owner, the Contractor may furnish a bond satisfactory to the Owner to indemnify the Owner against such lien, claim, security interest, or encumbrance. If a lien, claim, security interest, or encumbrance remains unsatisfied after payments are made, the Contractor shall refund to the Owner all money that the Owner may be compelled to pay in discharging the lien, claim, security interest, or encumbrance, including all costs and reasonable attorneys' fees.

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

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

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

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

§ 9.11 Damages for Delay

§ 9.11.1 The Contractor shall be responsible for damages incurred by the Owner and any other separate contractors for delay resulting from the Contractor's failure to complete the Work within the contract Time or resulting from the progress of the Work failing to substantially conform to the Project Construction Schedule. These damages are not included in liquidated damages and represent additional direct costs incurred by the Owner for the delay. These damages may include Owner incurred costs for temporary classrooms, temporary facilities, moving of programs, etc.

ARTICLE 10 PROTECTION OF PERSONS AND PROPERTY

§ 10.1 Safety Precautions and Programs

§ 10.1.1 The Contractor shall be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the performance of the Contract. The Contractor shall submit the Contractor's safety program to the Construction Manager for review and coordination with the safety programs of other Contractors. The Construction Manager's responsibilities for review and coordination of safety programs shall not extend to direct control over or charge of the acts or omissions of the Contractors, Subcontractors, agents or employees of the

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Contractors or Subcontractors, or any other persons performing portions of the Work and not directly employed by the Construction Manager.

§ 10.1.2 The Contractor shall comply with all applicable laws and regulations. Notwithstanding any language to the contrary, the Owner shall not have any responsibility for job site inspections or safety recommendations. Any inspections or observations by the Owner, Construction Manager or the Architect are solely for the benefit of the Owner and shall not create any duties or obligations to anyone else.

§ 10.2 Safety of Persons and Property

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

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

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

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

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

§ 10.2.5 The Contractor shall promptly remedy damage and loss (other than damage or loss insured under property insurance required by the Contract Documents) to property referred to in Sections 10.2.1.2, 10.2.1.3 and 10.2.1.4 caused in whole or in part by the Contractor, a Subcontractor, a Sub-subcontractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable and for which the Contractor is responsible under Sections 10.2.1.2, 10.2.1.3 and 10.2.1.4. The Contractor may make a Claim for the cost to remedy the damage or loss to the extent such damage or loss is attributable to acts or omissions of the Owner, Construction Manager or Architect or anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable, and not attributable to the fault or negligence of the Contractor. The foregoing obligations of the Contractor are in addition to the Contractor's obligations under Section 3.18.

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

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

§ 10.2.8 Injury or Damage to Person or Property

If either party suffers injury or damages to person or property because of an act or omission of the other party, of any of the other party's employees or agents, or of others for whose acts such party is legally responsible, notice of the injury or damage, whether or not insured, shall be given to the other party within a reasonable time not exceeding ten (10) days after first observance. The notice shall provide sufficient detail to enable the other party to investigate the matter. If a Claim for additional cost or time related to this Claim is to be asserted, it shall be filed as provided in Sections 15.1.4 and 15.1.5.

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§ 10.3 Hazardous Materials

§ 10.3.1 In the event the Contractor encounters on the site material reasonably believed to be asbestos or polychlorinated biphenyl (PCB) which has not been rendered harmless, the Contractor shall immediately stop Work in the area affected and report the condition to the Owner, Construction Manager and Architect in writing. The Work in the affected area shall not thereafter be resumed except by written agreement of the Owner and Contractor if in fact the material is asbestos or polychlorinated biphenyl (PCB) and has not been rendered harmless. The Work in the affected area shall be resumed in the absence of asbestos or polychlorinated biphenyl (PCB), or when it has been rendered harmless, by written agreement of the Owner and Contractor.

.1 Except where otherwise stated in the Contract Documents, no hazardous material work of any nature shall be performed by the Contractor pursuant to this Contract.

.2 The term "hazardous materials" includes, but is not limited to, asbestos, toxic chemicals, acids, alkalis, irritants, contaminants, or other pollutants, together with any other waste, material, substance, pollutants, or contaminant, all or a portion of which is or would be designated as hazardous waste or substance under applicable local, state, or federal laws, ordinances, codes, rules, or regulations.

§ 10.3.2 To the fullest extent permitted by law, the Owner shall indemnify and hold harmless the Contractor, Construction Manager, Architect, their consultants, and agents and employees of any of them from and against claims, damages, losses, and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work on Owner's property if in fact the material is asbestos or polychlorinated biphenyl (PCB) and has not been rendered harmless, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), including loss of use resulting therefrom, but only to the extent caused in whole or in part by negligent acts or omissions of the Owner, anyone directly or indirectly employed by the Owner, or anyone for whose acts the Owner may be liable, regardless of whether or not such claim, damage, loss, or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity which would otherwise exist as to a party or person described in this Subparagraph 10.3.2.

§ 10.3.3 If reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a material or substance encountered on the site by the contractor, the Contractor shall, upon recognizing the condition, immediately stop Work on Owner's property and report the condition to the Owner, Construction Manager and Architect in writing. The Owner, Construction Manager, Contractor, and Architect shall then proceed in the same manner described in Subparagraph 10.3.1.

(Paragraph deleted)

§ 10.3.5 The Contractor shall reimburse the Owner for the cost and expense the Owner incurs (1) for remediation of hazardous materials or substances the Contractor brings to the site and negligently handles, or (2) where the Contractor fails to perform its obligations under Section 10.3.1, except to the extent that the cost and expense are due to the Owner's fault or negligence. Owner shall be responsible for obtaining the services of a licensed laboratory to verify a presence or absence of the material or substance reported by the Contractor and, in the event such material or substance is found to be present, to verify that it has been rendered harmless.

§ 10.3.6 Regulations concerning the availability of information and employee training in the use and handling of "hazardous substances" and "harmful physical agents", as set forth in the Employee Right-to-Know Act of 1983, Minnesota Statutes, Sections 182.65 to 182.676 are incorporated herein by reference as if fully set forth herein.

§ 10.3.7 The Contractor shall furnish three Material Safety Data Sheets to the Owner for each material used in the Work that is classified by the Employee Right-to-Know Act of 1983 as a "hazardous substance" or a "harmful physical agent."

§ 10.3.8 The Contractor shall label, in generally accepted and/or standardized fashion, all containers on the work site containing "hazardous substances" or as "harmful physical agents." This shall include factory containers and all subsequent containers used in the Work.

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§ 10.4 Emergencies

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

ARTICLE 11 INSURANCE AND BONDS

§ 11.1 Contractor's Insurance and Bonds

§ 11.1.1 The Contractor shall purchase and maintain insurance of the types and limits of liability, containing the endorsements, and subject to the terms and conditions, as described in the Agreement, in EXH-C Owner Insurance or elsewhere in the Contract Documents. The Contractor shall purchase and maintain the required insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located and which carry a Best's rating of A- or higher or are otherwise acceptable to the Owner. The Owner, Construction Manager and Construction Manager's consultants, and the Architect and Architect's consultants, shall be named as additional insureds under the Contractor's commercial general liability policy or as otherwise described in the Contract Documents.

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

§ 11.1.3 Upon the request of any person or entity appearing to be a potential beneficiary of bonds covering payment of obligations arising under the Contract, the Contractor shall promptly furnish a copy of the bonds or shall authorize a copy to be furnished. The Contractor shall furnish Certificates of Insurance acceptable to the Owner which shall specifically set forth evidence of all coverage required by Article 11 and EXH-C Owner Insurance and shall be filed with the Owner and Construction Manager prior to commencement of the Work and thereafter upon renewal or replacement of each required policy of insurance.

The Contractor shall not allow insurance required by this Agreement to lapse, be canceled, reduced in limits or coverage, non-renewed, or materially changed or have restrictive modifications added during the life of this Agreement, including the periods of required coverage. The Contractor shall furnish to the Owner and Construction Manager copies of any endorsements that are subsequently issued amending coverage and limits.

If any of the foregoing insurance coverages are required to remain in force after final payment and are reasonably available, all additional certificates evidencing continuation of such coverage shall be submitted with the final Application for Payment. Information concerning reduction of coverage shall be furnished by the Contractor with reasonable promptness in accordance with the Contractor's information and belief.

§ 11.1.3.1 Acceptable insurance certificates are AIA Document G705, CICC of Minnesota Form 701, and/or ACORD form of the American Insurance Institute.

Failure of the Owner to collect certificates does not void the requirements to obtain insurance.

The acceptance of any certificate of insurance by the Owner shall not relieve or decrease the liability of the Contractor hereunder. It is to be understood the Owner, Construction Manager and Architect do not in any way represent that the insurance specified in these articles are sufficient or adequate to protect the Contractor's interest or liabilities, but are merely minimum requirements.

The Contractor shall furnish to the Owner copies of any endorsements that are subsequently issued amending coverage and limits.

§ 11.1.4 In the event the Contractor fails to procure or maintain any insurance coverage required under this Agreement, the Owner may purchase such coverage and deduct the cost thereof from any monies due to the Contractor, or terminate this Agreement under Paragraph 14.2. The Contractor shall be liable to the Owner for providing all coverage, defense, and payments that would have been provided by any insurance that the Contractor failed to procure and maintain as required by the Contract Documents.

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§ 11.1.5 Compliance by the Contractor with the foregoing insurance requirements shall not relieve it from liability for amounts in excess of the limits of insurance.

§ 11.1.6 The Contractor and any of its Subcontractors, Sub-subcontractors, agents and employees, and any separate contractors described in Article 6, if any, and any of their subcontractors, sub-subcontractors, agents and employees shall waive any of their subrogation rights on their Workers Compensation Policy in favor of the Owner, Construction Manager and Architect. The policies shall provide such waivers of subrogation by endorsement or otherwise. A waiver of subrogation shall be effective as to a person or entity even though that person or entity would otherwise have a duty of indemnification, contractual, or otherwise, did not pay the insurance premium directly or indirectly, and whether or not the person or entity had an insurable interest.

§ 11.2 Owner's Insurance

§ 11.2.1 The Owner shall purchase and maintain insurance of the types and limits of liability, containing the endorsements, and subject to the terms and conditions, as described in the Agreement or elsewhere in the Contract Documents. The Owner shall purchase and maintain the required insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The Owner may self-insure and maintain the Owner's usual liability insurance. Optionally, the Owner may purchase and maintain other insurance for self-protection against claims which may arise from operations under the Contract. The Contractor shall not be responsible for purchasing and maintaining this optional Owner's liability insurance unless specifically required by the Contract Documents.

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

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

§ 11.3 Waivers of Subrogation

§ 11.3.1 The Owner and Contractor waive all rights against (1) each other and any of their subcontractors, sub-subcontractors, agents, and employees, each of the other; (2) the Construction Manager and Construction Manager's consultants; (3) the Architect and Architect's consultants; (4) other Contractors and any of their subcontractors, sub-subcontractors, agents, and employees; and (5) Separate Contractors, if any, and any of their subcontractors, sub-subcontractors, agents, and employees, for damages caused by fire, or other causes of loss, to the extent those losses are covered by property insurance required by the Agreement or other property insurance applicable to the Project, except such rights as they have to proceeds of such insurance. The Owner or Contractor, as appropriate, shall require similar written waivers in favor of the individuals and entities identified above from the Construction Manager, Construction Manager's consultants, Architect, Architect's consultants, other Contractors,

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Separate Contractors, subcontractors, and sub-subcontractors. The policies of insurance purchased and maintained by each person or entity agreeing to waive claims pursuant to this Section 11.3.1 shall not prohibit this waiver of subrogation. This waiver of subrogation shall be effective as to a person or entity (1) even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, (2) even though that person or entity did not pay the insurance premium directly or indirectly, or (3) whether or not the person or entity had an insurable interest in the damaged property.

(Paragraph deleted)

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

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

§ 11.5 Adjustment and Settlement of Insured Loss

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

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

§ 11.6 Bonds

§ 11.6.1 Contractor shall furnish a Performance Bond and a Payment Bond to the Owner in the amount of one hundred percent (100%) of the Contract Sum and issued by a Surety Company authorized to do business in the State of Minnesota, rated "A" or better, and approved by the Owner. The Performance Bond shall be in accordance with Minnesota Statutory requirements, and shall be in the form included in the Project Manual. The Bonds shall allow for any additions or deductions to the Contract Sum.

§ 11.6.2 In order to be acceptable as a surety, Contractor's bonding company bust hold a "Certificate of Authority acceptable to the U.S. Treasury Department and be listed in the Department's current publication of "Bond Qualifiers" with underwriting limitations not less than ten percent (10%) above the Contract Sum.

§ 11.6.3 The surety of the Bonds shall be by a corporate surety company authorized to do business in the state in which Work is being performed under this Contract and acceptable to the Owner. The conditions of the bonds shall meet requirements of the statutes of the state where Work is being performed and all other applicable provisions of state law.

§ 11.6.4 The Contractor shall furnish two (2) originals of the Bonds to the Owner, with copies to the Architect and Construction Manager, within ten (10) days after notification of award and before execution of the Contract. Failure to do so shall constitute a violation of terms of the proposal and provide grounds for forfeiture of bid security.

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ARTICLE 12 UNCOVERING AND CORRECTION OF WORK

§ 12.1 Uncovering of Work

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

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

§ 12.2 Correction of Work

§ 12.2.1 Before Substantial Completion

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

§ 12.2.2 After Substantial Completion

(Paragraphs deleted)

§ 12.2.2.1 If within one year after the date of Substantial Completion of the Work or designated portion thereof, or after the date for commencement of warranties established under Section 9.9.1, or by terms of any applicable special warranty required by the Contract Documents, any of the Work is found to be not in accordance with the requirements of the Contract Documents, the Contractor shall correct it promptly (and any other property damaged or removed in effecting the correction) after receipt of notice from the Owner, Construction Manager or Architect to do so, unless the Owner has previously given the Contractor a written acceptance of such condition. The Owner, Construction Manager or Architect shall give such notice promptly after discovery of the condition. This period of one year shall be extended with respect to portions of Work first performed after Substantial completion by the period of time between Substantial completion and the actual performance of the Work. This obligation under this Subparagraph 12.2.2.1 shall survive acceptance of the Work under the contract and termination of the Contract. The Owner, Construction Manager or Architect shall give such notice promptly after discovery of the condition. The expiration of the above one year or any other specified time period, or any other period prescribed by the law, shall not relieve the Contractor of the obligation form the expense to correct any latent defect in the work or deficiencies which are not readily ascertained, including but not limited to, defective materials and quality of work performed, defects attributable to material substitutions for special materials, substandard performance or otherwise not in compliance with the Contract Documents. Such latent defects or deficiencies shall be corrected as provided in this Paragraph 12.2. Following the correction or replacement of any of the Work, as above specified, the Contractor shall correct any defects or deficiencies in the corrected or replaced materials and workmanship which is found within one year after the date of correction or replacement.

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

§ 12.2.4 If the Contractor fails to correct nonconforming Work within a reasonable time, the Owner may correct it in accordance with Paragraph 2.4. If the Contractor does not proceed with correction of such nonconforming Work within a reasonable time fixed by written notice from the Architect or Construction Manager, the Owner may correct or remove it and store the salvageable materials or equipment all at the Contractor's expense. If the Contractor does not pay costs of such removal and storage within ten (10) days after written notice, the Owner may upon ten (10) additional days' written notice sell such materials and equipment at auction or at private sale and shall account for the proceeds thereof, after deducting costs and damages that should have been borne by the Contractor, the Contract Sum shall be reduced by the deficiency. If payments then or thereafter due the Contractor are not sufficient to cover such amount, the Contractor shall pay the difference to the Owner.

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

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

§ 12.3 Acceptance of Nonconforming Work

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

ARTICLE 13 MISCELLANEOUS PROVISIONS

§ 13.1 Governing Law

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

§ 13.2 Successors and Assigns

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

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

§ 13.3 Rights and Remedies

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

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

§ 13.4 Tests and Inspections

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

§ 13.4.2 If the Construction Manager, Architect, Owner, or public authorities having jurisdiction determine that portions of the Work require additional testing, inspection, or approval not included under Section 13.4.1, the Construction Manager and Architect will, upon written authorization from the Owner, instruct the Contractor to make arrangements for such additional testing, inspection, or approval, by an entity acceptable to the Owner, and the

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Contractor shall give a minimum of two (2) working days' notice to the Construction Manager and Architect of when and where tests and inspections are to be made so that the Construction Manager and Architect may observe procedures. The Owner shall bear such costs, except as provided in Section 13.4.3.

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

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

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

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

§ 13.5 Interest

All payments to the Contractor shall be governed by the Prompt Payment of Local Government Bills, Minnesota Statutes, Section 471.125 ("Prompt Payment Act") and Article 5 of the A132–2019 Agreement on this Project.

§ 13.6 Non-Discrimination

§ 13.6.1 All contracts between the Owner and companies providing goods and services under the Contract Documents shall contain the following equal opportunity and civil right clause:

> "During the performance of this Agreement, the provider agrees to the following: No contractor, material supplier, vendor, or other person shall on the basis of sex, race, creed, color, religion, national origin, age, marital status, sexual orientation, or disability be excluded from full employment rights in, participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program, service, or activity under the provisions of any and all applicable Federal and State laws against discrimination, including the Minnesota Human Rights Act and the Civil Rights Act of 1964."

Upon request, the Contractor shall furnish all information and reports required by the Owner, or by the rules and regulations of investigation to ascertain compliance with all applicable rules and regulations. The Contractor shall also comply with any applicable licensing requirements of the Minnesota Department of Human Services in employment of personnel.

The Contractor acknowledges that the violation of the above-stated paragraph is a misdemeanor pursuant to Minnesota Statutes, Section 181.59.

This Agreement may be cancelled or terminated by the Owner or any other person authorized to grant the contracts for employment under this Agreement, and all money due, or to become due under this Agreement may be forfeited for a second or any subsequent violation of the non-discriminatory terms stated above.

§ 13.6.2 During the completion of the work and all other services required by the Contract Documents, the Contractor agrees that no contractor, material supplier, vendor, or other person shall, on the basis of sex, race, creed, color, religion, national origin, age, marital status, sexual orientation, or disability be excluded from full employment rights in participation in, be denied the benefits of, or be otherwise subjected to discrimination under the provisions of any and all applicable Federal and State laws against discrimination, including the Minnesota Human Rights Act and the Civil Rights Act of 1964. Upon request, the Architect, Construction Manager and Contractor shall furnish all information and reports required by the Owner, or by the rules and regulations of investigation to ascertain compliance with all applicable rules and regulations. The Contractor shall also comply with any applicable licensing requirements of the Minnesota Department of Human Services in employment of personnel.

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Contractor acknowledges that the violation of the above-states paragraph is a misdemeanor pursuant to Minnesota Statutes Section 181.59.

The Contract Documents may be cancelled or terminated by the Owner or any other person authorized to grant the contracts for employment under this Agreement, and all money due, or to become due under the Agreement may be forfeited for a second or any subsequent violation of the non-discriminatory terms stated above.

§ 13.7 No action or failure to act by the Owner shall constitute a waiver of a right or duty afforded the Owner under the Contract Documents, nor shall such action or failure to act constitute approval of or acquiescence of the Owner in a breach of the Contract Documents, except as may be specifically agreed in writing. None of the approval of any Application for Payment, the making of any payment, the giving of any approval or consent, the use or occupancy of the Work, or any part thereof, the making of final payment, or any other action or inaction on the part of the Owner, Construction Manager or Architect shall constitute a waiver of claims by or rights of the Owner or an acceptance of any Work that is not in accordance with the Contract Documents. The Contractor shall not be relieved from its obligations to perform the Work in accordance with the Contract Documents either by the activities or duties of the representations of the Owner, Construction Manager or Architect, or by inspections, tests, or approvals required or performed by the Owner, Construction Manager or Architect or anyone else.

ARTICLE 14 TERMINATION OR SUSPENSION OF THE CONTRACT

§ 14.1 Termination by the Contractor

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

.1 Issuance of an order of a court or other public authority having jurisdiction that requires all Work to be stopped;

.2 An act of government, such as a declaration of national emergency, that requires all Work to be stopped;

.3 Because the Construction Manager has not certified or the Architect has not issued a Certificate for Payment and has not notified the Contractor of the reason for withholding certification as provided in Section 9.4, or because the Owner has not made payment on a Certificate for Payment within the time stated in the Contract Documents; or

.4 The Owner has failed to furnish to the Contractor reasonable evidence as required by Section 2.2.

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

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

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

§ 14.1.5 No Right to Stop Work for Non-Payment

The Contractor has no right to stop Work as a consequence of non-payment. In the event of any disagreement between the Contractor and Owner involving the Contractor's entitlement to payment, the Contractor's only remedy is to file a Claim in accordance with Article 15. The Contractor must diligently proceed with the Work pending resolution of the Claim. If, however, an Application for Payment has been approved for payment by the Owner, and the Owner fails to make payment within sixty (60) days of the approval for payment by the Owner, the Contractor may upon ten (10)

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days written notice to the Owner, stop work if payment is not made by the Owner within ten (10) days following the notice.

§ 14.2 Termination by the Owner for Cause

§ 14.2.1 The Owner may terminate the Contract if the Contractor

.1 repeatedly refuses or fails to supply enough properly skilled workers or proper materials;

.2 fails to make payment to Subcontractors or suppliers in accordance with the respective agreements between the Contractor and the Subcontractors or suppliers;

.3 repeatedly disregards applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of a public authority; or

.4 otherwise is guilty of substantial breach of a provision of the Contract Documents.

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

.1 Exclude the Contractor from the site and take possession of all materials, equipment, tools, and construction equipment and machinery thereon owned by the Contractor;

.2 Accept assignment of subcontracts pursuant to Section 5.4; and

.3 Finish the Work by whatever reasonable method the Owner may deem expedient. Upon written request of the Contractor, the Owner shall furnish to the Contractor a detailed accounting of the costs incurred by the Owner in finishing the Work.

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

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

§ 14.3 Suspension by the Owner for Convenience

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

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

.1 that performance is, was, or would have been, so suspended, delayed, or interrupted, by another cause for which the Contractor is responsible; or

.2 that an equitable adjustment is made or denied under another provision of this Contract.

§ 14.4 Termination by the Owner for Convenience

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

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

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

.2 take actions necessary, or that the Owner may direct, for the protection and preservation of the Work; and

.3 except for Work directed to be performed prior to the effective date of termination stated in the notice, terminate all existing subcontracts and purchase orders and enter into no further subcontracts and purchase orders.

(Paragraph deleted)

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ARTICLE 15 CLAIMS AND DISPUTES

§ 15.1 Claims

§ 15.1.1 Definition. A Claim is a demand or assertion by the Contractor seeking, as a matter of right, payment of money, a change in the Contract Time, or other relief with respect to the terms of the Contract. The responsibility to substantiate Claims shall rest with the Contractor. Nothing in this paragraph 15.1.1 is intended to apply to or in any way limit the Owner's right to make Claims related to or arising out of the Contract. This Section 15.1.1 does not require the Owner to file a Claim in order to impose liquidated damages in accordance with the Contract Documents.

§ 15.1.2 Time Limits on Claims

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

§ 15.1.3 Notice of Claims

§ 15.1.3.1 Claims by Contractor, where the condition giving rise to the Claim is first discovered prior to expiration of the period for correction of the Work set forth in Section 12.2.2, shall be initiated by written notice to the Owner and to the Initial Decision Maker with a copy sent to the Construction Manager and Architect, if the Architect is not serving as the Initial Decision Maker. Claims by the Contractor under this Section 15.1.3.1 shall be initiated within ten (10) days after occurrence of the event giving rise to such Claim or within ten (10) days after the Contractor first recognizes the condition giving rise to the Claim, whichever is later. Any additional Claim made after and relating to the initial Claim has been implemented by Change Order will not be considered unless submitted in a timely manner. As a condition to making a claim for additional costs, the Contractor shall maintain and produce accurate records to substantiate all additional costs actually incurred. If a Claim for actual costs is approved, the Owner shall pay the Contractor actual costs incurred, plus either (a) ten percent (10%) for overhead and profit for work performed by the Contractor, or (b) five percent (5%) overhead and profit for work performed by a Subcontractor, as applicable.

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

§ 15.1.4 Continuing Contract Performance

§ 15.1.4.1 Pending final resolution of a Claim, except as otherwise agreed in writing or as provided in Section 9.7 and Article 14, the Contractor shall proceed diligently with performance of the Contract and the Owner shall continue to make payments in accordance with the Contract Documents. Subject to Paragraph 15.1.5, no such continuing performance by the Contractor, nor payment by the Owner shall be deemed a waiver of, or to otherwise impair any such Claim.

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

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

§ 15.1.6 Claims for Additional Time

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

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

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(Paragraphs deleted)

§ 15.2 Initial Decision

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

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

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

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

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

§ 15.2.6 In the event of a Claim against the Contractor, the Owner may, but is not obligated to notify the surety, if any, of the nature and amount of the Claim. If the Claim relates to a possibility of a Contractor's default, the Owner may, but is not obligated to notify the surety and initiate a Claim on the performance bond.

(Paragraphs deleted)

§ 15.3 Mediation

§ 15.3.1 Any claim, dispute or other matter in question or arising out of or related to the Contract shall be subject to mediation. Mediation is not a condition precedent to commencing litigation, but if litigation is commenced before mediation is held, the Parties agree to mediate before any dispositive motions or trial.

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

(Paragraphs deleted)

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PAGE 1

North High School Phase 3 Work Scope 7H Roofing
1500 James Avenue, Minneapolis, MN 55411

...

Kraus-Anderson Construction Company
501 South 8th Street, Minneapolis, MN 55404

...

Minneapolis Public Schools Special School District #1
1250 West Broadway Avenue
Minneapolis, MN 55411

...

LSE Architects 1401 Glenwood Avenue
Minneapolis, MN 55405

PAGE 3

§ 1.1.1.1 Notwithstanding the foregoing, it is understood and agreed that the Owner is an intended third-party beneficiary of all contracts between the Contractor and Subcontractors or suppliers who provide labor and/or materials for the Work.

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§ 1.1.10 Initial Decision Maker. The Initial Decision Maker is the person identified in the Agreement to render initial decisions on Claims in accordance with Section 15.2. The ~~Initial Decision Maker shall not show partiality to the Owner or Contractor and shall not be liable for results of interpretations or decisions rendered in good faith.~~Architect will serve as the Initial Decision Maker pursuant to Section 15.2 of AIA Document A232–2019.

...

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

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

...

§ 1.4.1 In the case of inconsistency between Drawings and Specifications or within Contract Documents not clarified by Addenda, the better quality or greater quantity of Work shall be provided in accordance with the Architect's interpretation.

§ 1.5.1 The Architect and the Architect's consultants shall be deemed the authors and owners of their respective Instruments of Service, including the Drawings and Specifications, and retain all common law, statutory, and other reserved rights in their Instruments of Service, including copyrights. The Contractor, Subcontractors, sub-subcontractors, and suppliers shall not own or claim a copyright in the Instruments of Service. Submittal or distribution to meet official regulatory requirements or for other purposes in connection with the Project is not to be construed as publication in derogation of the Architect's or Architect's consultants' reserved rights. The Owner retains rights to the Instruments of Service pursuant to Article 7 of AIA Document B101-2017.

...

§ 1.5.3 The Architect shall furnish to the Contractor a version of the Instruments of Service in electronic form for the sole purpose of the construction of the Project for which the Instruments of Service were created.

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

...

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

...

§ 2.1.1 The Owner is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The Owner shall designate in writing a representative who shall have express authority to bind the Owner with respect to all matters requiring the Owner's approval or ~~authorization.~~ authorization in accordance with Owner's Delegation of Authority Policy, a copy of which will be provided at Contractor's request. Except as otherwise provided in Section 4.2.1, the Construction Manager and the Architect do not have such authority. The term "Owner" means the Owner or the Owner's authorized representative.

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

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

§ 2.3.6 The Owner shall furnish information or services required of the Owner by the Contract Documents with reasonable promptness. The Owner shall also furnish any other information or services under the Owner's control and relevant to the Contractor's performance of the Work with reasonable promptness after receiving the Contractor's written request for such information or services. The Contractor is responsible for the timeliness of, or interference caused by, Subcontractors, Sub-subcontractors (of any tier), and others directly or indirectly under contract to the Contractor.

...

If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within a ~~ten-day~~ three-business-day (3) period after receipt of notice from the Owner to commence and continue correction of such default or neglect with diligence and promptness, the Owner may, without prejudice to other remedies the Owner may have, correct such default or neglect. Such action by the Owner and amounts charged to the Contractor are both subject to review by the Construction Manager and prior approval of the Architect, and the Construction Manager or Architect may, pursuant to Section 9.5.1, withhold or nullify a Certificate for Payment in whole or in part, to the extent reasonably necessary to reimburse the Owner for the reasonable cost of correcting such deficiencies, including Owner's expenses and compensation for the Construction Manager's and Architect's and their respective consultants' additional services and expenses made necessary by such default, neglect, or failure. If current and future payments are not sufficient to cover such amounts, the Contractor shall pay the difference to the ~~Owner.~~ Owner within ten (10) days following written request for payment delivered by the Owner to the Contractor. If the Contractor disagrees with the actions of the Owner or the Architect, or the amounts claimed as costs to the Owner, the Contractor may file a Claim pursuant to Article 15.

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§ 3.1.3 The Contractor shall ~~not be relieved of its obligations to perform the Work in accordance with the Contract Documents either by activities or duties of the Construction Manager or Architect in their administration of the Contract, or by tests, inspections or approvals required or performed by persons or entities other than the Contractor.~~hire a professional utilities locator to investigate and verify all private utility locations prior to excavation and cutting into of existing Work. The Contractor is responsible for locating, terminating, and reinstallation of all private utilities. Private site utilities may not be in the Drawings and Project Manual and as such, verification of private utilities is the sole responsibility of the Contractor. Costs associated with moving and repairing of unknown and undocumented utilities will be by appropriate Change Order. The Contractor shall comply with Gopher State One Call, or other public utility service locator to locate all public utilities prior to any work on the site. This shall not relieve Contractor from obligations under Article 3.

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

...

§ 3.2.1 ~~Execution of the Contract by the Contractor is a representation that the Contractor has visited the site, become generally~~ The Contractor shall carefully study and compare the Contract Documents with each other and with information furnished by the Owner pursuant to Section 2.2.3, and shall immediately report to the Architect and Construction Manager errors, inconsistencies, or omissions discovered. The Contractor shall not be liable to the Owner or Architect for damage resulting from errors, inconsistencies, or omissions in the Contract Document unless the Contractor recognized such error, inconsistency, or omission and knowingly failed to report it to the Architect. If the Contractor performs any construction activity knowing or believing it involves a recognized error, inconsistency, or omission in the Contract Documents without such notice to the Architect, the Contractor shall assume full responsibility for such performance and shall bear the attributable costs for correction and shall bear responsibility for any additional costs, delays, and damages resulting from such failure to immediately report any such errors,

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inconsistencies, or omissions which the Contractor may discover. By executing the Contract, the Contractor represents that the Contractor has reviewed and understands the Contract Documents, has visited the Site and is familiar with local conditions under which the Work is to be performed, ~~and correlated personal observations with requirements of the Contract Documents.~~has correlated personal observations with the requirements of the Contract Documents, and has notified the Architect of and obtained clarification of any discrepancies which have become apparent during the bidding or proposal period.

§ 3.2.1.1 The Contractor shall take field measurements and verify field conditions and shall carefully compare such field measurements and conditions and other information known to the Contractor with the Contract Documents before commencing activities. Errors, inconsistencies, or omissions discovered shall be reported to the Architect immediately in writing.

§ 3.2.1.2 The Contractor shall carefully study and compare the Contract Documents with existing conditions at the job site and shall immediately report in writing to the Architect any error, inconsistency, or omission which the Contractor may discover or any materials, systems, procedures, or methods of construction, either shown on the Drawings or specified, which the Contractor has reason to believe are incorrect, inadequate, obsolete, unsuitable for the purpose intended or which the Contractor has reason to believe would constitute or result in a violation of the Contractor's warranty under Section 3.5 or applicable law. The Contractor shall not proceed with any work in such areas until written instructions are received from the Architect.

§ 3.2.2 ~~Because the Contract Documents are complementary, the Contractor shall, before starting each portion of the Work, carefully study and compare the various Contract Documents relative to that portion of the Work, as well as the information furnished by the Owner pursuant to Section 2.3.5, shall take field measurements of any existing conditions related to that portion of the Work, and shall observe any conditions at the site affecting it. These obligations are for the purpose of facilitating coordination and construction by the Contractor and are not for the purpose of discovering errors, omissions, or inconsistencies in the Contract Documents; however, the Contractor shall promptly report to the Construction Manager and Architect any errors, inconsistencies or omissions discovered by or made known to the Contractor as a request for information submitted to the Construction Manager in such form as the Construction Manager and Architect may require. It is recognized that the Contractor's review is made in the Contractor's capacity as a contractor and not as a licensed design professional, unless otherwise specifically provided in the Contract Documents.~~The Contractor shall perform the Work in accordance with the Contract Documents and submittals accepted pursuant to Section 3.12.

§ 3.2.3 The ~~Contractor is not required to ascertain that the Contract Documents are in accordance with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, but the Contractor shall promptly report to the Construction Manager and Architect any nonconformity discovered by or made known to the Contractor as a request for information submitted to Construction Manager in such form as the Construction Manager and Architect may require.~~Owner shall be entitled to deduct from the Contract Sum amounts paid to the Architect for the Architect to evaluate and respond to the Contractor's requests for interpretation or information where such information was available to the Contractor from a careful study and comparison of the Contract Documents, Filed Conditions, Owner Provided Information, Contractor Prepared Coordination Drawings, or prior Project Correspondence or Documentation.

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§ 3.2.4 If the Contractor believes that ~~additional cost or time is involved because of clarifications or instructions the Architect issues in response to the Contractor's notices or requests for information pursuant to Sections 3.2.2 or 3.2.3, the Contractor shall submit Claims as provided in Article 15. If the Contractor fails to perform the obligations of Sections 3.2.2 or 3.2.3, the Contractor shall pay such costs and damages to the Owner, subject to section 15.1.7, as would have been avoided if the Contractor had performed such obligations. If the Contractor performs those obligations, the Contractor shall not be liable to the Owner or Architect for damages resulting from errors, inconsistencies or omissions in the Contract Documents, for differences between field measurements or conditions and the Contract Documents, or for nonconformities of the Contract Documents to applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities.~~any portions of the Contract Documents do not comply with applicable laws, statutes, ordinances, building codes, and rules and regulations, or any orders by code enforcement officials or the Owner or its designees acting in the capacity of building code inspectors or Referenced Standards, the Contractor must promptly notify the Owner and the Architect of the non-compliance as provided in Section 3.2.6 and request direction before proceeding with the affected Work.

§ 3.2.5 The Contractor must promptly notify the Owner and the Architect in writing of any apparent errors, inconsistencies, omissions, ambiguities, construction impracticalities or code violations discovered as a result of the Contractor's review of the Contract Documents including any differences between actual and indicated dimensions, locations and descriptions, and must give the Owner and the Architect timely notice in writing of same and of any corrections, clarifications, additional Drawings or Specifications, or other information required to define the Work in greater detail or to permit the proper progress of the Work. The Contractor must provide similar notice with respect to any variance between its review of the Site and physical data and Site conditions observed.

§ 3.2.6 If the Contractor performs any Work involving an apparent error, inconsistency, ambiguity, construction impracticality, omission or code violation in the Contract Documents of which the Contractor is aware, or which could reasonably have been discovered by the review required by Section 3.2, without prompt written notice to the Owner and the Architect and request for correction, clarification or additional information, as appropriate, the Contractor does so at its own risk and expense and all Claims relating thereafter are specifically waived.

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§ 3.3.4 The Contractor shall at all times staff the Project adequately to allow the Project to be managed and completed in a timely and professional manner. The Contractor shall have competent supervision on the job during work hours and readily available at all times upon call.

§ 3.3.5 The Contractor shall at all times make reasonable provisions to protect any Work performed by any separate contractors, adjacent property, and the existing building (if any) from damage due to the Work or due to the weather.

§ 3.3.6 The Owner or its approved representative (heretofore referred to as Owner's Representative) shall have access to the Work site and all Work. No supervision or inspection by the Owner or the Owner's Representative, nor the authority to act, nor any other actions taken by the Owner's Representative shall relieve the Contractor of any of its obligations under the Contract Documents or give rise to any duty on the part of the Owner.

§ 3.3.7 The Contract shall take appropriate precautions to ensure that the Work does not materially disrupt any ongoing operation by the Owner at the Project (if any) except to the extent any such disruption is a necessary result of performing a particular portion of the Work, in which case the Contractor shall provide the Owner with reasonable advanced written notice and shall take all commercially reasonable measures to minimize the impact on the Owner and the Owner's operations.

§ 3.4.1 Unless otherwise provided in the Contract Documents, the Contractor shall provide and pay for labor, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation, and other facilities and services necessary for proper execution and completion of the Work, whether temporary or permanent and whether or not incorporated or to be incorporated in the Work. Should the Contract Documents require Work to be performed after regular working hours or should the Contractor elect to perform Work after regular working hours, the additional cost of such Work shall be borne by the Contractor.

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§ 3.4.4 The Contractor shall be responsible for all additional costs incurred to incorporate into the Project substitute materials, products, or equipment approved by Owner during the bidding period.

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§ 3.4.5 In the event of a Change related to substitute or additional materials, and which shall comply with Article 7, the Contractor shall exercise reasonable efforts, consistent with the provisions of the Contract Documents to obtain the maximum available case discounts on all materials, provided that, in doing so, the Contractor shall not accept or use materials for incorporation into the Project which are of a type or quality not reasonably contemplated under the terms of the Contract Documents.

§ 3.4.6 After award of the Contract, a request for substitution of a material, product, or piece of equipment at no change in the Contract Sum will not be approved by the Owner or the Architect, unless the specified item is no longer manufactured, the specified item is unavailable as a result of an act of government such as a declaration of a national emergency, or delivery of the specified items is substantially delayed as a result of labor disputes affecting the manufacturer, unusual delay in transportation, or any other cause beyond control of the Contractor or a Subcontractor or material supplier which the Architect determines justified the delay. Requests will not be approved where the delay in delivery results from failure to promptly place subcontracts and material orders. Requests for substitution shall be submitted in writing to the Architect and shall clearly describe the proposed substitution, state the reason for the unavailability of a specified item and be accompanied by such additional data and information as may be necessary in the discretion of the Owner and the Architect to establish the acceptability of the proposed substitute.

§ 3.4.7 The Owner shall be entitled to deduct from the Contract Sum amounts paid to the Architect to evaluate the Contractor's proposed Substitutions and for changes made to the Contract Documents as a result of Owner's acceptance of such Substitutions.

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§ 3.5.2 All material, equipment, or other special warranties required by the Contract Documents shall be issued in the name of the Owner, or shall be transferable to the Owner, and shall commence in accordance with Section 9.8.4. The Contractor shall arrange for the Owner to have the benefit of and right to enforce all warranties by Subcontractors, Sub-subcontractors, suppliers, and manufacturers.

§ 3.5.3 Manufacturers' warranties and warranties by other shall not relieve the Contractor of any of its responsibilities.

§ 3.5.4 The Contractor's general warranty and any additional or special warranties are not limited by the Contractor's obligations to specifically correct defective or nonconforming Work as provided in Article 12, nor are they limited by any other remedies provided in the Contract Documents. The Contractor shall also be liable for any damage to property or persons (including death) including consequential and direct damages relating to any breach of the Contractor's general warranty or any additional or special warranties required by the Contract Documents.

§ 3.5.5 The Contractor must furnish all special warranties required by the Contract Documents to the Owner no later than Substantial Completion. The Owner may require additional special warranties in connection with the approval of "Or-Equals" or Substitutions, Allowance items, Work that is defective or nonconforming, or the acceptance of nonconforming Work pursuant to Article 12.

...

§ 3.7.1 Unless otherwise provided in the Contract Documents, the Owner, assisted by the Construction Manager, shall secure and pay for the building permit. The Contractor shall secure and pay for other permits, fees, licenses, and inspections by government agencies necessary for proper execution and completion of the Work that are customarily secured after execution of the Contract and legally required at the time bids are received or negotiations concluded. The Contractor shall be responsible for the Sewer Access (SAC) and Water Access (WAC) fees for the Project. The Contractor shall pay the SAC/WAC costs to the authorities having jurisdiction from the Allowance in the Base Bid for such charges as defined in the Construction Documents.

...

§ 3.7.3 If the Contractor performs Work knowing or believing it to be contrary to applicable laws, statutes, ordinances, building codes, rules and regulations, or lawful orders of public authorities, without such notice to the Architect and Owner, the Contractor shall assume ~~appropriate~~ full responsibility for such Work and shall bear the ~~costs attributable~~

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~~to correction.~~attributable costs, delays, and damages resulting from such failure to immediately notify the Architect and Owner of any such violation..

§ 3.7.4 Concealed or Unknown Conditions. If the Contractor encounters conditions at the site that are (1) subsurface or otherwise concealed physical conditions that differ materially from those indicated in the Contract Documents or (2) unknown physical conditions of an unusual nature that differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents, the Contractor shall promptly provide notice to the Owner, Construction Manager, and the Architect before conditions are disturbed and in no event later than ~~14~~ ten (10) days after first observance of the conditions. The Architect and Construction Manager will promptly investigate such conditions and, if the Architect, in consultation with the Construction Manager, determines that they differ materially and cause an increase or decrease in the Contractor's cost of, or time required for, performance of any part of the Work, will recommend that an equitable adjustment be made in the Contract Sum or Contract Time, or both. If the Architect, in consultation with the Construction Manager, determines that the conditions at the site are not materially different from those indicated in the Contract Documents and that no change in the terms of the Contract is justified, the Architect shall promptly notify the Owner, Construction Manager, and Contractor, stating the reasons. If the Owner or Contractor disputes the Architect's determination or recommendation, either party may submit a Claim as provided in Article 15.
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§ 3.9.1 The Contractor shall employ a competent superintendent and necessary assistants who shall be in attendance at the Project site during performance of the ~~Work.~~ Work, including that performed by all Subcontractors. The superintendent shall represent the Contractor, and communications given to the superintendent shall be as binding as if given to the Contractor. Important communications including and not limited to communications regarding design changes, alterations, substitutions, clarifications, cost changes, etc. shall be confirmed in writing by the Contractor. Other communications shall be similarly confirmed on written request in each case.

...

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

§ 3.9.4 If requested by the Owner, the Contractor shall replace the superintendent at no additional cost to the Owner. No other change in this position shall be made without notice to and written consent of the Owner.

...

§ 3.10.1 The Contractor, promptly after being awarded the Contract, shall submit for the Owner's and Architect's information, and the Construction Manager's use in developing the Project schedule, a Contractor's construction schedule for the Work. The schedule shall contain detail appropriate for the Project, including (1) the date of commencement of the Work, interim schedule milestone dates, critical path schedule milestones, major construction milestones, including and not limited to Civil, Demolition, Structural, Mechanical, Electrical, and Plumbing, and the date of Substantial Completion; (2) an apportionment of the Work by construction activity; and (3) the time required for completion of each portion of the Work. The schedule shall provide for the orderly progression of the Work to completion and shall not exceed time limits current under the Contract Documents. The schedule shall be revised at appropriate intervals as required by the conditions of the Work and Project. The Contractor shall cooperate with the Construction Manager in scheduling and performing the Contractor's Work to avoid conflict with, and as to cause no delay in, the work or activities of other Contractors, or the construction or operations of the Owner's own forces or Separate Contractors.
PAGE 12

§ 3.10.4 The Contractor shall perform the Work in general accordance with the most recent schedules submitted to and accepted in writing by the Owner, Construction Manager, and Architect, and incorporated into the approved Project schedule.

...

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~~The Contractor shall make available, at the Project site, the Contract Documents, including Change Orders, Construction Change Directives, and other Modifications, in good order and marked currently to indicate field changes and selections made during construction, and the approved Shop Drawings, Product Data, Samples, and similar required submittals. These shall be in electronic form or paper copy, available to the Construction Manager, Architect, and Owner, and delivered to the Construction Manager for submittal to the Owner upon completion of the Work as a record of the Work as constructed.~~**§ 3.11.1** The Contractor shall make available, at the Project site, one record copy of the Contract Documents, including Change Orders, Construction Change Directives, and other Modifications, in good order and updated daily to indicate field changes and selections made during construction, and in addition accepted and approved Shop Drawings, Product Data, Samples, and similar required submittals. These shall be in electronic form or paper copy, available to the Construction Manager, Architect, and Owner as required to complete routine inspections by Architect, Construction Manager and Owner prior to any approval of payments to the Contractor, and delivered to the Construction Manager for submittal to the Owner upon completion of the Work. The Architect and Contractor must verify that all "as-built" Drawings, Specifications, Addenda, Change Orders, and other Modifications are up-to-date before Contractor's Application for Payment is acceptable and before the Owner incurs any duty to pay Contractor in accordance with the Contract. The record documents shall be a separate set of documents labeled "Record Documents" and used only for record purposes and kept clean and undamaged.
§ 3.11.2 No review or receipt of such records by the Architect or Owner shall be considered a waiver of any deviation from the Contract Documents or approved shop drawings, or any way relieve the Contractor from its responsibility to perform the Work in accordance with the Contract Documents.
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§ 3.12.5 The Contractor shall review for compliance with the Contract Documents, approve, and submit to the Construction Manager, Shop Drawings, Product Data, Samples, and similar submittals required by the Contract Documents, in accordance with the Project submittal schedule approved by the Construction Manager and Architect or, in the absence of an approved Project submittal schedule, with reasonable promptness and in such sequence as to cause no delay in the Work or in the activities of other Contractors, Separate Contractors, or the Owner's own forces. The Contractor shall cooperate with the Construction Manager in the coordination of the Contractor's Shop Drawings, Product Data, Samples, and similar submittals with related documents submitted by other Contractors. The Contractor must provide the Owner and the Architect with copies of all submittals made to regulatory agencies.

...

§ 3.12.7 The Contractor shall perform no portion of the Work for which the Contract Documents require submittal and review of Shop Drawings, Product Data, Samples, or similar submittals, until the respective submittal has been reviewed and ~~approved by the Architect.~~accepted by the Architect. The Contractor must correct at its cost, and without any adjustment in Contract Time, any Work the correction of which is required due to the Contractor's failure to obtain approval of a submittal required to have been obtained prior to proceeding with the Work, including, but not limited to, correction of any conflicts in the Work resulting from such failure.

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

§ 3.12.9 The Contractor shall direct specific attention, in writing or on resubmitted Shop Drawings, Product Data, Samples, or similar submittals, to revisions other than those requested by the Construction Manager and Architect on previous submittals. In the absence of such notice, the Architect's ~~approval~~ acceptance of a resubmission shall not apply to such revisions.
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§ 3.13.3 Except as may be specifically provided in the Contract Documents, the Contractor shall provide all necessary temporary facilities, including power, water, sanitation, scaffolding, storage, and security. If Owner makes any such

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facilities available to Contractor, it is without representation or warranty as to their adequacy for Contractor's use, and Contractor shall indemnify, defend, and hold Owner harmless from and against any claims arising out of Contractor's use of such facilities.

...

§ 3.14.2 The Contractor shall not damage or endanger a portion of the Work or fully or partially completed construction of the Owner, Separate Contractors, or of other Contractors by cutting, patching, or otherwise altering such construction, or by excavation. The Contractor shall not cut or otherwise alter construction by the Owner, Separate Contractors, or by other Contractors except with written consent of the Construction Manager, Owner, and such other Contractors or Separate Contractors. Consent shall not be unreasonably withheld. The Contractor shall hire a professional utilities locator to verify locations of all public and private utilities prior to initiating any cutting work. The Contractor shall not unreasonably withhold, from the Separate Contractors, other Contractors, or the Owner, its consent to cutting or otherwise altering the Work.

...

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

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§ 3.18.1 To the fullest extent permitted by law, the Contractor shall ~~indemnify~~ indemnify, defend and hold harmless the Owner, Construction Manager, Architect, Construction Manager's and Architect's consultants, and agents and employees of any of them from and against claims, damages, losses, and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), but only to the extent caused by the negligent acts or omissions of the Contractor, a Subcontractor, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss, or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity ~~that~~ which would otherwise exist as to a party or person described in this Section 3.18. The Contractor, furthermore, agrees to obtain, maintain, and pay for such general liability coverage and endorsements (including product and completed operations coverage) as will ensure the provisions of this Section 3.18.1. The Contractor agrees to reimburse the Owner, its agents and employees for all costs and disbursements, including attorneys' fees, paid or incurred to enforce the provisions of this Section 3.18.1.

...

§ 3.18.3 To the fullest extent permitted by law and without limiting any other indemnification obligations of the Contractor, except to the extent caused by the uncured failure of the Owner to make payment when due and owing, the Contractor shall indemnify and defend the Owner, its officers, directors, assigns, lenders, agents, and employees from any liens, charges (including attorneys' fees) or encumbrances (including but not limited to mechanic's and materialmen's liens or bond claims) arising out of or in connection with the performance of the Work by Contractor, its Subcontractors, or its material suppliers. Upon request of the Owner, the Contractor shall within sixty (60) days remove any liens filed against the Owner or its property. If the Contractor fails to do so, the Owner is authorized by the Contractor to remove or satisfy any such liens, and the Contractor shall pay to the Owner all costs and damages incurred by the Owner to do so, including attorneys' fees.

...

§ 4.2.1 The Construction Manager and Architect will provide administration of the Contract as described in the Contract Documents and will be the Owner's ~~representatives during construction until the date the Architect issues the final Certificate for Payment.~~ consultants (1) during construction; (2) until final payment is due; and (3) with the

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Owner's concurrence, from time to time during the correction period described in Section 12.2. The Architect and Construction Manager will advise and consult with the Owner. The Construction Manager and Architect will have authority to act on behalf of the Owner only to the extent provided in the Contract ~~Documents.~~Documents, unless otherwise modified in writing in accordance with other provisions of the Contract.

§ 4.2.2 The Architect will visit the site at intervals appropriate to the stage of construction, or as otherwise agreed with the Owner, to become generally familiar with the progress and quality of the ~~portion of the Work completed,~~ Work completed, to endeavor to guard the Owner against defects and deficiencies in the Work, and to determine in general if the Work ~~observed~~ is being performed in a manner indicating that the Work, when ~~fully~~ completed, will be in accordance with the Contract Documents. However, the Architect will not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. On the basis of the site visits, the Architect will keep the Owner and the Construction Manager reasonably informed about the progress and quality of the portion of the Work completed, and promptly report to the Owner and Construction Manager known deviations from the Contract Documents and defects and deficiencies observed in the Work.

§ 4.2.2.2 The Contractor shall reimburse the Owner for compensation paid to the Architect for additional site visits made necessary by fault, neglect, or request of the Contractor.
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§ 4.2.6 Communications. The Owner shall communicate with the Contractor and the Construction Manager's consultants through the Construction Manager about matters arising out of or relating to the Contract Documents. The Owner and Construction Manager shall include the Architect in all communications that relate to or affect the Architect's services or professional responsibilities. The Owner shall promptly notify the Architect of the substance of any direct communications between the Owner and the Construction Manager otherwise relating to the Project. Communications by and with the Architect's consultants shall be through the Architect. Communications by and with Subcontractors and suppliers shall be through the Contractor. Communications by and with other Contractors shall be through the Construction Manager. Communications by and with the Owner's own forces and Separate Contractors shall be through the ~~Owner.~~ Owner unless otherwise provided. The Contract Documents may specify other communication protocols. The Owner may require the Architect, Construction Manager and the Contractor to comply with Owner requirements in regards to public communications and site signage.

...

§ 4.2.8 The Architect and Construction Manager have authority to reject Work that does not conform to the Contract Documents, and will notify each other about the rejection. Whenever the Construction Manager considers it necessary or ~~advisable,~~ advisable for implementation of the intent of the Contract Documents, the Construction Manager will have authority to require additional inspection or testing of the Work in accordance with Sections 13.4.2 and 13.4.3, upon written authorization of the Owner, whether or not the Work is fabricated, installed or completed. The foregoing authority of the Construction Manager will be subject to the provisions of Sections 4.2.18 through 4.2.20 inclusive, with respect to interpretations and decisions of the Architect. However, neither the Architect's nor the Construction Manager's authority to act under this Section 4.2.8 nor a decision made by either of them in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect or the Construction Manager to the Contractor, Subcontractors, suppliers, their agents or employees, or other persons performing any of the Work.
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§ 4.2.11 The Architect ~~will~~ will, and the Owner may, review and approve, or take other appropriate action upon, the Contractor's submittals such as Shop Drawings, Product Data, and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Architect's ~~action will be taken in accordance with the submittal schedule approved by the Architect or, in the absence of an approved submittal schedule, with reasonable promptness~~ or Owner's action will be taken with such reasonable promptness as to cause no delay in the Work or in the activities of the Owner, Contractor or separate contractors, while allowing sufficient time in the Architect's professional judgment to permit adequate review. Upon the Architect's or the Owner's completed review, the Architect shall transmit its submittal review to the Construction Manager.
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§ 4.2.18 The Architect will interpret and decide matters concerning performance ~~under, and~~ under the requirements of, the Contract Documents on written request of the Construction Manager, Owner, or Contractor through the Construction Manager. The Architect's response to such requests will be made ~~in writing within any time limits agreed upon or otherwise with reasonable promptness.~~ with reasonable promptness and within any time limits agreed upon. If no agreement is made concerning the time within which interpretations required of the Architect shall be furnished in compliance with this Section 4.2.18, then delay shall not be recognized on account of failure by the Architect to furnish such interpretations until fifteen (15) days after written request is made to them.

§ 4.2.19 ~~Interpretations and decisions of the Architect will be consistent with the intent of, and reasonably inferable from, the Contract Documents and will be in writing or in the form of drawings. When making such interpretations and decisions, the Architect will endeavor to secure faithful performance by both Owner and Contractor, will not show partiality to either, and will not be liable for results of interpretations or decisions so rendered in good faith.~~Architect's decisions on matters relating to aesthetic effect will be final if consistent with the intent expressed in the Contract Documents.

§ 4.2.20 ~~The Architect's decisions on matters relating to aesthetic effect will be final if consistent with the intent expressed in the Contract Documents.~~Architect will review and respond to requests for information about the Contract Documents. The Architect's response to such requests will be made in writing within any time limits agreed upon or otherwise with reasonable promptness. If appropriate, the Architect will prepare and issue supplemental Drawings and Specifications in response to the requests for information.

~~**§ 4.2.21** The Construction Manager will receive and review requests for information from the Contractor, and forward each request for information to the Architect, with the Construction Manager's recommendation. The Architect will review and respond in writing, through the Construction Manager, to requests for information about the Contract Documents. The Construction Manager's recommendation and the Architect's response to each request will be made in writing within any time limits agreed upon or otherwise with reasonable promptness. If appropriate, the Architect will prepare and issue supplemental Drawings and Specifications in response to the requests for information.~~

...

§ 5.2.1 Unless otherwise stated in the Contract Documents, the Contractor, as soon as practicable after award of the Contract, shall notify in writing the Construction Manager, for review by the Owner, Construction Manager and Architect, of the persons or entities proposed for each principal portion of the Work, including those who are to furnish materials or equipment fabricated to a special design. Within 14 days of receipt of the information, the Construction Manager may notify the Contractor whether the Owner, the Construction Manager or the Architect (1) has reasonable objection to any such proposed person or entity or, (2) requires additional time for review. Failure of the Construction Manager to provide notice within the 14-day period shall constitute notice of no reasonable objection. The Contractor shall not employ any Subcontractor or use any material to which the Architect, Construction Manager or Owner may object. Prior to the employment of any Subcontractor, the Contractor must obtain the Owner's approval of such Subcontractor for the designated portion of the Work.

...

§ 5.2.3 If the Owner, Construction Manager or Architect has reasonable objection to a person or entity proposed by the Contractor, the Contractor shall propose another to whom the Owner, Construction Manager or Architect has no reasonable objection. ~~If the proposed but rejected Subcontractor was reasonably capable of performing the Work, the Contract Sum and Contract Time~~ The Contract Sum shall be increased or decreased by the ~~difference, if any,~~ difference in cost occasioned by such change, and an appropriate Change Order shall be ~~issued before commencement of the substitute Subcontractor's Work.~~ issued. However, no increase in the Contract Sum or Contract Time shall be allowed for such change unless the Contractor has acted promptly and responsively in submitting names as required. Notwithstanding the foregoing, the Contractor shall have a continuing duty to the Owner, Construction Manager and Architect to find and propose such persons or entities as shall not result in material increase in the Contract Sum, or a material decrease in the quality of Work contemplated under the Contract Documents.

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§ 5.2.4 The Contractor shall not substitute a Subcontractor, person, or entity for one previously selected if the Owner, Construction Manager or Architect makes reasonable objection to such substitution. Any proposed substitution of a Subcontractor, person, or entity for one previously selected shall be made in a separate writing to the Owner, Construction Manager and Architect. No substitution shall be deemed approved/accepted without written confirmation from the Owner, Construction Manager and Architect. Neither acceptance of, nor objection to a Subcontractor or Sub-subcontractor, material supplier, or other person or organization by the Owner, Construction Manager and Architect shall limit the responsibility of the Contractor to furnish materials, products, equipment, and services in conformance with the requirements of the Contract Documents.

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~~By appropriate written agreement, the Contractor shall require each Subcontractor, to the extent of the Work to be performed by the Subcontractor, to be bound to the Contractor by terms of the Contract Documents, and to assume toward the Contractor all the obligations and responsibilities, including the responsibility for safety of the Subcontractor's Work, that the Contractor, by these Contract Documents, assumes toward the Owner, Construction Manager and Architect. Each subcontract agreement shall preserve and protect the rights of the Owner, Construction Manager and Architect under the Contract Documents with respect to the Work to be performed by the Subcontractor so that subcontracting thereof will not prejudice such rights, and shall allow to the Subcontractor, unless specifically provided otherwise in the subcontract agreement, the benefit of all rights, remedies, and redress against the Contractor that the Contractor, by the Contract Documents, has against the Owner. Where appropriate, the Contractor shall require each Subcontractor to enter into similar agreements with Sub-subcontractors. The Contractor shall make available to each proposed Subcontractor, prior to the execution of the subcontract agreement, copies of the Contract Documents to which the Subcontractor will be bound, and, upon written request of the Subcontractor, identify to the Subcontractor terms and conditions of the proposed subcontract agreement that may be at variance with the Contract Documents. Subcontractors will similarly make copies of applicable portions of such documents available to their respective proposed Sub-subcontractors.~~**§ 5.3.1** By appropriate written agreement, the Contractor shall require each Subcontractor, to the extent of the Work to be performed by the Subcontractor, to be bound to the Contractor by terms of the Contract Documents, and to assume toward the Contractor all the obligations and responsibilities, including the responsibility for safety of the Subcontractor's Work, that the Contractor, by these Contract Documents, assumes toward the Owner, Construction Manager and Architect. Each subcontract agreement shall preserve and protect the rights of the Owner, Construction Manager and Architect under the Contract Documents with respect to the Work to be performed by the Subcontractor so that subcontracting thereof will not prejudice such rights, and shall allow to the Subcontractor, unless specifically provided otherwise in the subcontract agreement, the benefit of all rights, remedies, and redress against the Contractor that the Contractor, by the Contract Documents, has against the Owner. Where appropriate, the Contractor shall require each Subcontractor to enter into similar agreements with Sub-subcontractors. The Contractor shall make available to each proposed Subcontractor, prior to the execution of the subcontract agreement, copies of the Contract Documents to which the Subcontractor will be bound, and, upon written request of the Subcontractor, identify to the Subcontractor terms and conditions of the proposed subcontract agreement that may be at variance with the Contract Documents. Subcontractors shall similarly make copies of applicable portions of such documents available to their respective proposed Sub-subcontractors.

§ 5.3.2 The Contractor is responsible for the performance of, the actions of, the timeliness of, or interference caused by, Subcontractors, Sub-subcontractors (of any tier), and others directly or indirectly under contract to the Contractor.

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

§ 6.2.3 ~~The Contractor shall reimburse the Owner for costs the Owner incurs, including costs that are payable to a Separate Contractors or to other Contractors, because of the Contractor's delays, improperly timed activities or~~

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~~defective construction. The Owner shall be responsible to the Contractor for costs the Contractor incurs because of delays, improperly timed activities, damage to the Work or defective construction by the Owner's own forces, Separate Contractors, or other Contractors.~~Costs caused by delays or by improperly timed activities or defective construction shall be borne by the party responsible therefor.

...

§ 6.2.5 ~~The Owner, Separate Contractors, and other Contractors shall have the same responsibilities for cutting and patching as are described for the Contractor in Section 3.14.~~Claims and other disputes and matters in question between the Contractor and a separate contractor shall be subject to the provisions of Article 15 provided the separate contractor has reciprocal obligations.

§ 6.2.6 The Owner, Separate Contractors, and other Contractors shall have the same responsibilities for cutting and patching as are described for the Contractor in Section 3.14.

...

If a dispute arises among the Contractor, Separate Contractors, other Contractors, and the Owner as to the responsibility under their respective contracts for maintaining the premises and surrounding area free from waste materials and ~~rubbish, the Owner may clean up and the Construction Manager, with notice to the Architect, will allocate the cost among those responsible.~~rubbish as described in Section 3.15, the Owner may clean up allocate the cost among those responsible as the Architect determines to be just..

...

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

...

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

§ 7.1.5 In Section 7.3.6, the allowance for the combined overhead and profit included in the total cost to the Owner shall be based on the following schedule:

.1 For the Contractor, for Work performed by the Contractor's own forces, ten percent (10%) of the cost;

.2 For the Contractor, for Work performed by the Contractor's Subcontractor, five percent (5%) of the amount due the Subcontractor;

.3 For each Subcontractor or Sub-subcontractor involved for Work performed by the Subcontractor's or Sub-subcontractor's own forces, ten percent (10%) of the cost;

.4 For each Subcontractor for Work performed by the Subcontractor's Sub-subcontractor, five percent (5%) of the amount due the Subcontractor;

.5 Costs to which overhead and profit is to be applied shall be determined in accordance with Section 7.3.6;

.6 In order to facilitate checking of quotations for extras or credits, all proposals, expect those so minor that their propriety can be seen by inspection, shall be accompanied by a complete itemization of costs, including labor, materials and subcontracts. Labor and materials shall be itemized in the manner prescribed above. Where major cost items are subcontracts, they shall be itemized also. In no case will a change involving over $500 be approved without such itemization.

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§ 7.2 Change Orders and Change Proposals

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

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.3 The extent of the adjustment, if any, in the Contract Time.

§ 7.2.2 Change Order shall be prepared on AIA Document G731.

§ 7.2.3 The Contractor must submit Change Proposals covering a contemplated Change Order within ten (10) days after request of the Owner, or the Architect or within ten (10) days of the event, or Contractor's discovery of a condition, whichever is earlier, giving rise to the Contractor's claim for a change in the Contract Sum or Contract Time. No increase in the Contract Sum or extension of the Contract Time will be allowed the Contractor for the cost or time involved in making Change Proposals. Change Proposals will define or confirm in detail the Work which is proposed to be added, deleted, or changed and must include any adjustment which the Contractor believes to be necessary in (i) the Contract Sum, or (ii) the Contract Time. Any proposed adjustment must include detailed documentation including, but not limited to: cost, properly itemized and supported by sufficient substantiating data to permit evaluation including cost of labor, materials, supplies and equipment, rental cost of machinery and equipment, additional bond cost, plus a fixed fee for profit and overhead (which includes office overhead and Site-specific overhead and general conditions) of ten percent (10%) if the Work is performed by the Contractor, or five percent (5%) if the Work is performed by a Subcontractor or Sub-subcontractor. The Subcontractor's or Sub-subcontractor's overhead and profit in turn must not exceed a total aggregate of ten percent (10%). Change Proposals will be binding upon the Contractor and may be accepted or rejected by the Owner in its discretion. The Owner may, at its option, instruct the Contractor through a Construction Change Directive to proceed with the Work involved in the Change Proposal in accordance with Section 7.3 without accepting the Change Proposal in its entirety.

§ 7.2.4 If the Owner determines that a Change Proposal is appropriate, the Architect will prepare and submit a request for a Change Order or Contract Amendment providing for an appropriate adjustment in the Contract Sum or Contract Time, or both, for further action by the Owner. No such change is effective until the Owner and Architect sign the Change Order.

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

...

.3 Rental costs of machinery and equipment, exclusive of hand tools, whether rented from the Contractor or ~~others;~~others (at rates approved by the Owner);

...

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

...

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§ 7.3.9 Pending final determination of the total cost of a Construction Change Directive to the Owner, the Contractor may request payment for Work completed under the Construction Change Directive in Applications for ~~Payment.~~ Payment up to and not exceeding $25,000. The Construction Manager and Architect will make an interim determination for purposes of monthly certification for payment for those costs and certify for payment the amount that the Construction Manager and Architect determine to be reasonably justified. The interim determination of cost shall adjust the Contract Sum on the same basis as a Change Order, subject to the right of either party to disagree and assert a Claim in accordance with Article 15.

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

...

§ 8.1.2 The date of commencement of the Work is the date established in the Agreement. The date shall not be postponed by the failure to act of the Contractor or of persons or entities for whom the Contractor is responsible.

...

§ 8.1.4 The term "day" ~~as used in the Contract Documents shall mean calendar day unless otherwise specifically defined.~~shall mean calendar day of 24 hours beginning at 12:00 midnight. Calendar days as stated in the Contract Documents, shall include all days of a seven (7) day week including Saturdays, Sundays, and holidays. The term "Milestone Date" is, in each instance, the date established in the Contract Documents for the Substantial completion of all or a designated portion of the Work.

...

§ 8.2.3 The Contractor shall proceed expeditiously with adequate forces and shall achieve Substantial Completion within the Contract ~~Time.~~Time and shall achieve specific contractual Milestone Dates (if any), Substantial Completion and final Completion within the time stated in the Contract Documents.

§ 8.2.4 Contractor understands and agrees that all Work must be performed in an orderly and closely coordinated sequence so that the dates for Substantial Completion, Final Completion, and Milestone Dates (if any) may be met by the Contractor.

§ 8.2.5 Timely final completion of the Project is of critical importance to the Owner. The Contractor agrees that it shall substantially complete all Work under the Contract documents within the time established herein and that it shall finally complete the Work in the detail required and in the time required by the Contract Documents.

§ 8.2.6 To the extent that the Contract Documents contain or provide for specific contractual Milestone Dates in addition to Final and Substantial Completion dates, such dates shall be adhered to and shall be the last acceptable dates for those milestones and completions, unless modified by the Owner.

§ 8.2.7 Notwithstanding anything to the contrary contained in the Contract Documents, in the event that any Contractor fails, or appears likely, in the reasonable opinion of the Owner and Construction Manager, to fail to complete a critical portion of their Work on time or to complete any dates for Substantial Completion, Final Completion, or Milestone Dates as evidenced by the latest update of the CPM Schedule Report, the Owner shall have the right to select and require Contractor's performance under any or all of the following operations:

.1 Require the Contractor to substantiate their capability to get back on schedule within two (2) days;

.2 Require the Contractor, at no additional cost to the Owner, to increase their work force, work overtime and/or extra shifts and do whatever else is required by the Owner until the Contractor gets

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back on schedule as established by the CPM Schedule Report (including any updates thereto);

.3 Withhold progress payments or portions thereof until such time as the contractor returns to schedule, but only related to Substantial Completion or Final Completion;

.4 Contact or visit the factory, plant, or distribution center whose production or delivery schedule may be critical to the scheduled completion of a portion of the contract work and expedite such production delivery at Contractor's expense; or

.5 Require the Contractor to complete, in detail, and submit weekly a Short Interval Schedule (SIS) showing: (1) planning for the next two weeks; (2) work completed for the previous week; (3) sufficient detail to evaluate daily milestone (if any) and manpower/equipment loading, and shall identify/tie into the monthly updated CPM Schedule Report.

Any costs incurred by the Contractor in fulfilling the option(s) selected by the Owner shall be at the Contractor's expense.

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§ 8.3.1 If the Contractor is delayed at any time in the ~~commencement or~~ progress of the Work by (1) an act or neglect of the Owner, Architect, Construction Manager, or an employee of any of them, or of the Owner's own forces, Separate Contractors, or other Contractors; (2) by changes ordered in the Work; (3) by labor disputes, fire, unusual delay in deliveries, unavoidable casualties, adverse weather conditions documented in accordance with Section 15.1.6.2, or other causes beyond the Contractor's control; ~~(4) by delay authorized by the Owner pending mediation and binding dispute resolution; or (5)~~ or (4) by other causes that the Contractor asserts and the Architect, based on the recommendation of the Construction Manager, determines justify delay, then subject to the conditions hereinafter set forth, the Contract Time shall be extended by Change Order for such reasonable time as the Architect may determine. Requests for extensions of time for causes enumerated above will be considered by the Architect subject to the following:

.1 Only those conditions enumerated above over which the Contractor has no control will be considered. The burden of proof to substantiate the claim for an extension shall rest with the Contractor, including evidence that the cause was beyond their control. It shall be deemed the Contractor has control over the supply of labor, materials, equipment, methods, techniques, and over their Subcontractors and suppliers;

.2 In the event of Changes in the Work, any consideration for a time extension will be made only at the time of authorizing the changes, and no later than when the Change Order is prepared, and only if the Change Order significantly affects the time and progress of the entire Work. For changes which do not affect the entire Work, time extension may be granted only for the area, phase, unit, or element affected by the change, if due to a valid reason for a time extension;

.3 Any unusual delay in deliveries will not be considered unless it is solely due to transportation issues wholly outside of Contractor's, Subcontractor's, Sub-subcontractor's or Supplier's control. An extension of time will not be granted for delays in deliveries where said delivery was not properly scheduled or when orders were not promptly and properly placed;

.4 With respect to a claim for an extension of time as a result of climatic conditions, the Contractor shall recognize the location of the site and the existence, as normal, or variations from "average" conditions. Foul weather in itself will not be a valid reason for a time extension. Requests for time extensions because of delay resulting from weather extremes will not be considered unless a substantial variation from usual weather conditions occurs for a significant period of time, during phases of the Work when operation necessarily were suspended to a significant degree when they would otherwise have been in progress. In considering the time extension, the weather conditions both before and after the period in which the delay is claimed will be evaluated with credit given to Owner for unseasonably favorable weather;

.5 Delays resulting from a labor dispute will not result in a time extension of a longer period than the dispute, plus a reasonable time for mobilization if justified and necessary as approved by the Architect, and may be less depending on the impact of the dispute, including what operations were suspended or curtailed;

.6 No time extension will be granted as a result of improper scheduling or for failure to have shop drawings or samples submitted in ample time for review under a reasonable and agreed upon schedule; or

.7 Delays by Subcontractors or suppliers will not be considered justification for a time extension, except for the same valid reasons and conditions enumerated under Section 8.3.1.

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§ 8.3.4 The Contractor shall be responsible for all Owner incurred costs associated with a Contractor related to delay in completion of the Project. These costs may include, but are not limited to, Owner staff overtime, Consultant additional fees, additional testing, and/or additional rental or storage costs. A Change Order or Construction Change Directive will be issued to cover these costs. If a Change Order is not agreed to by the Contractor, the Owner, after presenting documentation to the Contractor, may deduct these amounts without a Change Order from the Contract Sum.

...

~~Where the Contract is based on a stipulated sum or Guaranteed Maximum Price, the Contractor shall submit a schedule of values to the Construction Manager, before the first Application for Payment, allocating the entire Contract Sum to the various portions of the Work. The schedule of values shall be~~ Before the first Application for Payment, the Contractor shall submit to the Architect and Construction Manager a schedule of values allocated to various portions of the Work, prepared in the form, and supported by the data to substantiate its accuracy, required by the Construction Manager and the Architect. ~~This~~ The schedule, unless objected to by the Construction Manager or Architect, shall be used as a basis for reviewing the Contractor's Applications for Payment. The Construction Manager shall forward to the Architect the Contractor's schedule of values. Any changes to the schedule of values shall be submitted to the Construction Manager and supported by such data to substantiate its accuracy as the Construction Manager and the Architect may require, and unless objected to by the Construction Manager or the Architect, shall be used as a basis for reviewing the Contractor's subsequent Applications for Payment. The Contractor, after receipt of Notice to Proceed, shall meet with the Owner, Construction Manager and the Architect for the purpose of reviewing the Project CPM Schedule and the Contract Schedule of Values. The Contractor shall develop a CPM Schedule for completing their portion of the Work, in conjunction with all other Contractors or Bid Packages, at the Pre-Construction Meeting(s). The Schedule of Values is to be broken down into specification sections and by labor and materials.

...

§ 9.3.1 At least fifteen days before the date established for each progress payment, the Contractor shall submit to the Construction Manager an itemized Application for Payment ~~prepared in accordance with the schedule of values, if required under Section 9.2, for completed portions of the Work. The application shall be notarized, if required,~~ for operations completed in accordance with the Schedule of Values. Such application shall be notarized and supported by all data substantiating the Contractor's right to payment that the Owner, Construction Manager or Architect require, such as copies of requisitions, and releases of waivers of lien from Subcontractors and ~~suppliers, and shall reflect retainage if provided for in the Contract Documents.~~material suppliers, and reflecting retainage if provided for elsewhere in the Contract Documents. The form of Application for Payment shall be a notarized AIA Document G732–2019, Application and Certificate for Payment, supported by AIA Document G703–1992, Continuation Sheet.

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

§ 9.3.1.3 Following certification of the Application for Payment by the Architect and Construction Manager, the Owner shall pay ninety-five percent (95%) of its value, retaining five percent (5%) until Final Completion.

§ 9.3.1.4 Contractor shall provide lien waivers for itself for the current payment application and for Subcontractors, Sub-subcontractors, and suppliers for the previous payment application before the Contractor has earned or has the right to receive payment for the specific items of work or materials covered by the lien waivers. All lien waivers shall be provided in the form required by the Owner. This Section 9.3.1.4 shall not limit other obligations of the Contractor contained elsewhere to provide lien waivers.

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§ 9.3.4 In each Application for Payment, the Contractor shall certify as follows:

"That there are no known mechanics' or materialmen's liens or stop notice claims outstanding by the application or any of its subcontractors of any tier, or any of the applicant's or subcontractor's material suppliers, or laborers at the date of this application, that all due and payable bills with respect to the Work have been paid or are included in the amount requested in current application, and that, except for such bills, not paid by Owner, but so included, there is no known basis for the filing of any mechanics' or materialmen's liens or stop notice claims on the Work, and that waivers from Contractor, its subcontractors of any tier, or any of the applicant's or subcontractor's material suppliers and laborers have been obtained in such form as to constitute an effective waiver of liens or stop notice claims, under the laws of the State of Minnesota to the extent of payments made by Owner to Contractor."

Notwithstanding the foregoing Section 9.3.4, Contractor acknowledges its obligation to provide a Payment Bond in accordance with the Contract Documents, and that Contractor's failure to pay any of its Subcontractors, Sub-subcontractors, suppliers, or laborers will be resolved through a claim under the Payment Bond.

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§ 9.6.1 After the Architect has issued a Certificate for Payment or Project Certificate for Payment, the Owner shall make payment within thirty (30) days of receipt by Owner of Certificate of Payment in the manner and within the time provided in the Contract Documents, and shall so notify the Construction Manager and Architect.

§ 9.6.2 The Contractor shall pay each Subcontractor, no later than seven days after receipt of payment from the Owner, the amount to which the Subcontractor is entitled, reflecting percentages actually retained from payments to the Contractor on account of the Subcontractor's portion of the Work. The Contractor shall, by appropriate agreement with each Subcontractor, require each Subcontractor to make payments to Sub-subcontractors in a similar manner. Per Minnesota Statutes, Section 471.425, within ten (10) days of Contractor's receipt of payment from Owner, the Contractor must pay any Subcontractor for any undisputed services provided by the Subcontractor. The Contractor shall pay interest of one and one-half percent (1-1/2%) per month, or any part of a month, to the Subcontractor on any undisputed amount not paid on time to the subcontractor. The minimum monthly interest penalty payment for an unpaid balance of $100 or more is $10.00. For an unpaid balance of less than $100, the Contractor shall pay the actual interest penalty due to the Subcontractor. Contractor is advised that by reason of Minnesota Statutes, Section 471.425, subd. 4a, if a Subcontractor prevails in a civil action to collect interest penalties from a prime contractor, the Subcontractor must be awarded its costs and disbursements, including attorneys' fees incurred in bringing the action.

...

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

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If the Construction Manager and Architect do not issue a Certificate for Payment or a Project Certificate for Payment, through no fault of the Contractor, within fourteen days after the Construction Manager's receipt of the Contractor's Application for Payment, or if the Owner does not pay the Contractor within ~~seven~~ thirty (30) days after the date established in the Contract Documents, the amount certified by the Construction Manager and Architect ~~or awarded by binding dispute resolution,~~ then the Contractor may, upon ~~seven~~ ten (10) additional days' notice to the Owner, Construction Manager and Architect, stop the Work until payment of the amount owing has been received. The Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable costs of shutdown, delay and ~~start-up, plus interest as provided for in the Contract Documents.~~start-up which shall be accomplished as provided in Article 7.

...

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

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§ 9.8.2 When the Contractor considers that the Work, or a portion thereof which the Owner agrees to accept separately, is substantially complete, the Contractor shall notify the Construction Manager, and the Contractor and Construction Manager shall jointly prepare and submit to the Architect a comprehensive list of items to be completed or ~~corrected prior to final payment.~~ corrected. The Contractor shall proceed promptly to complete and correct items on the list. Failure to include an item on such list does not alter the responsibility of the Contractor to complete all Work in accordance with the Contract Documents. Upon receipt of the Contractor's list, the Architect, assisted by the Construction Manager, will make an inspection to determine whether the Work or designated portion thereof is substantially complete. If the Architect's inspection discloses any item, whether or not included on the Contractor's list, which is not in accordance with the requirements of the Contract documents, the Contractor shall, before issuance of the Certificate of Substantial Completion, complete or correct such item, upon notification by the Architect. The Contractor shall then submit a request for another inspection by the Architect, assisted by the Construction Manager, to determine Substantial Completion. When the Work or designated portion thereof is substantially complete, the Architect will prepare a Certificate of Substantial Completion which shall establish the date of Substantial Completion, shall establish responsibilities of the Owner and Contractor for security, maintenance, heat, utilities, damage to the Work and insurance, and shall fix the time within which the Contractor shall finish all items on the list accompanying the Certificate. Warranties required by the Contract Document shall commence on the date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion.

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§ 9.8.6 Upon Substantial completion of the Work or designated portion thereof and upon application by the Contractor and certification by the Architect, the Owner shall make payment, reflecting adjustment in retainage, pursuant to Minnesota Statutes, Section 15.72, for such Work or portion thereof as provided in the Contract Documents.

§ 9.8.7 The Architect, assisted by the Construction Manager, shall make one (1) inspection for Substantial Completion and Final Completion in accordance with the AIA Document B101–2017 Owner Architect Agreement. If additional inspections are required due to the Contractor's failure to complete previously listed corrective or uncompleted work, the Architect's expense for conducting such re-inspections and related time in processing, reviewing, and revision of requirements shall be charged to the Contractor and such payment shall be accomplished by a deductive Change Order to the Contractor.

...

§ 9.10.1 Upon completion of the Work, the Contractor shall forward to the Construction Manager a notice that the Work is ready for final inspection and acceptance, and shall also forward to the Construction Manager a final Contractor's Application for Payment. Upon receipt, the Construction Manager shall perform an inspection to confirm the completion of Work of the Contractor. The Construction Manager shall make recommendations to the Architect when the Work of all of the Contractors is ready for final inspection, and shall then forward the Contractors' notices and Application for Payment or Project Application for Payment, to the Architect, who will promptly make such inspection. When the Architect finds the Work acceptable under the Contract Documents and the Contract fully performed, the Construction Manager and Architect will promptly issue a final Certificate for Payment or Project Certificate for Payment stating that to the best of their knowledge, information and belief, and on the basis of their observations, on-site visits and inspections, the Work has been completed in accordance with the Contract Documents and that the entire balance found to be due the Contractor and noted in the final Certificate is due and payable. The Construction Manager's and Architect's final Certificate for Payment or Project Certificate for Payment will constitute a further representation that conditions listed in Section 9.10.2 as precedent to the Contractor's being entitled to final payment have been fulfilled.

§ 9.10.2 Neither final payment nor any remaining retained percentage shall become due until the Contractor submits to the Architect through the Construction Manager (1) an affidavit that payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which the Owner or the Owner's property might be responsible or encumbered (less amounts withheld by Owner) have been paid or otherwise satisfied, (2) a certificate evidencing that insurance required by the Contract Documents to remain in force after final payment is currently in ~~effect,~~ effect and will not be cancelled or allowed to expire until at least (60) days' prior written notice has been given to the Owner, (3) a written statement that the Contractor knows of no reason that the insurance will not be renewable to cover the period required by the Contract Documents, (4) consent of surety, if any, to final payment (5) documentation of any special

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

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§ 9.11 Damages for Delay

§ 9.11.1 The Contractor shall be responsible for damages incurred by the Owner and any other separate contractors for delay resulting from the Contractor's failure to complete the Work within the contract Time or resulting from the progress of the Work failing to substantially conform to the Project Construction Schedule. These damages are not included in liquidated damages and represent additional direct costs incurred by the Owner for the delay. These damages may include Owner incurred costs for temporary classrooms, temporary facilities, moving of programs, etc.

...

~~The Contractor shall be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the performance of the Contract. The Contractor shall submit the Contractor's safety program to the Construction Manager for review and coordination with the safety programs of other Contractors. The Construction Manager's responsibilities for review and coordination of safety programs shall not extend to direct control over or charge of the acts or omissions of the Contractors, Subcontractors, agents or employees of the Contractors or Subcontractors, or any other persons performing portions of the Work and not directly employed by the Construction Manager.~~**§ 10.1.1** The Contractor shall be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the performance of the Contract. The Contractor shall submit the Contractor's safety program to the Construction Manager for review and coordination with the safety programs of other Contractors. The Construction Manager's responsibilities for review and coordination of safety programs shall not extend to direct control over or charge of the acts or omissions of the Contractors, Subcontractors, agents or employees of the Contractors or Subcontractors, or any other persons performing portions of the Work and not directly employed by the Construction Manager.

§ 10.1.2 The Contractor shall comply with all applicable laws and regulations. Notwithstanding any language to the contrary, the Owner shall not have any responsibility for job site inspections or safety recommendations. Any inspections or observations by the Owner, Construction Manager or the Architect are solely for the benefit of the Owner and shall not create any duties or obligations to anyone else.

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If either party suffers injury or ~~damage~~ damages to person or property because of an act or omission of the other party, of any of the other party's employees or agents, or of others for whose acts such party is legally responsible, notice of the injury or damage, whether or not insured, shall be given to the other party within a reasonable time not exceeding ~~21~~ ten (10) days after ~~discovery.~~ first observance. The notice shall provide sufficient detail to enable the other party to investigate the matter. If a Claim for additional cost or time related to this Claim is to be asserted, it shall be filed as provided in Sections 15.1.4 and 15.1.5.

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

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the Contractor shall immediately stop Work in the area affected and report the condition to the Owner, Construction Manager and Architect ~~of the condition.~~in writing. The Work in the affected area shall not thereafter be resumed except by written agreement of the Owner and Contractor if in fact the material is asbestos or polychlorinated biphenyl (PCB) and has not been rendered harmless. The Work in the affected area shall be resumed in the absence of asbestos or polychlorinated biphenyl (PCB), or when it has been rendered harmless, by written agreement of the Owner and Contractor.

.1 Except where otherwise stated in the Contract Documents, no hazardous material work of any nature shall be performed by the Contractor pursuant to this Contract.

.2 The term "hazardous materials" includes, but is not limited to, asbestos, toxic chemicals, acids, alkalis, irritants, contaminants, or other pollutants, together with any other waste, material, substance, pollutants, or contaminant, all or a portion of which is or would be designated as hazardous waste or substance under applicable local, state, or federal laws, ordinances, codes, rules, or regulations.

§ 10.3.2 ~~Upon receipt of the Contractor's notice, the Owner shall obtain the services of a licensed laboratory to verify the presence or absence of the material or substance reported by the Contractor and, in the event such material or substance is found to be present, to cause it to be rendered harmless. Unless otherwise required by the Contract Documents, the Owner shall furnish in writing to the Contractor, Construction Manager and Architect the names and qualifications of persons or entities who are to perform tests verifying the presence or absence of the material or substance or who are to perform the task of removal or safe containment of the material or substance. The Contractor, the Construction Manager and the Architect will promptly reply to the Owner in writing stating whether or not any of them has reasonable objection to the persons or entities proposed by the Owner. If the Contractor, Construction Manager or Architect has an objection to a person or entity proposed by the Owner, the Owner shall propose another to whom the Contractor, the Construction Manager and the Architect have no reasonable objection. When the material or substance has been rendered harmless, Work in the affected area shall resume upon written agreement of the Owner and Contractor. By Change Order, the Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable additional costs of shutdown, delay, and start-up.~~To the fullest extent permitted by law, the Owner shall indemnify and hold harmless the Contractor, Construction Manager, Architect, their consultants, and agents and employees of any of them from and against claims, damages, losses, and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work on Owner's property if in fact the material is asbestos or polychlorinated biphenyl (PCB) and has not been rendered harmless, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), including loss of use resulting therefrom, but only to the extent caused in whole or in part by negligent acts or omissions of the Owner, anyone directly or indirectly employed by the Owner, or anyone for whose acts the Owner may be liable, regardless of whether or not such claim, damage, loss, or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity which would otherwise exist as to a party or person described in this Subparagraph 10.3.2.

§ 10.3.3 ~~To the fullest extent permitted by law, the Owner shall indemnify and hold harmless the Contractor, Subcontractors, Construction Manager, Architect, their consultants, and agents and employees of any of them from and against claims, damages, losses, and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work in the affected area if in fact the material or substance presents the risk of bodily injury or death as described in Section 10.3.1 and has not been rendered harmless, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), except to the extent that such damage, loss, or expense is due to the fault or negligence of the party seeking indemnity.~~If reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a material or substance encountered on the site by the contractor, the Contractor shall, upon recognizing the condition, immediately stop Work on Owner's property and report the condition to the Owner, Construction Manager and Architect in writing. The Owner, Construction Manager, Contractor, and Architect shall then proceed in the same manner described in Subparagraph 10.3.1.

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

§ 10.3.5 The Contractor shall reimburse the Owner for the cost and expense the Owner incurs (1) for remediation of hazardous materials or substances the Contractor brings to the site and negligently handles, or (2) where the

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Contractor fails to perform its obligations under Section 10.3.1, except to the extent that the cost and expense are due to the Owner's fault or negligence. Owner shall be responsible for obtaining the services of a licensed laboratory to verify a presence or absence of the material or substance reported by the Contractor and, in the event such material or substance is found to be present, to verify that it has been rendered harmless.

§ 10.3.6 ~~If, without negligence on the part of the Contractor, the Contractor is held liable by a government agency for the cost of remediation of a hazardous material or substance solely by reason of performing Work as required by the Contract Documents, the Owner shall reimburse the Contractor for all cost and expense thereby incurred.~~Regulations concerning the availability of information and employee training in the use and handling of "hazardous substances" and "harmful physical agents", as set forth in the Employee Right-to-Know Act of 1983, Minnesota Statutes, Sections 182.65 to 182.676 are incorporated herein by reference as if fully set forth herein.

§ 10.3.7 The Contractor shall furnish three Material Safety Data Sheets to the Owner for each material used in the Work that is classified by the Employee Right-to-Know Act of 1983 as a "hazardous substance" or a "harmful physical agent."

§ 10.3.8 The Contractor shall label, in generally accepted and/or standardized fashion, all containers on the work site containing "hazardous substances" or as "harmful physical agents." This shall include factory containers and all subsequent containers used in the Work.

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

...

§ 11.1.1 The Contractor shall purchase and maintain insurance of the types and limits of liability, containing the endorsements, and subject to the terms and conditions, as described in the ~~Agreement~~ Agreement, in EXH-C Owner Insurance or elsewhere in the Contract Documents. The Contractor shall purchase and maintain the required insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is ~~located.~~ located and which carry a Best's rating of A- or higher or are otherwise acceptable to the Owner. The Owner, Construction Manager and Construction Manager's consultants, and the Architect and Architect's consultants, shall be named as additional insureds under the Contractor's commercial general liability policy or as otherwise described in the Contract Documents.

...

§ 11.1.3 Upon the request of any person or entity appearing to be a potential beneficiary of bonds covering payment of obligations arising under the Contract, the Contractor shall promptly furnish a copy of the bonds or shall authorize a copy to be furnished. The Contractor shall furnish Certificates of Insurance acceptable to the Owner which shall specifically set forth evidence of all coverage required by Article 11 and EXH-C Owner Insurance and shall be filed with the Owner and Construction Manager prior to commencement of the Work and thereafter upon renewal or replacement of each required policy of insurance.

The Contractor shall not allow insurance required by this Agreement to lapse, be canceled, reduced in limits or coverage, non-renewed, or materially changed or have restrictive modifications added during the life of this Agreement, including the periods of required coverage. The Contractor shall furnish to the Owner and Construction Manager copies of any endorsements that are subsequently issued amending coverage and limits.

If any of the foregoing insurance coverages are required to remain in force after final payment and are reasonably available, all additional certificates evidencing continuation of such coverage shall be submitted with the final Application for Payment. Information concerning reduction of coverage shall be furnished by the Contractor with reasonable promptness in accordance with the Contractor's information and belief.

§ 11.1.3.1 Acceptable insurance certificates are AIA Document G705, CICC of Minnesota Form 701, and/or ACORD form of the American Insurance Institute.

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Failure of the Owner to collect certificates does not void the requirements to obtain insurance.

The acceptance of any certificate of insurance by the Owner shall not relieve or decrease the liability of the Contractor hereunder. It is to be understood the Owner, Construction Manager and Architect do not in any way represent that the insurance specified in these articles are sufficient or adequate to protect the Contractor's interest or liabilities, but are merely minimum requirements.

The Contractor shall furnish to the Owner copies of any endorsements that are subsequently issued amending coverage and limits.

§ 11.1.4 ~~Notice of Cancellation or Expiration of Contractor's Required Insurance.~~ ~~Within three (3) business days of the date the Contractor becomes aware of an impending or actual cancellation or expiration of any insurance required by the Contract Documents, the Contractor shall provide notice directly to the Owner, and separately to the Construction Manager, of such impending or actual cancellation or expiration. Upon receipt of notice from the Contractor, the Owner shall, unless the lapse in coverage arises from an act or omission of the Owner, have the right to stop the Work until the lapse in coverage has been cured by the procurement of replacement coverage by the Contractor. The furnishing of notice by the Contractor shall not relieve the Contractor of any contractual obligation to provide any required coverage.~~In the event the Contractor fails to procure or maintain any insurance coverage required under this Agreement, the Owner may purchase such coverage and deduct the cost thereof from any monies due to the Contractor, or terminate this Agreement under Paragraph 14.2. The Contractor shall be liable to the Owner for providing all coverage, defense, and payments that would have been provided by any insurance that the Contractor failed to procure and maintain as required by the Contract Documents.

§ 11.1.5 Compliance by the Contractor with the foregoing insurance requirements shall not relieve it from liability for amounts in excess of the limits of insurance.

§ 11.1.6 The Contractor and any of its Subcontractors, Sub-subcontractors, agents and employees, and any separate contractors described in Article 6, if any, and any of their subcontractors, sub-subcontractors, agents and employees shall waive any of their subrogation rights on their Workers Compensation Policy in favor of the Owner, Construction Manager and Architect. The policies shall provide such waivers of subrogation by endorsement or otherwise. A waiver of subrogation shall be effective as to a person or entity even though that person or entity would otherwise have a duty of indemnification, contractual, or otherwise, did not pay the insurance premium directly or indirectly, and whether or not the person or entity had an insurable interest.

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§ 11.2.1 The Owner shall purchase and maintain insurance of the types and limits of liability, containing the endorsements, and subject to the terms and conditions, as described in the Agreement or elsewhere in the Contract Documents. The Owner shall purchase and maintain the required insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The Owner may self-insure and maintain the Owner's usual liability insurance. Optionally, the Owner may purchase and maintain other insurance for self-protection against claims which may arise from operations under the Contract. The Contractor shall not be responsible for purchasing and maintaining this optional Owner's liability insurance unless specifically required by the Contract Documents.

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

...

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

§ 11.6 Bonds

§ 11.6.1 Contractor shall furnish a Performance Bond and a Payment Bond to the Owner in the amount of one hundred percent (100%) of the Contract Sum and issued by a Surety Company authorized to do business in the State of Minnesota, rated "A" or better, and approved by the Owner. The Performance Bond shall be in accordance with Minnesota Statutory requirements, and shall be in the form included in the Project Manual. The Bonds shall allow for any additions or deductions to the Contract Sum.

§ 11.6.2 In order to be acceptable as a surety, Contractor's bonding company bust hold a "Certificate of Authority acceptable to the U.S. Treasury Department and be listed in the Department's current publication of "Bond Qualifiers" with underwriting limitations not less than ten percent (10%) above the Contract Sum.

§ 11.6.3 The surety of the Bonds shall be by a corporate surety company authorized to do business in the state in which Work is being performed under this Contract and acceptable to the Owner. The conditions of the bonds shall meet requirements of the statutes of the state where Work is being performed and all other applicable provisions of state law.

§ 11.6.4 The Contractor shall furnish two (2) originals of the Bonds to the Owner, with copies to the Architect and Construction Manager, within ten (10) days after notification of award and before execution of the Contract. Failure to do so shall constitute a violation of terms of the proposal and provide grounds for forfeiture of bid security.

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

...

~~**§ 12.2.2.1** In addition to the Contractor's obligations under Section 3.5, if, within one year after the date of Substantial Completion of the Work or designated portion thereof, or after the date for commencement of warranties established under Section 9.9.1, or by terms of any applicable special warranty required by the Contract Documents, any of the Work is found to be not in accordance with the requirements of the Contract Documents, the Contractor shall correct it promptly after receipt of notice from the Owner to do so, unless the Owner has previously given the Contractor a written acceptance of such condition. The Owner shall give such notice promptly after discovery of the condition. During the one-year period for correction of Work, if the Owner fails to notify the Contractor and give the Contractor an opportunity to make the correction, the Owner waives the rights to require correction by the Contractor and to make a claim for breach of warranty. If the Contractor fails to correct nonconforming Work within a reasonable time during that period after receipt of notice from the Owner, Construction Manager or Architect, the Owner may correct it in accordance with Section 2.5.~~

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

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

§ 12.2.2.1 If within one year after the date of Substantial Completion of the Work or designated portion thereof, or after the date for commencement of warranties established under Section 9.9.1, or by terms of any applicable special warranty required by the Contract Documents, any of the Work is found to be not in accordance with the requirements of the Contract Documents, the Contractor shall correct it promptly (and any other property damaged or removed in effecting the correction) after receipt of notice from the Owner, Construction Manager or Architect to do so, unless the Owner has previously given the Contractor a written acceptance of such condition. The Owner, Construction Manager or Architect shall give such notice promptly after discovery of the condition. This period of one year shall be extended with respect to portions of Work first performed after Substantial completion by the period of time between Substantial completion and the actual performance of the Work. This obligation under this Subparagraph 12.2.2.1 shall survive acceptance of the Work under the contract and termination of the Contract. The Owner, Construction Manager or Architect shall give such notice promptly after discovery of the condition. The expiration of the above one year or any other specified time period, or any other period prescribed by the law, shall not relieve the Contractor of the obligation form the expense to correct any latent defect in the work or deficiencies which are not readily ascertained, including but not limited to, defective materials and quality of work performed, defects attributable to material substitutions for special materials, substandard performance or otherwise not in compliance with the Contract Documents. Such latent defects or deficiencies shall be corrected as provided in this Paragraph 12.2. Following the correction or replacement of any of the Work, as above specified, the Contractor shall correct any defects or deficiencies in the corrected or replaced materials and workmanship which is found within one year after the date of correction or replacement.

§ 12.2.4 ~~The Contractor shall bear the cost of correcting destroyed or damaged construction of the Owner, Separate Contractors, or other Contractors, whether completed or partially completed, caused by the Contractor's correction or removal of Work that is not in accordance with the requirements of the Contract Documents.~~ If the Contractor fails to correct nonconforming Work within a reasonable time, the Owner may correct it in accordance with Paragraph 2.4. If the Contractor does not proceed with correction of such nonconforming Work within a reasonable time fixed by written notice from the Architect or Construction Manager, the Owner may correct or remove it and store the salvageable materials or equipment all at the Contractor's expense. If the Contractor does not pay costs of such removal and storage within ten (10) days after written notice, the Owner may upon ten (10) additional days' written notice sell such materials and equipment at auction or at private sale and shall account for the proceeds thereof, after deducting costs and damages that should have been borne by the Contractor, the Contract Sum shall be reduced by the deficiency. If payments then or thereafter due the Contractor are not sufficient to cover such amount, the Contractor shall pay the difference to the Owner.

§ 12.2.5 ~~Nothing contained in this Section 12.2 shall be construed to establish a period of limitation with respect to other obligations the Contractor has under the Contract Documents. Establishment of the one-year period for correction of Work as described in Section 12.2.2 relates only to the specific obligation of the Contractor to correct the Work, and has no relationship to the time within which the obligation to comply with the Contract Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Contractor's liability with respect to the Contractor's obligations other than specifically to correct the Work.~~ The Contractor shall bear the cost of correcting destroyed or damaged construction whether completed or partially completed, of the Owner or separate contractors caused by the Contractor's correction or removal of Work which is not in accordance with the requirements of the Contract Documents.

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

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

§ 13.4.2 If the Construction Manager, Architect, Owner, or public authorities having jurisdiction determine that portions of the Work require additional testing, inspection, or approval not included under Section 13.4.1, the Construction Manager and Architect will, upon written authorization from the Owner, instruct the Contractor to make arrangements for such additional testing, inspection, or approval, by an entity acceptable to the Owner, and the Contractor shall give ~~timely~~ a minimum of two (2) working days' notice to the Construction Manager and Architect of when and where tests and inspections are to be made so that the Construction Manager and Architect may ~~be present for such procedures. Such~~ observe procedures. The Owner shall bear such costs, except as provided in Section ~~13.4.3, shall be at the Owner's expense.~~13.4.3.

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~~Payments due and unpaid under the Contract Documents shall bear interest from the date payment is due at the rate the parties agree upon in writing or, in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located.~~All payments to the Contractor shall be governed by the Prompt Payment of Local Government Bills, Minnesota Statutes, Section 471.125 ("Prompt Payment Act") and Article 5 of the A132–2019 Agreement on this Project.

§ 13.6 Non-Discrimination

§ 13.6.1 All contracts between the Owner and companies providing goods and services under the Contract Documents shall contain the following equal opportunity and civil right clause:

> "During the performance of this Agreement, the provider agrees to the following: No contractor, material supplier, vendor, or other person shall on the basis of sex, race, creed, color, religion, national origin, age, marital status, sexual orientation, or disability be excluded from full employment rights in, participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program, service, or activity under the provisions of any and all applicable Federal and State laws against discrimination, including the Minnesota Human Rights Act and the Civil Rights Act of 1964."

Upon request, the Contractor shall furnish all information and reports required by the Owner, or by the rules and regulations of investigation to ascertain compliance with all applicable rules and regulations. The Contractor shall also comply with any applicable licensing requirements of the Minnesota Department of Human Services in employment of personnel.

The Contractor acknowledges that the violation of the above-stated paragraph is a misdemeanor pursuant to Minnesota Statutes, Section 181.59.

This Agreement may be cancelled or terminated by the Owner or any other person authorized to grant the contracts for employment under this Agreement, and all money due, or to become due under this Agreement may be forfeited for a second or any subsequent violation of the non-discriminatory terms stated above.

§ 13.6.2 During the completion of the work and all other services required by the Contract Documents, the Contractor agrees that no contractor, material supplier, vendor, or other person shall, on the basis of sex, race, creed, color, religion, national origin, age, marital status, sexual orientation, or disability be excluded from full employment rights in participation in, be denied the benefits of, or be otherwise subjected to discrimination under the provisions of any and all applicable Federal and State laws against discrimination, including the Minnesota Human Rights Act and the

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Civil Rights Act of 1964. Upon request, the Architect, Construction Manager and Contractor shall furnish all information and reports required by the Owner, or by the rules and regulations of investigation to ascertain compliance with all applicable rules and regulations. The Contractor shall also comply with any applicable licensing requirements of the Minnesota Department of Human Services in employment of personnel.

Contractor acknowledges that the violation of the above-states paragraph is a misdemeanor pursuant to Minnesota Statutes Section 181.59.

The Contract Documents may be cancelled or terminated by the Owner or any other person authorized to grant the contracts for employment under this Agreement, and all money due, or to become due under the Agreement may be forfeited for a second or any subsequent violation of the non-discriminatory terms stated above.

§ 13.7 No action or failure to act by the Owner shall constitute a waiver of a right or duty afforded the Owner under the Contract Documents, nor shall such action or failure to act constitute approval of or acquiescence of the Owner in a breach of the Contract Documents, except as may be specifically agreed in writing. None of the approval of any Application for Payment, the making of any payment, the giving of any approval or consent, the use or occupancy of the Work, or any part thereof, the making of final payment, or any other action or inaction on the part of the Owner, Construction Manager or Architect shall constitute a waiver of claims by or rights of the Owner or an acceptance of any Work that is not in accordance with the Contract Documents. The Contractor shall not be relieved from its obligations to perform the Work in accordance with the Contract Documents either by the activities or duties of the representations of the Owner, Construction Manager or Architect, or by inspections, tests, or approvals required or performed by the Owner, Construction Manager or Architect or anyone else.

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§ 14.1.5 No Right to Stop Work for Non-Payment

The Contractor has no right to stop Work as a consequence of non-payment. In the event of any disagreement between the Contractor and Owner involving the Contractor's entitlement to payment, the Contractor's only remedy is to file a Claim in accordance with Article 15. The Contractor must diligently proceed with the Work pending resolution of the Claim. If, however, an Application for Payment has been approved for payment by the Owner, and the Owner fails to make payment within sixty (60) days of the approval for payment by the Owner, the Contractor may upon ten (10) days written notice to the Owner, stop work if payment is not made by the Owner within ten (10) days following the notice.

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

...

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

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§ 15.1.1 Definition. A Claim is a demand or assertion by ~~one of the parties~~ the Contractor seeking, as a matter of right, payment of money, a change in the Contract Time, or other relief with respect to the terms ~~of the Contract. The term "Claim" also includes other disputes and matters in question between the Owner and Contractor arising out~~ of ~~or relating to~~ the Contract. The responsibility to substantiate Claims shall rest with ~~the party making the Claim.~~ the Contractor. Nothing in this paragraph 15.1.1 is intended to apply to or in any way limit the Owner's right to make Claims related to or arising out of the Contract. This Section 15.1.1 does not require the Owner to file a Claim in order to impose liquidated damages in accordance with the Contract Documents.

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§ 15.1.3.1 Claims by ~~either the Owner or~~ Contractor, where the condition giving rise to the Claim is first discovered prior to expiration of the period for correction of the Work set forth in Section 12.2.2, shall be initiated by written notice to the ~~other party~~ Owner and to the Initial Decision Maker with a copy sent to the Construction Manager and Architect, if the Architect is not serving as the Initial Decision Maker. Claims by ~~either party~~ the Contractor under this Section 15.1.3.1 shall be initiated within ~~21~~ ten (10) days after occurrence of the event giving rise to such Claim or within ~~21~~ ten (10) days after the ~~claimant~~ Contractor first recognizes the condition giving rise to the Claim, whichever is later. Any additional Claim made after and relating to the initial Claim has been implemented by Change Order will not be considered unless submitted in a timely manner. As a condition to making a claim for additional costs, the Contractor shall maintain and produce accurate records to substantiate all additional costs actually incurred. If a Claim for actual costs is approved, the Owner shall pay the Contractor actual costs incurred, plus either (a) ten percent (10%) for overhead and profit for work performed by the Contractor, or (b) five percent (5%) overhead and profit for work performed by a Subcontractor, as applicable.

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

...

§ 15.1.4.1 Pending final resolution of a Claim, except as otherwise agreed in writing or as provided in Section 9.7 and Article 14, the Contractor shall proceed diligently with performance of the Contract and the Owner shall continue to make payments in accordance with the Contract Documents. Subject to Paragraph 15.1.5, no such continuing performance by the Contractor, nor payment by the Owner shall be deemed a waiver of, or to otherwise impair any such Claim.

...

§ 15.1.6.1 If the Contractor wishes to make a Claim for ~~an~~ any increase in the Contract Time, notice as provided in Section 15.1.3 shall be given. The Contractor's Claim shall include an estimate of cost and of probable effect of delay on progress of the Work. In the case of a continuing delay only one Claim is necessary.
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~~**§ 15.1.7 Waiver of Claims for Consequential Damages.** The Contractor and Owner waive Claims against each other for consequential damages arising out of or relating to this Contract. This mutual waiver includes~~

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

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

...

§ 15.2.6 ~~Either party may file for mediation of an initial decision at any time, subject to the terms of Section 15.2.6.1.~~In the event of a Claim against the Contractor, the Owner may, but is not obligated to notify the surety, if any, of the nature and amount of the Claim. If the Claim relates to a possibility of a Contractor's default, the Owner may, but is not obligated to notify the surety and initiate a Claim on the performance bond.

~~**§ 15.2.6.1** Either party may, within 30 days from the date of receipt of an initial decision, demand in writing that the other party file for mediation. If such a demand is made and the party receiving the demand fails to file for mediation~~

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~~within 30 days of receipt thereof, then both parties waive their rights to mediate or pursue binding dispute resolution proceedings with respect to the initial decision.~~

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

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

§ 15.3.1 ~~Claims, disputes, or other matters in controversy~~ Any claim, dispute or other matter in question or arising out of or related to the ~~Contract, except those waived as provided for in Sections 9.10.4, 9.10.5, and 15.1.7, shall be subject to mediation as a condition precedent to binding dispute resolution.~~Contract shall be subject to mediation. Mediation is not a condition precedent to commencing litigation, but if litigation is commenced before mediation is held, the Parties agree to mediate before any dispositive motions or trial.

§ 15.3.2 The parties shall ~~endeavor to resolve their Claims by mediation which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Mediation Procedures in effect on the date of the Agreement. A request for mediation shall be made in writing, delivered to the other party to the Contract, and filed with the person or entity administering the mediation. The request may be made concurrently with the filing of binding dispute resolution proceedings but, in such event, mediation shall proceed in advance of binding dispute resolution proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order. If an arbitration is stayed pursuant to this Section 15.3.2, the parties may nonetheless proceed to the selection of the arbitrator(s) and agree upon a schedule for later proceedings.~~share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located unless another location is mutually agreed upon. Agreements reached in mediation and ratified by the Owner's Council shall be enforceable as settlement agreements in any court having jurisdiction thereof.

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

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

~~§ 15.4 Arbitration~~

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

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

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

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

§ 15.4.4 Consolidation or Joinder

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

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

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

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Certification of Document's Authenticity

AIA® Document D401™ – 2003

I, , hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with its associated Additions and Deletions Report and this certification at 13:26:01 CT on 01/30/2024 under Order No. 4104240957 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document A232™ – 2019, General Conditions of the Contract for Construction, Construction Manager as Adviser Edition, other than those additions and deletions shown in the associated Additions and Deletions Report.



(Signed)

Curtis Hartog, Executive Director

(Title)

1/30/2024

(Dated)

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AIA® Document E203® – 2013

Building Information Modeling and Digital Data Exhibit

This Exhibit dated the 31 day of January in the year 2024 is incorporated into the agreement (the "Agreement") between the Parties for the following Project:
(Name and location or address of the Project)

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

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

This document is intended to be incorporated into an agreement between the parties and used in conjunction with AIA Documents G201™–2013, Project Digital Data Protocol Form, and G202™–2013, Building Information Modeling Protocol Form. It is anticipated that other Project Participants will incorporate a project specific E203–2013 into their agreements, and that the Parties and other Project Participants will set forth the agreed-upon protocols in AIA Documents G201–2013 and G202–2013.

TABLE OF ARTICLES

1 GENERAL PROVISIONS

2 TRANSMISSION AND OWNERSHIP OF DIGITAL DATA

3 DIGITAL DATA PROTOCOLS

4 BUILDING INFORMATION MODELING PROTOCOLS

5 OTHER TERMS AND CONDITIONS

ARTICLE 1 GENERAL PROVISIONS

§ 1.1 This Exhibit provides for the establishment of protocols for the development, use, transmission, and exchange of Digital Data for the Project. If Building Information Modeling will be utilized, this Exhibit also provides for the establishment of the protocols necessary to implement the use of Building Information Modeling on the Project, including protocols that establish the expected Level of Development for Model Elements at various milestones of the Project, and the associated Authorized Uses of the Building Information Models.

§ 1.2 The Parties agree to incorporate this Exhibit into their agreements with any other Project Participants that may develop or make use of Digital Data on the Project. Prior to transmitting or allowing access to Digital Data, a Party may require any Project Participant to provide reasonable evidence that it has incorporated this Exhibit into its agreement for the Project,.

§ 1.2.1 The Parties agree that each of the Project Participants utilizing Digital Data on the Project is an intended third party beneficiary of the Section 1.2 obligation to incorporate this Exhibit into agreements with other Project Participants, and any rights and defenses associated with the enforcement of that obligation. This Exhibit does not create any third-party beneficiary rights other than those expressly identified in this Section 1.2.1.

§ 1.3 Adjustments to the Agreement

§ 1.3.1 If a Party believes that protocols established pursuant to Sections 3.2 or 4.5, and will result in a change in the Party's scope of work or services warranting an adjustment in compensation, contract sum, schedule or contract time, the Party shall notify the other Party. Failure to provide notice as required in this Section 1.3 shall result in a Party's waiver of any claims for adjustments in compensation, contract sum, schedule or contract time as a result of the established protocols.

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§ 1.3.2 Upon such notice, the Parties shall discuss and negotiate revisions to the protocols or discuss and negotiate any adjustments in compensation, contract sum, schedule or contract time in accordance with the terms of the Agreement.

§ 1.3.3 Notice required under this Section 1.3 shall be provided within thirty days of receipt of the protocols, unless otherwise indicated below:
(If the Parties require a notice period other than thirty days from receipt of the protocols, indicate the notice period below.)

§ 1.4 Definitions

§ 1.4.1 Building Information Model. A Building Information Model is a digital representation of the Project, or a portion of the Project, and is referred to in this Exhibit as the "Model," which term may be used herein to describe a Model Element, a single model or multiple models used in the aggregate, as well as other data sets .

§ 1.4.2 Building Information Modeling. Building Information Modeling or Modeling means the process used to create the Model.

§ 1.4.3 Model Element. A Model Element is a portion of the Model representing a component, system or assembly within a building or building site.

§ 1.4.4 Level of Development. The Level of Development (LOD) describes the minimum dimensional, spatial, quantitative, qualitative, and other data included in a Model Element to support the Authorized Uses associated with such LOD.

§ 1.4.5 Authorized Uses. The term "Authorized Uses" refers to the permitted uses of Digital Data authorized in the Digital Data and/or Building Information Modeling protocols established pursuant to the terms of this Exhibit.

§ 1.4.6 Model Element Author. The Model Element Author is the entity (or individual) responsible for managing and coordinating the development of a specific Model Element to the LOD required for an identified Project milestone, regardless of who is responsible for providing the content in the Model Element. 3.

§ 1.4.7 Digital Data. Digital Data is information, including communications, drawings, specifications and designs, created or stored for the Project in digital form. Unless otherwise stated, the term Digital Data includes the Model.

§ 1.4.8 Confidential Digital Data. Confidential Digital Data is Digital Data containing confidential or business proprietary information that the transmitting party designates and clearly marks as "confidential."

§ 1.4.9 Written or In Writing. In addition to any definition in the Agreement to which this Exhibit is attached, for purposes of this Exhibit and the Agreement, "written" or "in writing" shall mean any communication prepared and sent using a transmission method set forth in this Exhibit, or the protocols developed pursuant to this Exhibit, that permits the recipient to print the communication.

§ 1.4.10 Written Notice. In addition to any terms in the Agreement to which this Exhibit is attached, for purposes of this Exhibit and the Agreement, "written notice" shall be deemed to have been duly served if transmitted electronically to an address provided in this Exhibit or the Agreement using a transmission method set forth in this Exhibit that permits the recipient to print the communication.

§ 1.4.11 Party and Parties. The terms "Party" and "Parties" refer to the signing parties to the Agreement.

§ 1.4.12 Project Participant. A Project Participant is an entity (or individual) providing services, work, equipment or materials on the Project and includes the Parties.

ARTICLE 2 TRANSMISSION AND OWNERSHIP OF DIGITAL DATA

§ 2.1 The transmission of Digital Data constitutes a warranty by the Party transmitting Digital Data to the Party receiving Digital Data that the transmitting Party is the copyright owner of the Digital Data, or otherwise has permission to transmit the Digital Data for its use on the Project in accordance with the Authorized Uses of Digital

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Data established pursuant to the terms of this Exhibit.

§ 2.2 If a Party transmits Confidential Digital Data, the transmission of such Confidential Digital Data constitutes a warranty to the Party receiving such Confidential Digital Data that the transmitting Party is authorized to transmit the Confidential Digital Data. If a Party receives Confidential Digital Data, the receiving Party shall keep the Confidential Digital Data strictly confidential and shall not disclose it to any other person or entity except as set forth in Section 2.2.1.

§ 2.2.1 The receiving Party may disclose Confidential Digital Data as required by law or court order, including a subpoena or other form of compulsory legal process issued by a court or governmental entity. The receiving Party may also disclose the Confidential Digital Data to its employees, consultants or contractors in order to perform services or work solely and exclusively for the Project, provided those employees, consultants and contractors are subject to the restrictions on the disclosure and use of Confidential Digital Data as set forth in this Exhibit.

§ 2.3 By transmitting Digital Data, the transmitting Party does not convey any ownership right in the Digital Data or in the software used to generate the Digital Data. Unless otherwise granted in a separate license, the receiving Party's right to use, modify, or further transmit Digital Data is specifically limited to designing, constructing, using, maintaining, altering and adding to the Project consistent with the terms of this Exhibit, and nothing contained in this Exhibit conveys any other right to use the Digital Data.

§ 2.4 Where a provision in this Article 2 conflicts with a provision in the Agreement into which this Exhibit is incorporated, the provision in this Article 2 shall prevail.

ARTICLE 3 DIGITAL DATA PROTOCOLS

§ 3.1 Anticipated Types of Digital Data. The anticipated types of Digital Data to be used on the Project are as follows:
(Indicate below the information on the Project that shall be created and shared in a digital format. If the Parties indicate that Building Information Modeling will be utilized on the Project, the Parties shall also complete Article 4.)

Anticipated Digital Data	**Applicability to the Project** *(Indicate Applicable or Not Applicable)*	**Location of Detailed Description** *(Section 3.1.1 below or in an attachment to this exhibit and identified below)*
Project Agreements and Modifications	Applicable	MPS Central Files
Project communications	Applicable	MPS Central Files
Architect's pre-construction submittals	Applicable	MPS Central Files
Contract Documents	Applicable	MPS Central Files
Contractor's submittals	Applicable	Contractor/Architect
Subcontractor's submittals	Applicable	Contractor/Architect
Modifications	Applicable	Architect
Project payment documents	Applicable	MPS Central Files
Notices and claims	Applicable	MPS Central Files
Building Information Modeling	Applicable	Architect
All other construction related documents	Applicable	Contractor

§ 3.1.1 Insert a detailed description of the anticipated Digital Data identified in Section 3.1, if not further described in an attachment to this Exhibit.

MPS Central files are the digital project files kept on the MPS server

§ 3.2 As soon as practical following execution of the Agreement, the Parties shall further describe the uses of Digital Data, and establish necessary protocols governing the transmission and Authorized Uses of Digital Data, in consultation with the other Project Participants that are expected to utilize Digital Data on the Project.

§ 3.2.1 Unless another Project Participant is identified below, the Architect shall prepare and distribute to the other Project Participants Digital Data protocols for review, revision and approval.
(If a Project Participant other than the Architect shall be responsible for preparing draft and final Digital Data protocols, identify that Project Participant.)

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(Paragraph deleted)
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§ 3.2.3 The Parties, together with the other Project Participants, shall review and, if necessary, revise the Digital Data protocols at appropriate intervals as required by the conditions of the Project.

§ 3.3 The Parties shall transmit, use, store and archive Digital Data in accordance with the Digital Data protocols.

§ 3.4 Unauthorized Use

§ 3.4.1 Prior to Establishment of Digital Data Protocols

If a Party receives Digital Data prior to the agreement to, and documentation of, the Digital Data protocols in AIA Document G201–2013, that Party is not authorized to use or rely on the Digital Data. Any use of, or reliance on, such Digital Data is at that Party's sole risk and without liability to the other Party and its contractors, consultants, agents and employees.

§ 3.4.2 Following Establishment of Digital Data Protocols

Following agreement to, and documentation of, the Digital Data protocols, if a Party uses Digital Data inconsistent with the Authorized Uses identified in the Digital Data protocols, that use shall be at the sole risk of the Party using the Digital Data.

§ 3.5 Digital Data Management

§ 3.5.1 Centralized electronic document management system use on the Project shall be:
(Check the appropriate box. If the Parties do not check one of the boxes below, the default selection shall be that the Parties will not utilize a centralized electronic document management system on the Project.)

[X] The Parties intend to use a centralized electronic document management system on the Project.

[ ] The Parties do not intend to use a centralized electronic document management system on the Project.

§ 3.5.2 If the Project Participants intend to utilize a centralized electronic document management system on the Project, the Project Participants identified in Section 3.5.3 shall be responsible for managing and maintaining such system. The Project Participants responsible for managing and maintaining the centralized electronic document management system shall facilitate the establishment of protocols for transmission, use, storage and archiving of the centralized Digital Data and assist the Project Participants identified in Section 3.2.1 above in preparing Digital Data protocols. Upon agreement to, and documentation of, the Digital Data protocols, the Project Participants identified in Section 3.5.3 shall manage and maintain the centralized electronic document management system consistent with the management protocols set forth d by the Project Participants.

§ 3.5.3 Unless responsibility is assigned to another Project Participant, the Architect shall be responsible for managing and maintaining the centralized electronic document management system. If the responsibility for management and maintenance will be assigned to another Project Participant at an identified Project milestone, indicate below the Project Participant who shall assume that responsibility, and the Project milestone.
(Identify the Project Participant responsible for management and maintenance only if the Parties intend to utilize a centralized electronic document management system on the Project.)

Responsible Project Participant	Project Milestone
Contractor	Project Construction begins

ARTICLE 4 BUILDING INFORMATION MODELING PROTOCOLS

§ 4.1 If the Parties indicate in Section 3.1 that Building Information Modeling will be used on the Project, specify below the extent to which the Parties intend to utilize Building Information Modeling and identify the provisions of this Article 4 governing such use:

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[ ] The Parties shall utilize Building Information Modeling on the Project for the sole purpose of fulfilling the obligations set forth in the Agreement without an expectation that the Model will be relied upon by the other Project Participants. Unless otherwise agreed in writing, any use of, transmission of, or reliance on the Model is at the receiving Party's sole risk. The remaining sections of this Article 4 shall have no force or effect.

[X] The Parties shall develop, share, use and rely upon the Model in accordance with Sections 4.2 through 4.10 of this Exhibit.

§ 4.2 Anticipated Building Information Modeling Scope. Indicate below the portions of the Project for which Modeling will be used and the anticipated Project Participant responsible for that Modeling.

Project Portion for Modeling	Responsible Project Participant
Project design	Architect

§ 4.3 Anticipated Model Authorized Uses. Indicate below the anticipated Authorized Uses of the Model for the Project, which Authorized Uses will be agreed upon by the Project Participants.

Authorized users of the model are defined in Article 7 of the AIA B101 agreement

§ 4.4 Ancillary Modeling Activities. Indicate additional Modeling activities agreed upon by the Parties, but not to be included in AIA Document G202–2013, if any.
(Describe any Modeling activities, such as renderings, animations, performance simulations, or other similar use, including the anticipated amount and scope of any such Modeling activities.)

Defined in Exhibit B Project Milestones & Deliverables of the AIA B101 agreement

§ 4.5 Modeling Protocols. As soon as practical following execution of the Agreement, the Parties shall, in consultation with the other Project Participants that are expected to utilize Building Information Modeling on the Project, further describe the Authorized Uses of the Model and establish necessary protocols governing the development of the Model utilizing AIA Document G202–2013.

§ 4.5.1 The Modeling protocols shall address the following:

.1 Identification of the Model Element Authors;
.2 Definition of the various LOD for the Model Elements and the associated Authorized Uses for each defined LOD;
.3 Identification of the required LOD of each Model Element at each identified Project milestone;
.4 Identification of the construction classification systems to be used on the Project;
.5 The process by which Project Participants will exchange and share the Model at intervals not reflected in Section 3.3, Model Element Table, of AIA Document G202–2013;
.6 The process by which the Project Participants will identify, coordinate and resolve changes to the Model;
.7 Details regarding any anticipated as-designed or as-constructed Authorized Uses for the Model, if required on the Project;
.8 Anticipated Authorized Uses for facilities management or otherwise, following completion of the Project; and
.9 Other topics to be addressed by the Modeling protocols: *(Identify additional topics to be addressed by the Modeling Protocols.)*

§ 4.5.2 Unless responsibility is assigned to another Project Participant identified below, the Architect shall prepare and distribute Modeling protocols to the other Project Participants for review, revision and approval.
(If a Project Participant other than the Architect shall be responsible for preparing draft and final Modeling protocols, identify that Project Participant.)

None

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(Paragraph deleted)
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§ 4.5.4 The Parties, together with the other Project Participants, shall review, and if necessary, revise the Modeling protocols at appropriate intervals as required by the conditions of the Project.

§ 4.6 The Parties shall develop, use and rely on the Model in accordance with the Modeling protocols set forth in the latest version of AIA Document G202–2013, which document shall be included in or attached to the Model in a manner clearly accessible to the Project Participants.

§ 4.7 Unauthorized Use

§ 4.7.1 Prior to Establishment of Modeling Protocols

If a Party receives any Model prior to the agreement to, and documentation of, the Modeling protocols in AIA Document G202–2013, that Party is not authorized to use, transmit, or rely on the Model. Any use, transmission or reliance is at that Party's sole risk and without liability to the other Party and its contractors, consultants, agents and employees.

§ 4.7.2 Following Establishment of Modeling Protocols

Following agreement to, and documentation of, the Modeling protocols, if a Party uses or relies on the Model inconsistent with the Authorized Uses identified in the Modeling protocols, such use or reliance shall be at the sole risk of the Party using or relying on the Model. A Party may rely on the Model Element only to the extent consistent with the minimum data required for the identified LOD, even if the content of a specific Model Element includes data that exceeds the minimum data required for the identified LOD.

§ 4.8 Model Management

§ 4.8.1 The requirements for managing the Model include the duties set forth in this Section 4.8. Unless assigned to another Project Participant, the Architect shall manage the Model from the inception of the Project. If the responsibility for Model management will be assigned to another Project Participant, or change at an identified Project milestone, indicate below the identity of the Project Participant who will assume that responsibility, and the Project milestone.

Responsible Project Participant	Project Milestone

§ 4.8.2 Model Management Protocol Establishment. The Project Participant responsible for managing the Model, in consultation with the other Project Participants that are expected to utilize Building Information Modeling on the Project, shall facilitate the establishment and revision of Model management protocols, including the following:

- **.1** Model origin point, coordinate system, precision, file formats and units. The model shall be accurately geo-located to agreed-upon reference datum
- **.2** Model file storage location(s)
- **.3** Processes for transferring and accessing Model files
- **.4** Naming conventions as defined in the MPS Revit and Drafting Standards document.
- **.5** Processes for aggregating Model files from varying software platforms
- **.6** Model access rights
- **.7** Identification of design coordination and clash detection procedures.
- **.8** Model security requirements
- **.9** Other: *(Identify additional Model management protocols to be addressed.)*

Project participants responsible for the model shall use the MPS Revit template and comply with MPS Revit and Drafting standards.

§ 4.8.3 Ongoing Responsibilities. The Project Participant responsible for managing the Model shall do so consistent with the Model management protocols, which shall also include the following ongoing responsibilities:

- **.1** Collect incoming Models:
  - **.1** Coordinate submission and exchange of Models
  - **.2** Create and maintain a log of Models received

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.3 Review Model files for consistency with Sections 4.8.2.1 through 4.8.2.5
.4 Maintain a record copy of each Model file received

.2 Aggregate Model files and make them available for Authorized Uses
.3 Maintain Model Archives and backups consistent with the requirements of Section 4.8.4 below
.4 Manage Model access rights
.5 Other: *(Identify additional responsibilities.)*

§ 4.8.4 Model Archives. The individual or entity responsible for Model management as set forth in this Section 4.8 shall compile a Model Archive at the end of each Project milestone and shall preserve it without alteration as a record of Model completion as of that Project milestone.

§ 4.8.4.1 Additional Model Archive requirements, if any, are as follows:

§ 4.8.4.2 The procedures for storing and preserving the Model(s) upon final completion of the Project are as follows:

Transmit to MPS the model in PDF, Revit and AutoCAD

§ 4.9 Post-Construction Model. The services associated with providing a Model for post-construction use shall only be required if specifically designated in the table below as a Party's responsibility.
(Designate below any anticipated post-construction Model and related requirements, the Project Participant responsible for creating or adapting the Model to achieve such uses, and the location of a detailed description of the anticipated scope of services to create or adapt the Model as necessary to achieve such uses.)

Post-Construction Model	Applicability to Project *(Applicable or Not Applicable)*	Responsible Project Participant	Location of Detailed Description of Requirements and Services *(Section 4.10 below or in an attachment to this exhibit and identified below)*
§ 4.9.1 Remodeling	Applicable	Owner	
§ 4.9.2 Wayfinding and Mapping	Applicable	Architect	
§ 4.9.3 Asset/FF & E Management	Applicable	Owner	
§ 4.9.4 Energy Management	Applicable	Owner	
§ 4.9.5 Space Management	Applicable	Owner	
§ 4.9.6 Maintenance Management	Applicable	Owner	

§ 4.10 Insert a detailed description of the requirements for each Post-Construction Model identified in Section 4.9 and the anticipated services necessary to create each Post-Construction Model, if not further described in an attachment to this Exhibit.

As part of Basic Services, the Architect shall produce wayfinding floor plans for use by the Owner. Floor plans shall be provided in PDF and AutoCAD formats.

ARTICLE 5 OTHER TERMS AND CONDITIONS

Other terms and conditions related to the transmission and use of Digital Data are as follows:

As part of Basic Services, the Architect shall provide the Owner with Revit files that were created for the project. The files shall include the as-designed project.

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Additions and Deletions Report for

AIA® Document E203® – 2013

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

Note: This Additions and Deletions Report is provided for information purposes only and is not incorporated into or constitute any part of the associated AIA document. This Additions and Deletions Report and its associated document were generated simultaneously by AIA software at 13:27:09 CT on 01/30/2024.

PAGE 1

This Exhibit dated the 31 day of January in the year 2024 is incorporated into the agreement (the "Agreement") between the Parties for the following Project:

...

§ 1.2 The Parties agree to incorporate this Exhibit into their agreements with any other Project Participants that may develop or make use of Digital Data on the Project. Prior to transmitting or allowing access to Digital Data, a Party may require any Project Participant to provide reasonable evidence that it has incorporated this Exhibit into its agreement for the ~~Project, and agreed to the most recent Project specific versions of AIA Document G201™–2013, Project Digital Data Protocol Form and AIA Document G202™–2013, Project Building Information Modeling Protocol Form.~~ Project,.

...

§ 1.3.1 If a Party believes that protocols established pursuant to Sections 3.2 or 4.5, and ~~memorialized in AIA Documents G201–2013 and G202–2013,~~ will result in a change in the Party's scope of work or services warranting an adjustment in compensation, contract sum, schedule or contract time, the Party shall notify the other Party. Failure to provide notice as required in this Section 1.3 shall result in a Party's waiver of any claims for adjustments in compensation, contract sum, schedule or contract time as a result of the established protocols.

PAGE 2

§ 1.4.1 Building Information Model. A Building Information Model is a digital representation of the Project, or a portion of the Project, and is referred to in this Exhibit as the "Model," which term may be used herein to describe a Model Element, a single model or multiple models used in the aggregate, as well as other data sets ~~identified in AIA Document G202–2013, Project Building Information Modeling Protocol Form.~~ .

...

§ 1.4.6 Model Element Author. The Model Element Author is the entity (or individual) responsible for managing and coordinating the development of a specific Model Element to the LOD required for an identified Project milestone, regardless of who is responsible for providing the content in the Model Element. ~~Model Element Authors are to be identified in Section 3.3, Model Element Table, of AIA Document G202–2013.~~3.

PAGE 3

Project Agreements and Modifications	Applicable	MPS Central Files
Project communications	Applicable	MPS Central Files
Architect's pre-construction submittals	Applicable	MPS Central Files
Contract Documents	Applicable	MPS Central Files
Contractor's submittals	Applicable	Contractor/Architect
Subcontractor's submittals	Applicable	Contractor/Architect
Modifications	Applicable	Architect
Project payment documents	Applicable	MPS Central Files

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Notices and claims	Applicable	MPS Central Files
Building Information Modeling	Applicable	Architect
All other construction related documents	Applicable	Contractor

...

MPS Central files are the digital project files kept on the MPS server

PAGE 4

§ 3.2.2 ~~The agreed upon Digital Data protocols shall be set forth in AIA Document G201–2013 and each Project Participant shall memorialize their agreement in writing to such Digital Data protocols.~~

§ .

§ 3.3 The Parties shall transmit, use, store and archive Digital Data in accordance with the Digital Data ~~protocols set forth in the latest version of AIA Document G201–2013 agreed to by the Project Participants.~~ protocols.

...

Following agreement to, and documentation of, the Digital Data ~~protocols in AIA Document G201–2013,~~ protocols, if a Party uses Digital Data inconsistent with the Authorized Uses identified in the Digital Data protocols, that use shall be at the sole risk of the Party using the Digital Data.

...

[**X**] The Parties intend to use a centralized electronic document management system on the Project.

...

§ 3.5.2 If the Project Participants intend to utilize a centralized electronic document management system on the Project, the Project Participants identified in Section 3.5.3 shall be responsible for managing and maintaining such system. The Project Participants responsible for managing and maintaining the centralized electronic document management system shall facilitate the establishment of protocols for transmission, use, storage and archiving of the centralized Digital Data and assist the Project Participants identified in Section 3.2.1 above in preparing Digital Data protocols. Upon agreement to, and documentation of, the Digital Data ~~protocols in AIA Document G201–2013,~~ protocols, the Project Participants identified in Section 3.5.3 shall manage and maintain the centralized electronic document management system consistent with the management protocols set forth ~~in the latest version of G201–2013 approved~~ d by the Project Participants.

...

Contractor Project Construction begins

PAGE 5

[**X**] The Parties shall develop, share, use and rely upon the Model in accordance with Sections 4.2 through 4.10 of this Exhibit.

...

Project design Architect

§ 4.3 Anticipated Model Authorized Uses. Indicate below the anticipated Authorized Uses of the Model for the Project, which Authorized Uses will be agreed upon by the Project ~~Participants and further described for each LOD in AIA Document G202–2013.~~

Participants.

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Authorized users of the model are defined in Article 7 of the AIA B101 agreement

...

Defined in Exhibit B Project Milestones & Deliverables of the AIA B101 agreement

...

None

~~**§ 4.5.3** The agreed upon Modeling protocols shall be set forth in AIA Document G202–2013 and each Project Participant shall memorialize their agreement in writing to such Modeling protocols.~~

§ .

PAGE 6

Following agreement to, and documentation of, the Modeling ~~protocols in AIA Document G202–2013,~~ protocols, if a Party uses or relies on the Model inconsistent with the Authorized Uses identified in the Modeling protocols, such use or reliance shall be at the sole risk of the Party using or relying on the Model. A Party may rely on the Model Element only to the extent consistent with the minimum data required for the identified LOD, even if the content of a specific Model Element includes data that exceeds the minimum data required for the identified LOD.

...

.1 Model origin point, coordinate system, precision, file formats and ~~units~~units. The model shall be accurately geo-located to agreed-upon reference datum

...

.4 Naming conventions as defined in the MPS Revit and Drafting Standards document.

...

Project participants responsible for the model shall use the MPS Revit template and comply with MPS Revit and Drafting standards.

PAGE 7

Transmit to MPS the model in PDF, Revit and AutoCAD

...

§ 4.9.1	Remodeling	Applicable	Owner	
§ 4.9.2	Wayfinding and Mapping	Applicable	Architect	
§ 4.9.3	Asset/FF & E Management	Applicable	Owner	
§ 4.9.4	Energy Management	Applicable	Owner	
§ 4.9.5	Space Management	Applicable	Owner	
§ 4.9.6	Maintenance Management	Applicable	Owner	

...

As part of Basic Services, the Architect shall produce wayfinding floor plans for use by the Owner. Floor plans shall be provided in PDF and AutoCAD formats.

...

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As part of Basic Services, the Architect shall provide the Owner with Revit files that were created for the project. The files shall include the as-designed project.

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Certification of Document's Authenticity

AIA® Document D401™ – 2003

I, , hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with its associated Additions and Deletions Report and this certification at 13:27:09 CT on 01/30/2024 under Order No. 4104240957 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document E203™ – 2013, Building Information Modeling and Digital Data Exhibit, other than those additions and deletions shown in the associated Additions and Deletions Report.



(Signed)

Curtis Hartog, Executive Director

(Title)

1/30/2024

(Dated)

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Exhibit B – Project Charter

FY21 North High School Phase 3 21NORTCTE

Work Scope 7H Roofing

This work scope includes all roofing work for the Phase 3 renovations at North High School. Phase 3 is focused on the auditorium, childcare area and the kitchen and serving area at North High School.

Contract Sum

The Contract Sum shall be $398,416.

Alternates

Item	Price	Status
Alt#1: Toilets D140 & D240	$0	Rejected
Alt#2: Toilets D106 & D206	$0	Rejected
Alt#3: 2nd Floor Auditorium Classrooms	$0	Rejected
Alt#4: Auditorium Seating	$0	Accepted

EXHIBIT C Owner Insurance

Insurance Requirements

1. CONSULTANT'S INSURANCE – to be used with AIA B101-2017, AIA C103-2015, or similar non-contractor consultants:
   The Consultant shall at its own expense maintain in effect at all times during the performance of the Work under the Agreement at least the following coverage and limits of insurance:

   a. Worker's Compensation and Employer's Liability Insurance

      i. Coverage A is statutory.

      ii. Coverage B
      $500,000 Each Accident
      $500,000 Each Employee
      $500,000 Policy Limit (Disease)

   b. Comprehensive General Liability Insurance *

General Aggregate	$1,000,000
Products/Completed Operations Aggregate	$1,000,000
Per Occurrence	$1,000,000
Medical Payments	$10,000

   * The Owner should be named as an additional insured for Comprehensive General Liability Insurance.

   c. Automobile Insurance

Per Occurrence	$1,000,000
PIP	Basic
Underinsured Motorist	$1,000,000
Uninsured Motorist	$1,000,000

   d. Professional Liability Insurance

      i. Per Claim $2,000,000

ii. For projects with an estimated construction Contract Sum of over $10,000,000 or major structural work an aggregate is required as follows:
Aggregate $4,000,000

e. Umbrella Liability Insurance

i. Per Occurrence $2,000,000

ii. For projects with an estimated construction Contract Sum of over $10,000,000 or major structural work an aggregate is required as follows:
Aggregate $2,000,000

f. Manned or Unmanned Aircraft Coverage (if used)

i. Per Claim $1,000,000

ii. Aggregate $1,000,000

For specialty consultants used for commissioning activities, studies, asbestos surveys and security, items A, B, C and F shall apply.

Special Asbestos Abatement Liability Insurance is required for Asbestos Abatement Contractors. The limits are $1,500,000 per claim, for liability arising from the encapsulation, removal, handling, storage, transportation, and disposal of asbestos-containing materials.

2. CONSULTANT'S OBLIGATIONS

Consultant shall not violate or knowingly permit any violation of any conditions or terms of the policies of insurance required to be carried under the terms hereof and shall endeavor to satisfy the requirements of the insurance companies issuing them. In the event Consultant neglects, refuses or fails to provide or maintain any of the insurance required to be carried under the Agreement, or if such insurance is canceled for any reason, the Owner or the Owner's lender(s) shall have the right, but not the duty, to procure or maintain the same.

In the event the Owner or the Owner's lender(s) do procure or maintain such insurance, the Owner or the Owner's lender(s) shall have, in additional to any and all other available remedies, the right to recover from the Consultant (including the right of set-off against sums otherwise due the Consultant) all of the costs associated with procuring or maintaining such insurance.

3. PROFESSIONAL LIABILITY INSURANCE

   a. Professional Liability Coverage of $2,000,000 shall be maintained for one (1) year from the date of Substantial Completion. If the Consultant discontinues its business and if directed by Owner in writing, Consultant shall purchase such insurance in such amount for an extended discovery period beyond the one (1) year after the date of Substantial Completion, with the premium cost to be a reimbursable expense paid by the Owner. The limit of liability for such policy may not be reduced below $2,000,000 without the Owner giving its prior, written consent. All policies of insurance that Consultant is required under the terms of this Exhibit C Owner's Insurance to secure and maintain shall bear the endorsement "Not to be canceled until sixty (60) calendar days after Owner has received a written notice from insurer as evidence by a return receipt of registered or certified mail."

   b. The Owner shall not be responsible for obtaining or paying premiums or other expenses in connection with insurance required to be carried under the Agreement or normally carried by the Consultant's consultants, and the obligation to obtain such insurance and to pay such premiums and other expenses shall be solely that of the Consultant.

   c. The Consultant shall bear all the costs of any and all deductible amounts under any insurance policies required to be carried under the Agreement and shall remain solely and fully liable for the full amount of any claim or item not compensated by insurance (to the extent that any amount resulted from damages that arose out of the Consultant's sole negligence.)

4. COVERAGE
   The coverage's referred to above are set forth in full in the respective policy forms, and the foregoing descriptions of such policies are not intended to be complete.

5. GENERALLY

   a. The Consultant thereby represents and warrants to the Owner that, as of the date of the execution of the Agreement, the Consultant is not aware of any claims or potential claims which have been made, filed or threatened against any of the insurance or for damages covered by any of the insurance required to be carried under the Agreement that would affect the Consultant's ability to provide the insurance coverage required by this agreement.

b. It is understood that the provisions in the Agreement requiring the Consultant to carry insurance shall not be construed as in any manner waiving or restricting the liability of the Consultant as to any obligations imposed under the Agreement, including, but not limited to, obligations imposed under the provisions of Article 11 of the AIA A201-2017 General Conditions.

Insurance requirements for Contractors

1. CONTRACTOR'S INSURANCE – to be used with AIA A101-2017
   The Contractor shall at its own expense maintain in effect at all times during the performance of the Work under the Agreement at least the following coverage and limits of insurance:

   a. Commercial General Liability

      i. General Aggregate $1,500,000

      ii. Products/Completed Operations Aggregate $1,500,000

      iii. Per Occurrence $1,500,000

      The Owner shall be named as additional insured for Commercial General Liability Insurance

   b. Automobile Insurance

      i. Per Occurrence $1,000,000

      ii. PIP Basic

      iii. Underinsured Motorist $1,000,000

      iv. Uninsured Motorist $1,000,000

   c. Workers Compensation

      i. Coverage A is statutory.

      ii. Coverage B $500,000 Each Accident

      iii. $500,000 Each Employee

d. Professional Liability (if the Contractor is hiring professionals)

   i. Per Claim $2,000,000

   For Projects with an estimated construction cost of over $10,000,000 or major structural work, additional Aggregate coverage of $4,000,000 is required.

e. Manned or Unmanned Aircraft Coverage (if used)

   i. Per Claim $1,000,000

   ii. Aggregate $1,000,000

f. Property Insurance

   i. Per Claim $1,000,000

   ii. Aggregate $1,000,000

   This insurance is only required for materials stored offsite and not incorporated into the project at delivery. For material stored on site, no additional insurance is required.

g. Builders “all risk” Insurance

   i. Per Claim $2,000,000

   ii. Aggregate $4,000,000

   This insurance is only required for additions exceeding $10,000,000. Renovations to existing schools are not required to have builders all risk insurance.

h. Umbrella Liability

   i. Aggregate limit $5,000,000

   This insurance is required only for projects larger than $10,000,000 in total construction costs.

Exhibit D – Project Schedule

FY21 North High School Phase 3. Work Scope 7H Roofing

MPS Project Number: 21NORTCTE
Project Name: North High School Phase 3 Renovations
School: North High School
Address: 1500 James Avenue, Minneapolis, MN 55411
OP#: 24-2405

Description

Phase 3 renovations include auditorium, childcare and kitchen renovation at North High School.

Schedule

The overall schedule for the project is

Last Day of School: June 14, 2024
Last Day for Staff: June 17, 2024
Juneteenth Holiday: June 19, 2024 (All MPS Buildings Closed)
Construction Commences: April 1, 2024
Childcare Area: Start April 1, 2024. Substantial Completion: August 16, 2024
Auditorium: Start June 17, 2024. Substantial Completion: November 30, 2024
Kitchen and Serving area: Start June 17, 2024. Substantial Completion: August 16, 2024
First day of School: September 3, 2024
Close-out Documents no later than 45 days past date of Substantial Completion

Substantial Completion

The Work will be substantially complete on the dates provided above.

SRM #4400002934

FY21 North High School Renovations-Bid Pack 4
Work Scope 07-H Roofing

Contract Sum: $143,450

Contractor: Commercial Roofing and Sheet Metal, Inc.

Project Name and Number

North High School
1500 James Avenue N
Minneapolis, MN 55411
Minneapolis Public Schools Project Number
OP25-2512

Description

Perform roofing in accordance with Work Scope 07-H for the North High School Phase 4 renovations

Contract Sum details

Item	Price	Status
Base Bid	$143,500	accepted
Alt #1: Health Office	$32,800	rejected
Alt #2: Athletic and Counseling Offices	$0	rejected
Alt #3: Electrical panel replacements	$0	accepted
Alt #4: AHU-41 replacement	$0	accepted
Alt #5: Direct digital controls	$0	accepted

Contract Documents

AIA Document A132-2019
AIA Document A132 Exhibit A-2019
Exhibit B – Project Charter
Exhibit C – Owner Insurance
Exhibit D – Project Schedule
AIA Document A232-2019

AIA® Document A132® – 2019

Standard Form of Agreement Between Owner and Contractor, Construction Manager as Adviser Edition

AGREEMENT made as of the first__ day of _February_____ in the year 2025_
(In words, indicate day, month, and year.)

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

Minneapolis Public Schools Special School District #1
1250 West Broadway Avenue
Minneapolis, MN 55411

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

Commercial Roofing and Sheet Metal, Inc.
221 Ryan Drive
Little Canada, MN 55117

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

North High School Phase 4 Work Scope 07-H Roofing
1500 James Avenue
Minneapolis, MN 55411

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

Kraus-Anderson Construction Company
501 South 8th Street
Minneapolis, MN 55405

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

LSE Architects
1401 Glenwood Avenue
Minneapolis, MN 55405

The Owner and Contractor agree as follows.

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

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

This document is intended to be used in conjunction with AIA Documents A232™–2019, General Conditions of the Contract for Construction, Construction Manager as Adviser Edition; B132™–2019, Standard Form of Agreement Between Owner and Architect, Construction Manager as Adviser Edition; and C132™–2019, Standard Form of Agreement Between Owner and Construction Manager as Adviser. AIA Document A232™–2019 is adopted in this document by reference. Do not use with other general conditions unless this document is modified.

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TABLE OF ARTICLES

1 THE CONTRACT DOCUMENTS

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3 DATE OF COMMENCEMENT AND DATES OF SUBSTANTIAL COMPLETION

4 CONTRACT SUM

5 PAYMENTS

6 DISPUTE RESOLUTION

7 TERMINATION OR SUSPENSION

8 MISCELLANEOUS PROVISIONS

9 ENUMERATION OF CONTRACT DOCUMENTS

EXHIBIT A INSURANCE AND BONDS
EXHIBIT B DETERMINATION OF THE COST OF THE WORK

ARTICLE 1 THE CONTRACT DOCUMENTS

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

§ 1.2 In the event that there are inconsistencies between any of the Project Contract Documents, all Contract Documents shall be construed together and shall be read with a purpose and intent to provide that the Contractor shall commit to fully complete its Project Work and services with the greater degree of commitment as referenced in the Contract Documents, including the plans and specifications, to work diligently to ensure completion of the Project in a timely and workmanlike manner and at the earliest stated times provided for in Project schedules, as they may be revised, and to ensure that Contractor, and all of its Subcontractors and suppliers complete the Project on schedule and within Project Contract Price, subject to approved change orders.

§ 1.3 Contractor acknowledges that it has had full, fair, and adequate opportunity to review all of the Project bidding and Contract Documents, that it has fully satisfied itself as to the scope and requirements of the Project, that it has fully and fairly investigated all Project site conditions and circumstances and Contract Documents, including any potential difficulties or interferences present in the same, that it has had the opportunity to ask questions during the bidding phase and that it has received adequate answers to any such questions, that it has had the opportunity to attend and fairly participate in all pre-bid conferences and pre-construction conferences, and that it has required the same of all of its Subcontractors.

ARTICLE 2 THE WORK OF THIS CONTRACT

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

ARTICLE 3 DATE OF COMMENCEMENT AND DATES OF SUBSTANTIAL COMPLETION

§ 3.1 The date of commencement of the Work shall be:
(Check one of the following boxes.)

[ ] The date of this Agreement.

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[X] A date set forth in a notice to proceed issued by the Owner.

[ ] Established as follows:
(Insert a date or a means to determine the date of commencement of the Work.)

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

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

§ 3.3 Substantial Completion of the Project or Portions Thereof

§ 3.3.1 Subject to adjustments of the Contract Time as provided in the Contract Documents, the date of Substantial Completion of the Work of all of the Contractors for the Project will be:
(Insert the date of Substantial Completion of the Work of all Contractors for the Project.)

Defined in EXH-D Project Schedule

§ 3.3.2 Subject to adjustments of the Contract Time as provided in the Contract Documents, if portions of the Work of all of the Contractors for the Project are to be completed prior to Substantial Completion of the entire Work of all of the Contractors for the Project, the Contractors shall achieve Substantial Completion of such portions by the following dates defined in EXH-D Project Schedule. Such portions of the Work not completed as defined in EXH-D Project Schedule shall be subject to liquidated damages as set forth in Article 4.5.

(Table deleted)
(Table deleted)
(Paragraphs deleted)
§ 3.4.3 If the Contractor fails to substantially complete the Work of this Contract, or portions thereof, as provided in this Section 3.4, liquidated damages, if any, shall be assessed as set forth in Section 4.5.

ARTICLE 4 CONTRACT SUM

§ 4.1 The Owner shall pay the Contractor the Contract Sum in current funds for the Contractor's performance of the
(Paragraphs deleted)
Contract as defined in EXH-B Project Charter, subject to additions and deductions as provided in the Contract Documents.

§ 4.2 Stipulated Sum

§ 4.2.1 The Contract Sum shall be one hundred, forty-three thousand, four hundred fifty dollars ($ 143,450), subject to additions and deductions as provided in the Contract Documents.

§ 4.2.2 Alternates

§ 4.2.2.1 Alternates, if any, included in the Contract Sum are defined in EXH-B Project Charter.
(Table deleted)
§ 4.2.2.2 Subject to the conditions noted in EXH-B Project Charter, alternates may be accepted by the Owner following execution of this Agreement. Upon acceptance, the Owner shall issue a Modification to this Agreement.
(Paragraphs deleted)
(Table deleted)
§ 4.2.3 Allowances, if any, included in the Contract Sum are defined in EXH-B Project Charter.
(Identify each allowance.)

Item	Price

§ 4.2.4 Unit prices, if any are defined in EXH-B Project Charter.

(Table deleted)

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§ 4.3 Allowances, if any, included in the Contract Sum are defined in EXH-B Project Charter.

(Paragraph deleted)
(Table deleted)
(Paragraphs deleted)
§ 4.4 Unit prices, if any, are defined in EXH-B Project Charter.

(Paragraphs deleted)
(Table deleted)
(Paragraphs deleted)
(Table deleted)
(Paragraphs deleted)
(Table deleted)
(Paragraphs deleted)
(Table deleted)
(Paragraphs deleted)
§ 4.5 Liquidated damages, if any:
(Insert terms and conditions for liquidated damages, if any, to be assessed in accordance with Section 3.4.)

Contractor and Owner recognize that time is of the essence for the Project and the Owner will suffer financial loss if the Work is not completed in the time specified in the Contract Documents. The parties also recognize the delays, expenses, and difficulties involved in proving in a legal proceeding the actual loss suffered by the Owner if the Work is not completed on time. Accordingly, instead of requiring such proof, the Owner and Contractor agree that as liquidated damages for delay (but not as penalty), Contractor shall pay Owner One Thousand Dollars ($1,000.00) per calendar day for each day that expires after the time specified for Substantial Completion in EXH-D Project Schedule until such time the Work is determined to be substantially complete by the Owner.

After Substantial Completion, if Contractor neglects, refuses, or fails to complete the remaining Work within the Contract Time specified in the Contract Documents, the Contractor shall pay the Owner One Thousand Dollars ($1,000.00) per day that expires after the time specified in the Contract Documents for Final Completion and readiness for Final Payment until the Work is completed.

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

None

ARTICLE 5 PAYMENTS

§ 5.1 Progress Payments

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

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

§ 5.1.3 When an Application for Payment is received by the Construction Manager, payment of the amount certified shall be made by the Owner not later than forty-five (45) days after the Construction Manager receives the Application for Payment. Unless expressly otherwise agreed in this Contract, payments and payment disputes shall be governed by the Prompt Payment of Local Government Bills, Minnesota Statutes, Section 471.425 ("Prompt Payment Act").
(Federal, state or local laws may require payment within a certain period of time.)

§ 5.1.4 Progress Payments Where the Contract Sum is Based on a Stipulated Sum

§ 5.1.4.1 Each Application for Payment shall be based on the most recent schedule of values submitted by the Contractor on AIA G702 Application and Certificate for Payment in accordance with the Contract Documents. The schedule of

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values shall allocate the entire Contract Sum among the various portions of the Work. The schedule of values shall be prepared in such form, and supported by such data to substantiate its accuracy, as the Construction Manager and Architect may require. This schedule of values shall be used as a basis for reviewing the Contractor's Applications for Payment.

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

§ 5.1.4.3 In accordance with AIA Document A232™–2019, General Conditions of the Contract for Construction, Construction Manager as Adviser Edition, as modified and subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

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

.1 That portion of the Contract Sum properly allocable to completed Work;

.2 That portion of the Contract Sum properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction, or, if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing; and

.3 That portion of Construction Change Directives that the Architect determines, in the Architect's professional judgment, to be reasonably justified.

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

.1 The aggregate of any amounts previously paid by the Owner;

.2 The amount, if any, for Work that remains uncorrected and for which the Architect has previously withheld a Certificate for Payment as provided in Article 9 of AIA Document A232–2019;

.3 Any amount for which the Contractor does not intend to pay a Subcontractor or material supplier, unless the Work has been performed by others the Contractor intends to pay;

.4 For Work performed or defects discovered since the last payment application, any amount for which the Architect may withhold payment, or nullify a Certificate of Payment in whole or in part, as provided in Article 9 of AIA Document A232–2019; and

.5 Retainage withheld pursuant to Section 5.1.7.

(Paragraphs deleted)

§ 5.1.7 Retainage

§ 5.1.7.1 For each progress payment made prior to when the Work of this Contract is substantially complete, the Owner may withhold the following amount, as retainage, from the payment otherwise due:
(Insert a percentage or amount to be withheld as retainage from each Application for Payment. The amount of retainage may be limited by governing law.)

Five Percent (5%)

§ 5.1.7.1.1 The following items are not subject to retainage:
(Insert any items not subject to the withholding of retainage, such as general conditions, insurance, etc.)

For major items installed into the Work, the Contractor may request full payment for the items to ensure prompt delivery and fabrication. Such items shall be recommended by the Architect and approved by the Owner as not requiring retainage. Prompt payment for the items shall be documented by the Contractor to the Owner in the subsequent payment application by submitting a full lien release for the items. Major items may include mechanical units with long lead times, structural systems with long lead times, critical path systems or items, etc. Major items will be discussed and defined by Owner, Architect, Construction Manager and Contractor.

§ 5.1.7.2 Reduction or limitation of retainage, if any, shall be as follows:
(If the retainage established in Section 5.1.7.1 is to be modified prior to when the entire Work of this Contract is substantially complete, including modifications for completion of portions of the Work as provided in Section 3.4.2, insert provisions for such modifications.)

Prior to Substantial Completion and at the discretion of the Owner, retainage may be reduced. If the Work has been fifty percent (50%) completed as determined by the Architect and is satisfactory to the Owner, then ninety percent (90%) of the

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retained amount may be released to the Contractor for completed Work (with ten percent (10%) of the total retained by the Owner).

§ 5.1.7.3 Except as set forth in this Section 5.1.7.3, when the Work of this Contract is substantially complete, the Contractor may submit an Application for Payment that includes the retainage withheld from prior Applications for Payment pursuant to this Section 5.1.7. The Application for Payment submitted when the Work of this Contract is substantially complete shall not include retainage as follows:
(Insert any other conditions for release of retainage when the Work of this Contract is substantially complete, or upon Substantial Completion of the Work of all Contractors on the Project or portions thereof.)

Upon Substantial Completion, additional retainage may be returned to the Contractor as recommended by the Architect and Construction Manager and approved by the Owner to an amount sufficient to satisfactorily complete the Work. Retainage release will comply with Minnesota Statutes, Section 15.72 after Substantial Completion and punch list acceptance by the Owner.

§ 5.2 Final Payment
§ 5.2.1 Final Payment Where the Contract Sum is Based on a Stipulated Sum
§ 5.2.1.1 Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Contractor when

.1 the Contractor has fully performed the Contract except for the Contractor's responsibility to correct Work as provided in Article 12 of AIA Document A232–2019, and to satisfy other requirements, if any, which extend beyond final payment;
.2 a final Certificate for Payment or Project Certificate for Payment has been issued by the Architect; and
.3 all lien waivers and IC134 forms have been delivered to the Owner.

§ 5.2.1.2 The Owner's final payment to the Contractor shall be made no later than forty-five (45) days after the issuance of the Architect's final Certificate for Payment or Project Certificate for Payment, or as follows:

§ 5.2.2 Final Payment Where the Contract Sum is Based on the Cost of the Work with or without a Guaranteed Maximum Price
§ 5.2.2.1 Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Contractor when

.1 the Contractor has fully performed the Contract except for the Contractor's responsibility to correct Work as provided in Article 12 of AIA Document A232–2019, and to satisfy other requirements, if any, which extend beyond final payment;
.2 the Contractor has submitted a final accounting for the Cost of the Work, pursuant to Exhibit B, Determination of the Cost of the Work and a final Application for Payment; and
.3 a final Certificate for Payment or Project Certificate for Payment has been issued by the Architect in accordance with Exhibit B, Determination of the Cost of the Work.

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

§ 5.3 Payments due and unpaid under the Contract shall bear interest from the date payment is due at the rate stated below.
(Insert rate of interest agreed upon, if any.)

Zero %

ARTICLE 6 DISPUTE RESOLUTION

§ 6.1 Initial Decision Maker
The Architect will serve as Initial Decision Maker pursuant to Article 15 of AIA Document
(Paragraphs deleted)
A232–2019.

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§ 6.1.1 Mediation
The Owner or the Contractor may request mediation of any Claim submitted to the Initial Decision Maker before the decision becomes final and binding. The mediation shall be governed by the Construction Industry Mediation Rules of the American Arbitration Association in effect at the date of this contract. The request for mediation shall be made in writing by the party requesting mediation and the other party of this contract. The Owner and Contractor shall participate in mediation in good faith. The mediation shall be concluded within 60 days of the request. Mediation is not a condition precedent to commencing litigation. If litigation is commenced, the Owner and Contractor agree to mediate before any dispositive motion or trial.

§ 6.2 Binding Dispute Resolution
For any Claim subject to, but not resolved by, mediation pursuant to Article 15 of AIA Document A232–2019, the method of binding dispute resolution shall be as follows:
(Check the appropriate box.)

[ ] Arbitration pursuant to Article 15 of AIA Document A232–2019.

[X] Litigation in a state or federal court of competent jurisdiction located in Hennepin County, Minnesota.

[ ] Other: *(Specify)*

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

ARTICLE 7 TERMINATION OR SUSPENSION
§ 7.1 Where the Contract Sum is a Stipulated Sum
§ 7.1.1 The Contract may be terminated by the Owner or the Contractor as provided in Article 14 of AIA Document A232–2019.

§ 7.1.1.1 If the Contract is terminated for the Owner's convenience in accordance with Article 14 of AIA Document A232–2019, then the Owner shall pay the Contractor a termination fee as follows:
(Insert the amount of, or method for determining, the fee, if any, payable to the Contractor following a termination for the Owner's convenience.)

Termination fee will be based on the percentage of Work completed and any materials purchased or in production at the time of termination. Said fee and justification shall be provided to the Owner by the Contractor within ten (10) days' notice of the termination.

§ 7.1.2 The Work may be suspended by the Owner as provided in Article 14 of AIA Document A232–2019.

(Paragraphs deleted)
ARTICLE 8 MISCELLANEOUS PROVISIONS
§ 8.1 Where reference is made in this Agreement to a provision of AIA Document A232–2019 or another Contract Document, the reference refers to that provision as amended or supplemented by other provisions of the Contract Documents.

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

Curtis Hartog, PE, Executive Director
Minneapolis Public Schools, SSD#1
Capital Planning, Construction & Maintenance
1250 West Broadway Avenue, Minneapolis, MN 55411

§ 8.3 The Contractor's representative:

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

Mitch Hurtgen
Estimator
Commercial Roofing and Sheet Metal, Inc
221 Ryan Drive
Little Canada, MN 55117

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

§ 8.5 Record Keeping—Availability and Retention
Pursuant to Minnesota Statutes, Section 16C.05, subd. 5, Contractor agrees that the books, records, documents and accounting procedures and practices of Contractor, that are relevant to the Contract or transaction, are subject to examination by the Owner, the Owner's auditor, and the state auditor for a minimum of six (6) years. Contractor shall maintain such records for a minimum of six (6) years after final payment.

§ 8.6 Data Practices
Pursuant to Minnesota Statutes, Section 13.05, subd. 11, all of the data created, collected, received, stored, used, maintained, or disseminated by Contractor in performing this contract is subject to the requirements of the Minnesota Government Data Practices Act ("MGDPA"), Minnesota Statutes Chapter 13, and Contractor must comply with those requirements as if it were a government entity. The remedies in Minnesota Statutes, Section 13.08 apply to Contractor. Contractor does not have a duty to provide access to public data to the public if the public data are available from the Owner, except as required by the terms of this contract.

§ 8.7 Non-Discrimination
Pursuant to Minnesota Statutes, Section 181.59, the Contractor will take affirmative action to ensure that applicants are selected, and that employees are treated during employment, without regard to their race, color, creed, religion, national origin, sex, sexual orientation, marital status, status with regard to public assistance, membership or activity in a local civil rights commission, disability or age. The Contractor agrees to be bound by the provisions of Minnesota Statutes, Section 181.59, that prohibits certain discriminatory practices and the terms of said section are incorporated into this contract.

§ 8.8 Prompt Payment to Subcontractors
In accordance with the Prompt Payment Act, each Prime Contractor must pay any subcontractor within ten (10) days of the Prime Contractor's receipt of payment from the municipality for undisputed services provided by the subcontractor. The Subcontract must require the Prime Contractor to pay interest of 1-1/2 percent per month or any part of a month to the subcontractor on any undisputed amount not paid on time to the subcontractor. The minimum monthly interest penalty payment for an unpaid balance of $100 or more is $10. For an unpaid balance of less than $100, the Prime Contractor shall pay the actual penalty due to the subcontractor. A subcontractor who prevails in a civil action to collect interest penalties from a Prime Contractor must be awarded its costs and disbursements, including attorney's fees, incurred in bringing the action.

§ 8.9 Prevailing Wage
Contractor agrees that all laborers or mechanics working on the Project shall receive at least the prevailing wage rate in accordance with Minnesota Statutes Section 177.42, *et seq*. Contractor agrees further that it will incorporate any and all necessary contract language in its agreements with any subcontractors to allow Contractor to monitor and enforce the prevailing wage requirement for subcontractors of any tier.

§ 8.5 Insurance and Bonds
§ 8.5.1 The Owner and the Contractor shall purchase and maintain insurance as set forth EXH-C Owner Insurance.

§ 8.5.2 The Contractor shall provide bonds as set forth in AIA Document A132™–2019, Exhibit A, and elsewhere in the Contract Documents.

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§ 8.6 Notice in electronic format, pursuant to Article 1 of AIA Document A232–2019, may be given in accordance with AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, if completed, or as otherwise set forth below:
(If other than in accordance with AIA Document E203–2013, insert requirements for delivering notice in electronic format such as name, title, and email address of the recipient and whether and how the system will be required to generate a read receipt for the transmission.)

email to Owner's representative identified in Section 8.2

§ 8.7 Relationship of the Parties
Where the Contract is based on the Cost of the Work plus the Contractor's Fee, with or without a Guaranteed Maximum Price, the Contractor accepts the relationship of trust and confidence established by this Agreement and covenants with the Owner to cooperate with the Architect and exercise the Contractor's skill and judgment in furthering the interests of the Owner; to furnish efficient business administration and supervision; to furnish at all times an adequate supply of workers and materials; and to perform the Work in an expeditious and economical manner consistent with the Owner's interests. The Owner agrees to furnish and approve, in a timely manner, information required by the Contractor and to make payments to the Contractor in accordance with the requirements of the Contract Documents.

§ 8.8 Other provisions:

Owner prohibits Contractor from using the Work in any marketing material or business development practice. Contractor is prohibited from communication with any news outlet or public without Owner's written approval.

Floor plans, designs, wiring, safety and security measures shall be kept confidential by the Contractor, the Subcontractors, the Sub-Subcontractors (of any tier) during and after completion of the Work.

ARTICLE 9 ENUMERATION OF CONTRACT DOCUMENTS

§ 9.1 This Agreement is comprised of the following documents:

.1 AIA Document A132™–2019, Standard Form of Agreement Between Owner and Contractor, Construction Manager as Adviser Edition

.2 AIA Document A132™–2019, Exhibit A, Insurance and Bonds Exhibit

.3 AIA Document A232™–2019, General Conditions of the Contract for Construction, Construction Manager as Adviser Edition

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

Not Applicable

.5 Drawings

Number	Title	Date
139	North High School Renovations & CTE Center Vol 1 of 2	November 13, 2024
209	North High School Renovations & CTE Center Vol 2 of 2	November 13, 2024

.6 Specifications

Section	Title	Date	Pages
All Specifications	North High School Renovations and CTE Center Bid Package 4	November 13, 2024	1414

.7 Addenda, if any:

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Number	Date	Pages
1	December 2, 2024	70
2	December 9, 2024	165

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

.8 Other Exhibits:

EXH-B Project Charter
EXH-C Owner Insurance
EXH-D Project Schedule
(Check all boxes that apply and include appropriate information identifying the exhibit where required.)

[ ]
(Paragraphs deleted)

[ ] Supplementary and other Conditions of the Contract:

Document	Title	Date	Pages

.9 Other documents, if any, listed below:
(List here any additional documents that are intended to form part of the Contract Documents. AIA Document A232–2019 provides that the advertisement or invitation to bid, Instructions to Bidders, sample forms, the Contractor's bid or proposal, portions of Addenda relating to bidding or proposal requirements, and other information furnished by the Owner in anticipation of receiving bids or proposals, are not part of the Contract Documents unless enumerated in this Agreement. Any such documents should be listed here only if intended to be part of the Contract Documents.)

Contractors Bid Documents

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

OWNER *(Signature)*

Tom Parent, Sr Operations Officer
(Printed name and title)

CONTRACTOR *(Signature)*

Ryan Romer, Treasurer
(Printed name and title)

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Additions and Deletions Report for
AIA® Document A132® – 2019

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

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PAGE 1

AGREEMENT made as of the first day of February in the year 2025

...

Minneapolis Public Schools Special School District #1
1250 West Broadway Avenue
Minneapolis, MN 55411

...

Commercial Roofing and Sheet Metal, Inc.
221 Ryan Drive
Little Canada, MN 55117

...

North High School Phase 4 Work Scope 07-H Roofing
1500 James Avenue
Minneapolis, MN 55411

...

Kraus-Anderson Construction Company
501 South 8th Street
Minneapolis, MN 55405

...

LSE Architects
1401 Glenwood Avenue
Minneapolis, MN 55405

PAGE 2

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

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§ 1.2 In the event that there are inconsistencies between any of the Project Contract Documents, all Contract Documents shall be construed together and shall be read with a purpose and intent to provide that the Contractor shall commit to fully complete its Project Work and services with the greater degree of commitment as referenced in the Contract Documents, including the plans and specifications, to work diligently to ensure completion of the Project in a timely and workmanlike manner and at the earliest stated times provided for in Project schedules, as they may be revised, and to ensure that Contractor, and all of its Subcontractors and suppliers complete the Project on schedule and within Project Contract Price, subject to approved change orders.

§ 1.3 Contractor acknowledges that it has had full, fair, and adequate opportunity to review all of the Project bidding and Contract Documents, that it has fully satisfied itself as to the scope and requirements of the Project, that it has fully and fairly investigated all Project site conditions and circumstances and Contract Documents, including any potential difficulties or interferences present in the same, that it has had the opportunity to ask questions during the bidding phase and that it has received adequate answers to any such questions, that it has had the opportunity to attend and fairly participate in all pre-bid conferences and pre-construction conferences, and that it has required the same of all of its Subcontractors.

[X] A date set forth in a notice to proceed issued by the Owner.

...

Defined in EXH-D Project Schedule

§ 3.3.2 Subject to adjustments of the Contract Time as provided in the Contract Documents, if portions of the Work of all of the Contractors for the Project are to be completed prior to Substantial Completion of the entire Work of all of the Contractors for the Project, the Contractors shall achieve Substantial Completion of such portions by the following ~~dates:~~dates defined in EXH-D Project Schedule. Such portions of the Work not completed as defined in EXH-D Project Schedule shall be subject to liquidated damages as set forth in Article 4.5.

~~Portion of Work~~ ~~Substantial Completion Date~~

~~§ 3.4 When the Work of this Contract, or any Portion Thereof, is Substantially Complete~~
~~§ 3.4.1 Subject to adjustments of the Contract Time as provided in the Contract Documents, the Contractor shall substantially complete the entire Work of this Contract:~~
~~*(Check one of the following boxes and complete the necessary information.)*~~

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

~~[ ] By the following date:~~

~~§ 3.4.2 Subject to adjustments of the Contract Time as provided in the Contract Documents, if portions of the Work of this Contract are to be substantially complete prior to when the entire Work of this Contract shall be substantially complete, the Contractor shall substantially complete such portions by the following dates:~~

~~Portion of Work~~ ~~Date to be substantially complete~~

...

§ 4.1 The Owner shall pay the Contractor the Contract Sum in current funds for the Contractor's performance of the ~~Contract. The Contract Sum shall be one of the following:~~
~~*(Check the appropriate box.)*~~

~~[ ] Stipulated Sum, in accordance with Section 4.2 below~~

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[ ] Cost of the Work plus the Contractor's Fee, in accordance with Section 4.3 below

[ ] Cost of the Work plus the Contractor's Fee with a Guaranteed Maximum Price, in accordance with Section 4.4 below

(Based on the selection above, complete Section 4.2, 4.3 or 4.4 below.)

Contract as defined in EXH-B Project Charter, subject to additions and deductions as provided in the Contract Documents.

...

§ 4.2.1 The Contract Sum shall be one hundred, forty-three thousand, four hundred fifty dollars ($ 143,450), subject to additions and deductions as provided in the Contract Documents.

...

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

Sum are defined in EXH-B Project Charter.

Item	Price

§ 4.2.2.2 Subject to the conditions noted below, the following in EXH-B Project Charter, alternates may be accepted by the Owner following execution of this Agreement. Upon acceptance, the Owner shall issue a Modification to this Agreement.

(Insert below each alternate and the conditions that must be met for the Owner to accept the alternate.)

Item	Price	Conditions for Acceptance

§ 4.2.3 Allowances, if any, included in the Contract Sum:Sum are defined in EXH-B Project Charter.

...

§ 4.2.4 Unit prices, if any:

(Identify the item and state the unit price, and quantity limitations, if any, to which the unit price will be applicable.)any are defined in EXH-B Project Charter.

Item	Units and Limitations	Price per Unit ($0.00)

§ 4.3 Cost of the Work Plus Contractor's Fee without a Guaranteed Maximum PriceAllowances, if any, included in the Contract Sum are defined in EXH-B Project Charter.

§ 4.3.1 The Cost of the Work is as defined in Exhibit B, Determination of the Cost of the Work.

§ 4.3.2 The Contractor's Fee:

(State a lump sum, percentage of Cost of the Work or other provision for determining the Contractor's Fee.)

§ 4.3.3 The method of adjustment of the Contractor's Fee for changes in the Work:

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

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§ 4.3.5 Rental rates for Contractor-owned equipment shall not exceed — percent (— %) of the standard rental rate paid at the place of the Project.

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

Item	Units and Limitations	Price per Unit ($0.00)

§ 4.3.7 The Contractor shall prepare and submit to the Construction Manager, within 14 days of executing this Agreement, a written Control Estimate for the Owner's review and approval. The Control Estimate shall include the items in Section B.1 of Exhibit B, Determination of the Cost of the Work.

§ 4.4 Cost of the Work Plus Contractor's Fee with a Guaranteed Maximum PriceUnit prices, if any, are defined in EXH-B Project Charter.

§ 4.4.1 The Cost of the Work is as defined in Exhibit B, Determination of the Cost of the Work.

§ 4.4.2 The Contractor's Fee:
(State a lump sum, percentage of Cost of the Work or other provision for determining the Contractor's Fee.)

§ 4.4.3 The method of adjustment of the Contractor's Fee for changes in the Work:

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

§ 4.4.5 Rental rates for Contractor-owned equipment shall not exceed— percent (— %) of the standard rental rate paid at the place of the Project.

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

Item	Units and Limitations	Price per Unit ($0.00)

§ 4.4.7 Guaranteed Maximum Price
§ 4.4.7.1 The Contract Sum is guaranteed by the Contractor not to exceed ($ —), subject to additions and deductions by Change Order as provided in the Contract Documents. This maximum sum is referred to in the Contract Documents as the Guaranteed Maximum Price. Costs which would cause the Guaranteed Maximum Price to be exceeded shall be paid by the Contractor without reimbursement by the Owner.

§ 4.4.7.2 Alternates
§ 4.4.7.2.1 Alternates, if any, included in the Guaranteed Maximum Price:

Item	Price

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

Item	Price	Conditions for Acceptance

§ 4.4.7.3 Allowances, if any, included in the Guaranteed Maximum Price:
(Identify each allowance.)

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Item Price

~~§ 4.4.7.4 Assumptions, if any, upon which the Guaranteed Maximum Price is based:~~
~~*(Identify each assumption.)*~~

~~§ 4.4.8 To the extent that the Contract Documents are anticipated to require further development, the Guaranteed Maximum Price includes the costs attributable to such further development consistent with the Contract Documents and reasonably inferable therefrom. Such further development does not include changes in scope, systems, kinds and quality of materials, finishes, or equipment, all of which, if required, shall be incorporated by Change Order.~~

~~§ 4.4.9 The Owner shall authorize preparation of revisions to the Contract Documents that incorporate the agreed-upon assumptions contained in Section 4.4.7.4. The Owner shall promptly furnish such revised Contract Documents to the Contractor. The Contractor shall notify the Owner and Architect of any inconsistencies between the agreed-upon assumptions contained in Section 4.4.7.4 and the revised Contract Documents.~~

PAGE 4

Contractor and Owner recognize that time is of the essence for the Project and the Owner will suffer financial loss if the Work is not completed in the time specified in the Contract Documents. The parties also recognize the delays, expenses, and difficulties involved in proving in a legal proceeding the actual loss suffered by the Owner if the Work is not completed on time. Accordingly, instead of requiring such proof, the Owner and Contractor agree that as liquidated damages for delay (but not as penalty), Contractor shall pay Owner One Thousand Dollars ($1,000.00) per calendar day for each day that expires after the time specified for Substantial Completion in EXH-D Project Schedule until such time the Work is determined to be substantially complete by the Owner.

After Substantial Completion, if Contractor neglects, refuses, or fails to complete the remaining Work within the Contract Time specified in the Contract Documents, the Contractor shall pay the Owner One Thousand Dollars ($1,000.00) per day that expires after the time specified in the Contract Documents for Final Completion and readiness for Final Payment until the Work is completed.

...

None

...

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

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

§ 5.1.3 ~~Provided that~~ When an Application for Payment is received by the Construction ~~Manager not later than the day of a month, the Owner shall make payment of the amount certified to the Contractor not later than the day of the month. If an Application for Payment is received by the Construction Manager after the application date fixed above, payment of the amount certified~~ Manager, payment of the amount certified shall be made by the Owner not later than forty-five (45) days after the Construction Manager receives the Application for Payment. Unless expressly otherwise agreed in this Contract, payments and payment disputes shall be governed by the Prompt Payment of Local Government Bills, Minnesota Statutes, Section 471.425 ("Prompt Payment Act").

...

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§ 5.1.4.1 Each Application for Payment shall be based on the most recent schedule of values submitted by the Contractor on AIA G702 Application and Certificate for Payment in accordance with the Contract Documents. The schedule of values shall allocate the entire Contract Sum among the various portions of the Work. The schedule of values shall be prepared in such form, and supported by such data to substantiate its accuracy, as the Construction Manager and Architect may require. This schedule of values shall be used as a basis for reviewing the Contractor's Applications for Payment.

§ 5.1.4.3 In accordance with AIA Document A232™–2019, General Conditions of the Contract for Construction, Construction Manager as Adviser Edition, as modified and subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

...

~~§ 5.1.5 Progress Payments Where the Contract Sum is Based on the Cost of the Work without a Guaranteed Maximum Price~~

~~§ 5.1.5.1 With each Application for Payment, the Contractor shall submit the cost control information required in Exhibit B, Determination of the Cost of the Work, along with payrolls, petty cash accounts, receipted invoices, or invoices with check vouchers attached, and any other evidence required by the Owner, Construction Manager or Architect to demonstrate that payments already made by the Contractor on account of the Cost of the Work equal or exceed progress payments already received by the Contractor, plus payrolls for the period covered by the present Application for Payment, less that portion of the payments attributable to the Contractor's Fee.~~

~~§ 5.1.5.2 Applications for Payment shall show the Cost of the Work actually incurred by the Contractor through the end of the period covered by the Application for Payment and for which the Contractor has made or intends to make actual payment prior to the next Application for Payment.~~

~~§ 5.1.5.3 In accordance with AIA Document A232–2019 and subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:~~

~~§ 5.1.5.3.1 The amount of each progress payment shall first include:~~

~~.1 The Cost of the Work as described in Exhibit B, Determination of the Cost of the Work;~~

~~.2 That portion of Construction Change Directives that the Architect determines, in the Architect's professional judgment, to be reasonably justified; and~~

~~.3 The Contractor's Fee computed upon the Cost of the Work described in the preceding Section 5.1.5.3.1.1 at the rate stated in Section 4.3.2; or if the Contractor's Fee is stated as a fixed sum in Section 4.3.2 an amount which bears the same ratio to that fixed-sum Fee as the Cost of the Work included in Section 5.1.5.3.1.1 bears to a reasonable estimate of the probable Cost of the Work upon its completion.~~

~~§ 5.1.5.3.2 The amount of each progress payment shall then be reduced by:~~

~~.1 The aggregate of any amounts previously paid by the Owner;~~

~~.2 The amount, if any, for Work that remains uncorrected and for which the Architect has previously withheld a Certificate for Payment as provided in Article 9 of AIA Document A232–2019;~~

~~.3 Any amount for which the Contractor does not intend to pay a Subcontractor or material supplier, unless the Work has been performed by others the Contractor intends to pay;~~

~~.4 For Work performed or defects discovered since the last payment application, any amount for which the Architect may withhold payment, or nullify a Certificate of Payment in whole or in part, as provided in Article 9 of AIA Document A232–2019;~~

~~.5 The shortfall, if any, indicated by the Contractor in the documentation required by Section 5.1.5.1 to substantiate prior Applications for Payment, or resulting from errors subsequently discovered by the Owner's auditors in such documentation; and~~

~~.6 Retainage withheld pursuant to Section 5.1.7.~~

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

§ 5.1.5.5 In taking action on the Contractor's Applications for Payment, the Construction Manager and Architect shall be entitled to rely on the accuracy and completeness of the information furnished by the Contractor, and such action shall not be deemed to be a representation that (1) the Construction Manager and Architect have made a detailed examination, audit or arithmetic verification of the documentation submitted in accordance with Article 5 or other supporting data; (2) that the Construction Manager and Architect have made exhaustive or continuous on-site inspections; or (3) that the Construction Manager and Architect have made examinations to ascertain how or for what purposes the Contractor has used amounts previously paid on account of the Contract. Such examinations, audits and verifications, if required by the Owner, will be performed by the Owner's auditors acting in the sole interest of the Owner.

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

§ 5.1.5.7 If final completion of the Work is materially delayed through no fault of the Contractor, then the Owner shall pay the Contractor any additional amounts in accordance with Article 9 of AIA Document A232–2019.

§ 5.1.6 Progress Payments Where the Contract Sum is Based on the Cost of the Work with a Guaranteed Maximum Price

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

§ 5.1.6.2 Each Application for Payment shall be based on the most recent schedule of values submitted by the Contractor in accordance with the Contract Documents. The schedule of values shall allocate the entire Guaranteed Maximum Price among: (1) the various portions of the Work; (2) any contingency for costs that are included in the Guaranteed Maximum Price but not otherwise allocated to another line item or included in a Change Order; and (3) the Contractor's Fee.

§ 5.1.6.2.1 The schedule of values shall be prepared in such form, and supported by such data to substantiate its accuracy, as the Construction Manager and Architect may require. This schedule of values shall be used as a basis for reviewing the Contractor's Applications for Payment.

§ 5.1.6.2.2 The allocation of the Guaranteed Maximum Price under this Section 5.1.6.2 shall not constitute a separate guaranteed maximum price for the Cost of the Work of each individual line item in the schedule of values.

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

§ 5.1.6.3 Applications for Payment shall show the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment. The percentage of completion shall be the lesser of (1) the percentage of that portion of the Work which has actually been completed; or (2) the percentage obtained by dividing (a) the expense that has actually been incurred by the Contractor on account of that portion of the Work and for which the Contractor has made payment or intends to make payment prior to the next Application for Payment by (b) the share of the Guaranteed Maximum Price allocated to that portion of the Work in the schedule of values.

§ 5.1.6.4 In accordance with AIA Document A232–2019, and subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

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

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.1 That portion of the Guaranteed Maximum Price properly allocable to completed Work as determined by multiplying the percentage of completion of each portion of the Work by the share of the Guaranteed Maximum Price allocated to that portion of the Work in the most recent schedule of values;

.2 That portion of the Guaranteed Maximum Price properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction or, if approved in writing in advance by the Owner, suitably stored off the site at a location agreed upon in writing;

.3 That portion of Construction Change Directives that the Architect determines, in the Architect's professional judgment, to be reasonably justified; and

.4 The Contractor's Fee, computed upon the Cost of the Work described in the preceding Sections 5.1.6.4.1.1 and 5.1.6.4.1.2 at the rate stated in Section 4.4.2 or, if the Contractor's Fee is stated as a fixed sum in that Section, an amount that bears the same ratio to that fixed-sum fee as the Cost of the Work included in Sections 5.1.6.4.1.1 and 5.1.6.4.1.2 bears to a reasonable estimate of the probable Cost of the Work upon its completion.

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

.1 The aggregate of any amounts previously paid by the Owner;

.2 The amount, if any, for Work that remains uncorrected and for which the Architect has previously withheld a Certificate for Payment as provided in Article 9 of AIA Document A232–2019;

.3 Any amount for which the Contractor does not intend to pay a Subcontractor or material supplier, unless the Work has been performed by others the Contractor intends to pay;

.4 For Work performed or defects discovered since the last payment application, any amount for which the Architect may withhold payment, or nullify a Certificate of Payment in whole or in part, as provided in Article 9 of AIA Document A232–2019;

.5 The shortfall, if any, indicated by the Contractor in the documentation required by Section 5.1.6.1 to substantiate prior Applications for Payment, or resulting from errors subsequently discovered by the Owner's auditors in such documentation; and

.6 Retainage withheld pursuant to Section 5.1.7.

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

§ 5.1.6.6 In taking action on the Contractor's Applications for Payment, the Construction Manager and Architect shall be entitled to rely on the accuracy and completeness of the information furnished by the Contractor and such action shall not be deemed to be a representation that (1) the Construction Manager or Architect have made a detailed examination, audit, or arithmetic verification of the documentation submitted in accordance with Section 5.1.6.1 or other supporting data; (2) that the Construction Manager or Architect have made exhaustive or continuous on-site inspections; or (3) that the Construction Manager or Architect have made examinations to ascertain how or for what purposes the Contractor has used amounts previously paid on account of the Contract. Such examinations, audits, and verifications, if required by the Owner, will be performed by the Owner's auditors acting in the sole interest of the Owner.

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

§ 5.1.6.8 If final completion of the Work is materially delayed through no fault of the Contractor, then the Owner shall pay the Contractor any additional amounts in accordance with Article 9 of AIA Document A232–2019.

...

Five Percent (5%)

...

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For major items installed into the Work, the Contractor may request full payment for the items to ensure prompt delivery and fabrication. Such items shall be recommended by the Architect and approved by the Owner as not requiring retainage. Prompt payment for the items shall be documented by the Contractor to the Owner in the subsequent payment application by submitting a full lien release for the items. Major items may include mechanical units with long lead times, structural systems with long lead times, critical path systems or items, etc. Major items will be discussed and defined by Owner, Architect, Construction Manager and Contractor.

...

Prior to Substantial Completion and at the discretion of the Owner, retainage may be reduced. If the Work has been fifty percent (50%) completed as determined by the Architect and is satisfactory to the Owner, then ninety percent (90%) of the retained amount may be released to the Contractor for completed Work (with ten percent (10%) of the total retained by the Owner).

PAGE 6

Upon Substantial Completion, additional retainage may be returned to the Contractor as recommended by the Architect and Construction Manager and approved by the Owner to an amount sufficient to satisfactorily complete the Work. Retainage release will comply with Minnesota Statutes, Section 15.72 after Substantial Completion and punch list acceptance by the Owner.

...

.1 the Contractor has fully performed the Contract except for the Contractor's responsibility to correct Work as provided in Article 12 of AIA Document A232–2019, and to satisfy other requirements, if any, which extend beyond final payment; ~~and~~

.2 a final Certificate for Payment or Project Certificate for Payment has been issued by ~~the Architect.~~the Architect; and

.3 all lien waivers and IC134 forms have been delivered to the Owner.

§ 5.2.1.2 The Owner's final payment to the Contractor shall be made no later than ~~30~~ forty-five (45) days after the issuance of the Architect's final Certificate for Payment or Project Certificate for Payment, or as follows:

...

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

...

Zero %

...

The Architect will serve as Initial Decision Maker pursuant to Article 15 of AIA Document ~~A232–2019, unless the parties appoint below another individual, not a party to this Agreement, to serve as Initial Decision Maker.~~ ~~*(If the parties mutually agree, insert the name, address and other contact information of the Initial Decision Maker, if other than the Architect.)*~~

A232–2019.

§ 6.1.1 Mediation

The Owner or the Contractor may request mediation of any Claim submitted to the Initial Decision Maker before the decision becomes final and binding. The mediation shall be governed by the Construction Industry Mediation Rules of the American Arbitration Association in effect at the date of this contract. The request for mediation shall be made in

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writing by the party requesting mediation and the other party of this contract. The Owner and Contractor shall participate in mediation in good faith. The mediation shall be concluded within 60 days of the request. Mediation is not a condition precedent to commencing litigation. If litigation is commenced, the Owner and Contractor agree to mediate before any dispositive motion or trial.

[ ] ~~Litigation in a court of competent jurisdiction.~~ [X] Litigation in a state or federal court of competent jurisdiction located in Hennepin County, Minnesota.

...

Termination fee will be based on the percentage of Work completed and any materials purchased or in production at the time of termination. Said fee and justification shall be provided to the Owner by the Contractor within ten (10) days' notice of the termination.

...

~~§ 7.2 Where the Contract Sum is Based on the Cost of the Work with or without a Guaranteed Maximum Price~~

~~§ 7.2.1 Termination~~

~~§ 7.2.1.1 The Contract may be terminated by the Owner or the Contractor as provided in Article 14 of AIA Document A232–2019.~~

~~§ 7.2.1.2 Termination by the Owner for Cause~~

~~§ 7.2.1.2.1 If the Owner terminates the Contract for cause as provided in Article 14 of AIA Document A232–2019, the Owner shall then only pay the Contractor an amount as follows:~~

~~.1 Take the Cost of the Work incurred by the Contractor to the date of termination;~~

~~.2 Add the Contractor's Fee, computed upon the Cost of the Work to the date of termination at the rate stated in Section 4.3.2 or 4.4.2, as applicable, or, if the Contractor's Fee is stated as a fixed sum in that Section, an amount that bears the same ratio to that fixed-sum Fee as the Cost of the Work at the time of termination bears to a reasonable estimate of the probable Cost of the Work upon its completion;~~

~~.3 Subtract the aggregate of previous payments made by the Owner; and~~

~~.4 Subtract the costs and damages incurred, or to be incurred, by the Owner under Article 14 of AIA Document A232–2019.~~

~~§ 7.2.1.2.2 When the Contract Sum is based on the Cost of the Work with a Guaranteed Maximum Price, if the Owner terminates the Contract for cause as provided in Article 14 of AIA Document A232–2019, the amount, if any, to be paid to the Contractor under Article 14 of AIA Document A232–2019 shall not cause the Guaranteed Maximum Price to be exceeded, nor shall it exceed the amount calculated in Section 7.2.1.2.1.~~

~~§ 7.2.1.2.3 The Owner shall also pay the Contractor fair compensation, either by purchase or rental at the election of the Owner, for any equipment owned by the Contractor that the Owner elects to retain and that is not otherwise included in the Cost of the Work under Section 7.2.1.2.1.1. To the extent that the Owner elects to take legal assignment of subcontracts and purchase orders (including rental agreements), the Contractor shall, as a condition of receiving the payments referred to in this Article 7, execute and deliver all such papers and take all such steps, including the legal assignment of such subcontracts and other contractual rights of the Contractor, as the Owner may require for the purpose of fully vesting in the Owner the rights and benefits of the Contractor under such subcontracts or purchase orders. All Subcontracts, purchase orders and rental agreements entered into by the Contractor will contain provisions allowing for assignment to the Owner as described above.~~

~~§ 7.2.1.3 Termination by the Owner for Convenience~~

~~If the Owner terminates the Contract for convenience in accordance with Article 14 of AIA Document A232–2019, then the Owner shall pay the Contractor a termination fee as follows:~~

~~*(Insert the amount of or method for determining the fee, if any, payable to the Contractor following a termination for the Owner's convenience.)*~~

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§ 7.3 Suspension

~~The Work may be suspended by the Owner as provided in Article 14 of AIA Document A232–2019; in such case, the Contract Sum and Contract Time shall be increased as provided in Article 14 of AIA Document A232–2019, except that the term "profit" shall be understood to mean the Contractor's Fee as described in Section 4.3.2 or 4.4.2, as applicable, of this Agreement.~~

...

Curtis Hartog, PE, Executive Director
Minneapolis Public Schools, SSD#1
Capital Planning, Construction & Maintenance
1250 West Broadway Avenue, Minneapolis, MN 55411
PAGE 8

Mitch Hurtgen
Estimator
Commercial Roofing and Sheet Metal, Inc
221 Ryan Drive
Little Canada, MN 55117

...

§ 8.5 Record Keeping—Availability and Retention

Pursuant to Minnesota Statutes, Section 16C.05, subd. 5, Contractor agrees that the books, records, documents and accounting procedures and practices of Contractor, that are relevant to the Contract or transaction, are subject to examination by the Owner, the Owner's auditor, and the state auditor for a minimum of six (6) years. Contractor shall maintain such records for a minimum of six (6) years after final payment.

§ 8.6 Data Practices

Pursuant to Minnesota Statutes, Section 13.05, subd. 11, all of the data created, collected, received, stored, used, maintained, or disseminated by Contractor in performing this contract is subject to the requirements of the Minnesota Government Data Practices Act ("MGDPA"), Minnesota Statutes Chapter 13, and Contractor must comply with those requirements as if it were a government entity. The remedies in Minnesota Statutes, Section 13.08 apply to Contractor. Contractor does not have a duty to provide access to public data to the public if the public data are available from the Owner, except as required by the terms of this contract.

§ 8.7 Non-Discrimination

Pursuant to Minnesota Statutes, Section 181.59, the Contractor will take affirmative action to ensure that applicants are selected, and that employees are treated during employment, without regard to their race, color, creed, religion, national origin, sex, sexual orientation, marital status, status with regard to public assistance, membership or activity in a local civil rights commission, disability or age. The Contractor agrees to be bound by the provisions of Minnesota Statutes, Section 181.59, that prohibits certain discriminatory practices and the terms of said section are incorporated into this contract.

§ 8.8 Prompt Payment to Subcontractors

In accordance with the Prompt Payment Act, each Prime Contractor must pay any subcontractor within ten (10) days of the Prime Contractor's receipt of payment from the municipality for undisputed services provided by the subcontractor. The Subcontract must require the Prime Contractor to pay interest of 1-1/2 percent per month or any part of a month to the subcontractor on any undisputed amount not paid on time to the subcontractor. The minimum monthly interest penalty payment for an unpaid balance of $100 or more is $10. For an unpaid balance of less than $100, the Prime Contractor shall pay the actual penalty due to the subcontractor. A subcontractor who prevails in a civil action to collect interest penalties from a Prime Contractor must be awarded its costs and disbursements, including attorney's fees, incurred in bringing the action.

§ 8.9 Prevailing Wage

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Contractor agrees that all laborers or mechanics working on the Project shall receive at least the prevailing wage rate in accordance with Minnesota Statutes Section 177.42, *et seq.* Contractor agrees further that it will incorporate any and all necessary contract language in its agreements with any subcontractors to allow Contractor to monitor and enforce the prevailing wage requirement for subcontractors of any tier.

§ 8.5.1 The Owner and the Contractor shall purchase and maintain insurance as set forth ~~in AIA Document A132™–2019, Standard Form of Agreement Between Owner and Contractor, Construction Manager as Adviser Edition, Exhibit A, Insurance and Bonds, and elsewhere in the Contract Documents.~~EXH-C Owner Insurance.

PAGE 9

§ 8.6 Notice in electronic format, pursuant to Article 1 of AIA Document A232–2019, may be given in accordance with ~~a building information modeling exhibit,~~ AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, if completed, or as otherwise set forth below:
(If other than in accordance with ~~a building information modeling exhibit,~~ AIA Document E203–2013, insert requirements for delivering notice in electronic format such as name, title, and email address of the recipient and whether and how the system will be required to generate a read receipt for the transmission.)

email to Owner's representative identified in Section 8.2

...

Owner prohibits Contractor from using the Work in any marketing material or business development practice. Contractor is prohibited from communication with any news outlet or public without Owner's written approval.

Floor plans, designs, wiring, safety and security measures shall be kept confidential by the Contractor, the Subcontractors, the Sub-Subcontractors (of any tier) during and after completion of the Work.

...

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

Not Applicable

...

139	North High School Renovations & CTE Center Vol 1 of 2	November 13, 2024
209	North High School Renovations & CTE Center Vol 2 of 2	November 13, 2024

...

All Specifications	North High School Renovations and CTE Center Bid Package 4	November 13, 2024	1414

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1	December 2, 2024	70
2	December 9, 2024	165

...

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EXH-B Project Charter
EXH-C Owner Insurance
EXH-D Project Schedule
(Check all boxes that apply and include appropriate information identifying the exhibit where required.)

~~[ ] AIA Document A132™ 2019, Exhibit B, Determination of the Cost of the Work~~

[ ] ~~AIA Document E235™ 2019, Sustainable Projects Exhibit, Construction Manager as~~ Adviser ~~Edition, dated as indicated below:~~
~~*(Insert the date of the E235 2019 incorporated into this Agreement.)*~~

~~[ ] The Sustainability Plan:~~

~~Title~~	**Date**	**Pages**

...

Contractors Bid Documents

...

Tom Parent, Sr Operations Officer

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Certification of Document's Authenticity

AIA® Document D401™ – 2003

I, , hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with its associated Additions and Deletions Report and this certification at 11:28:11 CT on 02/03/2025 under Order No. 4104251278 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document A132™ – 2019, Standard Form of Agreement Between Owner and Contractor, Construction Manager as Adviser Edition, other than those additions and deletions shown in the associated Additions and Deletions Report.

(Signed)

Curtis Hartog, Executive Director

(Title)

2/3/2025

(Dated)

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AIA® Document A132® – 2019 Exhibit A

Insurance and Bonds

This Insurance and Bonds Exhibit is part of the Agreement, between the Owner and the Contractor, dated the _first_ day of _February____ in the year _2025
(In words, indicate day, month, and year.)

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

North High School Phase 4 Work Scope 07-H Roofing
1500 James Avenue, Minneapolis, MN 55411

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

Minneapolis Public Schools Special School District #1
1250 West Broadway Avenue
Minneapolis, MN 55411

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

Commercial Roofing and Sheet Metal, Inc
221 Ryan Drive
Little Canada, MN 55117

TABLE OF ARTICLES

A.1 GENERAL

A.2 OWNER'S INSURANCE

A.3 CONTRACTOR'S INSURANCE AND BONDS

A.4 SPECIAL TERMS AND CONDITIONS

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

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

This document is intended to be used in conjunction with AIA Document A232™–2019, General Conditions of the Contract for Construction. Article 11 of A232™–2019 contains additional insurance provisions

ARTICLE A.1 GENERAL

The Owner and Contractor shall purchase and maintain insurance, and provide bonds, as set forth in this Exhibit. As used in this Exhibit, the term General Conditions refers to AIA Document A232™–2019, General Conditions of the Contract for Construction.

ARTICLE A.2 OWNER'S INSURANCE

§ A.2.1 General

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

§ A.2.2 Liability Insurance

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

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§ A.2.3 Required Property Insurance

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

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

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

Causes of Loss	Sub-Limit

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

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

Coverage	Sub-Limit

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

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

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

§ A.2.3.3 Insurance for Existing Structures

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

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§ A.2.4 Optional Extended Property Insurance.
The Owner shall purchase and maintain the insurance selected and described below.
(Select the types of insurance the Owner is required to purchase and maintain by placing an X in the box(es) next to the description(s) of selected insurance. For each type of insurance selected, indicate applicable limits of coverage or other conditions in the fill point below the selected item.)

[ ] **§ A.2.4.1 Loss of Use, Business Interruption, and Delay In Completion Insurance,** to reimburse the Owner for loss of use of the Owner's property, or the inability to conduct normal operations due to a covered cause of loss.

[ ] **§ A.2.4.2 Ordinance or Law Insurance,** for the reasonable and necessary costs to satisfy the minimum requirements of the enforcement of any law or ordinance regulating the demolition, construction, repair, replacement or use of the Project.

[ ] **§ A.2.4.3 Expediting Cost Insurance,** for the reasonable and necessary costs for the temporary repair of damage to insured property, and to expedite the permanent repair or replacement of the damaged property.

[ ] **§ A.2.4.4 Extra Expense Insurance,** to provide reimbursement of the reasonable and necessary excess costs incurred during the period of restoration or repair of the damaged property that are over and above the total costs that would normally have been incurred during the same period of time had no loss or damage occurred.

[ ] **§ A.2.4.5 Civil Authority Insurance,** for losses or costs arising from an order of a civil authority prohibiting access to the Project, provided such order is the direct result of physical damage covered under the required property insurance.

[ ] **§ A.2.4.6 Ingress/Egress Insurance,** for loss due to the necessary interruption of the insured's business due to physical prevention of ingress to, or egress from, the Project as a direct result of physical damage.

[ ] **§ A.2.4.7 Soft Costs Insurance,** to reimburse the Owner for costs due to the delay of completion of the Work, arising out of physical loss or damage covered by the required property insurance: including construction loan fees; leasing and marketing expenses; additional fees, including those of architects, engineers, consultants, attorneys and accountants, needed for the completion of the construction, repairs, or reconstruction; and carrying costs such as property taxes, building permits, additional interest on loans, realty taxes, and insurance premiums over and above normal expenses.

§ A.2.5 Other Optional Insurance.
The Owner shall purchase and maintain the insurance selected below.
(Select the types of insurance the Owner is required to purchase and maintain by placing an X in the box(es) next to the description(s) of selected insurance.)

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

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

Coverage	Limits

ARTICLE A.3 CONTRACTOR'S INSURANCE AND BONDS

§ A.3.1 General

§ A.3.1.1 Certificates of Insurance. The Contractor shall provide certificates of insurance acceptable to the Owner evidencing compliance with the requirements in this Article A.3 at the following times: (1) prior to commencement of the Work; (2) upon renewal or replacement of each required policy of insurance; and (3) upon the Owner's written request. An additional certificate evidencing continuation of commercial liability coverage, including coverage for completed operations, shall be submitted with the final Application for Payment and thereafter upon renewal or replacement of such coverage until the expiration of the periods required by Section A.3.2.1 and Section A.3.3.1. The certificates will show the Owner as an additional insured on the Contractor's Commercial General Liability and excess or umbrella liability policy or policies.

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

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

§ A.3.2 Contractor's Required Insurance Coverage

§ A.3.2.1 The Contractor shall purchase and maintain the types and limits of insurance as defined in EXH-C Owner Insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The Contractor shall maintain the required insurance until the expiration of the period for correction of Work as set forth in Section 12.2.2 of the General Conditions, unless a different duration is stated below:

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

§ A.3.2.2 Commercial General Liability

§ A.3.2.2.1 Commercial General Liability insurance for the Project written on an occurrence form with policy limits as defined in EXH-C Owner Insurance providing coverage for claims including

.1 damages because of bodily injury, sickness or disease, including occupational sickness or disease, and death of any person;

.2 personal injury and advertising injury;

.3 damages because of physical damage to or destruction of tangible property, including the loss of use of such property;

.4 bodily injury or property damage arising out of completed operations; and

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.5 the Contractor's indemnity obligations under Section 3.18 of the General Conditions.

§ A.3.2.2.2 The Contractor's Commercial General Liability policy under this Section A.3.2.2 shall not contain an exclusion or restriction of coverage for the following:

.1 Claims by one insured against another insured, if the exclusion or restriction is based solely on the fact that the claimant is an insured, and there would otherwise be coverage for the claim.

.2 Claims for property damage to the Contractor's Work arising out of the products-completed operations hazard where the damaged Work or the Work out of which the damage arises was performed by a Subcontractor.

.3 Claims for bodily injury other than to employees of the insured.

.4 Claims for indemnity under Section 3.18 of the General Conditions arising out of injury to employees of the insured.

.5 Claims or loss excluded under a prior work endorsement or other similar exclusionary language.

.6 Claims or loss due to physical damage under a prior injury endorsement or similar exclusionary language.

.7 Claims related to residential, multi-family, or other habitational projects, if the Work is to be performed on such a project.

.8 Claims related to roofing, if the Work involves roofing.

.9 Claims related to exterior insulation finish systems (EIFS), synthetic stucco or similar exterior coatings or surfaces, if the Work involves such coatings or surfaces.

.10 Claims related to earth subsidence or movement, where the Work involves such hazards.

.11 Claims related to explosion, collapse and underground hazards, where the Work involves such hazards.

§ A.3.2.3 Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Contractor, with policy limits as defined in EXH-C Owner Insurance.

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

§ A.3.2.5 Workers' Compensation at statutory limits for Coverage A as defined in EXH-C Owner Insurance.

§ A.3.2.6 Employers' Liability Coverage B as defined in EXH-C Owner Insurance.

§ A.3.2.7 If the Contractor is required to furnish professional services as part of the Work, the Contractor shall procure Professional Liability insurance covering performance of the professional services, with policy limits as defined in EXH-C Owner Insurance.

§ A.3.2.8 Insurance for the use or operation of manned or unmanned aircraft, if the Work requires such activities, with policy limits as defined in EXH-C Owner Insurance.

(Paragraphs deleted)

§ A.3.3 Contractor's Other Insurance Coverage

§ A.3.3.1 Insurance selected and described in this Section A.3.3 shall be purchased from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The Contractor shall maintain the required insurance until the expiration of the period for correction of Work as set forth in Section 12.2.2 of the General Conditions, unless a different duration is stated below:

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

Init. /

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If Professional Liability insurance is required as part of the Contract, the Contractor shall maintain coverage for one year beyond the date of Substantial Completion.

§ A.3.3.2 The Contractor shall purchase and maintain the types and limits of insurance as defined in EXH-C Owner Insurance.

(Paragraphs deleted)

§ A.3.4 Performance Bond and Payment Bond

The Contractor shall provide surety bonds, from a company or companies lawfully authorized to issue surety bonds in the jurisdiction where the Project is located, as follows:
(Specify type and penal sum of bonds.)

Type	Penal Sum ($0.00)
Payment Bond	$143,450
Performance Bond	$143,450

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

ARTICLE A.4 SPECIAL TERMS AND CONDITIONS

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

None

Init. /

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Additions and Deletions Report for

AIA® Document A132® – 2019 Exhibit A

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

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PAGE 1

This Insurance and Bonds Exhibit is part of the Agreement, between the Owner and the Contractor, dated the _first_ day of _February_____in the year _2025

...

North High School Phase 4 Work Scope 07-H Roofing
1500 James Avenue, Minneapolis, MN 55411

...

Minneapolis Public Schools Special School District #1
1250 West Broadway Avenue
Minneapolis, MN 55411

...

Commercial Roofing and Sheet Metal, Inc
221 Ryan Drive
Little Canada, MN 55117

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

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§ A.3.2.1 The Contractor shall purchase and maintain the ~~following~~ types and limits of insurance as defined in EXH-C Owner Insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The Contractor shall maintain the required insurance until the expiration of the period for correction of Work as set forth in Section 12.2.2 of the General Conditions, unless a different duration is stated below:

...

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§ A.3.2.2.1 Commercial General Liability insurance for the Project written on an occurrence form with policy limits ~~of not less than ($) each occurrence, ($) general aggregate, and ($) aggregate for products-completed operations hazard,~~ as defined in EXH-C Owner Insurance providing coverage for claims including

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§ A.3.2.3 Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Contractor, with policy limits ~~of not less than ($) per accident, for bodily injury, death of any person, and property damage arising out of the ownership, maintenance and use of those motor vehicles along with any other statutorily required automobile coverage~~ as defined in EXH-C Owner Insurance.

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

§ A.3.2.5 Workers' Compensation at statutory ~~limits.~~limits for Coverage A as defined in EXH-C Owner Insurance.

§ A.3.2.6 Employers' Liability ~~with policy limits not less than ($) each accident, ($) each employee, and ($) policy limit.~~Coverage B as defined in EXH-C Owner Insurance.

§ A.3.2.7 ~~Jones Act, and the Longshore & Harbor Workers' Compensation Act, as required, if the Work involves hazards arising from work on or near navigable waterways, including vessels and docks~~ If the Contractor is required to furnish professional services as part of the Work, the Contractor shall procure Professional Liability insurance covering performance of the professional services, with policy limits as defined in EXH-C Owner Insurance.

§ A.3.2.8 ~~If the Contractor is required to furnish professional services as part of the Work, the Contractor shall procure Professional Liability insurance covering performance of the professional services, with policy limits of not less than ($) per claim and ($) in the aggregate.~~Insurance for the use or operation of manned or unmanned aircraft, if the Work requires such activities, with policy limits as defined in EXH-C Owner Insurance.

~~§ A.3.2.9 If the Work involves the transport, dissemination, use, or release of pollutants, the Contractor shall procure Pollution Liability insurance, with policy limits of not less than ($) per claim and ($) in the aggregate.~~

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

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

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

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If Professional Liability insurance is required as part of the Contract, the Contractor shall maintain coverage for one year beyond the date of Substantial Completion.

§ A.3.3.2 The Contractor shall purchase and maintain the ~~following~~ types and limits of insurance ~~in accordance with Section A.3.3.1.~~as defined in EXH-C Owner Insurance.

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

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

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

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

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

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

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

Coverage	Limits

§ A.3.4 Performance Bond and Payment Bond

...

Payment Bond	$143,450
Performance Bond	$143,450

...

None

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AIA® Document A232® – 2019

General Conditions of the Contract for Construction, Construction Manager as Adviser Edition

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

North High School Phase 4 Work Scope 07-H Roofing
1500 James Avenue, Minneapolis, MN 55411

THE CONSTRUCTION MANAGER:
(Name, legal status, and address)

Kraus-Anderson Construction Company
501 South 8th Street, Minneapolis, MN 55404

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

Minneapolis Public Schools Special School District #1
1250 West Broadway Avenue
Minneapolis, MN 55411

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

LSE Architects 1401 Glenwood Avenue
Minneapolis, MN 55405

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

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

This document is intended to be used in conjunction with AIA Documents A132™–2019, Standard Form of Agreement Between Owner and Contractor, Construction Manager as Adviser Edition; B132™–2019, Standard Form of Agreement Between Owner and Architect, Construction Manager as Adviser Edition; and C132™–2019, Standard Form of Agreement Between Owner and Construction Manager as Adviser.

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ARTICLE 1 GENERAL PROVISIONS

§ 1.1 Basic Definitions

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

§ 1.1.1.1 Notwithstanding the foregoing, it is understood and agreed that the Owner is an intended third-party beneficiary of all contracts between the Contractor and Subcontractors or suppliers who provide labor and/or materials for the Work.

§ 1.1.2 The Contract. The Contract Documents form the Contract for Construction. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations, or agreements, either written or oral. The Contract may be amended or modified only by a Modification. The Contract Documents shall not be construed to create a contractual relationship of any kind (1) between the Contractor and the Architect or the Architect's consultants, (2) between the Owner and the Construction Manager or the Construction Manager's consultants, (3) between the Owner and the Architect or the Architect's consultants, (4) between the Contractor and the Construction Manager or the Construction Manager's consultants, (5) between the Owner and a Subcontractor or Sub-subcontractor (6) between the Construction Manager and the Architect, or (7) between any persons or entities other than the Owner and Contractor. The Construction Manager and Architect shall, however, be entitled to performance and enforcement of obligations under the Contract intended to facilitate performance of their duties.

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

§ 1.1.4 The Project. The Project is the total construction of which the Work performed under the Contract Documents may be the whole or a part and which may include construction by other Contractors, and by the Owner's own forces and Separate Contractors.

§ 1.1.5 Contractors. Contractors are persons or entities, other than the Contractor or Separate Contractors, who perform Work under contracts with the Owner that are administered by the Architect and Construction Manager.

§ 1.1.6 Separate Contractors. Separate Contractors are persons or entities who perform construction under separate contracts with the Owner not administered by the Architect and Construction Manager.

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

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

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

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§ 1.1.10 Initial Decision Maker. The Initial Decision Maker is the person identified in the Agreement to render initial decisions on Claims in accordance with Section 15.2. The Architect will serve as the Initial Decision Maker pursuant to Section 15.2 of AIA Document A232–2019.

§ 1.2 Correlation and Intent of the Contract Documents

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

§ 1.2.1.1 The invalidity of any provision of the Contract Documents shall not invalidate the Contract or its remaining provisions. In such case the Contract Documents shall be construed, to the fullest extent permitted by law, to give effect to the parties' intentions and purposes in executing the Contract.

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

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

§ 1.3 Capitalization

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

§ 1.4 Interpretation

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

§ 1.4.1 In the case of inconsistency between Drawings and Specifications or within Contract Documents not clarified by Addenda, the better quality or greater quantity of Work shall be provided in accordance with the Architect's interpretation.

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

§ 1.5.1 The Architect and the Architect's consultants shall be deemed the authors and owners of their respective Instruments of Service, including the Drawings and Specifications, and retain all common law, statutory, and other reserved rights in their Instruments of Service, including copyrights. The Contractor, Subcontractors, sub-subcontractors, and suppliers shall not own or claim a copyright in the Instruments of Service. Submittal or distribution to meet official regulatory requirements or for other purposes in connection with the Project is not to be construed as publication in derogation of the Architect's or Architect's consultants' reserved rights. The Owner retains rights to the Instruments of Service pursuant to Article 7 of AIA Document B101-2017.

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

§ 1.5.3 The Architect shall furnish to the Contractor a version of the Instruments of Service in electronic form for the sole purpose of the construction of the Project for which the Instruments of Service were created.

§ 1.6 Notice

§ 1.6.1 Except as otherwise provided in Section 1.6.2, where the Contract Documents require one party to notify or give notice to the other party, such notice shall be provided in writing to the designated representative of the party to

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whom the notice is addressed and shall be deemed to have been duly served if delivered in person, by mail, by courier, or by electronic transmission if a method for electronic transmission is set forth in the Agreement.

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

§ 1.7 Digital Data Use and Transmission

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

§ 1.8 Building Information Models Use and Reliance

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

ARTICLE 2 OWNER

§ 2.1 General

§ 2.1.1 The Owner is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The Owner shall designate in writing a representative who shall have express authority to bind the Owner with respect to all matters requiring the Owner's approval or authorization in accordance with Owner's Delegation of Authority Policy, a copy of which will be provided at Contractor's request. Except as otherwise provided in Section 4.2.1, the Construction Manager and the Architect do not have such authority. The term "Owner" means the Owner or the Owner's authorized representative.

(Paragraph deleted)

§ 2.2 Evidence of the Owner's Financial Arrangements

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

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

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

§ 2.2.4 Where the Owner has designated information furnished under this Section 2.2 as "confidential," the Contractor shall keep the information confidential and shall not disclose it to any other person. However, the Contractor may disclose "confidential" information, after seven (7) days' notice to the Owner, where disclosure is required by law, including a subpoena or other form of compulsory legal process issued by a court or governmental entity, or by court

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or arbitrator(s) order. The Contractor may also disclose "confidential" information to its employees, consultants, sureties, Subcontractors and their employees, Sub-subcontractors, and others who need to know the content of such information solely and exclusively for the Project and who agree to maintain the confidentiality of such information.

§ 2.3 Information and Services Required of the Owner

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

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

§ 2.3.3 The Owner shall retain a construction manager adviser lawfully practicing construction management in the jurisdiction where the Project is located. That person or entity is identified as the Construction Manager in the Agreement and is referred to throughout the Contract Documents as if singular in number.

§ 2.3.4 If the employment of the Construction Manager or Architect terminates, the Owner shall employ a successor construction manager or architect to whom the Contractor has no reasonable objection and whose status under the Contract Documents shall be that of the Construction Manager or Architect, respectively.

§ 2.3.5 If requested by the Contractor and reasonably required for the Project, the Owner shall furnish surveys describing physical characteristics, legal limitations and utility locations for the site of the Project, and a written legal description of the site. The Contractor shall exercise proper precautions relating to the safe performance of the Work.

§ 2.3.6 The Owner shall furnish information or services required of the Owner by the Contract Documents with reasonable promptness. The Owner shall also furnish any other information or services under the Owner's control and relevant to the Contractor's performance of the Work with reasonable promptness after receiving the Contractor's written request for such information or services. The Contractor is responsible for the timeliness of, or interference caused by, Subcontractors, Sub-subcontractors (of any tier), and others directly or indirectly under contract to the Contractor.

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

§ 2.3.8 The Owner shall forward all communications to the Contractor through the Construction Manager. Other communication shall be made as set forth in Section 4.2.6.

§ 2.4 Owner's Right to Stop the Work

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

§ 2.5 Owner's Right to Carry Out the Work

If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within a three-business-day (3) period after receipt of notice from the Owner to commence and continue correction of such default or neglect with diligence and promptness, the Owner may, without prejudice to other remedies the Owner may have, correct such default or neglect. Such action by the Owner and amounts charged to the Contractor are both subject to review by the Construction Manager and prior approval of the Architect, and the Construction Manager or Architect may, pursuant to Section 9.5.1, withhold or nullify a Certificate for Payment in whole or in part, to the extent reasonably necessary to reimburse the Owner for the reasonable cost of correcting such deficiencies, including Owner's expenses and compensation for the Construction Manager's and Architect's and their respective consultants'

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additional services and expenses made necessary by such default, neglect, or failure. If current and future payments are not sufficient to cover such amounts, the Contractor shall pay the difference to the Owner within ten (10) days following written request for payment delivered by the Owner to the Contractor. If the Contractor disagrees with the actions of the Owner or the Architect, or the amounts claimed as costs to the Owner, the Contractor may file a Claim pursuant to Article 15.

ARTICLE 3 CONTRACTOR

§ 3.1 General

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

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

§ 3.1.3 The Contractor shall hire a professional utilities locator to investigate and verify all private utility locations prior to excavation and cutting into of existing Work. The Contractor is responsible for locating, terminating, and reinstallation of all private utilities. Private site utilities may not be in the Drawings and Project Manual and as such, verification of private utilities is the sole responsibility of the Contractor. Costs associated with moving and repairing of unknown and undocumented utilities will be by appropriate Change Order. The Contractor shall comply with Gopher State One Call, or other public utility service locator to locate all public utilities prior to any work on the site. This shall not relieve Contractor from obligations under Article 3.

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

§ 3.2 Review of Contract Documents and Field Conditions by Contractor

§ 3.2.1 The Contractor shall carefully study and compare the Contract Documents with each other and with information furnished by the Owner pursuant to Section 2.2.3, and shall immediately report to the Architect and Construction Manager errors, inconsistencies, or omissions discovered. The Contractor shall not be liable to the Owner or Architect for damage resulting from errors, inconsistencies, or omissions in the Contract Document unless the Contractor recognized such error, inconsistency, or omission and knowingly failed to report it to the Architect. If the Contractor performs any construction activity knowing or believing it involves a recognized error, inconsistency, or omission in the Contract Documents without such notice to the Architect, the Contractor shall assume full responsibility for such performance and shall bear the attributable costs for correction and shall bear responsibility for any additional costs, delays, and damages resulting from such failure to immediately report any such errors, inconsistencies, or omissions which the Contractor may discover. By executing the Contract, the Contractor represents that the Contractor has reviewed and understands the Contract Documents, has visited the Site and is familiar with local conditions under which the Work is to be performed, has correlated personal observations with the requirements of the Contract Documents, and has notified the Architect of and obtained clarification of any discrepancies which have become apparent during the bidding or proposal period.

§ 3.2.1.1 The Contractor shall take field measurements and verify field conditions and shall carefully compare such field measurements and conditions and other information known to the Contractor with the Contract Documents before commencing activities. Errors, inconsistencies, or omissions discovered shall be reported to the Architect immediately in writing.

§ 3.2.1.2 The Contractor shall carefully study and compare the Contract Documents with existing conditions at the job site and shall immediately report in writing to the Architect any error, inconsistency, or omission which the Contractor may discover or any materials, systems, procedures, or methods of construction, either shown on the Drawings or specified, which the Contractor has reason to believe are incorrect, inadequate, obsolete, unsuitable for the purpose intended or which the Contractor has reason to believe would constitute or result in a violation of the Contractor's warranty under Section 3.5 or applicable law. The Contractor shall not proceed with any work in such areas until written instructions are received from the Architect.

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§ 3.2.2 The Contractor shall perform the Work in accordance with the Contract Documents and submittals accepted pursuant to Section 3.12.

§ 3.2.3 The Owner shall be entitled to deduct from the Contract Sum amounts paid to the Architect for the Architect to evaluate and respond to the Contractor's requests for interpretation or information where such information was available to the Contractor from a careful study and comparison of the Contract Documents, Filed Conditions, Owner Provided Information, Contractor Prepared Coordination Drawings, or prior Project Correspondence or Documentation.

§ 3.2.4 If the Contractor believes that any portions of the Contract Documents do not comply with applicable laws, statutes, ordinances, building codes, and rules and regulations, or any orders by code enforcement officials or the Owner or its designees acting in the capacity of building code inspectors or Referenced Standards, the Contractor must promptly notify the Owner and the Architect of the non-compliance as provided in Section 3.2.6 and request direction before proceeding with the affected Work.

§ 3.2.5 The Contractor must promptly notify the Owner and the Architect in writing of any apparent errors, inconsistencies, omissions, ambiguities, construction impracticalities or code violations discovered as a result of the Contractor's review of the Contract Documents including any differences between actual and indicated dimensions, locations and descriptions, and must give the Owner and the Architect timely notice in writing of same and of any corrections, clarifications, additional Drawings or Specifications, or other information required to define the Work in greater detail or to permit the proper progress of the Work. The Contractor must provide similar notice with respect to any variance between its review of the Site and physical data and Site conditions observed.

§ 3.2.6 If the Contractor performs any Work involving an apparent error, inconsistency, ambiguity, construction impracticality, omission or code violation in the Contract Documents of which the Contractor is aware, or which could reasonably have been discovered by the review required by Section 3.2, without prompt written notice to the Owner and the Architect and request for correction, clarification or additional information, as appropriate, the Contractor does so at its own risk and expense and all Claims relating thereafter are specifically waived.

§ 3.3 Supervision and Construction Procedures

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

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

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

§ 3.3.4 The Contractor shall at all times staff the Project adequately to allow the Project to be managed and completed in a timely and professional manner. The Contractor shall have competent supervision on the job during work hours and readily available at all times upon call.

§ 3.3.5 The Contractor shall at all times make reasonable provisions to protect any Work performed by any separate contractors, adjacent property, and the existing building (if any) from damage due to the Work or due to the weather.

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§ 3.3.6 The Owner or its approved representative (heretofore referred to as Owner's Representative) shall have access to the Work site and all Work. No supervision or inspection by the Owner or the Owner's Representative, nor the authority to act, nor any other actions taken by the Owner's Representative shall relieve the Contractor of any of its obligations under the Contract Documents or give rise to any duty on the part of the Owner.

§ 3.3.7 The Contract shall take appropriate precautions to ensure that the Work does not materially disrupt any ongoing operation by the Owner at the Project (if any) except to the extent any such disruption is a necessary result of performing a particular portion of the Work, in which case the Contractor shall provide the Owner with reasonable advanced written notice and shall take all commercially reasonable measures to minimize the impact on the Owner and the Owner's operations.

§ 3.4 Labor and Materials

§ 3.4.1 Unless otherwise provided in the Contract Documents, the Contractor shall provide and pay for labor, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation, and other facilities and services necessary for proper execution and completion of the Work, whether temporary or permanent and whether or not incorporated or to be incorporated in the Work. Should the Contract Documents require Work to be performed after regular working hours or should the Contractor elect to perform Work after regular working hours, the additional cost of such Work shall be borne by the Contractor.

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

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

§ 3.4.4 The Contractor shall be responsible for all additional costs incurred to incorporate into the Project substitute materials, products, or equipment approved by Owner during the bidding period.

§ 3.4.5 In the event of a Change related to substitute or additional materials, and which shall comply with Article 7, the Contractor shall exercise reasonable efforts, consistent with the provisions of the Contract Documents to obtain the maximum available case discounts on all materials, provided that, in doing so, the Contractor shall not accept or use materials for incorporation into the Project which are of a type or quality not reasonably contemplated under the terms of the Contract Documents.

§ 3.4.6 After award of the Contract, a request for substitution of a material, product, or piece of equipment at no change in the Contract Sum will not be approved by the Owner or the Architect, unless the specified item is no longer manufactured, the specified item is unavailable as a result of an act of government such as a declaration of a national emergency, or delivery of the specified items is substantially delayed as a result of labor disputes affecting the manufacturer, unusual delay in transportation, or any other cause beyond control of the Contractor or a Subcontractor or material supplier which the Architect determines justified the delay. Requests will not be approved where the delay in delivery results from failure to promptly place subcontracts and material orders. Requests for substitution shall be submitted in writing to the Architect and shall clearly describe the proposed substitution, state the reason for the unavailability of a specified item and be accompanied by such additional data and information as may be necessary in the discretion of the Owner and the Architect to establish the acceptability of the proposed substitute.

§ 3.4.7 The Owner shall be entitled to deduct from the Contract Sum amounts paid to the Architect to evaluate the Contractor's proposed Substitutions and for changes made to the Contract Documents as a result of Owner's acceptance of such Substitutions.

§ 3.5 Warranty

§ 3.5.1 The Contractor warrants to the Owner, Construction Manager, and Architect that materials and equipment furnished under the Contract will be of good quality and new unless the Contract Documents require or permit otherwise. The Contractor further warrants that the Work will conform to the requirements of the Contract Documents

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

§ 3.5.2 All material, equipment, or other special warranties required by the Contract Documents shall be issued in the name of the Owner, or shall be transferable to the Owner, and shall commence in accordance with Section 9.8.4. The Contractor shall arrange for the Owner to have the benefit of and right to enforce all warranties by Subcontractors, Sub-subcontractors, suppliers, and manufacturers.

§ 3.5.3 Manufacturers' warranties and warranties by other shall not relieve the Contractor of any of its responsibilities.

§ 3.5.4 The Contractor's general warranty and any additional or special warranties are not limited by the Contractor's obligations to specifically correct defective or nonconforming Work as provided in Article 12, nor are they limited by any other remedies provided in the Contract Documents. The Contractor shall also be liable for any damage to property or persons (including death) including consequential and direct damages relating to any breach of the Contractor's general warranty or any additional or special warranties required by the Contract Documents.

§ 3.5.5 The Contractor must furnish all special warranties required by the Contract Documents to the Owner no later than Substantial Completion. The Owner may require additional special warranties in connection with the approval of "Or-Equals" or Substitutions, Allowance items, Work that is defective or nonconforming, or the acceptance of nonconforming Work pursuant to Article 12.

§ 3.6 Taxes

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

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

§ 3.7.1 Unless otherwise provided in the Contract Documents, the Owner, assisted by the Construction Manager, shall secure and pay for the building permit. The Contractor shall secure and pay for other permits, fees, licenses, and inspections by government agencies necessary for proper execution and completion of the Work that are customarily secured after execution of the Contract and legally required at the time bids are received or negotiations concluded. The Contractor shall be responsible for the Sewer Access (SAC) and Water Access (WAC) fees for the Project. The Contractor shall pay the SAC/WAC costs to the authorities having jurisdiction from the Allowance in the Base Bid for such charges as defined in the Construction Documents.

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

§ 3.7.3 If the Contractor performs Work knowing or believing it to be contrary to applicable laws, statutes, ordinances, building codes, rules and regulations, or lawful orders of public authorities, without such notice to the Architect and Owner, the Contractor shall assume full responsibility for such Work and shall bear the attributable costs, delays, and damages resulting from such failure to immediately notify the Architect and Owner of any such violation..

§ 3.7.4 Concealed or Unknown Conditions. If the Contractor encounters conditions at the site that are (1) subsurface or otherwise concealed physical conditions that differ materially from those indicated in the Contract Documents or (2) unknown physical conditions of an unusual nature that differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents, the Contractor shall promptly provide notice to the Owner, Construction Manager, and the Architect before conditions are disturbed and in no event later than ten (10) days after first observance of the conditions. The Architect and Construction Manager will promptly investigate such conditions and, if the Architect, in consultation with the Construction Manager, determines that they differ materially and cause an increase or decrease in the Contractor's cost of, or time required for, performance of any part of the Work, will recommend that an equitable adjustment be made in the Contract Sum or Contract Time, or both. If the Architect, in consultation with the Construction Manager,

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

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

§ 3.8 Allowances

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

§ 3.8.2 Unless otherwise provided in the Contract Documents:

.1 allowances shall cover the cost to the Contractor of materials and equipment delivered at the site and all required taxes, less applicable trade discounts;

.2 Contractor's costs for unloading and handling at the site, labor, installation costs, overhead, profit, and other expenses contemplated for stated allowance amounts shall be included in the Contract Sum but not in the allowances; and

.3 whenever costs are more than or less than allowances, the Contract Sum shall be adjusted accordingly by Change Order. The amount of the Change Order shall reflect (1) the difference between actual costs and the allowances under Section 3.8.2.1 and (2) changes in Contractor's costs under Section 3.8.2.2.

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

§ 3.9 Superintendent

§ 3.9.1 The Contractor shall employ a competent superintendent and necessary assistants who shall be in attendance at the Project site during performance of the Work, including that performed by all Subcontractors. The superintendent shall represent the Contractor, and communications given to the superintendent shall be as binding as if given to the Contractor. Important communications including and not limited to communications regarding design changes, alterations, substitutions, clarifications, cost changes, etc. shall be confirmed in writing by the Contractor. Other communications shall be similarly confirmed on written request in each case.

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

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

§ 3.9.4 If requested by the Owner, the Contractor shall replace the superintendent at no additional cost to the Owner. No other change in this position shall be made without notice to and written consent of the Owner.

§ 3.10 Contractor's Construction and Submittal Schedules

§ 3.10.1 The Contractor, promptly after being awarded the Contract, shall submit for the Owner's and Architect's information, and the Construction Manager's use in developing the Project schedule, a Contractor's construction schedule for the Work. The schedule shall contain detail appropriate for the Project, including (1) the date of

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commencement of the Work, interim schedule milestone dates, critical path schedule milestones, major construction milestones, including and not limited to Civil, Demolition, Structural, Mechanical, Electrical, and Plumbing, and the date of Substantial Completion; (2) an apportionment of the Work by construction activity; and (3) the time required for completion of each portion of the Work. The schedule shall provide for the orderly progression of the Work to completion and shall not exceed time limits current under the Contract Documents. The schedule shall be revised at appropriate intervals as required by the conditions of the Work and Project. The Contractor shall cooperate with the Construction Manager in scheduling and performing the Contractor's Work to avoid conflict with, and as to cause no delay in, the work or activities of other Contractors, or the construction or operations of the Owner's own forces or Separate Contractors.

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

§ 3.10.3 The Contractor shall participate with other Contractors, the Construction Manager, and the Owner in reviewing and coordinating all schedules for incorporation into the Project schedule that is prepared by the Construction Manager. The Contractor shall make revisions to the construction schedule and submittal schedule as deemed necessary by the Construction Manager to conform to the Project schedule.

§ 3.10.4 The Contractor shall perform the Work in general accordance with the most recent schedules submitted to and accepted in writing by the Owner, Construction Manager, and Architect, and incorporated into the approved Project schedule.

§ 3.11 Documents and Samples at the Site

§ 3.11.1 The Contractor shall make available, at the Project site, one record copy of the Contract Documents, including Change Orders, Construction Change Directives, and other Modifications, in good order and updated daily to indicate field changes and selections made during construction, and in addition accepted and approved Shop Drawings, Product Data, Samples, and similar required submittals. These shall be in electronic form or paper copy, available to the Construction Manager, Architect, and Owner as required to complete routine inspections by Architect, Construction Manager and Owner prior to any approval of payments to the Contractor, and delivered to the Construction Manager for submittal to the Owner upon completion of the Work. The Architect and Contractor must verify that all "as-built" Drawings, Specifications, Addenda, Change Orders, and other Modifications are up-to-date before Contractor's Application for Payment is acceptable and before the Owner incurs any duty to pay Contractor in accordance with the Contract. The record documents shall be a separate set of documents labeled "Record Documents" and used only for record purposes and kept clean and undamaged.
§ 3.11.2 No review or receipt of such records by the Architect or Owner shall be considered a waiver of any deviation from the Contract Documents or approved shop drawings, or any way relieve the Contractor from its responsibility to perform the Work in accordance with the Contract Documents.

§ 3.12 Shop Drawings, Product Data, and Samples

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

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

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

§ 3.12.4 Shop Drawings, Product Data, Samples, and similar submittals are not Contract Documents. Their purpose is to demonstrate how the Contractor proposes to conform to the information given and the design concept expressed in the Contract Documents for those portions of the Work for which the Contract Documents require submittals. Review

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by the Architect and Construction Manager is subject to the limitations of Sections 4.2.10 through 4.2.12. Informational submittals upon which the Construction Manager and Architect are not expected to take responsive action may be so identified in the Contract Documents. Submittals that are not required by the Contract Documents may be returned by the Construction Manager or Architect without action.

§ 3.12.5 The Contractor shall review for compliance with the Contract Documents, approve, and submit to the Construction Manager, Shop Drawings, Product Data, Samples, and similar submittals required by the Contract Documents, in accordance with the Project submittal schedule approved by the Construction Manager and Architect or, in the absence of an approved Project submittal schedule, with reasonable promptness and in such sequence as to cause no delay in the Work or in the activities of other Contractors, Separate Contractors, or the Owner's own forces. The Contractor shall cooperate with the Construction Manager in the coordination of the Contractor's Shop Drawings, Product Data, Samples, and similar submittals with related documents submitted by other Contractors. The Contractor must provide the Owner and the Architect with copies of all submittals made to regulatory agencies.

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

§ 3.12.7 The Contractor shall perform no portion of the Work for which the Contract Documents require submittal and review of Shop Drawings, Product Data, Samples, or similar submittals, until the respective submittal has been reviewed and accepted by the Architect. The Contractor must correct at its cost, and without any adjustment in Contract Time, any Work the correction of which is required due to the Contractor's failure to obtain approval of a submittal required to have been obtained prior to proceeding with the Work, including, but not limited to, correction of any conflicts in the Work resulting from such failure.

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

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

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

§ 3.12.10.1 If professional design services or certifications by a design professional related to systems, materials, or equipment are specifically required of the Contractor by the Contract Documents, the Owner and the Architect will specify all performance and design criteria that such services must satisfy. The Contractor shall be entitled to rely upon the adequacy and accuracy of the performance and design criteria provided in the Contract Documents. The Contractor shall cause such services or certifications to be provided by an appropriately licensed design professional, whose signature and seal shall appear on all drawings, calculations, specifications, certifications, Shop Drawings, and other submittals prepared by such professional. Shop Drawings, and other submittals related to the Work, designed or certified by such professional, if prepared by others, shall bear such professional's written approval when submitted to the Architect. The Owner, the Architect, and the Construction Manager shall be entitled to rely upon the adequacy and accuracy of the services, certifications, and approvals performed or provided by such design professionals, provided the Owner and Architect have specified to the Contractor the performance and design criteria that such services must

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satisfy. Pursuant to this Section 3.12.10, the Architect will review and approve or take other appropriate action on submittals only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Construction Manager shall review submittals for sequencing, constructability, and coordination impacts on other Contractors.

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

§ 3.13 Use of Site

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

§ 3.13.2 The Contractor shall coordinate the Contractor's operations with, and secure the approval of, the Construction Manager before using any portion of the site.

§ 3.13.3 Except as may be specifically provided in the Contract Documents, the Contractor shall provide all necessary temporary facilities, including power, water, sanitation, scaffolding, storage, and security. If Owner makes any such facilities available to Contractor, it is without representation or warranty as to their adequacy for Contractor's use, and Contractor shall indemnify, defend, and hold Owner harmless from and against any claims arising out of Contractor's use of such facilities.

§ 3.14 Cutting and Patching

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

§ 3.14.2 The Contractor shall not damage or endanger a portion of the Work or fully or partially completed construction of the Owner, Separate Contractors, or of other Contractors by cutting, patching, or otherwise altering such construction, or by excavation. The Contractor shall not cut or otherwise alter construction by the Owner, Separate Contractors, or by other Contractors except with written consent of the Construction Manager, Owner, and such other Contractors or Separate Contractors. Consent shall not be unreasonably withheld. The Contractor shall hire a professional utilities locator to verify locations of all public and private utilities prior to initiating any cutting work. The Contractor shall not unreasonably withhold, from the Separate Contractors, other Contractors, or the Owner, its consent to cutting or otherwise altering the Work.

§ 3.15 Cleaning Up

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

§ 3.15.2 If the Contractor fails to clean up as provided in the Contract Documents, the Owner, or Construction Manager with the Owner's approval, may do so and the Owner shall be entitled to reimbursement from the Contractor.

§ 3.16 Access to Work

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

§ 3.17 Royalties, Patents and Copyrights

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

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Manager. However, if an infringement of a copyright or patent is discovered by, or made known to, the Contractor, the Contractor shall be responsible for the loss unless the information is promptly furnished to the Architect through the Construction Manager.

§ 3.18 Indemnification

§ 3.18.1 To the fullest extent permitted by law, the Contractor shall indemnify, defend and hold harmless the Owner, Construction Manager, Architect, Construction Manager's and Architect's consultants, and agents and employees of any of them from and against claims, damages, losses, and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), but only to the extent caused by the negligent acts or omissions of the Contractor, a Subcontractor, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss, or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity which would otherwise exist as to a party or person described in this Section 3.18. The Contractor, furthermore, agrees to obtain, maintain, and pay for such general liability coverage and endorsements (including product and completed operations coverage) as will ensure the provisions of this Section 3.18.1. The Contractor agrees to reimburse the Owner, its agents and employees for all costs and disbursements, including attorneys' fees, paid or incurred to enforce the provisions of this Section 3.18.1.

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

§ 3.18.3 To the fullest extent permitted by law and without limiting any other indemnification obligations of the Contractor, except to the extent caused by the uncured failure of the Owner to make payment when due and owing, the Contractor shall indemnify and defend the Owner, its officers, directors, assigns, lenders, agents, and employees from any liens, charges (including attorneys' fees) or encumbrances (including but not limited to mechanic's and materialmen's liens or bond claims) arising out of or in connection with the performance of the Work by Contractor, its Subcontractors, or its material suppliers. Upon request of the Owner, the Contractor shall within sixty (60) days remove any liens filed against the Owner or its property. If the Contractor fails to do so, the Owner is authorized by the Contractor to remove or satisfy any such liens, and the Contractor shall pay to the Owner all costs and damages incurred by the Owner to do so, including attorneys' fees.

ARTICLE 4 ARCHITECT AND CONSTRUCTION MANAGER

§ 4.1 General

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

§ 4.1.2 The Construction Manager is the person or entity retained by the Owner pursuant to Section 2.3.3 and identified as such in the Agreement.

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

§ 4.2 Administration of the Contract

§ 4.2.1 The Construction Manager and Architect will provide administration of the Contract as described in the Contract Documents and will be the Owner's consultants (1) during construction; (2) until final payment is due; and (3) with the Owner's concurrence, from time to time during the correction period described in Section 12.2. The Architect and Construction Manager will advise and consult with the Owner. The Construction Manager and Architect will have authority to act on behalf of the Owner only to the extent provided in the Contract Documents, unless otherwise modified in writing in accordance with other provisions of the Contract.

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§ 4.2.2 The Architect will visit the site at intervals appropriate to the stage of construction, or as otherwise agreed with the Owner, to become generally familiar with the progress and quality of the Work completed, to endeavor to guard the Owner against defects and deficiencies in the Work, and to determine in general if the Work is being performed in a manner indicating that the Work, when completed, will be in accordance with the Contract Documents. However, the Architect will not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. On the basis of the site visits, the Architect will keep the Owner and the Construction Manager reasonably informed about the progress and quality of the portion of the Work completed, and promptly report to the Owner and Construction Manager known deviations from the Contract Documents and defects and deficiencies observed in the Work.

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

§ 4.2.3 The Construction Manager shall provide one or more representatives who shall be in attendance at the Project site whenever the Work is being performed. The Construction Manager will determine in general if the Work observed is being performed in accordance with the Contract Documents, will keep the Owner and Architect reasonably informed of the progress of the Work, and will promptly report to the Owner and Architect known deviations from the Contract Documents and the most recent Project schedule, and defects and deficiencies observed in the Work.

§ 4.2.4 The Construction Manager will schedule and coordinate the activities of the Contractor and other Contractors in accordance with the latest approved Project schedule.

§ 4.2.5 The Construction Manager, except to the extent required by Section 4.2.4, and Architect will not have control over, charge of, or responsibility for, the construction means, methods, techniques, sequences or procedures, or for the safety precautions and programs in connection with the Work, since these are solely the Contractor's rights and responsibilities under the Contract Documents, and neither will be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. Neither the Construction Manager nor the Architect will have control over or charge of, or be responsible for acts or omissions of, the Contractor, Subcontractors, or their agents or employees, or of any other persons or entities performing portions of the Work.

§ 4.2.6 **Communications.** The Owner shall communicate with the Contractor and the Construction Manager's consultants through the Construction Manager about matters arising out of or relating to the Contract Documents. The Owner and Construction Manager shall include the Architect in all communications that relate to or affect the Architect's services or professional responsibilities. The Owner shall promptly notify the Architect of the substance of any direct communications between the Owner and the Construction Manager otherwise relating to the Project. Communications by and with the Architect's consultants shall be through the Architect. Communications by and with Subcontractors and suppliers shall be through the Contractor. Communications by and with other Contractors shall be through the Construction Manager. Communications by and with the Owner's own forces and Separate Contractors shall be through the Owner unless otherwise provided. The Contract Documents may specify other communication protocols. The Owner may require the Architect, Construction Manager and the Contractor to comply with Owner requirements in regards to public communications and site signage.

§ 4.2.7 The Construction Manager and Architect will review and certify all Applications for Payment by the Contractor, in accordance with the provisions of Article 9.

§ 4.2.8 The Architect and Construction Manager have authority to reject Work that does not conform to the Contract Documents, and will notify each other about the rejection. Whenever the Construction Manager considers it necessary or advisable for implementation of the intent of the Contract Documents, the Construction Manager will have authority to require additional inspection or testing of the Work in accordance with Sections 13.4.2 and 13.4.3, upon written authorization of the Owner, whether or not the Work is fabricated, installed or completed. The foregoing authority of the Construction Manager will be subject to the provisions of Sections 4.2.18 through 4.2.20 inclusive, with respect to interpretations and decisions of the Architect. However, neither the Architect's nor the Construction Manager's authority to act under this Section 4.2.8 nor a decision made by either of them in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect or the Construction Manager to the Contractor, Subcontractors, suppliers, their agents or employees, or other persons performing any of the Work.

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§ 4.2.9 Utilizing the submittal schedule provided by the Contractor, the Construction Manager shall prepare, and revise as necessary, a Project submittal schedule incorporating information from other Contractors, the Owner, Owner's consultants, Owner's Separate Contractors and vendors, governmental agencies, and participants in the Project under the management of the Construction Manager. The Project submittal schedule and any revisions shall be submitted to the Architect for approval.

§ 4.2.10 The Construction Manager will receive and promptly review for conformance with the submittal requirements of the Contract Documents, all submittals from the Contractor such as Shop Drawings, Product Data, and Samples. Where there are other Contractors, the Construction Manager will also check and coordinate the information contained within each submittal received from the Contractor and other Contractors, and transmit to the Architect those recommended for approval. By submitting Shop Drawings, Product Data, Samples, and similar submittals, the Construction Manager represents to the Owner and Architect that the Construction Manager has reviewed and recommended them for approval. The Construction Manager's actions will be taken in accordance with the Project submittal schedule approved by the Architect or, in the absence of an approved Project submittal schedule, with reasonable promptness while allowing sufficient time to permit adequate review by the Architect.

§ 4.2.11 The Architect will, and the Owner may, review and approve, or take other appropriate action upon, the Contractor's submittals such as Shop Drawings, Product Data, and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Architect's or Owner's action will be taken with such reasonable promptness as to cause no delay in the Work or in the activities of the Owner, Contractor or separate contractors, while allowing sufficient time in the Architect's professional judgment to permit adequate review. Upon the Architect's or the Owner's completed review, the Architect shall transmit its submittal review to the Construction Manager.

§ 4.2.12 Review of the Contractor's submittals by the Construction Manager and Architect is not conducted for the purpose of determining the accuracy and completeness of other details such as dimensions and quantities, or for substantiating instructions for installation or performance of equipment or systems, all of which remain the responsibility of the Contractor as required by the Contract Documents. The Construction Manager and Architect's review of the Contractor's submittals shall not relieve the Contractor of the obligations under Sections 3.3, 3.5, and 3.12. The Construction Manager and Architect's review shall not constitute approval of safety precautions or of any construction means, methods, techniques, sequences, or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

§ 4.2.13 The Construction Manager will prepare Change Orders and Construction Change Directives.

§ 4.2.14 The Construction Manager and the Architect will take appropriate action on Change Orders or Construction Change Directives in accordance with Article 7, and the Architect will have authority to order minor changes in the Work as provided in Section 7.4. The Architect, in consultation with the Construction Manager, will investigate and make determinations and recommendations regarding concealed and unknown conditions as provided in Section 3.7.4.

§ 4.2.15 Utilizing the documents provided by the Contractor, the Construction Manager will maintain at the site for the Owner one copy of all Contract Documents, approved Shop Drawings, Product Data, Samples, and similar required submittals, in good order and marked currently to record all changes and selections made during construction. These will be available to the Architect and the Contractor, and will be delivered to the Owner upon completion of the Project.

§ 4.2.16 The Construction Manager will assist the Architect in conducting inspections to determine the date or dates of Substantial Completion and the date of final completion; issue Certificates of Substantial Completion in conjunction with the Architect pursuant to Section 9.8; and receive and forward to the Owner written warranties and related documents required by the Contract and assembled by the Contractor pursuant to Section 9.10. The Construction Manager will forward to the Architect a final Application and Certificate for Payment or final Project Application and Project Certificate for Payment upon the Contractor's compliance with the requirements of the Contract Documents.

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

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§ 4.2.18 The Architect will interpret and decide matters concerning performance under the requirements of, the Contract Documents on written request of the Construction Manager, Owner, or Contractor through the Construction Manager. The Architect's response to such requests will be made with reasonable promptness and within any time limits agreed upon. If no agreement is made concerning the time within which interpretations required of the Architect shall be furnished in compliance with this Section 4.2.18, then delay shall not be recognized on account of failure by the Architect to furnish such interpretations until fifteen (15) days after written request is made to them.

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

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

(Paragraph deleted)

ARTICLE 5 SUBCONTRACTORS

§ 5.1 Definitions

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

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

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

§ 5.2.1 Unless otherwise stated in the Contract Documents, the Contractor, as soon as practicable after award of the Contract, shall notify in writing the Construction Manager, for review by the Owner, Construction Manager and Architect, of the persons or entities proposed for each principal portion of the Work, including those who are to furnish materials or equipment fabricated to a special design. Within 14 days of receipt of the information, the Construction Manager may notify the Contractor whether the Owner, the Construction Manager or the Architect (1) has reasonable objection to any such proposed person or entity or, (2) requires additional time for review. Failure of the Construction Manager to provide notice within the 14-day period shall constitute notice of no reasonable objection. The Contractor shall not employ any Subcontractor or use any material to which the Architect, Construction Manager or Owner may object. Prior to the employment of any Subcontractor, the Contractor must obtain the Owner's approval of such Subcontractor for the designated portion of the Work.

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

§ 5.2.3 If the Owner, Construction Manager or Architect has reasonable objection to a person or entity proposed by the Contractor, the Contractor shall propose another to whom the Owner, Construction Manager or Architect has no reasonable objection. The Contract Sum shall be increased or decreased by the difference in cost occasioned by such change, and an appropriate Change Order shall be issued. However, no increase in the Contract Sum or Contract Time shall be allowed for such change unless the Contractor has acted promptly and responsively in submitting names as required. Notwithstanding the foregoing, the Contractor shall have a continuing duty to the Owner, Construction Manager and Architect to find and propose such persons or entities as shall not result in material increase in the Contract Sum, or a material decrease in the quality of Work contemplated under the Contract Documents.

§ 5.2.4 The Contractor shall not substitute a Subcontractor, person, or entity for one previously selected if the Owner, Construction Manager or Architect makes reasonable objection to such substitution. Any proposed substitution of a Subcontractor, person, or entity for one previously selected shall be made in a separate writing to the Owner, Construction Manager and Architect. No substitution shall be deemed approved/accepted without written

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confirmation from the Owner, Construction Manager and Architect. Neither acceptance of, nor objection to a Subcontractor or Sub-subcontractor, material supplier, or other person or organization by the Owner, Construction Manager and Architect shall limit the responsibility of the Contractor to furnish materials, products, equipment, and services in conformance with the requirements of the Contract Documents.

§ 5.3 Subcontractual Relations

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

§ 5.3.2 The Contractor is responsible for the performance of, the actions of, the timeliness of, or interference caused by, Subcontractors, Sub-subcontractors (of any tier), and others directly or indirectly under contract to the Contractor.

§ 5.4 Contingent Assignment of Subcontracts

§ 5.4.1 Each subcontract agreement for a portion of the Work is assigned by the Contractor to the Owner, provided that

.1 assignment is effective only after termination of the Contract by the Owner for cause pursuant to Section 14.2 and only for those subcontract agreements that the Owner accepts by notifying the Subcontractor and Contractor; and

.2 assignment is subject to the prior rights of the surety, if any, obligated under bond relating to the Contract.

When the Owner accepts the assignment of a subcontract agreement, the Owner assumes the Contractor's rights and obligations under the subcontract.

§ 5.4.2 Upon such assignment, if the Work has been suspended for more than 30 days, the Subcontractor's compensation shall be equitably adjusted for increases in cost resulting from the suspension.

§ 5.4.3 Upon assignment to the Owner under this Section 5.4, the Owner may further assign the subcontract to a successor Contractor or other entity. If the Owner assigns the subcontract to a successor Contractor or other entity, the Owner shall nevertheless remain legally responsible for all of the successor Contractor's obligations under the subcontract.

ARTICLE 6 CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTORS

§ 6.1 Owner's Right to Perform Construction with Own Forces and to Award Other Contracts

§ 6.1.1 The Owner reserves the right to perform construction or operations related to the Project with the Owner's own forces, and with Separate Contractors retained under Conditions of the Contract substantially similar to those of this Contract, including those provisions of the Conditions of the Contract related to insurance and waiver of subrogation.

§ 6.1.2 When the Owner performs construction or operations with the Owner's own forces or Separate Contractors, the Owner shall provide for coordination of such forces and Separate Contractors with the Work of the Contractor, who shall cooperate with them.

§ 6.1.3 Unless otherwise provided in the Contract Documents, when the Owner performs construction or operations related to the Project with the Owner's own forces or with Separate Contractors, the Owner or its Separate Contractors

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shall have the same obligations and rights that the Contractor has under the Conditions of the Contract, including, without excluding others, those stated in Article 3, this Article 6, and Articles 10, 11, and 12.

§ 6.2 Mutual Responsibility

§ 6.2.1 The Contractor shall afford the Owner's own forces, Separate Contractors, Construction Manager and other Contractors reasonable opportunity for introduction and storage of their materials and equipment and performance of their activities, and shall connect and coordinate the Contractor's construction and operations with theirs as required by the Contract Documents.

§ 6.2.2 If part of the Contractor's Work depends for proper execution or results upon construction or operations by the Owner's own forces, Separate Contractors or other Contractors, the Contractor shall, prior to proceeding with that portion of the Work, promptly notify the Construction Manager and Architect of apparent discrepancies or defects in the construction or operations by the Owner or Separate Contractor or other Contractors that would render it unsuitable for proper execution and results of the Contractor's Work. Failure of the Contractor to notify the Construction Manager and the Architect of apparent discrepancies or defects prior to proceeding with the Work shall constitute an acknowledgment that the Owner's or Separate Contractor's or other Contractors' completed or partially completed construction is fit and proper to receive the Contractor's Work. The Contractor shall not be responsible for discrepancies or defects in the construction or operations by the Owner or Separate Contractors or other Contractors that are not reasonably discoverable.

§ 6.2.3 Costs caused by delays or by improperly timed activities or defective construction shall be borne by the party responsible therefor.

§ 6.2.4 The Contractor shall promptly remedy damage that the Contractor wrongfully causes to completed or partially completed construction, or to property of the Owner, Separate Contractors, or other Contractors as provided in Section 10.2.5.

§ 6.2.5 Claims and other disputes and matters in question between the Contractor and a separate contractor shall be subject to the provisions of Article 15 provided the separate contractor has reciprocal obligations.

§ 6.2.6 The Owner, Separate Contractors, and other Contractors shall have the same responsibilities for cutting and patching as are described for the Contractor in Section 3.14.

§ 6.3 Owner's Right to Clean Up

If a dispute arises among the Contractor, Separate Contractors, other Contractors, and the Owner as to the responsibility under their respective contracts for maintaining the premises and surrounding area free from waste materials and rubbish as described in Section 3.15, the Owner may clean up allocate the cost among those responsible as the Architect determines to be just..

ARTICLE 7 CHANGES IN THE WORK

§ 7.1 General

§ 7.1.1 Changes in the Work may be accomplished after execution of the Contract, and without invalidating the Contract, by Change Order, Construction Change Directive or order for a minor change in the Work, subject to the limitations stated in this Article 7 and elsewhere in the Contract Documents.

§ 7.1.2 A Change Order shall be based upon agreement among the Owner, Construction Manager, Architect and Contractor. A Construction Change Directive requires agreement by the Owner, Construction Manager and Architect and may or may not be agreed to by the Contractor.

§ 7.1.3 Changes in the Work shall be performed under applicable provisions of the Contract Documents. The Contractor shall proceed promptly with changes in the Work, unless otherwise provided in the Change Order, Construction Change Directive, or order for a minor change in the Work.

§ 7.1.4 The amount of credit to be allowed by the Contractor to the Owner for any deletion or change which results in a net decrease in the Contract Sum will be the amount of the actual net cost as confirmed by the Architect after consultation with the Owner and Construction Manager. When both additions and credits covering related Work or

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substitutions are involved in any one change, the allowance for both overhead and profit shall be figured on the basis of the net increase or decrease, if any, with respect to that change.

§ 7.1.5 In Section 7.3.6, the allowance for the combined overhead and profit included in the total cost to the Owner shall be based on the following schedule:

.1 For the Contractor, for Work performed by the Contractor's own forces, ten percent (10%) of the cost;

.2 For the Contractor, for Work performed by the Contractor's Subcontractor, five percent (5%) of the amount due the Subcontractor;

.3 For each Subcontractor or Sub-subcontractor involved for Work performed by the Subcontractor's or Sub-subcontractor's own forces, ten percent (10%) of the cost;

.4 For each Subcontractor for Work performed by the Subcontractor's Sub-subcontractor, five percent (5%) of the amount due the Subcontractor;

.5 Costs to which overhead and profit is to be applied shall be determined in accordance with Section 7.3.6;

.6 In order to facilitate checking of quotations for extras or credits, all proposals, except those so minor that their propriety can be seen by inspection, shall be accompanied by a complete itemization of costs, including labor, materials and subcontracts. Labor and materials shall be itemized in the manner prescribed above. Where major cost items are subcontracts, they shall be itemized also. In no case will a change involving over $500 be approved without such itemization.

§ 7.2 Change Orders and Change Proposals

§ 7.2.1 A Change Order is a written instrument prepared by the Construction Manager and signed by the Owner, Construction Manager, Architect, and Contractor, stating their agreement upon all of the following:

.1 The change in the Work;

.2 The amount of the adjustment, if any, in the Contract Sum; and

.3 The extent of the adjustment, if any, in the Contract Time.

§ 7.2.2 Change Order shall be prepared on AIA Document G731.

§ 7.2.3 The Contractor must submit Change Proposals covering a contemplated Change Order within ten (10) days after request of the Owner, or the Architect or within ten (10) days of the event, or Contractor's discovery of a condition, whichever is earlier, giving rise to the Contractor's claim for a change in the Contract Sum or Contract Time. No increase in the Contract Sum or extension of the Contract Time will be allowed the Contractor for the cost or time involved in making Change Proposals. Change Proposals will define or confirm in detail the Work which is proposed to be added, deleted, or changed and must include any adjustment which the Contractor believes to be necessary in (i) the Contract Sum, or (ii) the Contract Time. Any proposed adjustment must include detailed documentation including, but not limited to: cost, properly itemized and supported by sufficient substantiating data to permit evaluation including cost of labor, materials, supplies and equipment, rental cost of machinery and equipment, additional bond cost, plus a fixed fee for profit and overhead (which includes office overhead and Site-specific overhead and general conditions) of ten percent (10%) if the Work is performed by the Contractor, or five percent (5%) if the Work is performed by a Subcontractor or Sub-subcontractor. The Subcontractor's or Sub-subcontractor's overhead and profit in turn must not exceed a total aggregate of ten percent (10%). Change Proposals will be binding upon the Contractor and may be accepted or rejected by the Owner in its discretion. The Owner may, at its option, instruct the Contractor through a Construction Change Directive to proceed with the Work involved in the Change Proposal in accordance with Section 7.3 without accepting the Change Proposal in its entirety.

§ 7.2.4 If the Owner determines that a Change Proposal is appropriate, the Architect will prepare and submit a request for a Change Order or Contract Amendment providing for an appropriate adjustment in the Contract Sum or Contract Time, or both, for further action by the Owner. No such change is effective until the Owner and Architect sign the Change Order.

§ 7.3 Construction Change Directives

§ 7.3.1 A Construction Change Directive is a written order prepared by the Construction Manager and signed by the Owner, Construction Manager and Architect, directing a change in the Work prior to agreement on adjustment, if any, in the Contract Sum or Contract Time, or both. The Owner may by Construction Change Directive, without

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invalidating the Contract, order changes in the Work within the general scope of the Contract consisting of additions, deletions, or other revisions, the Contract Sum and Contract Time being adjusted accordingly.

§ 7.3.2 A Construction Change Directive shall be used in the absence of total agreement on the terms of a Change Order.

§ 7.3.3 If the Construction Change Directive provides for an adjustment to the Contract Sum, the adjustment shall be based on one of the following methods:

.1 Mutual acceptance of a lump sum properly itemized and supported by sufficient substantiating data to permit evaluation;

.2 Unit prices stated in the Contract Documents or subsequently agreed upon;

.3 Cost to be determined in a manner agreed upon by the parties and a mutually acceptable fixed or percentage fee; or

.4 As provided in Section 7.3.4.

§ 7.3.4 If the Contractor does not respond promptly or disagrees with the method for adjustment in the Contract Sum, the Owner and the Construction Manager shall determine the adjustment on the basis of reasonable expenditures and savings of those performing the Work attributable to the change, including, in case of an increase in the Contract Sum, an amount for overhead and profit as set forth in the Agreement, or if no such amount is set forth in the Agreement, a reasonable amount. In such case, and also under Section 7.3.3.3, the Contractor shall keep and present, in such form as the Construction Manager may prescribe, an itemized accounting together with appropriate supporting data. Unless otherwise provided in the Contract Documents, costs for the purposes of this Section 7.3.4 shall be limited to the following:

.1 Costs of labor, including applicable payroll taxes, fringe benefits required by agreement or custom, workers' compensation insurance, and other employee costs approved by the Construction Manager and Architect;

.2 Costs of materials, supplies, and equipment, including cost of transportation, whether incorporated or consumed;

.3 Rental costs of machinery and equipment, exclusive of hand tools, whether rented from the Contractor or others (at rates approved by the Owner);

.4 Costs of premiums for all bonds and insurance, permit fees, and sales, use, or similar taxes, directly related to the change; and

.5 Costs of supervision and field office personnel directly attributable to the change.

§ 7.3.5 If the Contractor disagrees with the adjustment in the Contract Time, the Contractor may make a Claim in accordance with applicable provisions of Article 15.

§ 7.3.6 Upon receipt of a Construction Change Directive, the Contractor shall promptly proceed with the change in the Work involved and advise the Construction Manager of the Contractor's agreement or disagreement with the method, if any, provided in the Construction Change Directive for determining the proposed adjustment in the Contract Sum or Contract Time.

§ 7.3.7 A Construction Change Directive signed by the Contractor indicates the Contractor's agreement therewith, including adjustment in Contract Sum and Contract Time or the method for determining them. Such agreement shall be effective immediately.

§ 7.3.8 The amount of credit to be allowed by the Contractor to the Owner for a deletion or change that results in a net decrease in the Contract Sum shall be actual net cost as confirmed by the Construction Manager and Architect. When both additions and credits covering related Work or substitutions are involved in a change, the allowance for overhead and profit shall be figured on the basis of net increase, if any, with respect to that change.

§ 7.3.9 Pending final determination of the total cost of a Construction Change Directive to the Owner, the Contractor may request payment for Work completed under the Construction Change Directive in Applications for Payment up to and not exceeding $25,000. The Construction Manager and Architect will make an interim determination for purposes of monthly certification for payment for those costs and certify for payment the amount that the Construction Manager and Architect determine to be reasonably justified. The interim determination of cost shall adjust the Contract Sum on

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the same basis as a Change Order, subject to the right of either party to disagree and assert a Claim in accordance with Article 15.

§ 7.3.10 When the Owner and Contractor agree with a determination made by the Construction Manager and Architect concerning the adjustments in the Contract Sum and Contract Time, or otherwise reach agreement upon the adjustments, such agreement shall be effective immediately and the Construction Manager shall prepare a Change Order. Change Orders may be issued for all or any part of a Construction Change Directive.

§ 7.4 Minor Changes in the Work

The Architect may order minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. The Architect's order for minor changes shall be in writing and approved by the Owner. If the Contractor believes that the proposed minor change in the Work will affect the Contract Sum or Contract Time, the Contractor shall notify the Construction Manager and shall not proceed to implement the change in the Work. If the Contractor performs the Work set forth in the Architect's order for a minor change without prior notice to the Construction Manager that such change will affect the Contract Sum or Contract Time, the Contractor waives any adjustment to the Contract Sum or extension of the Contract Time.

ARTICLE 8 TIME

§ 8.1 Definitions

§ 8.1.1 Unless otherwise provided, Contract Time is the period of time, including authorized adjustments, allotted in the Contract Documents for Substantial Completion of the Work.

§ 8.1.2 The date of commencement of the Work is the date established in the Agreement. The date shall not be postponed by the failure to act of the Contractor or of persons or entities for whom the Contractor is responsible.

§ 8.1.3 The date of Substantial Completion is the date certified by the Architect in accordance with Section 9.8.

§ 8.1.4 The term "day" shall mean calendar day of 24 hours beginning at 12:00 midnight. Calendar days as stated in the Contract Documents, shall include all days of a seven (7) day week including Saturdays, Sundays, and holidays. The term "Milestone Date" is, in each instance, the date established in the Contract Documents for the Substantial completion of all or a designated portion of the Work.

§ 8.2 Progress and Completion

§ 8.2.1 Time limits stated in the Contract Documents are of the essence of the Contract. By executing the Agreement, the Contractor confirms that the Contract Time is a reasonable period for performing the Work.

§ 8.2.2 The Contractor shall not knowingly, except by agreement or instruction of the Owner in writing, commence the Work prior to the effective date of insurance required to be furnished by the Contractor and Owner.

§ 8.2.3 The Contractor shall proceed expeditiously with adequate forces and shall achieve Substantial Completion within the Contract Time and shall achieve specific contractual Milestone Dates (if any), Substantial Completion and final Completion within the time stated in the Contract Documents.

§ 8.2.4 Contractor understands and agrees that all Work must be performed in an orderly and closely coordinated sequence so that the dates for Substantial Completion, Final Completion, and Milestone Dates (if any) may be met by the Contractor.

§ 8.2.5 Timely final completion of the Project is of critical importance to the Owner. The Contractor agrees that it shall substantially complete all Work under the Contract documents within the time established herein and that it shall finally complete the Work in the detail required and in the time required by the Contract Documents.

§ 8.2.6 To the extent that the Contract Documents contain or provide for specific contractual Milestone Dates in addition to Final and Substantial Completion dates, such dates shall be adhered to and shall be the last acceptable dates for those milestones and completions, unless modified by the Owner.

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§ 8.2.7 Notwithstanding anything to the contrary contained in the Contract Documents, in the event that any Contractor fails, or appears likely, in the reasonable opinion of the Owner and Construction Manager, to fail to complete a critical portion of their Work on time or to complete any dates for Substantial Completion, Final Completion, or Milestone Dates as evidenced by the latest update of the CPM Schedule Report, the Owner shall have the right to select and require Contractor's performance under any or all of the following operations:

.1 Require the Contractor to substantiate their capability to get back on schedule within two (2) days;

.2 Require the Contractor, at no additional cost to the Owner, to increase their work force, work overtime and/or extra shifts and do whatever else is required by the Owner until the Contractor gets back on schedule as established by the CPM Schedule Report (including any updates thereto);

.3 Withhold progress payments or portions thereof until such time as the contractor returns to schedule, but only related to Substantial Completion or Final Completion;

.4 Contact or visit the factory, plant, or distribution center whose production or delivery schedule may be critical to the scheduled completion of a portion of the contract work and expedite such production delivery at Contractor's expense; or

.5 Require the Contractor to complete, in detail, and submit weekly a Short Interval Schedule (SIS) showing: (1) planning for the next two weeks; (2) work completed for the previous week; (3) sufficient detail to evaluate daily milestone (if any) and manpower/equipment loading, and shall identify/tie into the monthly updated CPM Schedule Report.

Any costs incurred by the Contractor in fulfilling the option(s) selected by the Owner shall be at the Contractor's expense.

§ 8.3 Delays and Extensions of Time

§ 8.3.1 If the Contractor is delayed at any time in the progress of the Work by (1) an act or neglect of the Owner, Architect, Construction Manager, or an employee of any of them, or of the Owner's own forces, Separate Contractors, or other Contractors; (2) by changes ordered in the Work; (3) by labor disputes, fire, unusual delay in deliveries, unavoidable casualties, adverse weather conditions documented in accordance with Section 15.1.6.2, or other causes beyond the Contractor's control; or (4) by other causes that the Contractor asserts and the Architect, based on the recommendation of the Construction Manager, determines justify delay, then subject to the conditions hereinafter set forth, the Contract Time shall be extended by Change Order for such reasonable time as the Architect may determine. Requests for extensions of time for causes enumerated above will be considered by the Architect subject to the following:

.1 Only those conditions enumerated above over which the Contractor has no control will be considered. The burden of proof to substantiate the claim for an extension shall rest with the Contractor, including evidence that the cause was beyond their control. It shall be deemed the Contractor has control over the supply of labor, materials, equipment, methods, techniques, and over their Subcontractors and suppliers;

.2 In the event of Changes in the Work, any consideration for a time extension will be made only at the time of authorizing the changes, and no later than when the Change Order is prepared, and only if the Change Order significantly affects the time and progress of the entire Work. For changes which do not affect the entire Work, time extension may be granted only for the area, phase, unit, or element affected by the change, if due to a valid reason for a time extension;

.3 Any unusual delay in deliveries will not be considered unless it is solely due to transportation issues wholly outside of Contractor's, Subcontractor's, Sub-subcontractor's or Supplier's control. An extension of time will not be granted for delays in deliveries where said delivery was not properly scheduled or when orders were not promptly and properly placed;

.4 With respect to a claim for an extension of time as a result of climatic conditions, the Contractor shall recognize the location of the site and the existence, as normal, or variations from "average" conditions. Foul weather in itself will not be a valid reason for a time extension. Requests for time extensions because of delay resulting from weather extremes will not be considered unless a substantial variation from usual weather conditions occurs for a significant period of time, during phases of the Work when operation necessarily were suspended to a significant degree when they would otherwise have been in progress. In considering the time extension, the weather conditions both before and after the period in which the delay is claimed will be evaluated with credit given to Owner for unseasonably favorable weather;

.5 Delays resulting from a labor dispute will not result in a time extension of a longer period than the dispute, plus a reasonable time for mobilization if justified and necessary as approved by the

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Architect, and may be less depending on the impact of the dispute, including what operations were suspended or curtailed;

.6 No time extension will be granted as a result of improper scheduling or for failure to have shop drawings or samples submitted in ample time for review under a reasonable and agreed upon schedule; or

.7 Delays by Subcontractors or suppliers will not be considered justification for a time extension, except for the same valid reasons and conditions enumerated under Section 8.3.1.

§ 8.3.2 Claims relating to time shall be made in accordance with applicable provisions of Article 15.

§ 8.3.3 This Section 8.3 does not preclude recovery of damages for delay by either party under other provisions of the Contract Documents.

§ 8.3.4 The Contractor shall be responsible for all Owner incurred costs associated with a Contractor related to delay in completion of the Project. These costs may include, but are not limited to, Owner staff overtime, Consultant additional fees, additional testing, and/or additional rental or storage costs. A Change Order or Construction Change Directive will be issued to cover these costs. If a Change Order is not agreed to by the Contractor, the Owner, after presenting documentation to the Contractor, may deduct these amounts without a Change Order from the Contract Sum.

ARTICLE 9 PAYMENTS AND COMPLETION

§ 9.1 Contract Sum

§ 9.1.1 The Contract Sum is stated in the Agreement and, including authorized adjustments, is the total amount payable by the Owner to the Contractor for performance of the Work under the Contract Documents.

§ 9.1.2 If unit prices are stated in the Contract Documents or subsequently agreed upon, and if quantities originally contemplated are materially changed so that application of such unit prices to the actual quantities causes substantial inequity to the Owner or Contractor, the applicable unit prices shall be equitably adjusted.

§ 9.2 Schedule of Values

Before the first Application for Payment, the Contractor shall submit to the Architect and Construction Manager a schedule of values allocated to various portions of the Work, prepared in the form, and supported by the data to substantiate its accuracy, required by the Construction Manager and the Architect. The schedule, unless objected to by the Construction Manager or Architect, shall be used as a basis for reviewing the Contractor's Applications for Payment. The Construction Manager shall forward to the Architect the Contractor's schedule of values. Any changes to the schedule of values shall be submitted to the Construction Manager and supported by such data to substantiate its accuracy as the Construction Manager and the Architect may require, and unless objected to by the Construction Manager or the Architect, shall be used as a basis for reviewing the Contractor's subsequent Applications for Payment. The Contractor, after receipt of Notice to Proceed, shall meet with the Owner, Construction Manager and the Architect for the purpose of reviewing the Project CPM Schedule and the Contract Schedule of Values. The Contractor shall develop a CPM Schedule for completing their portion of the Work, in conjunction with all other Contractors or Bid Packages, at the Pre-Construction Meeting(s). The Schedule of Values is to be broken down into specification sections and by labor and materials.

§ 9.3 Applications for Payment

§ 9.3.1 At least fifteen days before the date established for each progress payment, the Contractor shall submit to the Construction Manager an itemized Application for Payment for operations completed in accordance with the Schedule of Values. Such application shall be notarized and supported by all data substantiating the Contractor's right to payment that the Owner, Construction Manager or Architect require, such as copies of requisitions, and releases of waivers of lien from Subcontractors and material suppliers, and reflecting retainage if provided for elsewhere in the Contract Documents. The form of Application for Payment shall be a notarized AIA Document G732–2019, Application and Certificate for Payment, supported by AIA Document G703–1992, Continuation Sheet.

§ 9.3.1.1 As provided in Section 7.3.9, such applications may include requests for payment on account of changes in the Work that have been properly authorized by Construction Change Directives, or by interim determinations of the Construction Manager and Architect, but not yet included in Change Orders.

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§ 9.3.1.2 Such applications shall not include requests for payment of amounts the Contractor does not intend to pay a Subcontractor or supplier because of a dispute or other reason, unless such Work has been performed by others whom the Contractor intends to pay.

§ 9.3.1.3 Following certification of the Application for Payment by the Architect and Construction Manager, the Owner shall pay ninety-five percent (95%) of its value, retaining five percent (5%) until Final Completion.

§ 9.3.1.4 Contractor shall provide lien waivers for itself for the current payment application and for Subcontractors, Sub-subcontractors, and suppliers for the previous payment application before the Contractor has earned or has the right to receive payment for the specific items of work or materials covered by the lien waivers. All lien waivers shall be provided in the form required by the Owner. This Section 9.3.1.4 shall not limit other obligations of the Contractor contained elsewhere to provide lien waivers.

§ 9.3.2 Unless otherwise provided in the Contract Documents, payments shall be made on account of materials and equipment delivered and suitably stored at the site for subsequent incorporation in the Work. If approved in advance by the Owner, payment may similarly be made for materials and equipment suitably stored off the site at a location agreed upon in writing. Payment for materials and equipment stored on or off the site shall be conditioned upon compliance by the Contractor with procedures satisfactory to the Owner to establish the Owner's title to such materials and equipment or otherwise protect the Owner's interest, and shall include the costs of applicable insurance, storage, and transportation to the site, for such materials and equipment stored off the site.

§ 9.3.3 The Contractor warrants that title to all Work covered by an Application for Payment will pass to the Owner no later than the time of payment. The Contractor further warrants that upon submittal of an Application for Payment all Work for which Certificates for Payment have been previously issued and payments received from the Owner shall, to the best of the Contractor's knowledge, information, and belief, be free and clear of liens, claims, security interests, or encumbrances, in favor of the Contractor, Subcontractors, suppliers, or other persons or entities that provided labor, materials and equipment relating to the Work.

§ 9.3.4 In each Application for Payment, the Contractor shall certify as follows:

> "That there are no known mechanics' or materialmen's liens or stop notice claims outstanding by the application or any of its subcontractors of any tier, or any of the applicant's or subcontractor's material suppliers, or laborers at the date of this application, that all due and payable bills with respect to the Work have been paid or are included in the amount requested in current application, and that, except for such bills, not paid by Owner, but so included, there is no known basis for the filing of any mechanics' or materialmen's liens or stop notice claims on the Work, and that waivers from Contractor, its subcontractors of any tier, or any of the applicant's or subcontractor's material suppliers and laborers have been obtained in such form as to constitute an effective waiver of liens or stop notice claims, under the laws of the State of Minnesota to the extent of payments made by Owner to Contractor."

Notwithstanding the foregoing Section 9.3.4, Contractor acknowledges its obligation to provide a Payment Bond in accordance with the Contract Documents, and that Contractor's failure to pay any of its Subcontractors, Sub-subcontractors, suppliers, or laborers will be resolved through a claim under the Payment Bond.

§ 9.4 Certificates for Payment

§ 9.4.1 Where there is only one Contractor, the Construction Manager will, within seven days after the Construction Manager's receipt of the Contractor's Application for Payment, review the Application, certify the amount the Construction Manager determines is due the Contractor, and forward the Contractor's Application and Certificate for Payment to the Architect. Within seven days after the Architect receives the Contractor's Application for Payment from the Construction Manager, the Architect will either (1) issue to the Owner a Certificate for Payment, in the full amount of the Application for Payment, with a copy to the Construction Manager; or (2) issue to the Owner a Certificate for Payment for such amount as the Architect determines is properly due, and notify the Construction Manager and Owner of the Architect's reasons for withholding certification in part as provided in Section 9.5.1; or (3) withhold certification of the entire Application for Payment, and notify the Construction Manager and Owner of the Architect's reason for withholding certification in whole as provided in Section 9.5.1. The Construction Manager will promptly forward to the Contractor the Architect's notice of withholding certification.

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§ 9.4.2 Where there is more than one Contractor performing portions of the Project, the Construction Manager will, within seven days after the Construction Manager receives all of the Contractors' Applications for Payment: (1) review the Applications and certify the amount the Construction Manager determines is due each of the Contractors; (2) prepare a Summary of Contractors' Applications for Payment by combining information from each Contractor's application with information from similar applications for progress payments from the other Contractors; (3) prepare a Project Application and Certificate for Payment; (4) certify the amount the Construction Manager determines is due all Contractors; and (5) forward the Summary of Contractors' Applications for Payment and Project Application and Certificate for Payment to the Architect.

§ 9.4.2.1 Within seven days after the Architect receives the Project Application and Project Certificate for Payment and the Summary of Contractors' Applications for Payment from the Construction Manager, the Architect will either (1) issue to the Owner a Project Certificate for Payment, with a copy to the Construction Manager; or (2) issue to the Owner a Project Certificate for Payment for such amount as the Architect determines is properly due, and notify the Construction Manager and Owner of the Architect's reasons for withholding certification in part as provided in Section 9.5.1; or (3) withhold certification of the entire Project Application for Payment, and notify the Construction Manager and Owner of the Architect's reason for withholding certification in whole as provided in Section 9.5.1. The Construction Manager will promptly forward the Architect's notice of withholding certification to the Contractors.

§ 9.4.3 The Construction Manager's certification of an Application for Payment or, in the case of more than one Contractor, a Project Application and Certificate for Payment, shall be based upon the Construction Manager's evaluation of the Work and the data in the Application or Applications for Payment. The Construction Manager's certification will constitute a representation that, to the best of the Construction Manager's knowledge, information, and belief, the Work has progressed to the point indicated, the quality of the Work is in accordance with the Contract Documents, and that the Contractor is, or Contractors are, entitled to payment in the amount certified.

§ 9.4.4 The Architect's issuance of a Certificate for Payment or, in the case of more than one Contractor, Project Application and Certificate for Payment, shall be based upon the Architect's evaluation of the Work, the recommendation of the Construction Manager, and data in the Application for Payment or Project Application for Payment. The Architect's certification will constitute a representation that, to the best of the Architect's knowledge, information, and belief, the Work has progressed to the point indicated, the quality of the Work is in accordance with the Contract Documents, and that the Contractor is, or Contractors are, entitled to payment in the amount certified.

§ 9.4.5 The representations made pursuant to Sections 9.4.3 and 9.4.4 are subject to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, to results of subsequent tests and inspections, to correction of minor deviations from the Contract Documents prior to completion, and to specific qualifications expressed by the Construction Manager or Architect.

§ 9.4.6 The issuance of a Certificate for Payment or a Project Certificate for Payment will not be a representation that the Construction Manager or Architect has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work; (2) reviewed construction means, methods, techniques, sequences, or procedures; (3) reviewed copies of requisitions received from Subcontractors and suppliers and other data requested by the Owner to substantiate the Contractor's right to payment; or (4) made examination to ascertain how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

§ 9.5 Decisions to Withhold Certification

§ 9.5.1 The Construction Manager or Architect may withhold a Certificate for Payment or Project Certificate for Payment in whole or in part, to the extent reasonably necessary to protect the Owner, if in the Construction Manager's or Architect's opinion the representations to the Owner required by Section 9.4.3 and 9.4.4 cannot be made. If the Construction Manager or Architect is unable to certify payment in the amount of the Application, the Construction Manager will notify the Contractor and Owner as provided in Section 9.4.1 and 9.4.2. If the Contractor, Construction Manager and Architect cannot agree on a revised amount, the Architect will promptly issue a Certificate for Payment or a Project Certificate for Payment for the amount for which the Architect is able to make such representations to the Owner. The Construction Manager or Architect may also withhold a Certificate for Payment or, because of subsequently discovered evidence, may nullify the whole or a part of a Certificate for Payment or Project Certificate for Payment previously issued, to such extent as may be necessary in the Construction Manager's or Architect's opinion to protect the Owner from loss for which the Contractor is responsible, including loss resulting from the acts and omissions described in Section 3.3.2 because of

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.1 defective Work not remedied;
.2 third party claims filed or reasonable evidence indicating probable filing of such claims, unless security acceptable to the Owner is provided by the Contractor;
.3 failure of the Contractor to make payments properly to Subcontractors or suppliers for labor, materials or equipment;
.4 reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Sum;
.5 damage to the Owner or a Separate Contractor or other Contractor;
.6 reasonable evidence that the Work will not be completed within the Contract Time, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay; or
.7 repeated failure to carry out the Work in accordance with the Contract Documents.

§ 9.5.2 When either party disputes the Architect's decision regarding a Certificate for Payment under Section 9.5.1, in whole or in part, that party may submit a Claim in accordance with Article 15.

§ 9.5.3 When the reasons for withholding certification are removed, certification will be made for amounts previously withheld.

§ 9.5.4 If the Architect or Construction Manager withholds certification for payment under Section 9.5.1, the Owner may, at its sole option, issue joint checks to the Contractor and to any Subcontractor or supplier to whom the Contractor failed to make payment for Work properly performed or material or equipment suitably delivered. If the Owner makes payments by joint check, the Owner shall notify the Architect and the Construction Manager, and both will reflect such payment on the next Certificate for Payment.

§ 9.6 Progress Payments

§ 9.6.1 After the Architect has issued a Certificate for Payment or Project Certificate for Payment, the Owner shall make payment within thirty (30) days of receipt by Owner of Certificate of Payment in the manner and within the time provided in the Contract Documents, and shall so notify the Construction Manager and Architect.

§ 9.6.2 The Contractor shall pay each Subcontractor, no later than seven days after receipt of payment from the Owner, the amount to which the Subcontractor is entitled, reflecting percentages actually retained from payments to the Contractor on account of the Subcontractor's portion of the Work. The Contractor shall, by appropriate agreement with each Subcontractor, require each Subcontractor to make payments to Sub-subcontractors in a similar manner. Per Minnesota Statutes, Section 471.425, within ten (10) days of Contractor's receipt of payment from Owner, the Contractor must pay any Subcontractor for any undisputed services provided by the Subcontractor. The Contractor shall pay interest of one and one-half percent (1-1/2%) per month, or any part of a month, to the Subcontractor on any undisputed amount not paid on time to the subcontractor. The minimum monthly interest penalty payment for an unpaid balance of $100 or more is $10.00. For an unpaid balance of less than $100, the Contractor shall pay the actual interest penalty due to the Subcontractor. Contractor is advised that by reason of Minnesota Statutes, Section 471.425, subd. 4a, if a Subcontractor prevails in a civil action to collect interest penalties from a prime contractor, the Subcontractor must be awarded its costs and disbursements, including attorneys' fees incurred in bringing the action.

§ 9.6.3 The Construction Manager will, on request, furnish to a Subcontractor, if practicable, information regarding percentages of completion or amounts applied for by the Contractor and action taken thereon by the Owner, Construction Manager and Architect on account of portions of the Work done by such Subcontractor.

§ 9.6.4 The Owner has the right to request written evidence from the Contractor that the Contractor has properly paid Subcontractors and suppliers amounts paid by the Owner to the Contractor for subcontracted Work. If the Contractor fails to furnish such evidence within seven days, the Owner shall have the right to contact Subcontractors and suppliers to ascertain whether they have been properly paid. Neither the Owner, Construction Manager nor Architect shall have an obligation to pay, or to see to the payment of money to, a Subcontractor or supplier, except as may otherwise be required by law.

§ 9.6.5 The Contractor's payments to material and equipment suppliers shall be treated in a manner similar to that provided in Sections 9.6.2, 9.6.3 and 9.6.4.

§ 9.6.6 A Certificate for Payment, a progress payment, or partial or entire use or occupancy of the Project by the Owner shall not constitute acceptance of Work not in accordance with the Contract Documents.

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§ 9.6.7 Unless the Contractor provides the Owner with a payment bond in the full penal sum of the Contract Sum, payments received by the Contractor for Work properly performed by Subcontractors or provided by suppliers shall be held by the Contractor for those Subcontractors or suppliers who performed Work or furnished materials, or both, under contract with the Contractor for which payment was made by the Owner. Nothing contained herein shall require money to be placed in a separate account and not commingled with money of the Contractor, create any fiduciary liability or tort liability on the part of the Contractor for breach of trust, or entitle any person or entity to an award of punitive damages against the Contractor for breach of the requirements of this provision.

§ 9.6.8 Provided the Owner has fulfilled its payment obligations under the Contract Documents, the Contractor shall defend and indemnify the Owner from all loss, liability, damage or expense, including reasonable attorney's fees and litigation expenses, arising out of any lien claim or other claim for payment by any Subcontractor or supplier of any tier. Upon receipt of notice of a lien claim or other claim for payment, the Owner shall notify the Contractor. If approved by the applicable court, when required, the Contractor may substitute a surety bond for the property against which the lien or other claim for payment has been asserted.

§ 9.7 Failure of Payment

If the Construction Manager and Architect do not issue a Certificate for Payment or a Project Certificate for Payment, through no fault of the Contractor, within fourteen days after the Construction Manager's receipt of the Contractor's Application for Payment, or if the Owner does not pay the Contractor within thirty (30) days after the date established in the Contract Documents, the amount certified by the Construction Manager and Architect then the Contractor may, upon ten (10) additional days' notice to the Owner, Construction Manager and Architect, stop the Work until payment of the amount owing has been received. The Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable costs of shutdown, delay and start-up which shall be accomplished as provided in Article 7.

§ 9.8 Substantial Completion

§ 9.8.1 Substantial Completion is the stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Contract Documents so the Owner can occupy or utilize the Work for its intended use and when the Architect issues a Certificate of Substantial Completion.

§ 9.8.2 When the Contractor considers that the Work, or a portion thereof which the Owner agrees to accept separately, is substantially complete, the Contractor shall notify the Construction Manager, and the Contractor and Construction Manager shall jointly prepare and submit to the Architect a comprehensive list of items to be completed or corrected. The Contractor shall proceed promptly to complete and correct items on the list. Failure to include an item on such list does not alter the responsibility of the Contractor to complete all Work in accordance with the Contract Documents. Upon receipt of the Contractor's list, the Architect, assisted by the Construction Manager, will make an inspection to determine whether the Work or designated portion thereof is substantially complete. If the Architect's inspection discloses any item, whether or not included on the Contractor's list, which is not in accordance with the requirements of the Contract documents, the Contractor shall, before issuance of the Certificate of Substantial Completion, complete or correct such item, upon notification by the Architect. The Contractor shall then submit a request for another inspection by the Architect, assisted by the Construction Manager, to determine Substantial Completion. When the Work or designated portion thereof is substantially complete, the Architect will prepare a Certificate of Substantial Completion which shall establish the date of Substantial Completion, shall establish responsibilities of the Owner and Contractor for security, maintenance, heat, utilities, damage to the Work and insurance, and shall fix the time within which the Contractor shall finish all items on the list accompanying the Certificate. Warranties required by the Contract Document shall commence on the date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion.

§ 9.8.3 Upon receipt of the list, the Architect, assisted by the Construction Manager, will make an inspection to determine whether the Work or designated portion thereof is substantially complete. If the Architect's inspection discloses any item, whether or not included on the list, which is not sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work or designated portion thereof for its intended use, the Contractor shall, before issuance of the Certificate of Substantial Completion, complete or correct such item upon notification by the Architect. In such case, the Contractor shall then submit a request for another inspection by the Architect, assisted by the Construction Manager, to determine Substantial Completion.

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§ 9.8.4 When the Architect, assisted by the Construction Manager, determines that the Work of all of the Contractors, or designated portion thereof, is substantially complete, the Construction Manager will prepare, and the Construction Manager and Architect shall execute, a Certificate of Substantial Completion that shall establish the date of Substantial Completion; establish responsibilities of the Owner and Contractor for security, maintenance, heat, utilities, damage to the Work and insurance; and fix the time within which the Contractor shall finish all items on the list accompanying the Certificate. Warranties required by the Contract Documents shall commence on the date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion.

§ 9.8.5 The Certificate of Substantial Completion shall be submitted to the Owner and Contractor for their written acceptance of responsibilities assigned to them in the Certificate. Upon such acceptance, and consent of surety if any, the Owner shall make payment of retainage applying to the Work or designated portion thereof. Such payment shall be adjusted for Work that is incomplete or not in accordance with the requirements of the Contract Documents.

§ 9.8.6 Upon Substantial completion of the Work or designated portion thereof and upon application by the Contractor and certification by the Architect, the Owner shall make payment, reflecting adjustment in retainage, pursuant to Minnesota Statutes, Section 15.72, for such Work or portion thereof as provided in the Contract Documents.

§ 9.8.7 The Architect, assisted by the Construction Manager, shall make one (1) inspection for Substantial Completion and Final Completion in accordance with the AIA Document B101–2017 Owner Architect Agreement. If additional inspections are required due to the Contractor's failure to complete previously listed corrective or uncompleted work, the Architect's expense for conducting such re-inspections and related time in processing, reviewing, and revision of requirements shall be charged to the Contractor and such payment shall be accomplished by a deductive Change Order to the Contractor.

§ 9.9 Partial Occupancy or Use

§ 9.9.1 The Owner may occupy or use any completed or partially completed portion of the Work at any stage when such portion is designated by separate agreement with the Contractor, provided such occupancy or use is consented to by the insurer and authorized by public authorities having jurisdiction over the Project. Such partial occupancy or use may commence whether or not the portion is substantially complete, provided the Owner and Contractor have accepted in writing the responsibilities assigned to each of them for payments, retainage if any, security, maintenance, heat, utilities, damage to the Work and insurance, and have agreed in writing concerning the period for correction of the Work and commencement of warranties required by the Contract Documents. When the Contractor considers a portion substantially complete, the Contractor and Construction Manager shall jointly prepare and submit a list to the Architect as provided under Section 9.8.2. Consent of the Contractor to partial occupancy or use shall not be unreasonably withheld. The stage of the progress of the Work shall be determined by written agreement between the Owner and Contractor or, if no agreement is reached, by decision of the Architect after consultation with the Construction Manager.

§ 9.9.2 Immediately prior to such partial occupancy or use, the Owner, Construction Manager, Contractor, and Architect shall jointly inspect the area to be occupied or portion of the Work to be used in order to determine and record the condition of the Work.

§ 9.9.3 Unless otherwise agreed upon, partial occupancy or use of a portion or portions of the Work shall not constitute acceptance of Work not complying with the requirements of the Contract Documents.

§ 9.10 Final Completion and Final Payment

§ 9.10.1 Upon completion of the Work, the Contractor shall forward to the Construction Manager a notice that the Work is ready for final inspection and acceptance, and shall also forward to the Construction Manager a final Contractor's Application for Payment. Upon receipt, the Construction Manager shall perform an inspection to confirm the completion of Work of the Contractor. The Construction Manager shall make recommendations to the Architect when the Work of all of the Contractors is ready for final inspection, and shall then forward the Contractors' notices and Application for Payment or Project Application for Payment, to the Architect, who will promptly make such inspection. When the Architect finds the Work acceptable under the Contract Documents and the Contract fully performed, the Construction Manager and Architect will promptly issue a final Certificate for Payment or Project Certificate for Payment stating that to the best of their knowledge, information and belief, and on the basis of their observations, on-site visits and inspections, the Work has been completed in accordance with the Contract Documents

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and that the entire balance found to be due the Contractor and noted in the final Certificate is due and payable. The Construction Manager's and Architect's final Certificate for Payment or Project Certificate for Payment will constitute a further representation that conditions listed in Section 9.10.2 as precedent to the Contractor's being entitled to final payment have been fulfilled.

§ 9.10.2 Neither final payment nor any remaining retained percentage shall become due until the Contractor submits to the Architect through the Construction Manager (1) an affidavit that payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which the Owner or the Owner's property might be responsible or encumbered (less amounts withheld by Owner) have been paid or otherwise satisfied, (2) a certificate evidencing that insurance required by the Contract Documents to remain in force after final payment is currently in effect and will not be cancelled or allowed to expire until at least (60) days' prior written notice has been given to the Owner, (3) a written statement that the Contractor knows of no reason that the insurance will not be renewable to cover the period required by the Contract Documents, (4) consent of surety, if any, to final payment (5) documentation of any special warranties, such as manufacturers' warranties or specific Subcontractor warranties, including a summary listing all applicable warranties both standard and extended, itemized by specification section and included at the front of the Operation and Maintenance manuals, and (6) other data establishing payment or satisfaction of obligations, such as receipts and releases and waivers of liens, claims, security interests, or encumbrances arising out of the Contract, to the extent and in such form as may be designated by the Owner. If a Subcontractor refuses to furnish a release or waiver required by the Owner, the Contractor may furnish a bond satisfactory to the Owner to indemnify the Owner against such lien, claim, security interest, or encumbrance. If a lien, claim, security interest, or encumbrance remains unsatisfied after payments are made, the Contractor shall refund to the Owner all money that the Owner may be compelled to pay in discharging the lien, claim, security interest, or encumbrance, including all costs and reasonable attorneys' fees.

§ 9.10.3 If, after Substantial Completion of the Work, final completion thereof is materially delayed through no fault of the Contractor or by issuance of Change Orders affecting final completion, and the Construction Manager and Architect so confirm, the Owner shall, upon application by the Contractor and certification by the Construction Manager and Architect, and without terminating the Contract, make payment of the balance due for that portion of the Work fully completed, corrected, and accepted. If the remaining balance for Work not fully completed or corrected is less than retainage stipulated in the Contract Documents, and if bonds have been furnished, the written consent of the surety to payment of the balance due for that portion of the Work fully completed and accepted shall be submitted by the Contractor to the Architect through the Construction Manager prior to certification of such payment. Such payment shall be made under terms and conditions governing final payment, except that it shall not constitute a waiver of Claims.

§ 9.10.4 The making of final payment shall constitute a waiver of Claims by the Owner except those arising from

.1 liens, Claims, security interests, or encumbrances arising out of the Contract and unsettled;
.2 failure of the Work to comply with the requirements of the Contract Documents;
.3 terms of special warranties required by the Contract Documents; or
.4 audits performed by the Owner, if permitted by the Contract Documents, after final payment.

§ 9.10.5 Acceptance of final payment by the Contractor, a Subcontractor, or a supplier, shall constitute a waiver of claims by that payee except those previously made in writing and identified by that payee as unsettled at the time of final Application for Payment.

§ 9.11 Damages for Delay

§ 9.11.1 The Contractor shall be responsible for damages incurred by the Owner and any other separate contractors for delay resulting from the Contractor's failure to complete the Work within the contract Time or resulting from the progress of the Work failing to substantially conform to the Project Construction Schedule. These damages are not included in liquidated damages and represent additional direct costs incurred by the Owner for the delay. These damages may include Owner incurred costs for temporary classrooms, temporary facilities, moving of programs, etc.

ARTICLE 10 PROTECTION OF PERSONS AND PROPERTY

§ 10.1 Safety Precautions and Programs

§ 10.1.1 The Contractor shall be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the performance of the Contract. The Contractor shall submit the Contractor's safety program to the Construction Manager for review and coordination with the safety programs of other Contractors. The Construction Manager's responsibilities for review and coordination of safety programs shall not extend to direct control over or charge of the acts or omissions of the Contractors, Subcontractors, agents or employees of the

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Contractors or Subcontractors, or any other persons performing portions of the Work and not directly employed by the Construction Manager.

§ 10.1.2 The Contractor shall comply with all applicable laws and regulations. Notwithstanding any language to the contrary, the Owner shall not have any responsibility for job site inspections or safety recommendations. Any inspections or observations by the Owner, Construction Manager or the Architect are solely for the benefit of the Owner and shall not create any duties or obligations to anyone else.

§ 10.2 Safety of Persons and Property

§ 10.2.1 The Contractor shall take reasonable precautions for safety of, and shall provide reasonable protection to prevent damage, injury, or loss to

.1 employees on the Work and other persons who may be affected thereby;

.2 the Work and materials and equipment to be incorporated therein, whether in storage on or off the site, under care, custody, or control of the Contractor, a Subcontractor, or a Sub-subcontractor;

.3 other property at the site or adjacent thereto, such as trees, shrubs, lawns, walks, pavements, roadways, structures, and utilities not designated for removal, relocation, or replacement in the course of construction; and

.4 construction or operations by the Owner, Separate Contractors, or other Contractors.

§ 10.2.2 The Contractor shall comply with, and give notices required by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities, bearing on safety of persons or property or their protection from damage, injury, or loss.

§ 10.2.3 The Contractor shall implement, erect, and maintain, as required by existing conditions and performance of the Contract, reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards; promulgating safety regulations; and notifying the owners and users of adjacent sites and utilities of the safeguards.

§ 10.2.4 When use or storage of explosives or other hazardous materials or equipment or unusual methods are necessary for execution of the Work, the Contractor shall exercise utmost care and carry on such activities under supervision of properly qualified personnel.

§ 10.2.5 The Contractor shall promptly remedy damage and loss (other than damage or loss insured under property insurance required by the Contract Documents) to property referred to in Sections 10.2.1.2, 10.2.1.3 and 10.2.1.4 caused in whole or in part by the Contractor, a Subcontractor, a Sub-subcontractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable and for which the Contractor is responsible under Sections 10.2.1.2, 10.2.1.3 and 10.2.1.4. The Contractor may make a Claim for the cost to remedy the damage or loss to the extent such damage or loss is attributable to acts or omissions of the Owner, Construction Manager or Architect or anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable, and not attributable to the fault or negligence of the Contractor. The foregoing obligations of the Contractor are in addition to the Contractor's obligations under Section 3.18.

§ 10.2.6 The Contractor shall designate a responsible member of the Contractor's organization at the site whose duty shall be the prevention of accidents. This person shall be the Contractor's superintendent unless otherwise designated by the Contractor in writing to the Owner, Construction Manager and Architect.

§ 10.2.7 The Contractor shall not permit any part of the construction or site to be loaded so as to cause damage or create an unsafe condition.

§ 10.2.8 Injury or Damage to Person or Property

If either party suffers injury or damages to person or property because of an act or omission of the other party, of any of the other party's employees or agents, or of others for whose acts such party is legally responsible, notice of the injury or damage, whether or not insured, shall be given to the other party within a reasonable time not exceeding ten (10) days after first observance. The notice shall provide sufficient detail to enable the other party to investigate the matter. If a Claim for additional cost or time related to this Claim is to be asserted, it shall be filed as provided in Sections 15.1.4 and 15.1.5.

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§ 10.3 Hazardous Materials

§ 10.3.1 In the event the Contractor encounters on the site material reasonably believed to be asbestos or polychlorinated biphenyl (PCB) which has not been rendered harmless, the Contractor shall immediately stop Work in the area affected and report the condition to the Owner, Construction Manager and Architect in writing. The Work in the affected area shall not thereafter be resumed except by written agreement of the Owner and Contractor if in fact the material is asbestos or polychlorinated biphenyl (PCB) and has not been rendered harmless. The Work in the affected area shall be resumed in the absence of asbestos or polychlorinated biphenyl (PCB), or when it has been rendered harmless, by written agreement of the Owner and Contractor.

.1 Except where otherwise stated in the Contract Documents, no hazardous material work of any nature shall be performed by the Contractor pursuant to this Contract.

.2 The term "hazardous materials" includes, but is not limited to, asbestos, toxic chemicals, acids, alkalis, irritants, contaminants, or other pollutants, together with any other waste, material, substance, pollutants, or contaminant, all or a portion of which is or would be designated as hazardous waste or substance under applicable local, state, or federal laws, ordinances, codes, rules, or regulations.

§ 10.3.2 To the fullest extent permitted by law, the Owner shall indemnify and hold harmless the Contractor, Construction Manager, Architect, their consultants, and agents and employees of any of them from and against claims, damages, losses, and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work on Owner's property if in fact the material is asbestos or polychlorinated biphenyl (PCB) and has not been rendered harmless, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), including loss of use resulting therefrom, but only to the extent caused in whole or in part by negligent acts or omissions of the Owner, anyone directly or indirectly employed by the Owner, or anyone for whose acts the Owner may be liable, regardless of whether or not such claim, damage, loss, or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity which would otherwise exist as to a party or person described in this Subparagraph 10.3.2.

§ 10.3.3 If reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a material or substance encountered on the site by the contractor, the Contractor shall, upon recognizing the condition, immediately stop Work on Owner's property and report the condition to the Owner, Construction Manager and Architect in writing. The Owner, Construction Manager, Contractor, and Architect shall then proceed in the same manner described in Subparagraph 10.3.1.

(Paragraph deleted)

§ 10.3.5 The Contractor shall reimburse the Owner for the cost and expense the Owner incurs (1) for remediation of hazardous materials or substances the Contractor brings to the site and negligently handles, or (2) where the Contractor fails to perform its obligations under Section 10.3.1, except to the extent that the cost and expense are due to the Owner's fault or negligence. Owner shall be responsible for obtaining the services of a licensed laboratory to verify a presence or absence of the material or substance reported by the Contractor and, in the event such material or substance is found to be present, to verify that it has been rendered harmless.

§ 10.3.6 Regulations concerning the availability of information and employee training in the use and handling of "hazardous substances" and "harmful physical agents", as set forth in the Employee Right-to-Know Act of 1983, Minnesota Statutes, Sections 182.65 to 182.676 are incorporated herein by reference as if fully set forth herein.

§ 10.3.7 The Contractor shall furnish three Material Safety Data Sheets to the Owner for each material used in the Work that is classified by the Employee Right-to-Know Act of 1983 as a "hazardous substance" or a "harmful physical agent."

§ 10.3.8 The Contractor shall label, in generally accepted and/or standardized fashion, all containers on the work site containing "hazardous substances" or as "harmful physical agents." This shall include factory containers and all subsequent containers used in the Work.

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§ 10.4 Emergencies

In an emergency affecting safety of persons or property, the Contractor shall act to prevent threatened damage, injury, or loss. Additional compensation or extension of time claimed by the Contractor on account of an emergency shall be determined as provided in Article 15 and Article 7.

ARTICLE 11 INSURANCE AND BONDS

§ 11.1 Contractor's Insurance and Bonds

§ 11.1.1 The Contractor shall purchase and maintain insurance of the types and limits of liability, containing the endorsements, and subject to the terms and conditions, as described in the Agreement, in EXH-C Owner Insurance or elsewhere in the Contract Documents. The Contractor shall purchase and maintain the required insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located and which carry a Best's rating of A- or higher or are otherwise acceptable to the Owner. The Owner, Construction Manager and Construction Manager's consultants, and the Architect and Architect's consultants, shall be named as additional insureds under the Contractor's commercial general liability policy or as otherwise described in the Contract Documents.

§ 11.1.2 The Contractor shall provide surety bonds of the types, for such penal sums, and subject to such terms and conditions as required by the Contract Documents. The Contractor shall purchase and maintain the required bonds from a company or companies lawfully authorized to issue surety bonds in the jurisdiction where the Project is located.

§ 11.1.3 Upon the request of any person or entity appearing to be a potential beneficiary of bonds covering payment of obligations arising under the Contract, the Contractor shall promptly furnish a copy of the bonds or shall authorize a copy to be furnished. The Contractor shall furnish Certificates of Insurance acceptable to the Owner which shall specifically set forth evidence of all coverage required by Article 11 and EXH-C Owner Insurance and shall be filed with the Owner and Construction Manager prior to commencement of the Work and thereafter upon renewal or replacement of each required policy of insurance.

The Contractor shall not allow insurance required by this Agreement to lapse, be canceled, reduced in limits or coverage, non-renewed, or materially changed or have restrictive modifications added during the life of this Agreement, including the periods of required coverage. The Contractor shall furnish to the Owner and Construction Manager copies of any endorsements that are subsequently issued amending coverage and limits.

If any of the foregoing insurance coverages are required to remain in force after final payment and are reasonably available, all additional certificates evidencing continuation of such coverage shall be submitted with the final Application for Payment. Information concerning reduction of coverage shall be furnished by the Contractor with reasonable promptness in accordance with the Contractor's information and belief.

§ 11.1.3.1 Acceptable insurance certificates are AIA Document G705, CICC of Minnesota Form 701, and/or ACORD form of the American Insurance Institute.

Failure of the Owner to collect certificates does not void the requirements to obtain insurance.

The acceptance of any certificate of insurance by the Owner shall not relieve or decrease the liability of the Contractor hereunder. It is to be understood the Owner, Construction Manager and Architect do not in any way represent that the insurance specified in these articles are sufficient or adequate to protect the Contractor's interest or liabilities, but are merely minimum requirements.

The Contractor shall furnish to the Owner copies of any endorsements that are subsequently issued amending coverage and limits.

§ 11.1.4 In the event the Contractor fails to procure or maintain any insurance coverage required under this Agreement, the Owner may purchase such coverage and deduct the cost thereof from any monies due to the Contractor, or terminate this Agreement under Paragraph 14.2. The Contractor shall be liable to the Owner for providing all coverage, defense, and payments that would have been provided by any insurance that the Contractor failed to procure and maintain as required by the Contract Documents.

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§ 11.1.5 Compliance by the Contractor with the foregoing insurance requirements shall not relieve it from liability for amounts in excess of the limits of insurance.

§ 11.1.6 The Contractor and any of its Subcontractors, Sub-subcontractors, agents and employees, and any separate contractors described in Article 6, if any, and any of their subcontractors, sub-subcontractors, agents and employees shall waive any of their subrogation rights on their Workers Compensation Policy in favor of the Owner, Construction Manager and Architect. The policies shall provide such waivers of subrogation by endorsement or otherwise. A waiver of subrogation shall be effective as to a person or entity even though that person or entity would otherwise have a duty of indemnification, contractual, or otherwise, did not pay the insurance premium directly or indirectly, and whether or not the person or entity had an insurable interest.

§ 11.2 Owner's Insurance

§ 11.2.1 The Owner shall purchase and maintain insurance of the types and limits of liability, containing the endorsements, and subject to the terms and conditions, as described in the Agreement or elsewhere in the Contract Documents. The Owner shall purchase and maintain the required insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The Owner may self-insure and maintain the Owner's usual liability insurance. Optionally, the Owner may purchase and maintain other insurance for self-protection against claims which may arise from operations under the Contract. The Contractor shall not be responsible for purchasing and maintaining this optional Owner's liability insurance unless specifically required by the Contract Documents.

§ 11.2.2 Failure to Purchase Required Property Insurance. If the Owner fails to purchase and maintain the required property insurance, with all of the coverages and in the amounts described in the Agreement or elsewhere in the Contract Documents, the Owner shall inform both the Contractor and the Construction Manager, separately and in writing, prior to commencement of the Work. Upon receipt of notice from the Owner, the Contractor may delay commencement of the Work and may obtain insurance that will protect the interests of the Contractor, Subcontractors, and Sub-Subcontractors in the Work. When the failure to provide coverage has been cured or resolved, the Contract Sum and Contract Time shall be equitably adjusted. In the event the Owner fails to procure coverage, the Owner waives all rights against the Contractor, Subcontractors, and Sub-subcontractors to the extent the loss to the Owner would have been covered by the insurance to have been procured by the Owner. The cost of the insurance shall be charged to the Owner by a Change Order. If the Owner does not provide written notice, and the Contractor is damaged by the failure or neglect of the Owner to purchase or maintain the required insurance, the Owner shall reimburse the Contractor for all reasonable costs and damages attributable thereto.

§ 11.2.3 Notice of Cancellation or Expiration of Owner's Required Property Insurance. Within three (3) business days of the date the Owner becomes aware of an impending or actual cancellation or expiration of any property insurance required by the Contract Documents, the Owner shall provide notice directly to the Contractor, and separately to the Construction Manager, of such impending or actual cancellation or expiration. Unless the lapse in coverage arises from an act or omission of the Contractor: (1) the Contractor, upon receipt of notice from the Owner, shall have the right to stop the Work until the lapse in coverage has been cured by the procurement of replacement coverage by either the Owner or the Contractor; (2) the Contract Time and Contract Sum shall be equitably adjusted; and (3) the Owner waives all rights against the Contractor, Subcontractors, and Sub-subcontractors to the extent any loss to the Owner would have been covered by the insurance had it not expired or been cancelled. If the Contractor purchases replacement coverage, the cost of the insurance shall be charged to the Owner by an appropriate Change Order. The furnishing of notice by the Owner shall not relieve the Owner of any contractual obligation to provide required insurance.

§ 11.3 Waivers of Subrogation

§ 11.3.1 The Owner and Contractor waive all rights against (1) each other and any of their subcontractors, sub-subcontractors, agents, and employees, each of the other; (2) the Construction Manager and Construction Manager's consultants; (3) the Architect and Architect's consultants; (4) other Contractors and any of their subcontractors, sub-subcontractors, agents, and employees; and (5) Separate Contractors, if any, and any of their subcontractors, sub-subcontractors, agents, and employees, for damages caused by fire, or other causes of loss, to the extent those losses are covered by property insurance required by the Agreement or other property insurance applicable to the Project, except such rights as they have to proceeds of such insurance. The Owner or Contractor, as appropriate, shall require similar written waivers in favor of the individuals and entities identified above from the Construction Manager, Construction Manager's consultants, Architect, Architect's consultants, other Contractors,

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Separate Contractors, subcontractors, and sub-subcontractors. The policies of insurance purchased and maintained by each person or entity agreeing to waive claims pursuant to this Section 11.3.1 shall not prohibit this waiver of subrogation. This waiver of subrogation shall be effective as to a person or entity (1) even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, (2) even though that person or entity did not pay the insurance premium directly or indirectly, or (3) whether or not the person or entity had an insurable interest in the damaged property.

(Paragraph deleted)

§ 11.4 Loss of Use, Business Interruption, and Delay in Completion Insurance

The Owner, at the Owner's option, may purchase and maintain insurance that will protect the Owner against loss of use of the Owner's property, or the inability to conduct normal operations, due to fire or other causes of loss. The Owner waives all rights of action against the Contractor, Architect, and Construction Manager for loss of use of the Owner's property, due to fire or other hazards however caused.

§ 11.5 Adjustment and Settlement of Insured Loss

§ 11.5.1 A loss insured under the property insurance required by the Agreement shall be adjusted by the Owner as fiduciary and made payable to the Owner as fiduciary for the insureds, as their interests may appear, subject to requirements of any applicable mortgagee clause and of Section 11.5.2. The Owner shall pay the Construction Manager, Architect and Contractor their just shares of insurance proceeds received by the Owner, and by appropriate agreements the Construction Manager, Architect and Contractor shall make payments to their consultants and Subcontractors in similar manner.

§ 11.5.2 Prior to settlement of an insured loss, the Owner shall notify the Contractor of the terms of the proposed settlement as well as the proposed allocation of the insurance proceeds. The Contractor shall have 14 days from receipt of notice to object to the proposed settlement or allocation of the proceeds. If the Contractor does not object, the Owner shall settle the loss and the Contractor shall be bound by the settlement and allocation. Upon receipt, the Owner shall make the appropriate distributions. Thereafter, if no other agreement is made or the Owner does not terminate the Contract for convenience, the Owner and Contractor shall execute a Change Order for reconstruction of the damaged or destroyed Work in the amount allocated for that purpose. If the Contractor timely objects to either the terms of the proposed settlement or the allocation of the proceeds, the Owner may proceed to settle the insured loss, and any dispute between the Owner and Contractor arising out of the settlement or allocation of the proceeds shall be resolved pursuant to Article 15. Pending resolution of any dispute, the Owner may issue a Construction Change Directive for the reconstruction of the damaged or destroyed Work.

§ 11.6 Bonds

§ 11.6.1 Contractor shall furnish a Performance Bond and a Payment Bond to the Owner in the amount of one hundred percent (100%) of the Contract Sum and issued by a Surety Company authorized to do business in the State of Minnesota, rated "A" or better, and approved by the Owner. The Performance Bond shall be in accordance with Minnesota Statutory requirements, and shall be in the form included in the Project Manual. The Bonds shall allow for any additions or deductions to the Contract Sum.

§ 11.6.2 In order to be acceptable as a surety, Contractor's bonding company bust hold a "Certificate of Authority acceptable to the U.S. Treasury Department and be listed in the Department's current publication of "Bond Qualifiers" with underwriting limitations not less than ten percent (10%) above the Contract Sum.

§ 11.6.3 The surety of the Bonds shall be by a corporate surety company authorized to do business in the state in which Work is being performed under this Contract and acceptable to the Owner. The conditions of the bonds shall meet requirements of the statutes of the state where Work is being performed and all other applicable provisions of state law.

§ 11.6.4 The Contractor shall furnish two (2) originals of the Bonds to the Owner, with copies to the Architect and Construction Manager, within ten (10) days after notification of award and before execution of the Contract. Failure to do so shall constitute a violation of terms of the proposal and provide grounds for forfeiture of bid security.

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ARTICLE 12 UNCOVERING AND CORRECTION OF WORK

§ 12.1 Uncovering of Work

§ 12.1.1 If a portion of the Work is covered contrary to the Construction Manager's or Architect's request or to requirements specifically expressed in the Contract Documents, it must, if requested in writing by either, be uncovered for their examination and be replaced at the Contractor's expense without change in the Contract Time.

§ 12.1.2 If a portion of the Work has been covered that the Construction Manager or Architect has not specifically requested to examine prior to its being covered, the Construction Manager or Architect may request to see such Work and it shall be uncovered by the Contractor. If such Work is in accordance with the Contract Documents, the Contractor shall be entitled to an equitable adjustment to the Contract Sum and Contract Time as may be appropriate. If such Work is not in accordance with the Contract Documents, the costs of uncovering the Work, and the cost of correction, shall be at the Contractor's expense.

§ 12.2 Correction of Work

§ 12.2.1 Before Substantial Completion

The Contractor shall promptly correct Work rejected by the Construction Manager or Architect or failing to conform to the requirements of the Contract Documents, discovered before Substantial Completion, and whether or not fabricated, installed or completed. The Contractor shall bear costs of correcting such rejected Work, including additional testing and inspections, the cost of uncovering and replacement, and compensation for the Construction Manager's and Architect's services and expenses made necessary thereby.

§ 12.2.2 After Substantial Completion

(Paragraphs deleted)

§ 12.2.2.1If within one year after the date of Substantial Completion of the Work or designated portion thereof, or after the date for commencement of warranties established under Section 9.9.1, or by terms of any applicable special warranty required by the Contract Documents, any of the Work is found to be not in accordance with the requirements of the Contract Documents, the Contractor shall correct it promptly (and any other property damaged or removed in effecting the correction) after receipt of notice from the Owner, Construction Manager or Architect to do so, unless the Owner has previously given the Contractor a written acceptance of such condition. The Owner, Construction Manager or Architect shall give such notice promptly after discovery of the condition. This period of one year shall be extended with respect to portions of Work first performed after Substantial completion by the period of time between Substantial completion and the actual performance of the Work. This obligation under this Subparagraph 12.2.2.1 shall survive acceptance of the Work under the contract and termination of the Contract. The Owner, Construction Manager or Architect shall give such notice promptly after discovery of the condition. The expiration of the above one year or any other specified time period, or any other period prescribed by the law, shall not relieve the Contractor of the obligation form the expense to correct any latent defect in the work or deficiencies which are not readily ascertained, including but not limited to, defective materials and quality of work performed, defects attributable to material substitutions for special materials, substandard performance or otherwise not in compliance with the Contract Documents. Such latent defects or deficiencies shall be corrected as provided in this Paragraph 12.2. Following the correction or replacement of any of the Work, as above specified, the Contractor shall correct any defects or deficiencies in the corrected or replaced materials and workmanship which is found within one year after the date of correction or replacement.

§ 12.2.3 The Contractor shall remove from the site portions of the Work that are not in accordance with the requirements of the Contract Documents and are neither corrected by the Contractor nor accepted by the Owner.

§ 12.2.4 If the Contractor fails to correct nonconforming Work within a reasonable time, the Owner may correct it in accordance with Paragraph 2.4. If the Contractor does not proceed with correction of such nonconforming Work within a reasonable time fixed by written notice from the Architect or Construction Manager, the Owner may correct or remove it and store the salvageable materials or equipment all at the Contractor's expense. If the Contractor does not pay costs of such removal and storage within ten (10) days after written notice, the Owner may upon ten (10) additional days' written notice sell such materials and equipment at auction or at private sale and shall account for the proceeds thereof, after deducting costs and damages that should have been borne by the Contractor, the Contract Sum shall be reduced by the deficiency. If payments then or thereafter due the Contractor are not sufficient to cover such amount, the Contractor shall pay the difference to the Owner.

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§ 12.2.5 The Contractor shall bear the cost of correcting destroyed or damaged construction whether completed or partially completed, of the Owner or separate contractors caused by the Contractor's correction or removal of Work which is not in accordance with the requirements of the Contract Documents.

§ 12.2.6 Nothing contained in this Section 12.2 shall be construed to establish a period of limitation with respect to other obligations the Contractor has under the Contract Documents. Establishment of the one-year period for correction of Work as described in Section 12.2.2 relates only to the specific obligation of the Contractor to correct the Work, and has no relationship to the time within which the obligation to comply with the Contract Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Contractor's liability with respect to the Contractor's obligations other than specifically to correct the Work.

§ 12.3 Acceptance of Nonconforming Work

If the Owner prefers to accept Work that is not in accordance with the requirements of the Contract Documents, the Owner may do so instead of requiring its removal and correction, in which case the Contract Sum will be reduced as appropriate and equitable. Such adjustment shall be effected whether or not final payment has been made.

ARTICLE 13 MISCELLANEOUS PROVISIONS

§ 13.1 Governing Law

The Contract shall be governed by the law of the place where the Project is located excluding that jurisdiction's choice of law rules. If the parties have selected arbitration as the method of binding dispute resolution, the Federal Arbitration Act shall govern Section 15.4.

§ 13.2 Successors and Assigns

§ 13.2.1 The Owner and Contractor respectively bind themselves, their partners, successors, assigns, and legal representatives to covenants, agreements, and obligations contained in the Contract Documents. Except as provided in Section 13.2.2, neither party to the Contract shall assign the Contract as a whole without written consent of the other. If either party attempts to make an assignment without such consent, that party shall nevertheless remain legally responsible for all obligations under the Contract.

§ 13.2.2 The Owner may, without consent of the Contractor, assign the Contract to a lender providing construction financing for the Project, if the lender assumes the Owner's rights and obligations under the Contract Documents. The Contractor shall execute all consents reasonably required to facilitate the assignment.

§ 13.3 Rights and Remedies

§ 13.3.1 Duties and obligations imposed by the Contract Documents and rights and remedies available thereunder shall be in addition to and not a limitation of duties, obligations, rights, and remedies otherwise imposed or available by law.

§ 13.3.2 No action or failure to act by the Owner, Construction Manager, Architect, or Contractor shall constitute a waiver of a right or duty afforded them under the Contract, nor shall such action or failure to act constitute approval of or acquiescence in a breach thereunder, except as may be specifically agreed upon in writing.

§ 13.4 Tests and Inspections

§ 13.4.1 Tests, inspections, and approvals of portions of the Work shall be made as required by the Contract Documents and by applicable laws, statutes, ordinances, codes, rules, and regulations or lawful orders of public authorities. The Owner, Construction Manager or Architect shall make arrangements for such tests, inspections, and approvals with an independent testing laboratory or entity acceptable to the Owner, or with the appropriate public authority. Timely notice shall be given to the Construction Manager and Architect of when and where tests and inspections are to be made so that the Construction Manager and Architect may observe such procedures. The Owner shall bear costs of tests, inspections, or approvals that do not become requirements until after bids are received or negotiations concluded. The Owner shall directly arrange and pay for tests, inspections, or approvals where building codes or applicable laws or regulations so require.

§ 13.4.2 If the Construction Manager, Architect, Owner, or public authorities having jurisdiction determine that portions of the Work require additional testing, inspection, or approval not included under Section 13.4.1, the Construction Manager and Architect will, upon written authorization from the Owner, instruct the Contractor to make arrangements for such additional testing, inspection, or approval, by an entity acceptable to the Owner, and the

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Contractor shall give a minimum of two (2) working days' notice to the Construction Manager and Architect of when and where tests and inspections are to be made so that the Construction Manager and Architect may observe procedures. The Owner shall bear such costs, except as provided in Section 13.4.3.

§ 13.4.3 If procedures for testing, inspection, or approval under Sections 13.4.1 and 13.4.2 reveal failure of the portions of the Work to comply with requirements established by the Contract Documents, all costs made necessary by such failure, including those of repeated procedures and compensation for the Construction Manager's and Architect's services and expenses, shall be at the Contractor's expense.

§ 13.4.4 Required certificates of testing, inspection, or approval shall, unless otherwise required by the Contract Documents, be secured by the Contractor and promptly delivered to the Construction Manager for transmittal to the Architect.

§ 13.4.5 If the Construction Manager or Architect is to observe tests, inspections, or approvals required by the Contract Documents, the Construction Manager or Architect will do so promptly and, where practicable, at the normal place of testing.

§ 13.4.6 Tests or inspections conducted pursuant to the Contract Documents shall be made promptly to avoid unreasonable delay in the Work.

§ 13.5 Interest

All payments to the Contractor shall be governed by the Prompt Payment of Local Government Bills, Minnesota Statutes, Section 471.125 ("Prompt Payment Act") and Article 5 of the A132–2019 Agreement on this Project.

§ 13.6 Non-Discrimination

§ 13.6.1 All contracts between the Owner and companies providing goods and services under the Contract Documents shall contain the following equal opportunity and civil right clause:

> "During the performance of this Agreement, the provider agrees to the following: No contractor, material supplier, vendor, or other person shall on the basis of sex, race, creed, color, religion, national origin, age, marital status, sexual orientation, or disability be excluded from full employment rights in, participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program, service, or activity under the provisions of any and all applicable Federal and State laws against discrimination, including the Minnesota Human Rights Act and the Civil Rights Act of 1964."

Upon request, the Contractor shall furnish all information and reports required by the Owner, or by the rules and regulations of investigation to ascertain compliance with all applicable rules and regulations. The Contractor shall also comply with any applicable licensing requirements of the Minnesota Department of Human Services in employment of personnel.

The Contractor acknowledges that the violation of the above-stated paragraph is a misdemeanor pursuant to Minnesota Statutes, Section 181.59.

This Agreement may be cancelled or terminated by the Owner or any other person authorized to grant the contracts for employment under this Agreement, and all money due, or to become due under this Agreement may be forfeited for a second or any subsequent violation of the non-discriminatory terms stated above.

§ 13.6.2 During the completion of the work and all other services required by the Contract Documents, the Contractor agrees that no contractor, material supplier, vendor, or other person shall, on the basis of sex, race, creed, color, religion, national origin, age, marital status, sexual orientation, or disability be excluded from full employment rights in participation in, be denied the benefits of, or be otherwise subjected to discrimination under the provisions of any and all applicable Federal and State laws against discrimination, including the Minnesota Human Rights Act and the Civil Rights Act of 1964. Upon request, the Architect, Construction Manager and Contractor shall furnish all information and reports required by the Owner, or by the rules and regulations of investigation to ascertain compliance with all applicable rules and regulations. The Contractor shall also comply with any applicable licensing requirements of the Minnesota Department of Human Services in employment of personnel.

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Contractor acknowledges that the violation of the above-states paragraph is a misdemeanor pursuant to Minnesota Statutes Section 181.59.

The Contract Documents may be cancelled or terminated by the Owner or any other person authorized to grant the contracts for employment under this Agreement, and all money due, or to become due under the Agreement may be forfeited for a second or any subsequent violation of the non-discriminatory terms stated above.

§ 13.7 No action or failure to act by the Owner shall constitute a waiver of a right or duty afforded the Owner under the Contract Documents, nor shall such action or failure to act constitute approval of or acquiescence of the Owner in a breach of the Contract Documents, except as may be specifically agreed in writing. None of the approval of any Application for Payment, the making of any payment, the giving of any approval or consent, the use or occupancy of the Work, or any part thereof, the making of final payment, or any other action or inaction on the part of the Owner, Construction Manager or Architect shall constitute a waiver of claims by or rights of the Owner or an acceptance of any Work that is not in accordance with the Contract Documents. The Contractor shall not be relieved from its obligations to perform the Work in accordance with the Contract Documents either by the activities or duties of the representations of the Owner, Construction Manager or Architect, or by inspections, tests, or approvals required or performed by the Owner, Construction Manager or Architect or anyone else.

ARTICLE 14 TERMINATION OR SUSPENSION OF THE CONTRACT

§ 14.1 Termination by the Contractor

§ 14.1.1 The Contractor may terminate the Contract if the Work is stopped for a period of 30 consecutive days through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, their agents or employees, or any other persons or entities performing portions of the Work, for any of the following reasons:

.1 Issuance of an order of a court or other public authority having jurisdiction that requires all Work to be stopped;

.2 An act of government, such as a declaration of national emergency, that requires all Work to be stopped;

.3 Because the Construction Manager has not certified or the Architect has not issued a Certificate for Payment and has not notified the Contractor of the reason for withholding certification as provided in Section 9.4, or because the Owner has not made payment on a Certificate for Payment within the time stated in the Contract Documents; or

.4 The Owner has failed to furnish to the Contractor reasonable evidence as required by Section 2.2.

§ 14.1.2 The Contractor may terminate the Contract if, through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, their agents or employees, or any other persons or entities performing portions of the Work, repeated suspensions, delays, or interruptions of the entire Work by the Owner as described in Section 14.3, constitute in the aggregate more than 100 percent of the total number of days scheduled for completion, or 120 days in any 365-day period, whichever is less.

§ 14.1.3 If one of the reasons described in Section 14.1.1 or 14.1.2 exists, the Contractor may, upon seven days' notice to the Owner, Construction Manager and Architect, terminate the Contract and recover from the Owner payment for Work executed, as well as reasonable overhead and profit on Work not executed, and costs incurred by reason of such termination.

§ 14.1.4 If the Work is stopped for a period of 60 consecutive days through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, or their agents or employees, or any other persons performing portions of the Work because the Owner has repeatedly failed to fulfill the Owner's obligations under the Contract Documents with respect to matters important to the progress of the Work, the Contractor may, upon seven additional days' notice to the Owner, Construction Manager and Architect, terminate the Contract and recover from the Owner as provided in Section 14.1.3.

§ 14.1.5 No Right to Stop Work for Non-Payment

The Contractor has no right to stop Work as a consequence of non-payment. In the event of any disagreement between the Contractor and Owner involving the Contractor's entitlement to payment, the Contractor's only remedy is to file a Claim in accordance with Article 15. The Contractor must diligently proceed with the Work pending resolution of the Claim. If, however, an Application for Payment has been approved for payment by the Owner, and the Owner fails to make payment within sixty (60) days of the approval for payment by the Owner, the Contractor may upon ten (10)

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days written notice to the Owner, stop work if payment is not made by the Owner within ten (10) days following the notice.

§ 14.2 Termination by the Owner for Cause

§ 14.2.1 The Owner may terminate the Contract if the Contractor

.1 repeatedly refuses or fails to supply enough properly skilled workers or proper materials;

.2 fails to make payment to Subcontractors or suppliers in accordance with the respective agreements between the Contractor and the Subcontractors or suppliers;

.3 repeatedly disregards applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of a public authority; or

.4 otherwise is guilty of substantial breach of a provision of the Contract Documents.

§ 14.2.2 When any of the reasons described in Section 14.2.1 exist, after consultation with the Construction Manager, and upon certification by the Architect that sufficient cause exists to justify such action, the Owner may, without prejudice to any other rights or remedies of the Owner and after giving the Contractor and the Contractor's surety, if any, seven days' notice, terminate employment of the Contractor and may, subject to any prior rights of the surety:

.1 Exclude the Contractor from the site and take possession of all materials, equipment, tools, and construction equipment and machinery thereon owned by the Contractor;

.2 Accept assignment of subcontracts pursuant to Section 5.4; and

.3 Finish the Work by whatever reasonable method the Owner may deem expedient. Upon written request of the Contractor, the Owner shall furnish to the Contractor a detailed accounting of the costs incurred by the Owner in finishing the Work.

§ 14.2.3 When the Owner terminates the Contract for one of the reasons stated in Section 14.2.1, the Contractor shall not be entitled to receive further payment until the Work is finished.

§ 14.2.4 If the unpaid balance of the Contract Sum exceeds costs of finishing the Work, including compensation for the Construction Manager's and Architect's services and expenses made necessary thereby, and other damages incurred by the Owner and not expressly waived, such excess shall be paid to the Contractor. If such costs and damages exceed the unpaid balance, the Contractor shall pay the difference to the Owner. The amount to be paid to the Contractor or Owner, as the case may be, shall, upon application, be certified by the Initial Decision Maker after consultation with the Construction Manager, and this obligation for payment shall survive termination of the Contract.

§ 14.3 Suspension by the Owner for Convenience

§ 14.3.1 The Owner may, without cause, order the Contractor in writing to suspend, delay or interrupt the Work, in whole or in part for such period of time as the Owner may determine.

§ 14.3.2 The Contract Sum and the Contract Time shall be adjusted for increases or decreases in the cost and time caused by suspension, delay, or interruption under Section 14.3.1. Adjustment of the Contract Sum shall include reasonable profit. No adjustment shall be made to the extent:

.1 that performance is, was, or would have been, so suspended, delayed, or interrupted, by another cause for which the Contractor is responsible; or

.2 that an equitable adjustment is made or denied under another provision of this Contract.

§ 14.4 Termination by the Owner for Convenience

§ 14.4.1 The Owner may, at any time, terminate the Contract for the Owner's convenience and without cause.

§ 14.4.2 Upon receipt of notice from the Owner of such termination for the Owner's convenience, the Contractor shall

.1 cease operations as directed by the Owner in the notice;

.2 take actions necessary, or that the Owner may direct, for the protection and preservation of the Work; and

.3 except for Work directed to be performed prior to the effective date of termination stated in the notice, terminate all existing subcontracts and purchase orders and enter into no further subcontracts and purchase orders.

(Paragraph deleted)

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ARTICLE 15 CLAIMS AND DISPUTES

§ 15.1 Claims

§ 15.1.1 Definition. A Claim is a demand or assertion by the Contractor seeking, as a matter of right, payment of money, a change in the Contract Time, or other relief with respect to the terms of the Contract. The responsibility to substantiate Claims shall rest with the Contractor. Nothing in this paragraph 15.1.1 is intended to apply to or in any way limit the Owner's right to make Claims related to or arising out of the Contract. This Section 15.1.1 does not require the Owner to file a Claim in order to impose liquidated damages in accordance with the Contract Documents.

§ 15.1.2 Time Limits on Claims

The Owner and Contractor shall commence all Claims and causes of action against the other and arising out of or related to the Contract, whether in contract, tort, breach of warranty or otherwise, in accordance with the requirements of the binding dispute resolution method selected in the Agreement and within the period specified by applicable law, but in any case not more than 10 years after the date of Substantial Completion of the Work. The Owner and Contractor waive all Claims and causes of action not commenced in accordance with this Section 15.1.2.

§ 15.1.3 Notice of Claims

§ 15.1.3.1 Claims by Contractor, where the condition giving rise to the Claim is first discovered prior to expiration of the period for correction of the Work set forth in Section 12.2.2, shall be initiated by written notice to the Owner and to the Initial Decision Maker with a copy sent to the Construction Manager and Architect, if the Architect is not serving as the Initial Decision Maker. Claims by the Contractor under this Section 15.1.3.1 shall be initiated within ten (10) days after occurrence of the event giving rise to such Claim or within ten (10) days after the Contractor first recognizes the condition giving rise to the Claim, whichever is later. Any additional Claim made after and relating to the initial Claim has been implemented by Change Order will not be considered unless submitted in a timely manner. As a condition to making a claim for additional costs, the Contractor shall maintain and produce accurate records to substantiate all additional costs actually incurred. If a Claim for actual costs is approved, the Owner shall pay the Contractor actual costs incurred, plus either (a) ten percent (10%) for overhead and profit for work performed by the Contractor, or (b) five percent (5%) overhead and profit for work performed by a Subcontractor, as applicable.

§ 15.1.3.2 Claims by either the Owner or Contractor, where the condition giving rise to the Claim is first discovered after expiration of the period for correction of the Work set forth in Section 12.2.2, shall be initiated by written notice to the other party. In such event, no decision by the Initial Decision Maker is required.

§ 15.1.4 Continuing Contract Performance

§ 15.1.4.1 Pending final resolution of a Claim, except as otherwise agreed in writing or as provided in Section 9.7 and Article 14, the Contractor shall proceed diligently with performance of the Contract and the Owner shall continue to make payments in accordance with the Contract Documents. Subject to Paragraph 15.1.5, no such continuing performance by the Contractor, nor payment by the Owner shall be deemed a waiver of, or to otherwise impair any such Claim.

§ 15.1.4.2 The Contract Sum and Contract Time shall be adjusted in accordance with the Initial Decision Maker's decision, subject to the right of either party to proceed in accordance with this Article 15. The Architect will issue Certificates for Payment in accordance with the decision of the Initial Decision Maker.

§ 15.1.5 Claims for Additional Cost. If the Contractor wishes to make a Claim for an increase in the Contract Sum, notice as provided in Section 15.1.3 shall be given before proceeding to execute the portion of the Work that is the subject of the Claim. Prior notice is not required for Claims relating to an emergency endangering life or property arising under Section 10.4.

§ 15.1.6 Claims for Additional Time

§ 15.1.6.1 If the Contractor wishes to make a Claim for any increase in the Contract Time, notice as provided in Section 15.1.3 shall be given. The Contractor's Claim shall include an estimate of cost and of probable effect of delay on progress of the Work. In the case of a continuing delay only one Claim is necessary.

§ 15.1.6.2 If adverse weather conditions are the basis for a Claim for additional time, such Claim shall be documented by data substantiating that weather conditions were abnormal for the period of time, could not have been reasonably anticipated and had an adverse effect on the scheduled construction.

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(Paragraphs deleted)

§ 15.2 Initial Decision

§ 15.2.1 Claims, excluding those where the condition giving rise to the Claim is first discovered after expiration of the period for correction of the Work set forth in Section 12.2.2 or arising under Sections 10.3, 10.4, and 11.5, shall be referred to the Initial Decision Maker for initial decision. The Architect will serve as the Initial Decision Maker, unless otherwise indicated in the Agreement. Except for those Claims excluded by this Section 15.2.1, an initial decision shall be required as a condition precedent to mediation of any Claim. If an initial decision has not been rendered within 30 days after the Claim has been referred to the Initial Decision Maker, the party asserting the Claim may demand mediation and binding dispute resolution without a decision having been rendered. Unless the Initial Decision Maker and all affected parties agree, the Initial Decision Maker will not decide disputes between the Contractor and persons or entities other than the Owner.

§ 15.2.2 The Initial Decision Maker will review Claims and within ten days of the receipt of a Claim take one or more of the following actions: (1) request additional supporting data from the claimant or a response with supporting data from the other party, (2) reject the Claim in whole or in part, (3) approve the Claim, (4) suggest a compromise, or (5) advise the parties that the Initial Decision Maker is unable to resolve the Claim if the Initial Decision Maker lacks sufficient information to evaluate the merits of the Claim or if the Initial Decision Maker concludes that, in the Initial Decision Maker's sole discretion, it would be inappropriate for the Initial Decision Maker to resolve the Claim.

§ 15.2.3 In evaluating Claims, the Initial Decision Maker may, but shall not be obligated to, consult with or seek information from either party or from persons with special knowledge or expertise who may assist the Initial Decision Maker in rendering a decision. The Initial Decision Maker may request the Owner to authorize retention of such persons at the Owner's expense.

§ 15.2.4 If the Initial Decision Maker requests a party to provide a response to a Claim or to furnish additional supporting data, such party shall respond, within ten days after receipt of the request, and shall either (1) provide a response on the requested supporting data, (2) advise the Initial Decision Maker when the response or supporting data will be furnished, or (3) advise the Initial Decision Maker that no supporting data will be furnished. Upon receipt of the response or supporting data, if any, the Initial Decision Maker will either reject or approve the Claim in whole or in part.

§ 15.2.5 The Initial Decision Maker will render an initial decision approving or rejecting the Claim, or indicating that the Initial Decision Maker is unable to resolve the Claim. This initial decision shall (1) be in writing; (2) state the reasons therefor; and (3) notify the parties, the Construction Manager, and the Architect, if the Architect is not serving as the Initial Decision Maker, of any change in the Contract Sum or Contract Time or both. The initial decision shall be final and binding on the parties but subject to mediation and, if the parties fail to resolve their dispute through mediation, to binding dispute resolution.

§ 15.2.6 In the event of a Claim against the Contractor, the Owner may, but is not obligated to notify the surety, if any, of the nature and amount of the Claim. If the Claim relates to a possibility of a Contractor's default, the Owner may, but is not obligated to notify the surety and initiate a Claim on the performance bond.

(Paragraphs deleted)

§ 15.3 Mediation

§ 15.3.1 Any claim, dispute or other matter in question or arising out of or related to the Contract shall be subject to mediation. Mediation is not a condition precedent to commencing litigation, but if litigation is commenced before mediation is held, the Parties agree to mediate before any dispositive motions or trial.

§ 15.3.2 The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located unless another location is mutually agreed upon. Agreements reached in mediation and ratified by the Owner's Council shall be enforceable as settlement agreements in any court having jurisdiction thereof.

(Paragraphs deleted)

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PAGE 1

North High School Phase 4 Work Scope 07-H Roofing
1500 James Avenue, Minneapolis, MN 55411

...

Kraus-Anderson Construction Company
501 South 8th Street, Minneapolis, MN 55404

...

Minneapolis Public Schools Special School District #1
1250 West Broadway Avenue
Minneapolis, MN 55411

...

LSE Architects 1401 Glenwood Avenue
Minneapolis, MN 55405

PAGE 3

§ 1.1.1.1 Notwithstanding the foregoing, it is understood and agreed that the Owner is an intended third-party beneficiary of all contracts between the Contractor and Subcontractors or suppliers who provide labor and/or materials for the Work.

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§ 1.1.10 Initial Decision Maker. The Initial Decision Maker is the person identified in the Agreement to render initial decisions on Claims in accordance with Section 15.2. The ~~Initial Decision Maker shall not show partiality to the Owner or Contractor and shall not be liable for results of interpretations or decisions rendered in good faith.~~ Architect will serve as the Initial Decision Maker pursuant to Section 15.2 of AIA Document A232–2019.

...

§ 1.2.1 The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work by the Contractor. The Contract Documents are complementary, and what is required by one shall be as binding as if required by all; performance by the Contractor shall be required only to the extent consistent with the Contract Documents and reasonably inferable from them as being necessary to produce the ~~indicated~~ intended results.

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§ 1.2.1.1 The invalidity of any provision of the Contract Documents shall not invalidate the Contract or its remaining provisions. ~~If it is determined that any provision of the Contract Documents violates any law, or is otherwise invalid or unenforceable, then that provision shall be revised to the extent necessary to make that provision legal and enforceable.~~ In such case the Contract Documents shall be construed, to the fullest extent permitted by law, to give effect to the parties' intentions and purposes in executing the Contract.

...

§ 1.4.1 In the case of inconsistency between Drawings and Specifications or within Contract Documents not clarified by Addenda, the better quality or greater quantity of Work shall be provided in accordance with the Architect's interpretation.

§ 1.5.1 The Architect and the Architect's consultants shall be deemed the authors and owners of their respective Instruments of Service, including the Drawings and Specifications, and retain all common law, statutory, and other reserved rights in their Instruments of Service, including copyrights. The Contractor, Subcontractors, sub-subcontractors, and suppliers shall not own or claim a copyright in the Instruments of Service. Submittal or distribution to meet official regulatory requirements or for other purposes in connection with the Project is not to be construed as publication in derogation of the Architect's or Architect's consultants' reserved rights. The Owner retains rights to the Instruments of Service pursuant to Article 7 of AIA Document B101-2017.

...

§ 1.5.3 The Architect shall furnish to the Contractor a version of the Instruments of Service in electronic form for the sole purpose of the construction of the Project for which the Instruments of Service were created.

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The parties shall agree upon ~~written~~ protocols governing the transmission and use ~~of, and reliance on,~~ of Instruments of Service or any other information or documentation in digital form. The parties may use AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit or other form, to establish the protocols for the development, use, transmission, and exchange of digital data.

...

Any use of, or reliance on, all or a portion of a building information model without agreement to ~~written~~ protocols governing the use of, and reliance on, the information contained in the model and without having those protocols set forth in AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, and the requisite AIA Document G202™–2013, Project Building Information Modeling Protocol Form or other form, shall be at the using or relying party's sole risk and without liability to the other party and its contractors or consultants, the authors of, or contributors to, the building information model, and each of their agents and employees.

...

§ 2.1.1 The Owner is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The Owner shall designate in writing a representative who shall have express authority to bind the Owner with respect to all matters requiring the Owner's approval or ~~authorization.~~ authorization in accordance with Owner's Delegation of Authority Policy, a copy of which will be provided at Contractor's request. Except as otherwise provided in Section 4.2.1, the Construction Manager and the Architect do not have such authority. The term "Owner" means the Owner or the Owner's authorized representative.

~~§ 2.1.2 The Owner shall furnish to the Contractor, within fifteen days after receipt of a written request, information necessary and relevant for the Contractor to evaluate, give notice of, or enforce mechanic's lien rights. Such information shall include a correct statement of the record legal title to the property on which the Project is located, usually referred to as the site, and the Owner's interest therein.~~

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§ 2.3.5 ~~The~~ If requested by the Contractor and reasonably required for the Project, the Owner shall furnish surveys describing physical characteristics, legal limitations and utility locations for the site of the Project, and a written legal description of the site. The Contractor ~~shall be entitled to rely on the accuracy of information furnished by the Owner but~~ shall exercise proper precautions relating to the safe performance of the Work.

§ 2.3.6 The Owner shall furnish information or services required of the Owner by the Contract Documents with reasonable promptness. The Owner shall also furnish any other information or services under the Owner's control and relevant to the Contractor's performance of the Work with reasonable promptness after receiving the Contractor's written request for such information or services. The Contractor is responsible for the timeliness of, or interference caused by, Subcontractors, Sub-subcontractors (of any tier), and others directly or indirectly under contract to the Contractor.

...

If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within a ~~ten-day~~ three-business-day (3) period after receipt of notice from the Owner to commence and continue correction of such default or neglect with diligence and promptness, the Owner may, without prejudice to other remedies the Owner may have, correct such default or neglect. Such action by the Owner and amounts charged to the Contractor are both subject to review by the Construction Manager and prior approval of the Architect, and the Construction Manager or Architect may, pursuant to Section 9.5.1, withhold or nullify a Certificate for Payment in whole or in part, to the extent reasonably necessary to reimburse the Owner for the reasonable cost of correcting such deficiencies, including Owner's expenses and compensation for the Construction Manager's and Architect's and their respective consultants' additional services and expenses made necessary by such default, neglect, or failure. If current and future payments are not sufficient to cover such amounts, the Contractor shall pay the difference to the ~~Owner.~~ Owner within ten (10) days following written request for payment delivered by the Owner to the Contractor. If the Contractor disagrees with the actions of the Owner or the Architect, or the amounts claimed as costs to the Owner, the Contractor may file a Claim pursuant to Article 15.

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§ 3.1.3 The Contractor shall ~~not be relieved of its obligations to perform the Work in accordance with the Contract Documents either by activities or duties of the Construction Manager or Architect in their administration of the Contract, or by tests, inspections or approvals required or performed by persons or entities other than the Contractor.~~ hire a professional utilities locator to investigate and verify all private utility locations prior to excavation and cutting into of existing Work. The Contractor is responsible for locating, terminating, and reinstallation of all private utilities. Private site utilities may not be in the Drawings and Project Manual and as such, verification of private utilities is the sole responsibility of the Contractor. Costs associated with moving and repairing of unknown and undocumented utilities will be by appropriate Change Order. The Contractor shall comply with Gopher State One Call, or other public utility service locator to locate all public utilities prior to any work on the site. This shall not relieve Contractor from obligations under Article 3.

§ 3.1.4 The Contractor shall not be relieved of its obligations to perform the Work in accordance with the Contract Documents either by activities or duties of the Construction Manager or Architect in their administration of the Contract, or by tests, inspections or approvals required or performed by persons or entities other than the Contractor.

...

§ 3.2.1 ~~Execution of the Contract by the Contractor is a representation that the Contractor has visited the site, become generally~~ The Contractor shall carefully study and compare the Contract Documents with each other and with information furnished by the Owner pursuant to Section 2.2.3, and shall immediately report to the Architect and Construction Manager errors, inconsistencies, or omissions discovered. The Contractor shall not be liable to the Owner or Architect for damage resulting from errors, inconsistencies, or omissions in the Contract Document unless the Contractor recognized such error, inconsistency, or omission and knowingly failed to report it to the Architect. If the Contractor performs any construction activity knowing or believing it involves a recognized error, inconsistency, or omission in the Contract Documents without such notice to the Architect, the Contractor shall assume full responsibility for such performance and shall bear the attributable costs for correction and shall bear responsibility for any additional costs, delays, and damages resulting from such failure to immediately report any such errors,

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inconsistencies, or omissions which the Contractor may discover. By executing the Contract, the Contractor represents that the Contractor has reviewed and understands the Contract Documents, has visited the Site and is familiar with local conditions under which the Work is to be performed, ~~and correlated personal observations with requirements of the Contract Documents.~~has correlated personal observations with the requirements of the Contract Documents, and has notified the Architect of and obtained clarification of any discrepancies which have become apparent during the bidding or proposal period.

§ 3.2.1.1 The Contractor shall take field measurements and verify field conditions and shall carefully compare such field measurements and conditions and other information known to the Contractor with the Contract Documents before commencing activities. Errors, inconsistencies, or omissions discovered shall be reported to the Architect immediately in writing.

§ 3.2.1.2 The Contractor shall carefully study and compare the Contract Documents with existing conditions at the job site and shall immediately report in writing to the Architect any error, inconsistency, or omission which the Contractor may discover or any materials, systems, procedures, or methods of construction, either shown on the Drawings or specified, which the Contractor has reason to believe are incorrect, inadequate, obsolete, unsuitable for the purpose intended or which the Contractor has reason to believe would constitute or result in a violation of the Contractor's warranty under Section 3.5 or applicable law. The Contractor shall not proceed with any work in such areas until written instructions are received from the Architect.

§ 3.2.2 ~~Because~~ the ~~Contract Documents~~ are ~~complementary, the Contractor shall, before~~ starting ~~each portion of the Work, carefully study and compare the various Contract Documents relative to that portion of the Work, as well as the information furnished by the Owner pursuant to Section 2.3.5, shall take field~~ measurements ~~of any existing conditions related to that portion of the Work, and shall observe any conditions at the site affecting it. These obligations are for the purpose of facilitating~~ coordination ~~and construction by the Contractor~~ and are ~~not for the purpose of discovering errors, omissions, or inconsistencies in the Contract Documents; however, the Contractor shall promptly report to the Construction Manager and Architect~~ any ~~errors, inconsistencies or omissions discovered by or made known to the Contractor as a request for information submitted to the Construction Manager in such form as the Construction Manager~~ and ~~Architect may require. It is recognized that the Contractor's review is made in the Contractor's capacity as a contractor and not as a licensed design professional, unless otherwise specifically provided in the Contract Documents.~~The Contractor shall perform the Work in accordance with the Contract Documents and submittals accepted pursuant to Section 3.12.

§ 3.2.3 The ~~Contractor is not required to ascertain that the Contract Documents are in accordance with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, but the Contractor shall promptly report to the Construction Manager and Architect any nonconformity discovered by or made known to the Contractor as a request for information submitted to Construction Manager in such form as the Construction Manager and Architect may require.~~Owner shall be entitled to deduct from the Contract Sum amounts paid to the Architect for the Architect to evaluate and respond to the Contractor's requests for interpretation or information where such information was available to the Contractor from a careful study and comparison of the Contract Documents, Filed Conditions, Owner Provided Information, Contractor Prepared Coordination Drawings, or prior Project Correspondence or Documentation.

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§ 3.2.4 If the Contractor believes that ~~additional cost or time is involved because of clarifications or instructions the Architect issues in response to the Contractor's notices or requests for information pursuant to Sections 3.2.2 or 3.2.3, the Contractor shall submit Claims as provided in Article 15. If the Contractor fails to perform the obligations of Sections 3.2.2 or 3.2.3, the Contractor shall pay such costs and damages to the Owner, subject to section 15.1.7, as would have been avoided if the Contractor had performed such obligations. If the Contractor performs those obligations, the Contractor shall not be liable to the Owner or Architect for damages resulting from errors, inconsistencies or omissions in the Contract Documents, for differences between field measurements or conditions and the Contract Documents, or for nonconformities of the Contract Documents to applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities~~ any portions of the Contract Documents do not comply with applicable laws, statutes, ordinances, building codes, and rules and regulations, or any orders by code enforcement officials or the Owner or its designees acting in the capacity of building code inspectors or Referenced Standards, the Contractor must promptly notify the Owner and the Architect of the non-compliance as provided in Section 3.2.6 and request direction before proceeding with the affected Work.

§ 3.2.5 The Contractor must promptly notify the Owner and the Architect in writing of any apparent errors, inconsistencies, omissions, ambiguities, construction impracticalities or code violations discovered as a result of the Contractor's review of the Contract Documents including any differences between actual and indicated dimensions, locations and descriptions, and must give the Owner and the Architect timely notice in writing of same and of any corrections, clarifications, additional Drawings or Specifications, or other information required to define the Work in greater detail or to permit the proper progress of the Work. The Contractor must provide similar notice with respect to any variance between its review of the Site and physical data and Site conditions observed.

§ 3.2.6 If the Contractor performs any Work involving an apparent error, inconsistency, ambiguity, construction impracticality, omission or code violation in the Contract Documents of which the Contractor is aware, or which could reasonably have been discovered by the review required by Section 3.2, without prompt written notice to the Owner and the Architect and request for correction, clarification or additional information, as appropriate, the Contractor does so at its own risk and expense and all Claims relating thereafter are specifically waived.

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§ 3.3.4 The Contractor shall at all times staff the Project adequately to allow the Project to be managed and completed in a timely and professional manner. The Contractor shall have competent supervision on the job during work hours and readily available at all times upon call.

§ 3.3.5 The Contractor shall at all times make reasonable provisions to protect any Work performed by any separate contractors, adjacent property, and the existing building (if any) from damage due to the Work or due to the weather.

§ 3.3.6 The Owner or its approved representative (heretofore referred to as Owner's Representative) shall have access to the Work site and all Work. No supervision or inspection by the Owner or the Owner's Representative, nor the authority to act, nor any other actions taken by the Owner's Representative shall relieve the Contractor of any of its obligations under the Contract Documents or give rise to any duty on the part of the Owner.

§ 3.3.7 The Contract shall take appropriate precautions to ensure that the Work does not materially disrupt any ongoing operation by the Owner at the Project (if any) except to the extent any such disruption is a necessary result of performing a particular portion of the Work, in which case the Contractor shall provide the Owner with reasonable advanced written notice and shall take all commercially reasonable measures to minimize the impact on the Owner and the Owner's operations.

§ 3.4.1 Unless otherwise provided in the Contract Documents, the Contractor shall provide and pay for labor, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation, and other facilities and services necessary for proper execution and completion of the Work, whether temporary or permanent and whether or not incorporated or to be incorporated in the Work. Should the Contract Documents require Work to be performed after regular working hours or should the Contractor elect to perform Work after regular working hours, the additional cost of such Work shall be borne by the Contractor.

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§ 3.4.4 The Contractor shall be responsible for all additional costs incurred to incorporate into the Project substitute materials, products, or equipment approved by Owner during the bidding period.

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§ 3.4.5 In the event of a Change related to substitute or additional materials, and which shall comply with Article 7, the Contractor shall exercise reasonable efforts, consistent with the provisions of the Contract Documents to obtain the maximum available case discounts on all materials, provided that, in doing so, the Contractor shall not accept or use materials for incorporation into the Project which are of a type or quality not reasonably contemplated under the terms of the Contract Documents.

§ 3.4.6 After award of the Contract, a request for substitution of a material, product, or piece of equipment at no change in the Contract Sum will not be approved by the Owner or the Architect, unless the specified item is no longer manufactured, the specified item is unavailable as a result of an act of government such as a declaration of a national emergency, or delivery of the specified items is substantially delayed as a result of labor disputes affecting the manufacturer, unusual delay in transportation, or any other cause beyond control of the Contractor or a Subcontractor or material supplier which the Architect determines justified the delay. Requests will not be approved where the delay in delivery results from failure to promptly place subcontracts and material orders. Requests for substitution shall be submitted in writing to the Architect and shall clearly describe the proposed substitution, state the reason for the unavailability of a specified item and be accompanied by such additional data and information as may be necessary in the discretion of the Owner and the Architect to establish the acceptability of the proposed substitute.

§ 3.4.7 The Owner shall be entitled to deduct from the Contract Sum amounts paid to the Architect to evaluate the Contractor's proposed Substitutions and for changes made to the Contract Documents as a result of Owner's acceptance of such Substitutions.

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§ 3.5.2 All material, equipment, or other special warranties required by the Contract Documents shall be issued in the name of the Owner, or shall be transferable to the Owner, and shall commence in accordance with Section 9.8.4. The Contractor shall arrange for the Owner to have the benefit of and right to enforce all warranties by Subcontractors, Sub-subcontractors, suppliers, and manufacturers.

§ 3.5.3 Manufacturers' warranties and warranties by other shall not relieve the Contractor of any of its responsibilities.

§ 3.5.4 The Contractor's general warranty and any additional or special warranties are not limited by the Contractor's obligations to specifically correct defective or nonconforming Work as provided in Article 12, nor are they limited by any other remedies provided in the Contract Documents. The Contractor shall also be liable for any damage to property or persons (including death) including consequential and direct damages relating to any breach of the Contractor's general warranty or any additional or special warranties required by the Contract Documents.

§ 3.5.5 The Contractor must furnish all special warranties required by the Contract Documents to the Owner no later than Substantial Completion. The Owner may require additional special warranties in connection with the approval of "Or-Equals" or Substitutions, Allowance items, Work that is defective or nonconforming, or the acceptance of nonconforming Work pursuant to Article 12.

...

§ 3.7.1 Unless otherwise provided in the Contract Documents, the Owner, assisted by the Construction Manager, shall secure and pay for the building permit. The Contractor shall secure and pay for other permits, fees, licenses, and inspections by government agencies necessary for proper execution and completion of the Work that are customarily secured after execution of the Contract and legally required at the time bids are received or negotiations concluded. The Contractor shall be responsible for the Sewer Access (SAC) and Water Access (WAC) fees for the Project. The Contractor shall pay the SAC/WAC costs to the authorities having jurisdiction from the Allowance in the Base Bid for such charges as defined in the Construction Documents.

...

§ 3.7.3 If the Contractor performs Work knowing or believing it to be contrary to applicable laws, statutes, ordinances, building codes, rules and regulations, or lawful orders of public authorities, without such notice to the Architect and Owner, the Contractor shall assume ~~appropriate~~ full responsibility for such Work and shall bear the ~~costs attributable~~

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~~to correction.~~attributable costs, delays, and damages resulting from such failure to immediately notify the Architect and Owner of any such violation..

§ 3.7.4 Concealed or Unknown Conditions. If the Contractor encounters conditions at the site that are (1) subsurface or otherwise concealed physical conditions that differ materially from those indicated in the Contract Documents or (2) unknown physical conditions of an unusual nature that differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents, the Contractor shall promptly provide notice to the Owner, Construction Manager, and the Architect before conditions are disturbed and in no event later than ~~14~~ ten (10) days after first observance of the conditions. The Architect and Construction Manager will promptly investigate such conditions and, if the Architect, in consultation with the Construction Manager, determines that they differ materially and cause an increase or decrease in the Contractor's cost of, or time required for, performance of any part of the Work, will recommend that an equitable adjustment be made in the Contract Sum or Contract Time, or both. If the Architect, in consultation with the Construction Manager, determines that the conditions at the site are not materially different from those indicated in the Contract Documents and that no change in the terms of the Contract is justified, the Architect shall promptly notify the Owner, Construction Manager, and Contractor, stating the reasons. If the Owner or Contractor disputes the Architect's determination or recommendation, either party may submit a Claim as provided in Article 15.

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§ 3.9.1 The Contractor shall employ a competent superintendent and necessary assistants who shall be in attendance at the Project site during performance of the ~~Work.~~ Work, including that performed by all Subcontractors. The superintendent shall represent the Contractor, and communications given to the superintendent shall be as binding as if given to the Contractor. Important communications including and not limited to communications regarding design changes, alterations, substitutions, clarifications, cost changes, etc. shall be confirmed in writing by the Contractor. Other communications shall be similarly confirmed on written request in each case.

...

§ 3.9.3 The Contractor shall not employ a proposed superintendent or any other management personnel to whom the Owner, Construction Manager, or Architect has made reasonable and timely objection. The Contractor shall not change the superintendent without the Owner's consent, which shall not unreasonably be withheld or delayed.

§ 3.9.4 If requested by the Owner, the Contractor shall replace the superintendent at no additional cost to the Owner. No other change in this position shall be made without notice to and written consent of the Owner.

...

§ 3.10.1 The Contractor, promptly after being awarded the Contract, shall submit for the Owner's and Architect's information, and the Construction Manager's use in developing the Project schedule, a Contractor's construction schedule for the Work. The schedule shall contain detail appropriate for the Project, including (1) the date of commencement of the Work, interim schedule milestone dates, critical path schedule milestones, major construction milestones, including and not limited to Civil, Demolition, Structural, Mechanical, Electrical, and Plumbing, and the date of Substantial Completion; (2) an apportionment of the Work by construction activity; and (3) the time required for completion of each portion of the Work. The schedule shall provide for the orderly progression of the Work to completion and shall not exceed time limits current under the Contract Documents. The schedule shall be revised at appropriate intervals as required by the conditions of the Work and Project. The Contractor shall cooperate with the Construction Manager in scheduling and performing the Contractor's Work to avoid conflict with, and as to cause no delay in, the work or activities of other Contractors, or the construction or operations of the Owner's own forces or Separate Contractors.

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§ 3.10.4 The Contractor shall perform the Work in general accordance with the most recent schedules submitted to and accepted in writing by the Owner, Construction Manager, and Architect, and incorporated into the approved Project schedule.

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~~The Contractor shall make available, at the Project site, the Contract Documents, including Change Orders, Construction Change Directives, and other Modifications, in good order and marked currently to indicate field changes and selections made during construction, and the approved Shop Drawings, Product Data, Samples, and similar required submittals. These shall be in electronic form or paper copy, available to the Construction Manager, Architect, and Owner, and delivered to the Construction Manager for submittal to the Owner upon completion of the Work as a record of the Work as constructed.~~§ 3.11.1 The Contractor shall make available, at the Project site, one record copy of the Contract Documents, including Change Orders, Construction Change Directives, and other Modifications, in good order and updated daily to indicate field changes and selections made during construction, and in addition accepted and approved Shop Drawings, Product Data, Samples, and similar required submittals. These shall be in electronic form or paper copy, available to the Construction Manager, Architect, and Owner as required to complete routine inspections by Architect, Construction Manager and Owner prior to any approval of payments to the Contractor, and delivered to the Construction Manager for submittal to the Owner upon completion of the Work. The Architect and Contractor must verify that all "as-built" Drawings, Specifications, Addenda, Change Orders, and other Modifications are up-to-date before Contractor's Application for Payment is acceptable and before the Owner incurs any duty to pay Contractor in accordance with the Contract. The record documents shall be a separate set of documents labeled "Record Documents" and used only for record purposes and kept clean and undamaged.
§ 3.11.2 No review or receipt of such records by the Architect or Owner shall be considered a waiver of any deviation from the Contract Documents or approved shop drawings, or any way relieve the Contractor from its responsibility to perform the Work in accordance with the Contract Documents.
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§ 3.12.5 The Contractor shall review for compliance with the Contract Documents, approve, and submit to the Construction Manager, Shop Drawings, Product Data, Samples, and similar submittals required by the Contract Documents, in accordance with the Project submittal schedule approved by the Construction Manager and Architect or, in the absence of an approved Project submittal schedule, with reasonable promptness and in such sequence as to cause no delay in the Work or in the activities of other Contractors, Separate Contractors, or the Owner's own forces. The Contractor shall cooperate with the Construction Manager in the coordination of the Contractor's Shop Drawings, Product Data, Samples, and similar submittals with related documents submitted by other Contractors. The Contractor must provide the Owner and the Architect with copies of all submittals made to regulatory agencies.

...

§ 3.12.7 The Contractor shall perform no portion of the Work for which the Contract Documents require submittal and review of Shop Drawings, Product Data, Samples, or similar submittals, until the respective submittal has been reviewed and ~~approved by the Architect.~~accepted by the Architect. The Contractor must correct at its cost, and without any adjustment in Contract Time, any Work the correction of which is required due to the Contractor's failure to obtain approval of a submittal required to have been obtained prior to proceeding with the Work, including, but not limited to, correction of any conflicts in the Work resulting from such failure.

§ 3.12.8 The Work shall be in accordance with ~~approved~~ accepted submittals except that the Contractor shall not be relieved of responsibility for deviations from the requirements of the Contract Documents by the Architect's ~~approval~~ acceptance of Shop Drawings, Product Data, Samples, or similar submittals, unless the Contractor has specifically notified the Construction Manager and Architect of such deviation at the time of submittal and (1) the Architect has given written ~~approval~~ acceptance to the specific deviation as a minor change in the Work, or (2) a Change Order or Construction Change Directive has been issued authorizing the deviation. The Contractor shall not be relieved of responsibility for errors or omissions in Shop Drawings, Product Data, Samples, or similar submittals, by the Architect's ~~approval~~ acceptance thereof.

§ 3.12.9 The Contractor shall direct specific attention, in writing or on resubmitted Shop Drawings, Product Data, Samples, or similar submittals, to revisions other than those requested by the Construction Manager and Architect on previous submittals. In the absence of such notice, the Architect's ~~approval~~ acceptance of a resubmission shall not apply to such revisions.
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§ 3.13.3 Except as may be specifically provided in the Contract Documents, the Contractor shall provide all necessary temporary facilities, including power, water, sanitation, scaffolding, storage, and security. If Owner makes any such

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facilities available to Contractor, it is without representation or warranty as to their adequacy for Contractor's use, and Contractor shall indemnify, defend, and hold Owner harmless from and against any claims arising out of Contractor's use of such facilities.

...

§ 3.14.2 The Contractor shall not damage or endanger a portion of the Work or fully or partially completed construction of the Owner, Separate Contractors, or of other Contractors by cutting, patching, or otherwise altering such construction, or by excavation. The Contractor shall not cut or otherwise alter construction by the Owner, Separate Contractors, or by other Contractors except with written consent of the Construction Manager, Owner, and such other Contractors or Separate Contractors. Consent shall not be unreasonably withheld. The Contractor shall hire a professional utilities locator to verify locations of all public and private utilities prior to initiating any cutting work. The Contractor shall not unreasonably withhold, from the Separate Contractors, other Contractors, or the Owner, its consent to cutting or otherwise altering the Work.

...

§ 3.15.1 The Contractor shall keep the premises and surrounding area continuously free from accumulation of waste materials and rubbish caused by operations under the Contract. At completion of the Work, the Contractor shall remove from and about the Project waste materials, rubbish, Contractor-generated waste materials, the Contractor's generated hazardous waste materials, the Contractor's tools, construction equipment, machinery, and surplus materials from and about the Project.

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§ 3.18.1 To the fullest extent permitted by law, the Contractor shall ~~indemnify~~ indemnify, defend and hold harmless the Owner, Construction Manager, Architect, Construction Manager's and Architect's consultants, and agents and employees of any of them from and against claims, damages, losses, and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), but only to the extent caused by the negligent acts or omissions of the Contractor, a Subcontractor, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss, or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity ~~that~~ which would otherwise exist as to a party or person described in this Section 3.18. The Contractor, furthermore, agrees to obtain, maintain, and pay for such general liability coverage and endorsements (including product and completed operations coverage) as will ensure the provisions of this Section 3.18.1. The Contractor agrees to reimburse the Owner, its agents and employees for all costs and disbursements, including attorneys' fees, paid or incurred to enforce the provisions of this Section 3.18.1.

...

§ 3.18.3 To the fullest extent permitted by law and without limiting any other indemnification obligations of the Contractor, except to the extent caused by the uncured failure of the Owner to make payment when due and owing, the Contractor shall indemnify and defend the Owner, its officers, directors, assigns, lenders, agents, and employees from any liens, charges (including attorneys' fees) or encumbrances (including but not limited to mechanic's and materialmen's liens or bond claims) arising out of or in connection with the performance of the Work by Contractor, its Subcontractors, or its material suppliers. Upon request of the Owner, the Contractor shall within sixty (60) days remove any liens filed against the Owner or its property. If the Contractor fails to do so, the Owner is authorized by the Contractor to remove or satisfy any such liens, and the Contractor shall pay to the Owner all costs and damages incurred by the Owner to do so, including attorneys' fees.

...

§ 4.2.1 The Construction Manager and Architect will provide administration of the Contract as described in the Contract Documents and will be the Owner's ~~representatives during construction until the date the Architect issues the final Certificate for Payment.~~ consultants (1) during construction; (2) until final payment is due; and (3) with the

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Owner's concurrence, from time to time during the correction period described in Section 12.2. The Architect and Construction Manager will advise and consult with the Owner. The Construction Manager and Architect will have authority to act on behalf of the Owner only to the extent provided in the Contract ~~Documents.~~Documents, unless otherwise modified in writing in accordance with other provisions of the Contract.

§ 4.2.2 The Architect will visit the site at intervals appropriate to the stage of construction, or as otherwise agreed with the Owner, to become generally familiar with the progress and quality of the ~~portion of the Work completed,~~ Work completed, to endeavor to guard the Owner against defects and deficiencies in the Work, and to determine in general if the Work ~~observed~~ is being performed in a manner indicating that the Work, when ~~fully~~ completed, will be in accordance with the Contract Documents. However, the Architect will not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. On the basis of the site visits, the Architect will keep the Owner and the Construction Manager reasonably informed about the progress and quality of the portion of the Work completed, and promptly report to the Owner and Construction Manager known deviations from the Contract Documents and defects and deficiencies observed in the Work.

§ 4.2.2.2 The Contractor shall reimburse the Owner for compensation paid to the Architect for additional site visits made necessary by fault, neglect, or request of the Contractor.
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§ 4.2.6 Communications. The Owner shall communicate with the Contractor and the Construction Manager's consultants through the Construction Manager about matters arising out of or relating to the Contract Documents. The Owner and Construction Manager shall include the Architect in all communications that relate to or affect the Architect's services or professional responsibilities. The Owner shall promptly notify the Architect of the substance of any direct communications between the Owner and the Construction Manager otherwise relating to the Project. Communications by and with the Architect's consultants shall be through the Architect. Communications by and with Subcontractors and suppliers shall be through the Contractor. Communications by and with other Contractors shall be through the Construction Manager. Communications by and with the Owner's own forces and Separate Contractors shall be through the ~~Owner.~~ Owner unless otherwise provided. The Contract Documents may specify other communication protocols. The Owner may require the Architect, Construction Manager and the Contractor to comply with Owner requirements in regards to public communications and site signage.

...

§ 4.2.8 The Architect and Construction Manager have authority to reject Work that does not conform to the Contract Documents, and will notify each other about the rejection. Whenever the Construction Manager considers it necessary or ~~advisable,~~ advisable for implementation of the intent of the Contract Documents, the Construction Manager will have authority to require additional inspection or testing of the Work in accordance with Sections 13.4.2 and 13.4.3, upon written authorization of the Owner, whether or not the Work is fabricated, installed or completed. The foregoing authority of the Construction Manager will be subject to the provisions of Sections 4.2.18 through 4.2.20 inclusive, with respect to interpretations and decisions of the Architect. However, neither the Architect's nor the Construction Manager's authority to act under this Section 4.2.8 nor a decision made by either of them in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect or the Construction Manager to the Contractor, Subcontractors, suppliers, their agents or employees, or other persons performing any of the Work.
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§ 4.2.11 The Architect ~~will~~ will, and the Owner may, review and approve, or take other appropriate action upon, the Contractor's submittals such as Shop Drawings, Product Data, and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Architect's ~~action will be taken in accordance with the submittal schedule approved by the Architect or, in the absence of an approved submittal schedule, with reasonable promptness~~ or Owner's action will be taken with such reasonable promptness as to cause no delay in the Work or in the activities of the Owner, Contractor or separate contractors, while allowing sufficient time in the Architect's professional judgment to permit adequate review. Upon the Architect's or the Owner's completed review, the Architect shall transmit its submittal review to the Construction Manager.
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§ 4.2.18 The Architect will interpret and decide matters concerning performance ~~under, and~~ under the requirements of, the Contract Documents on written request of the Construction Manager, Owner, or Contractor through the Construction Manager. The Architect's response to such requests will be made ~~in writing within any time limits agreed upon or otherwise with reasonable promptness.~~ with reasonable promptness and within any time limits agreed upon. If no agreement is made concerning the time within which interpretations required of the Architect shall be furnished in compliance with this Section 4.2.18, then delay shall not be recognized on account of failure by the Architect to furnish such interpretations until fifteen (15) days after written request is made to them.

§ 4.2.19 ~~Interpretations and decisions of the Architect will be consistent with the intent of, and reasonably inferable from, the Contract Documents and will be in writing or in the form of drawings. When making such interpretations and decisions, the Architect will endeavor to secure faithful performance by both Owner and Contractor, will not show partiality to either, and will not be liable for results of interpretations or decisions so rendered in good faith.~~ Architect's decisions on matters relating to aesthetic effect will be final if consistent with the intent expressed in the Contract Documents.

§ 4.2.20 ~~The Architect's decisions on matters relating to aesthetic effect will be final if consistent with the intent expressed in the Contract Documents.~~ Architect will review and respond to requests for information about the Contract Documents. The Architect's response to such requests will be made in writing within any time limits agreed upon or otherwise with reasonable promptness. If appropriate, the Architect will prepare and issue supplemental Drawings and Specifications in response to the requests for information.

~~§ 4.2.21 The Construction Manager will receive and review requests for information from the Contractor, and forward each request for information to the Architect, with the Construction Manager's recommendation. The Architect will review and respond in writing, through the Construction Manager, to requests for information about the Contract Documents. The Construction Manager's recommendation and the Architect's response to each request will be made in writing within any time limits agreed upon or otherwise with reasonable promptness. If appropriate, the Architect will prepare and issue supplemental Drawings and Specifications in response to the requests for information.~~

...

§ 5.2.1 Unless otherwise stated in the Contract Documents, the Contractor, as soon as practicable after award of the Contract, shall notify in writing the Construction Manager, for review by the Owner, Construction Manager and Architect, of the persons or entities proposed for each principal portion of the Work, including those who are to furnish materials or equipment fabricated to a special design. Within 14 days of receipt of the information, the Construction Manager may notify the Contractor whether the Owner, the Construction Manager or the Architect (1) has reasonable objection to any such proposed person or entity or, (2) requires additional time for review. Failure of the Construction Manager to provide notice within the 14-day period shall constitute notice of no reasonable objection. The Contractor shall not employ any Subcontractor or use any material to which the Architect, Construction Manager or Owner may object. Prior to the employment of any Subcontractor, the Contractor must obtain the Owner's approval of such Subcontractor for the designated portion of the Work.

...

§ 5.2.3 If the Owner, Construction Manager or Architect has reasonable objection to a person or entity proposed by the Contractor, the Contractor shall propose another to whom the Owner, Construction Manager or Architect has no reasonable objection. ~~If the proposed but rejected Subcontractor was reasonably capable of performing the Work, the Contract Sum and Contract Time~~ The Contract Sum shall be increased or decreased by the ~~difference, if any,~~ difference in cost occasioned by such change, and an appropriate Change Order shall be ~~issued before commencement of the substitute Subcontractor's Work.~~ issued. However, no increase in the Contract Sum or Contract Time shall be allowed for such change unless the Contractor has acted promptly and responsively in submitting names as required. Notwithstanding the foregoing, the Contractor shall have a continuing duty to the Owner, Construction Manager and Architect to find and propose such persons or entities as shall not result in material increase in the Contract Sum, or a material decrease in the quality of Work contemplated under the Contract Documents.

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§ 5.2.4 The Contractor shall not substitute a Subcontractor, person, or entity for one previously selected if the Owner, Construction Manager or Architect makes reasonable objection to such substitution. Any proposed substitution of a Subcontractor, person, or entity for one previously selected shall be made in a separate writing to the Owner, Construction Manager and Architect. No substitution shall be deemed approved/accepted without written confirmation from the Owner, Construction Manager and Architect. Neither acceptance of, nor objection to a Subcontractor or Sub-subcontractor, material supplier, or other person or organization by the Owner, Construction Manager and Architect shall limit the responsibility of the Contractor to furnish materials, products, equipment, and services in conformance with the requirements of the Contract Documents.

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~~By appropriate written agreement, the Contractor shall require each Subcontractor, to the extent of the Work to be performed by the Subcontractor, to be bound to the Contractor by terms of the Contract Documents, and to assume toward the Contractor all the obligations and responsibilities, including the responsibility for safety of the Subcontractor's Work, that the Contractor, by these Contract Documents, assumes toward the Owner, Construction Manager and Architect. Each subcontract agreement shall preserve and protect the rights of the Owner, Construction Manager and Architect under the Contract Documents with respect to the Work to be performed by the Subcontractor so that subcontracting thereof will not prejudice such rights, and shall allow to the Subcontractor, unless specifically provided otherwise in the subcontract agreement, the benefit of all rights, remedies, and redress against the Contractor that the Contractor, by the Contract Documents, has against the Owner. Where appropriate, the Contractor shall require each Subcontractor to enter into similar agreements with Sub-subcontractors. The Contractor shall make available to each proposed Subcontractor, prior to the execution of the subcontract agreement, copies of the Contract Documents to which the Subcontractor will be bound, and, upon written request of the Subcontractor, identify to the Subcontractor terms and conditions of the proposed subcontract agreement that may be at variance with the Contract Documents. Subcontractors will similarly make copies of applicable portions of such documents available to their respective proposed Sub-subcontractors.~~ § 5.3.1 By appropriate written agreement, the Contractor shall require each Subcontractor, to the extent of the Work to be performed by the Subcontractor, to be bound to the Contractor by terms of the Contract Documents, and to assume toward the Contractor all the obligations and responsibilities, including the responsibility for safety of the Subcontractor's Work, that the Contractor, by these Contract Documents, assumes toward the Owner, Construction Manager and Architect. Each subcontract agreement shall preserve and protect the rights of the Owner, Construction Manager and Architect under the Contract Documents with respect to the Work to be performed by the Subcontractor so that subcontracting thereof will not prejudice such rights, and shall allow to the Subcontractor, unless specifically provided otherwise in the subcontract agreement, the benefit of all rights, remedies, and redress against the Contractor that the Contractor, by the Contract Documents, has against the Owner. Where appropriate, the Contractor shall require each Subcontractor to enter into similar agreements with Sub-subcontractors. The Contractor shall make available to each proposed Subcontractor, prior to the execution of the subcontract agreement, copies of the Contract Documents to which the Subcontractor will be bound, and, upon written request of the Subcontractor, identify to the Subcontractor terms and conditions of the proposed subcontract agreement that may be at variance with the Contract Documents. Subcontractors shall similarly make copies of applicable portions of such documents available to their respective proposed Sub-subcontractors.

§ 5.3.2 The Contractor is responsible for the performance of, the actions of, the timeliness of, or interference caused by, Subcontractors, Sub-subcontractors (of any tier), and others directly or indirectly under contract to the Contractor.

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§ 6.2.2 If part of the Contractor's Work depends for proper execution or results upon construction or operations by the Owner's own forces, Separate Contractors or other Contractors, the Contractor shall, prior to proceeding with that portion of the Work, promptly notify the Construction Manager and Architect of apparent discrepancies or defects in the construction or operations by the Owner or Separate Contractor or other Contractors that would render it unsuitable for proper execution and results of the Contractor's Work. Failure of the Contractor to notify the Construction Manager and the Architect of apparent discrepancies or defects prior to proceeding with the Work shall constitute an acknowledgment that the Owner's or Separate Contractor's or other Contractors' completed or partially completed construction is fit and proper to receive the Contractor's Work. The Contractor shall not be responsible for discrepancies or defects in the construction or operations by the Owner or Separate Contractors or other Contractors that are not ~~apparent~~ reasonably discoverable.

§ 6.2.3 ~~The Contractor shall reimburse the Owner for costs the Owner incurs, including costs that are payable to a Separate Contractors or to other Contractors, because of the Contractor's delays, improperly timed activities or~~

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~~defective construction. The Owner shall be responsible to the Contractor for costs the Contractor incurs because of delays, improperly timed activities, damage to the Work or defective construction by the Owner's own forces, Separate Contractors, or other Contractors.~~Costs caused by delays or by improperly timed activities or defective construction shall be borne by the party responsible therefor.

...

§ 6.2.5 ~~The Owner, Separate Contractors, and other Contractors shall have the same responsibilities for cutting and patching as are described for the Contractor in Section 3.14.~~Claims and other disputes and matters in question between the Contractor and a separate contractor shall be subject to the provisions of Article 15 provided the separate contractor has reciprocal obligations.

§ 6.2.6 The Owner, Separate Contractors, and other Contractors shall have the same responsibilities for cutting and patching as are described for the Contractor in Section 3.14.

...

If a dispute arises among the Contractor, Separate Contractors, other Contractors, and the Owner as to the responsibility under their respective contracts for maintaining the premises and surrounding area free from waste materials and ~~rubbish, the Owner may clean up and the Construction Manager, with notice to the Architect, will allocate the cost among those responsible.~~rubbish as described in Section 3.15, the Owner may clean up allocate the cost among those responsible as the Architect determines to be just..

...

§ 7.1.2 A Change Order shall be based upon agreement among the Owner, Construction Manager, Architect and Contractor. A Construction Change Directive requires agreement by the Owner, Construction Manager and Architect and may or may not be agreed to by the Contractor. ~~An order for a minor change in the Work may be issued by the Architect alone.~~

...

§ 7.1.4 The amount of credit to be allowed by the Contractor to the Owner for any deletion or change which results in a net decrease in the Contract Sum will be the amount of the actual net cost as confirmed by the Architect after consultation with the Owner and Construction Manager. When both additions and credits covering related Work or substitutions are involved in any one change, the allowance for both overhead and profit shall be figured on the basis of the net increase or decrease, if any, with respect to that change.

§ 7.1.5 In Section 7.3.6, the allowance for the combined overhead and profit included in the total cost to the Owner shall be based on the following schedule:

.1 For the Contractor, for Work performed by the Contractor's own forces, ten percent (10%) of the cost;

.2 For the Contractor, for Work performed by the Contractor's Subcontractor, five percent (5%) of the amount due the Subcontractor;

.3 For each Subcontractor or Sub-subcontractor involved for Work performed by the Subcontractor's or Sub-subcontractor's own forces, ten percent (10%) of the cost;

.4 For each Subcontractor for Work performed by the Subcontractor's Sub-subcontractor, five percent (5%) of the amount due the Subcontractor;

.5 Costs to which overhead and profit is to be applied shall be determined in accordance with Section 7.3.6;

.6 In order to facilitate checking of quotations for extras or credits, all proposals, except those so minor that their propriety can be seen by inspection, shall be accompanied by a complete itemization of costs, including labor, materials and subcontracts. Labor and materials shall be itemized in the manner prescribed above. Where major cost items are subcontracts, they shall be itemized also. In no case will a change involving over $500 be approved without such itemization.

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§ 7.2 Change Orders and Change Proposals

~~A Change Order is a written instrument prepared by the Construction Manager and signed by the Owner, Construction Manager, Architect, and Contractor, stating their agreement upon all of the following:~~§ 7.2.1 A Change Order is a written instrument prepared by the Construction Manager and signed by the Owner, Construction Manager, Architect, and Contractor, stating their agreement upon all of the following:

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.3 The extent of the adjustment, if any, in the Contract Time.

§ 7.2.2 Change Order shall be prepared on AIA Document G731.

§ 7.2.3 The Contractor must submit Change Proposals covering a contemplated Change Order within ten (10) days after request of the Owner, or the Architect or within ten (10) days of the event, or Contractor's discovery of a condition, whichever is earlier, giving rise to the Contractor's claim for a change in the Contract Sum or Contract Time. No increase in the Contract Sum or extension of the Contract Time will be allowed the Contractor for the cost or time involved in making Change Proposals. Change Proposals will define or confirm in detail the Work which is proposed to be added, deleted, or changed and must include any adjustment which the Contractor believes to be necessary in (i) the Contract Sum, or (ii) the Contract Time. Any proposed adjustment must include detailed documentation including, but not limited to: cost, properly itemized and supported by sufficient substantiating data to permit evaluation including cost of labor, materials, supplies and equipment, rental cost of machinery and equipment, additional bond cost, plus a fixed fee for profit and overhead (which includes office overhead and Site-specific overhead and general conditions) of ten percent (10%) if the Work is performed by the Contractor, or five percent (5%) if the Work is performed by a Subcontractor or Sub-subcontractor. The Subcontractor's or Sub-subcontractor's overhead and profit in turn must not exceed a total aggregate of ten percent (10%). Change Proposals will be binding upon the Contractor and may be accepted or rejected by the Owner in its discretion. The Owner may, at its option, instruct the Contractor through a Construction Change Directive to proceed with the Work involved in the Change Proposal in accordance with Section 7.3 without accepting the Change Proposal in its entirety.

§ 7.2.4 If the Owner determines that a Change Proposal is appropriate, the Architect will prepare and submit a request for a Change Order or Contract Amendment providing for an appropriate adjustment in the Contract Sum or Contract Time, or both, for further action by the Owner. No such change is effective until the Owner and Architect sign the Change Order.

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§ 7.3.4 If the Contractor does not respond promptly or disagrees with the method for adjustment in the Contract Sum, the Owner and the Construction Manager shall determine the adjustment on the basis of reasonable expenditures and savings of those performing the Work attributable to the change, including, in case of an increase in the Contract Sum, an amount for overhead and profit as set forth in the Agreement, or if no such amount is set forth in the Agreement, a reasonable amount. In such case, and also under Section 7.3.3.3, the Contractor shall keep and present, in such form as the Construction Manager may prescribe, an itemized accounting together with appropriate supporting data. Unless otherwise provided in the Contract Documents, costs for the purposes of this Section 7.3.4 shall be limited to the following:

...

.3 Rental costs of machinery and equipment, exclusive of hand tools, whether rented from the Contractor or ~~others;~~others (at rates approved by the Owner);

...

§ 7.3.7 A Construction Change Directive signed by the Contractor indicates the Contractor's agreement therewith, including adjustment in Contract Sum and Contract Time or the method for determining them. Such agreement shall be effective ~~immediately and shall be recorded as a Change Order.~~immediately.

...

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§ 7.3.9 Pending final determination of the total cost of a Construction Change Directive to the Owner, the Contractor may request payment for Work completed under the Construction Change Directive in Applications for ~~Payment.~~ Payment up to and not exceeding $25,000. The Construction Manager and Architect will make an interim determination for purposes of monthly certification for payment for those costs and certify for payment the amount that the Construction Manager and Architect determine to be reasonably justified. The interim determination of cost shall adjust the Contract Sum on the same basis as a Change Order, subject to the right of either party to disagree and assert a Claim in accordance with Article 15.

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The Architect may order minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. The Architect's order for minor changes shall be in ~~writing.~~ writing and approved by the Owner. If the Contractor believes that the proposed minor change in the Work will affect the Contract Sum or Contract Time, the Contractor shall notify the Construction Manager and shall not proceed to implement the change in the Work. If the Contractor performs the Work set forth in the Architect's order for a minor change without prior notice to the Construction Manager that such change will affect the Contract Sum or Contract Time, the Contractor waives any adjustment to the Contract Sum or extension of the Contract Time.

...

§ 8.1.2 The date of commencement of the Work is the date established in the Agreement. The date shall not be postponed by the failure to act of the Contractor or of persons or entities for whom the Contractor is responsible.

...

§ 8.1.4 The term "day" as used ~~in the Contract Documents shall mean calendar day unless otherwise specifically defined.~~ shall mean calendar day of 24 hours beginning at 12:00 midnight. Calendar days as stated in the Contract Documents, shall include all days of a seven (7) day week including Saturdays, Sundays, and holidays. The term "Milestone Date" is, in each instance, the date established in the Contract Documents for the Substantial completion of all or a designated portion of the Work.

...

§ 8.2.3 The Contractor shall proceed expeditiously with adequate forces and shall achieve Substantial Completion within the Contract ~~Time.~~ Time and shall achieve specific contractual Milestone Dates (if any), Substantial Completion and final Completion within the time stated in the Contract Documents.

§ 8.2.4 Contractor understands and agrees that all Work must be performed in an orderly and closely coordinated sequence so that the dates for Substantial Completion, Final Completion, and Milestone Dates (if any) may be met by the Contractor.

§ 8.2.5 Timely final completion of the Project is of critical importance to the Owner. The Contractor agrees that it shall substantially complete all Work under the Contract documents within the time established herein and that it shall finally complete the Work in the detail required and in the time required by the Contract Documents.

§ 8.2.6 To the extent that the Contract Documents contain or provide for specific contractual Milestone Dates in addition to Final and Substantial Completion dates, such dates shall be adhered to and shall be the last acceptable dates for those milestones and completions, unless modified by the Owner.

§ 8.2.7 Notwithstanding anything to the contrary contained in the Contract Documents, in the event that any Contractor fails, or appears likely, in the reasonable opinion of the Owner and Construction Manager, to fail to complete a critical portion of their Work on time or to complete any dates for Substantial Completion, Final Completion, or Milestone Dates as evidenced by the latest update of the CPM Schedule Report, the Owner shall have the right to select and require Contractor's performance under any or all of the following operations:

.1 Require the Contractor to substantiate their capability to get back on schedule within two (2) days;

.2 Require the Contractor, at no additional cost to the Owner, to increase their work force, work overtime and/or extra shifts and do whatever else is required by the Owner until the Contractor gets

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back on schedule as established by the CPM Schedule Report (including any updates thereto);

.3 Withhold progress payments or portions thereof until such time as the contractor returns to schedule, but only related to Substantial Completion or Final Completion;

.4 Contact or visit the factory, plant, or distribution center whose production or delivery schedule may be critical to the scheduled completion of a portion of the contract work and expedite such production delivery at Contractor's expense; or

.5 Require the Contractor to complete, in detail, and submit weekly a Short Interval Schedule (SIS) showing: (1) planning for the next two weeks; (2) work completed for the previous week; (3) sufficient detail to evaluate daily milestone (if any) and manpower/equipment loading, and shall identify/tie into the monthly updated CPM Schedule Report.

Any costs incurred by the Contractor in fulfilling the option(s) selected by the Owner shall be at the Contractor's expense.

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§ 8.3.1 If the Contractor is delayed at any time in the ~~commencement or~~ progress of the Work by (1) an act or neglect of the Owner, Architect, Construction Manager, or an employee of any of them, or of the Owner's own forces, Separate Contractors, or other Contractors; (2) by changes ordered in the Work; (3) by labor disputes, fire, unusual delay in deliveries, unavoidable casualties, adverse weather conditions documented in accordance with Section 15.1.6.2, or other causes beyond the Contractor's control; ~~(4) by delay authorized by the Owner pending mediation and binding dispute resolution; or (5)~~ or (4) by other causes that the Contractor asserts and the Architect, based on the recommendation of the Construction Manager, determines justify delay, then subject to the conditions hereinafter set forth, the Contract Time shall be extended by Change Order for such reasonable time as the Architect may determine. Requests for extensions of time for causes enumerated above will be considered by the Architect subject to the following:

.1 Only those conditions enumerated above over which the Contractor has no control will be considered. The burden of proof to substantiate the claim for an extension shall rest with the Contractor, including evidence that the cause was beyond their control. It shall be deemed the Contractor has control over the supply of labor, materials, equipment, methods, techniques, and over their Subcontractors and suppliers;

.2 In the event of Changes in the Work, any consideration for a time extension will be made only at the time of authorizing the changes, and no later than when the Change Order is prepared, and only if the Change Order significantly affects the time and progress of the entire Work. For changes which do not affect the entire Work, time extension may be granted only for the area, phase, unit, or element affected by the change, if due to a valid reason for a time extension;

.3 Any unusual delay in deliveries will not be considered unless it is solely due to transportation issues wholly outside of Contractor's, Subcontractor's, Sub-subcontractor's or Supplier's control. An extension of time will not be granted for delays in deliveries where said delivery was not properly scheduled or when orders were not promptly and properly placed;

.4 With respect to a claim for an extension of time as a result of climatic conditions, the Contractor shall recognize the location of the site and the existence, as normal, or variations from "average" conditions. Foul weather in itself will not be a valid reason for a time extension. Requests for time extensions because of delay resulting from weather extremes will not be considered unless a substantial variation from usual weather conditions occurs for a significant period of time, during phases of the Work when operation necessarily were suspended to a significant degree when they would otherwise have been in progress. In considering the time extension, the weather conditions both before and after the period in which the delay is claimed will be evaluated with credit given to Owner for unseasonably favorable weather;

.5 Delays resulting from a labor dispute will not result in a time extension of a longer period than the dispute, plus a reasonable time for mobilization if justified and necessary as approved by the Architect, and may be less depending on the impact of the dispute, including what operations were suspended or curtailed;

.6 No time extension will be granted as a result of improper scheduling or for failure to have shop drawings or samples submitted in ample time for review under a reasonable and agreed upon schedule; or

.7 Delays by Subcontractors or suppliers will not be considered justification for a time extension, except for the same valid reasons and conditions enumerated under Section 8.3.1.

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§ 8.3.4 The Contractor shall be responsible for all Owner incurred costs associated with a Contractor related to delay in completion of the Project. These costs may include, but are not limited to, Owner staff overtime, Consultant additional fees, additional testing, and/or additional rental or storage costs. A Change Order or Construction Change Directive will be issued to cover these costs. If a Change Order is not agreed to by the Contractor, the Owner, after presenting documentation to the Contractor, may deduct these amounts without a Change Order from the Contract Sum.

...

~~Where the Contract is based on a stipulated sum or Guaranteed Maximum Price, the Contractor shall submit a schedule of values to the Construction Manager, before the first Application for Payment, allocating the entire Contract Sum to the various portions of the Work. The schedule of values shall be~~ Before the first Application for Payment, the Contractor shall submit to the Architect and Construction Manager a schedule of values allocated to various portions of the Work, prepared in the form, and supported by the data to substantiate its accuracy, required by the Construction Manager and the Architect. ~~This~~ The schedule, unless objected to by the Construction Manager or Architect, shall be used as a basis for reviewing the Contractor's Applications for Payment. The Construction Manager shall forward to the Architect the Contractor's schedule of values. Any changes to the schedule of values shall be submitted to the Construction Manager and supported by such data to substantiate its accuracy as the Construction Manager and the Architect may require, and unless objected to by the Construction Manager or the Architect, shall be used as a basis for reviewing the Contractor's subsequent Applications for Payment. The Contractor, after receipt of Notice to Proceed, shall meet with the Owner, Construction Manager and the Architect for the purpose of reviewing the Project CPM Schedule and the Contract Schedule of Values. The Contractor shall develop a CPM Schedule for completing their portion of the Work, in conjunction with all other Contractors or Bid Packages, at the Pre-Construction Meeting(s). The Schedule of Values is to be broken down into specification sections and by labor and materials.

...

§ 9.3.1 At least fifteen days before the date established for each progress payment, the Contractor shall submit to the Construction Manager an itemized Application for Payment ~~prepared in accordance with the schedule of values, if required under Section 9.2, for completed portions of the Work. The application shall be notarized, if required,~~ for operations completed in accordance with the Schedule of Values. Such application shall be notarized and supported by all data substantiating the Contractor's right to payment that the Owner, Construction Manager or Architect require, such as copies of requisitions, and releases of waivers of lien from Subcontractors and ~~suppliers, and shall reflect retainage if provided for in the Contract Documents.~~material suppliers, and reflecting retainage if provided for elsewhere in the Contract Documents. The form of Application for Payment shall be a notarized AIA Document G732–2019, Application and Certificate for Payment, supported by AIA Document G703–1992, Continuation Sheet.

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§ 9.3.1.2 ~~Applications for Payment~~ Such applications shall not include requests for payment ~~for portions of the Work for which the~~ of amounts the Contractor does not intend to pay a Subcontractor ~~or supplier,~~ or supplier because of a dispute or other reason, unless such Work has been performed by others whom the Contractor intends to pay.

§ 9.3.1.3 Following certification of the Application for Payment by the Architect and Construction Manager, the Owner shall pay ninety-five percent (95%) of its value, retaining five percent (5%) until Final Completion.

§ 9.3.1.4 Contractor shall provide lien waivers for itself for the current payment application and for Subcontractors, Sub-subcontractors, and suppliers for the previous payment application before the Contractor has earned or has the right to receive payment for the specific items of work or materials covered by the lien waivers. All lien waivers shall be provided in the form required by the Owner. This Section 9.3.1.4 shall not limit other obligations of the Contractor contained elsewhere to provide lien waivers.

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§ 9.3.4 In each Application for Payment, the Contractor shall certify as follows:

"That there are no known mechanics' or materialmen's liens or stop notice claims outstanding by the application or any of its subcontractors of any tier, or any of the applicant's or subcontractor's material suppliers, or laborers at the date of this application, that all due and payable bills with respect to the Work have been paid or are included in the amount requested in current application, and that, except for such bills, not paid by Owner, but so included, there is no known basis for the filing of any mechanics' or materialmen's liens or stop notice claims on the Work, and that waivers from Contractor, its subcontractors of any tier, or any of the applicant's or subcontractor's material suppliers and laborers have been obtained in such form as to constitute an effective waiver of liens or stop notice claims, under the laws of the State of Minnesota to the extent of payments made by Owner to Contractor."

Notwithstanding the foregoing Section 9.3.4, Contractor acknowledges its obligation to provide a Payment Bond in accordance with the Contract Documents, and that Contractor's failure to pay any of its Subcontractors, Sub-subcontractors, suppliers, or laborers will be resolved through a claim under the Payment Bond.

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§ 9.6.1 After the Architect has issued a Certificate for Payment or Project Certificate for Payment, the Owner shall make payment within thirty (30) days of receipt by Owner of Certificate of Payment in the manner and within the time provided in the Contract Documents, and shall so notify the Construction Manager and Architect.

§ 9.6.2 The Contractor shall pay each Subcontractor, no later than seven days after receipt of payment from the Owner, the amount to which the Subcontractor is entitled, reflecting percentages actually retained from payments to the Contractor on account of the Subcontractor's portion of the Work. The Contractor shall, by appropriate agreement with each Subcontractor, require each Subcontractor to make payments to Sub-subcontractors in a similar manner. Per Minnesota Statutes, Section 471.425, within ten (10) days of Contractor's receipt of payment from Owner, the Contractor must pay any Subcontractor for any undisputed services provided by the Subcontractor. The Contractor shall pay interest of one and one-half percent (1-1/2%) per month, or any part of a month, to the Subcontractor on any undisputed amount not paid on time to the subcontractor. The minimum monthly interest penalty payment for an unpaid balance of $100 or more is $10.00. For an unpaid balance of less than $100, the Contractor shall pay the actual interest penalty due to the Subcontractor. Contractor is advised that by reason of Minnesota Statutes, Section 471.425, subd. 4a, if a Subcontractor prevails in a civil action to collect interest penalties from a prime contractor, the Subcontractor must be awarded its costs and disbursements, including attorneys' fees incurred in bringing the action.

...

§ 9.6.5 The Contractor's payments to material and equipment suppliers shall be treated in a manner similar to that provided in Sections 9.6.2, 9.6.3 and 9.6.4.

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If the Construction Manager and Architect do not issue a Certificate for Payment or a Project Certificate for Payment, through no fault of the Contractor, within fourteen days after the Construction Manager's receipt of the Contractor's Application for Payment, or if the Owner does not pay the Contractor within ~~seven~~ thirty (30) days after the date established in the Contract Documents, the amount certified by the Construction Manager and Architect ~~or awarded by binding dispute resolution,~~ then the Contractor may, upon ~~seven~~ ten (10) additional days' notice to the Owner, Construction Manager and Architect, stop the Work until payment of the amount owing has been received. The Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable costs of shutdown, delay and ~~start-up, plus interest as provided for in the Contract Documents~~.start-up which shall be accomplished as provided in Article 7.

...

§ 9.8.1 Substantial Completion is the stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Contract Documents so the Owner can occupy or utilize the Work for its intended ~~use.~~use and when the Architect issues a Certificate of Substantial Completion.

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§ 9.8.2 When the Contractor considers that the Work, or a portion thereof which the Owner agrees to accept separately, is substantially complete, the Contractor shall notify the Construction Manager, and the Contractor and Construction Manager shall jointly prepare and submit to the Architect a comprehensive list of items to be completed or ~~corrected prior to final payment.~~ corrected. The Contractor shall proceed promptly to complete and correct items on the list. Failure to include an item on such list does not alter the responsibility of the Contractor to complete all Work in accordance with the Contract Documents. Upon receipt of the Contractor's list, the Architect, assisted by the Construction Manager, will make an inspection to determine whether the Work or designated portion thereof is substantially complete. If the Architect's inspection discloses any item, whether or not included on the Contractor's list, which is not in accordance with the requirements of the Contract documents, the Contractor shall, before issuance of the Certificate of Substantial Completion, complete or correct such item, upon notification by the Architect. The Contractor shall then submit a request for another inspection by the Architect, assisted by the Construction Manager, to determine Substantial Completion. When the Work or designated portion thereof is substantially complete, the Architect will prepare a Certificate of Substantial Completion which shall establish the date of Substantial Completion, shall establish responsibilities of the Owner and Contractor for security, maintenance, heat, utilities, damage to the Work and insurance, and shall fix the time within which the Contractor shall finish all items on the list accompanying the Certificate. Warranties required by the Contract Document shall commence on the date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion.

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§ 9.8.6 Upon Substantial completion of the Work or designated portion thereof and upon application by the Contractor and certification by the Architect, the Owner shall make payment, reflecting adjustment in retainage, pursuant to Minnesota Statutes, Section 15.72, for such Work or portion thereof as provided in the Contract Documents.

§ 9.8.7 The Architect, assisted by the Construction Manager, shall make one (1) inspection for Substantial Completion and Final Completion in accordance with the AIA Document B101–2017 Owner Architect Agreement. If additional inspections are required due to the Contractor's failure to complete previously listed corrective or uncompleted work, the Architect's expense for conducting such re-inspections and related time in processing, reviewing, and revision of requirements shall be charged to the Contractor and such payment shall be accomplished by a deductive Change Order to the Contractor.

...

§ 9.10.1 Upon completion of the Work, the Contractor shall forward to the Construction Manager a notice that the Work is ready for final inspection and acceptance, and shall also forward to the Construction Manager a final Contractor's Application for Payment. Upon receipt, the Construction Manager shall perform an inspection to confirm the completion of Work of the Contractor. The Construction Manager shall make recommendations to the Architect when the Work of all of the Contractors is ready for final inspection, and shall then forward the Contractors' notices and Application for Payment or Project Application for Payment, to the Architect, who will promptly make such inspection. When the Architect finds the Work acceptable under the Contract Documents and the Contract fully performed, the Construction Manager and Architect will promptly issue a final Certificate for Payment or Project Certificate for Payment stating that to the best of their knowledge, information and belief, and on the basis of their observations, on-site visits and inspections, the Work has been completed in accordance with the Contract Documents and that the entire balance found to be due the Contractor and noted in the final Certificate is due and payable. The Construction Manager's and Architect's final Certificate for Payment or Project Certificate for Payment will constitute a further representation that conditions listed in Section 9.10.2 as precedent to the Contractor's being entitled to final payment have been fulfilled.

§ 9.10.2 Neither final payment nor any remaining retained percentage shall become due until the Contractor submits to the Architect through the Construction Manager (1) an affidavit that payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which the Owner or the Owner's property might be responsible or encumbered (less amounts withheld by Owner) have been paid or otherwise satisfied, (2) a certificate evidencing that insurance required by the Contract Documents to remain in force after final payment is currently in ~~effect,~~ effect and will not be cancelled or allowed to expire until at least (60) days' prior written notice has been given to the Owner, (3) a written statement that the Contractor knows of no reason that the insurance will not be renewable to cover the period required by the Contract Documents, (4) consent of surety, if any, to final payment (5) documentation of any special

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warranties, such as manufacturers' warranties or specific Subcontractor warranties, ~~and (6), if required by the Owner,~~ including a summary listing all applicable warranties both standard and extended, itemized by specification section and included at the front of the Operation and Maintenance manuals, and (6) other data establishing payment or satisfaction of obligations, such as receipts and releases and waivers of liens, claims, security interests, or encumbrances arising out of the Contract, to the extent and in such form as may be designated by the Owner. If a Subcontractor refuses to furnish a release or waiver required by the Owner, the Contractor may furnish a bond satisfactory to the Owner to indemnify the Owner against such lien, claim, security interest, or encumbrance. If a lien, claim, security interest, or encumbrance remains unsatisfied after payments are made, the Contractor shall refund to the Owner all money that the Owner may be compelled to pay in discharging the lien, claim, security interest, or encumbrance, including all costs and reasonable attorneys' fees.

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§ 9.11 Damages for Delay

§ 9.11.1 The Contractor shall be responsible for damages incurred by the Owner and any other separate contractors for delay resulting from the Contractor's failure to complete the Work within the contract Time or resulting from the progress of the Work failing to substantially conform to the Project Construction Schedule. These damages are not included in liquidated damages and represent additional direct costs incurred by the Owner for the delay. These damages may include Owner incurred costs for temporary classrooms, temporary facilities, moving of programs, etc.

...

~~The Contractor shall be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the performance of the Contract. The Contractor shall submit the Contractor's safety program to the Construction Manager for review and coordination with the safety programs of other Contractors. The Construction Manager's responsibilities for review and coordination of safety programs shall not extend to direct control over or charge of the acts or omissions of the Contractors, Subcontractors, agents or employees of the Contractors or Subcontractors, or any other persons performing portions of the Work and not directly employed by the Construction Manager.~~ § 10.1.1 The Contractor shall be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the performance of the Contract. The Contractor shall submit the Contractor's safety program to the Construction Manager for review and coordination with the safety programs of other Contractors. The Construction Manager's responsibilities for review and coordination of safety programs shall not extend to direct control over or charge of the acts or omissions of the Contractors, Subcontractors, agents or employees of the Contractors or Subcontractors, or any other persons performing portions of the Work and not directly employed by the Construction Manager.

§ 10.1.2 The Contractor shall comply with all applicable laws and regulations. Notwithstanding any language to the contrary, the Owner shall not have any responsibility for job site inspections or safety recommendations. Any inspections or observations by the Owner, Construction Manager or the Architect are solely for the benefit of the Owner and shall not create any duties or obligations to anyone else.

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If either party suffers injury or ~~damage~~ damages to person or property because of an act or omission of the other party, of any of the other party's employees or agents, or of others for whose acts such party is legally responsible, notice of the injury or damage, whether or not insured, shall be given to the other party within a reasonable time not exceeding ~~21~~ ten (10) days after ~~discovery~~ first observance. The notice shall provide sufficient detail to enable the other party to investigate the matter. If a Claim for additional cost or time related to this Claim is to be asserted, it shall be filed as provided in Sections 15.1.4 and 15.1.5.

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§ 10.3.1 ~~The Contractor is responsible for compliance with any requirements included in the Contract Documents regarding hazardous materials or substances. If the Contractor encounters a hazardous material or substance not addressed in the Contract Documents and if reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a material or substance, including but not limited to asbestos or polychlorinated biphenyl (PCB), encountered on the site by the Contractor, the Contractor shall, upon recognizing the condition, immediately stop Work in the affected area and notify~~ In the event the Contractor encounters on the site material reasonably believed to be asbestos or polychlorinated biphenyl (PCB) which has not been rendered harmless,

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the Contractor shall immediately stop Work in the area affected and report the condition to the Owner, Construction Manager and Architect ~~of the condition~~.in writing. The Work in the affected area shall not thereafter be resumed except by written agreement of the Owner and Contractor if in fact the material is asbestos or polychlorinated biphenyl (PCB) and has not been rendered harmless. The Work in the affected area shall be resumed in the absence of asbestos or polychlorinated biphenyl (PCB), or when it has been rendered harmless, by written agreement of the Owner and Contractor.

.1 Except where otherwise stated in the Contract Documents, no hazardous material work of any nature shall be performed by the Contractor pursuant to this Contract.

.2 The term "hazardous materials" includes, but is not limited to, asbestos, toxic chemicals, acids, alkalis, irritants, contaminants, or other pollutants, together with any other waste, material, substance, pollutants, or contaminant, all or a portion of which is or would be designated as hazardous waste or substance under applicable local, state, or federal laws, ordinances, codes, rules, or regulations.

§ 10.3.2 ~~Upon receipt of the Contractor's notice, the Owner shall obtain the services of a licensed laboratory to verify the presence or absence of the material or substance reported by the Contractor and, in the event such material or substance is found to be present, to cause it to be rendered harmless. Unless otherwise required by the Contract Documents, the Owner shall furnish in writing to the Contractor, Construction Manager and Architect the names and qualifications of persons or entities who are to perform tests verifying the presence or absence of the material or substance or who are to perform the task of removal or safe containment of the material or substance. The Contractor, the Construction Manager and the Architect will promptly reply to the Owner in writing stating whether or not any of them has reasonable objection to the persons or entities proposed by the Owner. If the Contractor, Construction Manager or Architect has an objection to a person or entity proposed by the Owner, the Owner shall propose another to whom the Contractor, the Construction Manager and the Architect have no reasonable objection. When the material or substance has been rendered harmless, Work in the affected area shall resume upon written agreement of the Owner and Contractor. By Change Order, the Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable additional costs of shutdown, delay, and start-up.~~To the fullest extent permitted by law, the Owner shall indemnify and hold harmless the Contractor, Construction Manager, Architect, their consultants, and agents and employees of any of them from and against claims, damages, losses, and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work on Owner's property if in fact the material is asbestos or polychlorinated biphenyl (PCB) and has not been rendered harmless, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), including loss of use resulting therefrom, but only to the extent caused in whole or in part by negligent acts or omissions of the Owner, anyone directly or indirectly employed by the Owner, or anyone for whose acts the Owner may be liable, regardless of whether or not such claim, damage, loss, or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity which would otherwise exist as to a party or person described in this Subparagraph 10.3.2.

§ 10.3.3 ~~To the fullest extent permitted by law, the Owner shall indemnify and hold harmless the Contractor, Subcontractors, Construction Manager, Architect, their consultants, and agents and employees of any of them from and against claims, damages, losses, and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work in the affected area if in fact the material or substance presents the risk of bodily injury or death as described in Section 10.3.1 and has not been rendered harmless, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), except to the extent that such damage, loss, or expense is due to the fault or negligence of the party seeking indemnity.~~If reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a material or substance encountered on the site by the contractor, the Contractor shall, upon recognizing the condition, immediately stop Work on Owner's property and report the condition to the Owner, Construction Manager and Architect in writing. The Owner, Construction Manager, Contractor, and Architect shall then proceed in the same manner described in Subparagraph 10.3.1.

~~§ 10.3.4~~ ~~The Owner shall not be responsible under this Section 10.3 for hazardous materials or substances the Contractor brings to the site unless such materials or substances are required by the Contract Documents. The Owner shall be responsible for hazardous materials or substances required by the Contract Documents, except to the extent of the Contractor's fault or negligence in the use and handling of such materials or substances.~~

§ 10.3.5 The Contractor shall reimburse the Owner for the cost and expense the Owner incurs (1) for remediation of hazardous materials or substances the Contractor brings to the site and negligently handles, or (2) where the

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Contractor fails to perform its obligations under Section 10.3.1, except to the extent that the cost and expense are due to the Owner's fault or negligence. Owner shall be responsible for obtaining the services of a licensed laboratory to verify a presence or absence of the material or substance reported by the Contractor and, in the event such material or substance is found to be present, to verify that it has been rendered harmless.

§ 10.3.6 ~~If, without negligence on the part of the Contractor, the Contractor is held liable by a government agency for the cost of remediation of a hazardous material or substance solely by reason of performing Work as required by the Contract Documents, the Owner shall reimburse the Contractor for all cost and expense thereby incurred.~~Regulations concerning the availability of information and employee training in the use and handling of "hazardous substances" and "harmful physical agents", as set forth in the Employee Right-to-Know Act of 1983, Minnesota Statutes, Sections 182.65 to 182.676 are incorporated herein by reference as if fully set forth herein.

§ 10.3.7 The Contractor shall furnish three Material Safety Data Sheets to the Owner for each material used in the Work that is classified by the Employee Right-to-Know Act of 1983 as a "hazardous substance" or a "harmful physical agent."

§ 10.3.8 The Contractor shall label, in generally accepted and/or standardized fashion, all containers on the work site containing "hazardous substances" or as "harmful physical agents." This shall include factory containers and all subsequent containers used in the Work.

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In an emergency affecting safety of persons or property, the Contractor shall ~~act, at the Contractor's discretion,~~ act to prevent threatened damage, injury, or loss. Additional compensation or extension of time claimed by the Contractor on account of an emergency shall be determined as provided in Article 15 and Article 7.

...

§ 11.1.1 The Contractor shall purchase and maintain insurance of the types and limits of liability, containing the endorsements, and subject to the terms and conditions, as described in the Agreement ~~Agreement~~, in EXH-C Owner Insurance or elsewhere in the Contract Documents. The Contractor shall purchase and maintain the required insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is ~~located.~~ located and which carry a Best's rating of A- or higher or are otherwise acceptable to the Owner. The Owner, Construction Manager and Construction Manager's consultants, and the Architect and Architect's consultants, shall be named as additional insureds under the Contractor's commercial general liability policy or as otherwise described in the Contract Documents.

...

§ 11.1.3 Upon the request of any person or entity appearing to be a potential beneficiary of bonds covering payment of obligations arising under the Contract, the Contractor shall promptly furnish a copy of the bonds or shall authorize a copy to be furnished. The Contractor shall furnish Certificates of Insurance acceptable to the Owner which shall specifically set forth evidence of all coverage required by Article 11 and EXH-C Owner Insurance and shall be filed with the Owner and Construction Manager prior to commencement of the Work and thereafter upon renewal or replacement of each required policy of insurance.

The Contractor shall not allow insurance required by this Agreement to lapse, be canceled, reduced in limits or coverage, non-renewed, or materially changed or have restrictive modifications added during the life of this Agreement, including the periods of required coverage. The Contractor shall furnish to the Owner and Construction Manager copies of any endorsements that are subsequently issued amending coverage and limits.

If any of the foregoing insurance coverages are required to remain in force after final payment and are reasonably available, all additional certificates evidencing continuation of such coverage shall be submitted with the final Application for Payment. Information concerning reduction of coverage shall be furnished by the Contractor with reasonable promptness in accordance with the Contractor's information and belief.

§ 11.1.3.1 Acceptable insurance certificates are AIA Document G705, CICC of Minnesota Form 701, and/or ACORD form of the American Insurance Institute.

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Failure of the Owner to collect certificates does not void the requirements to obtain insurance.

The acceptance of any certificate of insurance by the Owner shall not relieve or decrease the liability of the Contractor hereunder. It is to be understood the Owner, Construction Manager and Architect do not in any way represent that the insurance specified in these articles are sufficient or adequate to protect the Contractor's interest or liabilities, but are merely minimum requirements.

The Contractor shall furnish to the Owner copies of any endorsements that are subsequently issued amending coverage and limits.

§ 11.1.4 ~~Notice of Cancellation or Expiration of Contractor's Required Insurance. Within three (3) business days of the date the Contractor becomes aware of an impending or actual cancellation or expiration of any insurance required by the Contract Documents, the Contractor shall provide notice directly to the Owner, and separately to the Construction Manager, of such impending or actual cancellation or expiration. Upon receipt of notice from the Contractor, the Owner shall, unless the lapse in coverage arises from an act or omission of the Owner, have the right to stop the Work until the lapse in coverage has been cured by the procurement of replacement coverage by the Contractor. The furnishing of notice by the Contractor shall not relieve the Contractor of any contractual obligation to provide any required coverage.~~ In the event the Contractor fails to procure or maintain any insurance coverage required under this Agreement, the Owner may purchase such coverage and deduct the cost thereof from any monies due to the Contractor, or terminate this Agreement under Paragraph 14.2. The Contractor shall be liable to the Owner for providing all coverage, defense, and payments that would have been provided by any insurance that the Contractor failed to procure and maintain as required by the Contract Documents.

§ 11.1.5 Compliance by the Contractor with the foregoing insurance requirements shall not relieve it from liability for amounts in excess of the limits of insurance.

§ 11.1.6 The Contractor and any of its Subcontractors, Sub-subcontractors, agents and employees, and any separate contractors described in Article 6, if any, and any of their subcontractors, sub-subcontractors, agents and employees shall waive any of their subrogation rights on their Workers Compensation Policy in favor of the Owner, Construction Manager and Architect. The policies shall provide such waivers of subrogation by endorsement or otherwise. A waiver of subrogation shall be effective as to a person or entity even though that person or entity would otherwise have a duty of indemnification, contractual, or otherwise, did not pay the insurance premium directly or indirectly, and whether or not the person or entity had an insurable interest.

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§ 11.2.1 The Owner shall purchase and maintain insurance of the types and limits of liability, containing the endorsements, and subject to the terms and conditions, as described in the Agreement or elsewhere in the Contract Documents. The Owner shall purchase and maintain the required insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The Owner may self-insure and maintain the Owner's usual liability insurance. Optionally, the Owner may purchase and maintain other insurance for self-protection against claims which may arise from operations under the Contract. The Contractor shall not be responsible for purchasing and maintaining this optional Owner's liability insurance unless specifically required by the Contract Documents.

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~~§ 11.3.2 If during the Project construction period the Owner insures properties, real or personal or both, at or adjacent to the site by property insurance under policies separate from those insuring the Project, or if after final payment property insurance is to be provided on the completed Project through a policy or policies other than those insuring the Project during the construction period, to the extent permissible by such policies, the Owner waives all rights in accordance with the terms of Section 11.3.1 for damages caused by fire or other causes of loss covered by this separate property insurance.~~

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§ 11.5.2 Prior to settlement of an insured loss, the Owner shall notify the Contractor of the terms of the proposed settlement as well as the proposed allocation of the insurance proceeds. The Contractor shall have 14 days from receipt of notice to object to the proposed settlement or allocation of the proceeds. If the Contractor does not object, the Owner shall settle the loss and the Contractor shall be bound by the settlement and allocation. Upon receipt, the Owner shall ~~deposit the insurance proceeds in a separate account and~~ make the appropriate distributions. Thereafter, if no other agreement is made or the Owner does not terminate the Contract for convenience, the Owner and Contractor shall execute a Change Order for reconstruction of the damaged or destroyed Work in the amount allocated for that purpose. If the Contractor timely objects to either the terms of the proposed settlement or the allocation of the proceeds, the Owner may proceed to settle the insured loss, and any dispute between the Owner and Contractor arising out of the settlement or allocation of the proceeds shall be resolved pursuant to Article 15. Pending resolution of any dispute, the Owner may issue a Construction Change Directive for the reconstruction of the damaged or destroyed Work.

§ 11.6 Bonds

§ 11.6.1 Contractor shall furnish a Performance Bond and a Payment Bond to the Owner in the amount of one hundred percent (100%) of the Contract Sum and issued by a Surety Company authorized to do business in the State of Minnesota, rated "A" or better, and approved by the Owner. The Performance Bond shall be in accordance with Minnesota Statutory requirements, and shall be in the form included in the Project Manual. The Bonds shall allow for any additions or deductions to the Contract Sum.

§ 11.6.2 In order to be acceptable as a surety, Contractor's bonding company bust hold a "Certificate of Authority acceptable to the U.S. Treasury Department and be listed in the Department's current publication of "Bond Qualifiers" with underwriting limitations not less than ten percent (10%) above the Contract Sum.

§ 11.6.3 The surety of the Bonds shall be by a corporate surety company authorized to do business in the state in which Work is being performed under this Contract and acceptable to the Owner. The conditions of the bonds shall meet requirements of the statutes of the state where Work is being performed and all other applicable provisions of state law.

§ 11.6.4 The Contractor shall furnish two (2) originals of the Bonds to the Owner, with copies to the Architect and Construction Manager, within ten (10) days after notification of award and before execution of the Contract. Failure to do so shall constitute a violation of terms of the proposal and provide grounds for forfeiture of bid security.

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The Contractor shall promptly correct Work rejected by the Construction Manager or Architect or failing to conform to the requirements of the Contract Documents, discovered before Substantial Completion, and whether or not fabricated, installed or completed. ~~Costs~~ The Contractor shall bear costs of correcting such rejected Work, including additional testing and inspections, the cost of uncovering and replacement, and compensation for the Construction Manager's and Architect's services and expenses made necessary ~~thereby, shall be at the Contractor's expense.~~thereby.

...

~~§ 12.2.2.1 In addition to the Contractor's obligations under Section 3.5, if, within one year after the date of Substantial Completion of the Work or designated portion thereof, or after the date for commencement of warranties established under Section 9.9.1, or by terms of any applicable special warranty required by the Contract Documents, any of the Work is found to be not in accordance with the requirements of the Contract Documents, the Contractor shall correct it promptly after receipt of notice from the Owner to do so, unless the Owner has previously given the Contractor a written acceptance of such condition. The Owner shall give such notice promptly after discovery of the condition. During the one-year period for correction of Work, if the Owner fails to notify the Contractor and give the Contractor an opportunity to make the correction, the Owner waives the rights to require correction by the Contractor and to make a claim for breach of warranty. If the Contractor fails to correct nonconforming Work within a reasonable time during that period after receipt of notice from the Owner, Construction Manager or Architect, the Owner may correct it in accordance with Section 2.5.~~

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~~§ 12.2.2.2 The one-year period for correction of Work shall be extended with respect to portions of Work first performed after Substantial Completion by the period of time between Substantial Completion and the actual completion of that portion of the Work.~~

~~§ 12.2.2.3 The one-year period for correction of Work shall not be extended by corrective Work performed by the Contractor pursuant to this Section 12.2.~~

§ 12.2.2.1 If within one year after the date of Substantial Completion of the Work or designated portion thereof, or after the date for commencement of warranties established under Section 9.9.1, or by terms of any applicable special warranty required by the Contract Documents, any of the Work is found to be not in accordance with the requirements of the Contract Documents, the Contractor shall correct it promptly (and any other property damaged or removed in effecting the correction) after receipt of notice from the Owner, Construction Manager or Architect to do so, unless the Owner has previously given the Contractor a written acceptance of such condition. The Owner, Construction Manager or Architect shall give such notice promptly after discovery of the condition. This period of one year shall be extended with respect to portions of Work first performed after Substantial completion by the period of time between Substantial completion and the actual performance of the Work. This obligation under this Subparagraph 12.2.2.1 shall survive acceptance of the Work under the contract and termination of the Contract. The Owner, Construction Manager or Architect shall give such notice promptly after discovery of the condition. The expiration of the above one year or any other specified time period, or any other period prescribed by the law, shall not relieve the Contractor of the obligation form the expense to correct any latent defect in the work or deficiencies which are not readily ascertained, including but not limited to, defective materials and quality of work performed, defects attributable to material substitutions for special materials, substandard performance or otherwise not in compliance with the Contract Documents. Such latent defects or deficiencies shall be corrected as provided in this Paragraph 12.2. Following the correction or replacement of any of the Work, as above specified, the Contractor shall correct any defects or deficiencies in the corrected or replaced materials and workmanship which is found within one year after the date of correction or replacement.

§ 12.2.4 ~~The Contractor shall bear the cost of correcting destroyed or damaged construction of the Owner, Separate Contractors, or other Contractors, whether completed or partially completed, caused by the Contractor's correction or removal of Work that is not in accordance with the requirements of the Contract Documents.~~ If the Contractor fails to correct nonconforming Work within a reasonable time, the Owner may correct it in accordance with Paragraph 2.4. If the Contractor does not proceed with correction of such nonconforming Work within a reasonable time fixed by written notice from the Architect or Construction Manager, the Owner may correct or remove it and store the salvageable materials or equipment all at the Contractor's expense. If the Contractor does not pay costs of such removal and storage within ten (10) days after written notice, the Owner may upon ten (10) additional days' written notice sell such materials and equipment at auction or at private sale and shall account for the proceeds thereof, after deducting costs and damages that should have been borne by the Contractor, the Contract Sum shall be reduced by the deficiency. If payments then or thereafter due the Contractor are not sufficient to cover such amount, the Contractor shall pay the difference to the Owner.

§ 12.2.5 ~~Nothing contained in this Section 12.2 shall be construed to establish a period of limitation with respect to other obligations the Contractor has under the Contract Documents. Establishment of the one-year period for correction of Work as described in Section 12.2.2 relates only to the specific obligation of the Contractor to correct the Work, and has no relationship to the time within which the obligation to comply with the Contract Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Contractor's liability with respect to the Contractor's obligations other than specifically to correct the Work.~~ The Contractor shall bear the cost of correcting destroyed or damaged construction whether completed or partially completed, of the Owner or separate contractors caused by the Contractor's correction or removal of Work which is not in accordance with the requirements of the Contract Documents.

§ 12.2.6 Nothing contained in this Section 12.2 shall be construed to establish a period of limitation with respect to other obligations the Contractor has under the Contract Documents. Establishment of the one-year period for correction of Work as described in Section 12.2.2 relates only to the specific obligation of the Contractor to correct the Work, and has no relationship to the time within which the obligation to comply with the Contract Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Contractor's liability with respect to the Contractor's obligations other than specifically to correct the Work.

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§ 13.4.1 Tests, inspections, and approvals of portions of the Work shall be made as required by the Contract Documents and by applicable laws, statutes, ordinances, codes, rules, and regulations or lawful orders of public authorities. ~~Unless otherwise provided, the Contractor~~ The Owner, Construction Manager or Architect shall make arrangements for such tests, inspections, and approvals with an independent testing laboratory or entity acceptable to the Owner, or with the appropriate public ~~authority, and shall bear all related costs of tests, inspections, and approvals. The Contractor shall give the Construction Manager and Architect timely notice~~ authority. Timely notice shall be given to the Construction Manager and Architect of when and where tests and inspections are to be made so that the Construction Manager and Architect may ~~be present for~~ observe such procedures. The Owner shall bear costs of tests, inspections, or approvals that do not become requirements until after bids are received or negotiations concluded. The Owner shall directly arrange and pay for tests, inspections, or approvals where building codes or applicable laws or regulations so require.

§ 13.4.2 If the Construction Manager, Architect, Owner, or public authorities having jurisdiction determine that portions of the Work require additional testing, inspection, or approval not included under Section 13.4.1, the Construction Manager and Architect will, upon written authorization from the Owner, instruct the Contractor to make arrangements for such additional testing, inspection, or approval, by an entity acceptable to the Owner, and the Contractor shall give ~~timely~~ a minimum of two (2) working days' notice to the Construction Manager and Architect of when and where tests and inspections are to be made so that the Construction Manager and Architect may ~~be present for such procedures. Such~~ observe procedures. The Owner shall bear such costs, except as provided in Section ~~13.4.3, shall be at the Owner's expense.~~ 13.4.3.

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~~Payments due and unpaid under the Contract Documents shall bear interest from the date payment is due at the rate the parties agree upon in writing or, in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located.~~ All payments to the Contractor shall be governed by the Prompt Payment of Local Government Bills, Minnesota Statutes, Section 471.125 ("Prompt Payment Act") and Article 5 of the A132–2019 Agreement on this Project.

§ 13.6 Non-Discrimination

§ 13.6.1 All contracts between the Owner and companies providing goods and services under the Contract Documents shall contain the following equal opportunity and civil right clause:

> "During the performance of this Agreement, the provider agrees to the following: No contractor, material supplier, vendor, or other person shall on the basis of sex, race, creed, color, religion, national origin, age, marital status, sexual orientation, or disability be excluded from full employment rights in, participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program, service, or activity under the provisions of any and all applicable Federal and State laws against discrimination, including the Minnesota Human Rights Act and the Civil Rights Act of 1964."

Upon request, the Contractor shall furnish all information and reports required by the Owner, or by the rules and regulations of investigation to ascertain compliance with all applicable rules and regulations. The Contractor shall also comply with any applicable licensing requirements of the Minnesota Department of Human Services in employment of personnel.

The Contractor acknowledges that the violation of the above-stated paragraph is a misdemeanor pursuant to Minnesota Statutes, Section 181.59.

This Agreement may be cancelled or terminated by the Owner or any other person authorized to grant the contracts for employment under this Agreement, and all money due, or to become due under this Agreement may be forfeited for a second or any subsequent violation of the non-discriminatory terms stated above.

§ 13.6.2 During the completion of the work and all other services required by the Contract Documents, the Contractor agrees that no contractor, material supplier, vendor, or other person shall, on the basis of sex, race, creed, color, religion, national origin, age, marital status, sexual orientation, or disability be excluded from full employment rights in participation in, be denied the benefits of, or be otherwise subjected to discrimination under the provisions of any and all applicable Federal and State laws against discrimination, including the Minnesota Human Rights Act and the

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Civil Rights Act of 1964. Upon request, the Architect, Construction Manager and Contractor shall furnish all information and reports required by the Owner, or by the rules and regulations of investigation to ascertain compliance with all applicable rules and regulations. The Contractor shall also comply with any applicable licensing requirements of the Minnesota Department of Human Services in employment of personnel.

Contractor acknowledges that the violation of the above-states paragraph is a misdemeanor pursuant to Minnesota Statutes Section 181.59.

The Contract Documents may be cancelled or terminated by the Owner or any other person authorized to grant the contracts for employment under this Agreement, and all money due, or to become due under the Agreement may be forfeited for a second or any subsequent violation of the non-discriminatory terms stated above.

§ 13.7 No action or failure to act by the Owner shall constitute a waiver of a right or duty afforded the Owner under the Contract Documents, nor shall such action or failure to act constitute approval of or acquiescence of the Owner in a breach of the Contract Documents, except as may be specifically agreed in writing. None of the approval of any Application for Payment, the making of any payment, the giving of any approval or consent, the use or occupancy of the Work, or any part thereof, the making of final payment, or any other action or inaction on the part of the Owner, Construction Manager or Architect shall constitute a waiver of claims by or rights of the Owner or an acceptance of any Work that is not in accordance with the Contract Documents. The Contractor shall not be relieved from its obligations to perform the Work in accordance with the Contract Documents either by the activities or duties of the representations of the Owner, Construction Manager or Architect, or by inspections, tests, or approvals required or performed by the Owner, Construction Manager or Architect or anyone else.

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§ 14.1.5 No Right to Stop Work for Non-Payment

The Contractor has no right to stop Work as a consequence of non-payment. In the event of any disagreement between the Contractor and Owner involving the Contractor's entitlement to payment, the Contractor's only remedy is to file a Claim in accordance with Article 15. The Contractor must diligently proceed with the Work pending resolution of the Claim. If, however, an Application for Payment has been approved for payment by the Owner, and the Owner fails to make payment within sixty (60) days of the approval for payment by the Owner, the Contractor may upon ten (10) days written notice to the Owner, stop work if payment is not made by the Owner within ten (10) days following the notice.

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§ 14.3.2 The Contract Sum and the Contract Time shall be adjusted for increases or decreases in the cost and time caused by suspension, delay, or interruption under Section 14.3.1. Adjustment of the Contract Sum shall include reasonable profit. No adjustment shall be made to the extent:

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~~§ 14.4.3 In case of such termination for the Owner's convenience, the Owner shall pay the Contractor for Work properly executed; costs incurred by reason of the termination, including costs attributable to termination of Subcontracts; and the termination fee, if any, set forth in the Agreement.~~

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§ 15.1.1 Definition. A Claim is a demand or assertion by ~~one of the parties~~ the Contractor seeking, as a matter of right, payment of money, a change in the Contract Time, or other relief with respect to the terms ~~of the Contract. The term "Claim" also includes other disputes and matters in question between the Owner and Contractor arising out of or relating to~~ the Contract. The responsibility to substantiate Claims shall rest with ~~the party making the Claim.~~ the Contractor. Nothing in this paragraph 15.1.1 is intended to apply to or in any way limit the Owner's right to make Claims related to or arising out of the Contract. This Section 15.1.1 does not require the Owner to file a Claim in order to impose liquidated damages in accordance with the Contract Documents.

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§ 15.1.3.1 Claims by ~~either the Owner or~~ Contractor, where the condition giving rise to the Claim is first discovered prior to expiration of the period for correction of the Work set forth in Section 12.2.2, shall be initiated by written notice to the ~~other party~~ Owner and to the Initial Decision Maker with a copy sent to the Construction Manager and Architect, if the Architect is not serving as the Initial Decision Maker. Claims by ~~either party~~ the Contractor under this Section 15.1.3.1 shall be initiated within ~~21~~ ten (10) days after occurrence of the event giving rise to such Claim or within ~~21~~ ten (10) days after the ~~claimant~~ Contractor first recognizes the condition giving rise to the Claim, whichever is later. Any additional Claim made after and relating to the initial Claim has been implemented by Change Order will not be considered unless submitted in a timely manner. As a condition to making a claim for additional costs, the Contractor shall maintain and produce accurate records to substantiate all additional costs actually incurred. If a Claim for actual costs is approved, the Owner shall pay the Contractor actual costs incurred, plus either (a) ten percent (10%) for overhead and profit for work performed by the Contractor, or (b) five percent (5%) overhead and profit for work performed by a Subcontractor, as applicable.

§ 15.1.3.2 Claims by either the Owner or Contractor, where the condition giving rise to the Claim is first discovered after expiration of the period for correction of the Work set forth in Section 12.2.2, shall be initiated by written notice to the other party. In such event, no decision by the Initial Decision Maker is required.

...

§ 15.1.4.1 Pending final resolution of a Claim, except as otherwise agreed in writing or as provided in Section 9.7 and Article 14, the Contractor shall proceed diligently with performance of the Contract and the Owner shall continue to make payments in accordance with the Contract Documents. Subject to Paragraph 15.1.5, no such continuing performance by the Contractor, nor payment by the Owner shall be deemed a waiver of, or to otherwise impair any such Claim.

...

§ 15.1.6.1 If the Contractor wishes to make a Claim for ~~an~~ any increase in the Contract Time, notice as provided in Section 15.1.3 shall be given. The Contractor's Claim shall include an estimate of cost and of probable effect of delay on progress of the Work. In the case of a continuing delay only one Claim is necessary.
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~~**§ 15.1.7 Waiver of Claims for Consequential Damages.** The Contractor and Owner waive Claims against each other for consequential damages arising out of or relating to this Contract. This mutual waiver includes~~

~~.1 damages incurred by the Owner for rental expenses, for losses of use, income, profit, financing, business and reputation, and for loss of management or employee productivity or of the services of such persons; and~~

~~.2 damages incurred by the Contractor for principal office expenses including the compensation of personnel stationed there, for losses of financing, business and reputation, and for loss of profit except anticipated profit arising directly from the Work.~~

~~This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination in accordance with Article 14. Nothing contained in this Section 15.1.7 shall be deemed to preclude assessment of liquidated damages, when applicable, in accordance with the requirements of the Contract Documents.~~

...

§ 15.2.6 ~~Either party may file for mediation of an initial decision at any time, subject to the terms of Section 15.2.6.1.~~ In the event of a Claim against the Contractor, the Owner may, but is not obligated to notify the surety, if any, of the nature and amount of the Claim. If the Claim relates to a possibility of a Contractor's default, the Owner may, but is not obligated to notify the surety and initiate a Claim on the performance bond.

~~**§ 15.2.6.1** Either party may, within 30 days from the date of receipt of an initial decision, demand in writing that the other party file for mediation. If such a demand is made and the party receiving the demand fails to file for mediation~~

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within 30 days of receipt thereof, then both parties waive their rights to mediate or pursue binding dispute resolution proceedings with respect to the initial decision.

§ 15.2.7 In the event of a Claim against the Contractor, the Owner may, but is not obligated to, notify the surety, if any, of the nature and amount of the Claim. If the Claim relates to a possibility of a Contractor's default, the Owner may, but is not obligated to, notify the surety and request the surety's assistance in resolving the controversy.

§ 15.2.8 If a Claim relates to or is the subject of a mechanic's lien, the party asserting such Claim may proceed in accordance with applicable law to comply with the lien notice or filing deadlines.

§ 15.3.1 Claims, disputes, or other matters in controversy Any claim, dispute or other matter in question or arising out of or related to the Contract, except those waived as provided for in Sections 9.10.4, 9.10.5, and 15.1.7, shall be subject to mediation as a condition precedent to binding dispute resolution.Contract shall be subject to mediation. Mediation is not a condition precedent to commencing litigation, but if litigation is commenced before mediation is held, the Parties agree to mediate before any dispositive motions or trial.

§ 15.3.2 The parties shall endeavor to resolve their Claims by mediation which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Mediation Procedures in effect on the date of the Agreement. A request for mediation shall be made in writing, delivered to the other party to the Contract, and filed with the person or entity administering the mediation. The request may be made concurrently with the filing of binding dispute resolution proceedings but, in such event, mediation shall proceed in advance of binding dispute resolution proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order. If an arbitration is stayed pursuant to this Section 15.3.2, the parties may nonetheless proceed to the selection of the arbitrator(s) and agree upon a schedule for later proceedings.share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located unless another location is mutually agreed upon. Agreements reached in mediation and ratified by the Owner's Council shall be enforceable as settlement agreements in any court having jurisdiction thereof.

§ 15.3.3 Either party may, within 30 days from the date that mediation has been concluded without resolution of the dispute or 60 days after mediation has been demanded without resolution of the dispute, demand in writing that the other party file for binding dispute resolution. If such a demand is made and the party receiving the demand fails to file for binding dispute resolution within 60 days after receipt thereof, then both parties waive their rights to binding dispute resolution proceedings with respect to the initial decision.

§ 15.3.4 The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

§ 15.4 Arbitration

§ 15.4.1 If the parties have selected arbitration as the method for binding dispute resolution in the Agreement, any Claim subject to, but not resolved by, mediation shall be subject to arbitration which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Arbitration Rules in effect on the date of the Agreement. The Arbitration shall be conducted in the place where the Project is located, unless another location is mutually agreed upon. A demand for arbitration shall be made in writing, delivered to the other party to the Contract, and filed with the person or entity administering the arbitration. The party filing a notice of demand for arbitration must assert in the demand all Claims then known to that party on which arbitration is permitted to be demanded.

§ 15.4.1.1 A demand for arbitration shall be made no earlier than concurrently with the filing of a request for mediation, but in no event shall it be made after the date when the institution of legal or equitable proceedings based on the Claim would be barred by the applicable statute of limitations. For statute of limitations purposes, receipt of a written demand for arbitration by the person or entity administering the arbitration shall constitute the institution of legal or equitable proceedings based on the Claim.

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§ 15.4.2 The award rendered by the arbitrator or arbitrators shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.

§ 15.4.3 The foregoing agreement to arbitrate and other agreements to arbitrate with an additional person or entity duly consented to by parties to the Agreement, shall be specifically enforceable under applicable law in any court having jurisdiction thereof.

§ 15.4.4 Consolidation or Joinder

§ 15.4.4.1 Subject to the rules of the American Arbitration Association or other applicable arbitration rules, either party may consolidate an arbitration conducted under this Agreement with any other arbitration to which it is a party provided that (1) the arbitration agreement governing the other arbitration permits consolidation, (2) the arbitrations to be consolidated substantially involve common questions of law or fact, and (3) the arbitrations employ materially similar procedural rules and methods for selecting arbitrator(s).

§ 15.4.4.2 Subject to the rules of the American Arbitration Association or other applicable arbitration rules, either party may include by joinder persons or entities substantially involved in a common question of law or fact whose presence is required if complete relief is to be accorded in arbitration, provided that the party sought to be joined consents in writing to such joinder. Consent to arbitration involving an additional person or entity shall not constitute consent to arbitration of any claim, dispute or other matter in question not described in the written consent.

§ 15.4.4.3 The Owner and Contractor grant to any person or entity made a party to an arbitration conducted under this Section 15.4, whether by joinder or consolidation, the same rights of joinder and consolidation as those of the Owner and Contractor under this Agreement.

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Certification of Document's Authenticity

AIA® Document D401™ – 2003

I, , hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with its associated Additions and Deletions Report and this certification at 11:29:43 CT on 02/03/2025 under Order No. 4104251278 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document A232™ – 2019, General Conditions of the Contract for Construction, Construction Manager as Adviser Edition, other than those additions and deletions shown in the associated Additions and Deletions Report.

(Signed)

Curtis Hartog, Executive Director

(Title)

2/3/2025

(Dated)

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Exhibit B – Project Charter

FY21 North High School Renovations-Bid Pack 4

Work Scope 07-H Roofing

Description

Perform roofing in accordance with Work Scope 07-H for the North High School Phase 4 renovations

Contract Sum

The Contract Sum shall be $143,450

Alternates

Item	Price	Status
Alt #1: Health Office	$32,800	rejected
Alt #2: Athletic and Counseling Offices	$0	rejected
Alt #3: Electrical panel replacements	$0	accepted
Alt #4: AHU-41 replacement	$0	accepted
Alt #5: Direct digital controls	$0	accepted

EXHIBIT C Owner Insurance

Insurance Requirements

1. CONSULTANT'S INSURANCE – to be used with AIA B101-2017, AIA C103-2015, or similar non-contractor consultants:
   The Consultant shall at its own expense maintain in effect at all times during the performance of the Work under the Agreement at least the following coverage and limits of insurance:

   a. Worker's Compensation and Employer's Liability Insurance

      i. Coverage A is statutory.

      ii. Coverage B
      $500,000 Each Accident
      $500,000 Each Employee
      $500,000 Policy Limit (Disease)

   b. Comprehensive General Liability Insurance *

General Aggregate	$1,000,000
Products/Completed Operations Aggregate	$1,000,000
Per Occurrence	$1,000,000
Medical Payments	$10,000

   * The Owner should be named as an additional insured for Comprehensive General Liability Insurance.

   c. Automobile Insurance

Per Occurrence	$1,000,000
PIP	Basic
Underinsured Motorist	$1,000,000
Uninsured Motorist	$1,000,000

   d. Professional Liability Insurance

i. Per Claim	$2,000,000

ii. For projects with an estimated construction Contract Sum of over $10,000,000 or major structural work an aggregate is required as follows:
Aggregate $4,000,000

e. Umbrella Liability Insurance

i. Per Occurrence $2,000,000

ii. For projects with an estimated construction Contract Sum of over $10,000,000 or major structural work an aggregate is required as follows:
Aggregate $2,000,000

f. Manned or Unmanned Aircraft Coverage (if used)

i. Per Claim $1,000,000

ii. Aggregate $1,000,000

For specialty consultants used for commissioning activities, studies, asbestos surveys and security, items A, B, C and F shall apply.

Special Asbestos Abatement Liability Insurance is required for Asbestos Abatement Contractors. The limits are $1,500,000 per claim, for liability arising from the encapsulation, removal, handling, storage, transportation, and disposal of asbestos-containing materials.

2. CONSULTANT'S OBLIGATIONS

Consultant shall not violate or knowingly permit any violation of any conditions or terms of the policies of insurance required to be carried under the terms hereof and shall endeavor to satisfy the requirements of the insurance companies issuing them. In the event Consultant neglects, refuses or fails to provide or maintain any of the insurance required to be carried under the Agreement, or if such insurance is canceled for any reason, the Owner or the Owner's lender(s) shall have the right, but not the duty, to procure or maintain the same.

In the event the Owner or the Owner's lender(s) do procure or maintain such insurance, the Owner or the Owner's lender(s) shall have, in additional to any and all other available remedies, the right to recover from the Consultant (including the right of set-off against sums otherwise due the Consultant) all of the costs associated with procuring or maintaining such insurance.

3. PROFESSIONAL LIABILITY INSURANCE

a. Professional Liability Coverage of $2,000,000 shall be maintained for one (1) year from the date of Substantial Completion. If the Consultant discontinues its business and if directed by Owner in writing, Consultant shall purchase such insurance in such amount for an extended discovery period beyond the one (1) year after the date of Substantial Completion, with the premium cost to be a reimbursable expense paid by the Owner. The limit of liability for such policy may not be reduced below $2,000,000 without the Owner giving its prior, written consent. All policies of insurance that Consultant is required under the terms of this Exhibit C Owner's Insurance to secure and maintain shall bear the endorsement "Not to be canceled until sixty (60) calendar days after Owner has received a written notice from insurer as evidence by a return receipt of registered or certified mail."

b. The Owner shall not be responsible for obtaining or paying premiums or other expenses in connection with insurance required to be carried under the Agreement or normally carried by the Consultant's consultants, and the obligation to obtain such insurance and to pay such premiums and other expenses shall be solely that of the Consultant.

c. The Consultant shall bear all the costs of any and all deductible amounts under any insurance policies required to be carried under the Agreement and shall remain solely and fully liable for the full amount of any claim or item not compensated by insurance (to the extent that any amount resulted from damages that arose out of the Consultant's sole negligence.)

4. COVERAGE

The coverage's referred to above are set forth in full in the respective policy forms, and the foregoing descriptions of such policies are not intended to be complete.

5. GENERALLY

a. The Consultant thereby represents and warrants to the Owner that, as of the date of the execution of the Agreement, the Consultant is not aware of any claims or potential claims which have been made, filed or threatened against any of the insurance or for damages covered by any of the insurance required to be carried under the Agreement that would affect the Consultant's ability to provide the insurance coverage required by this agreement.

b. It is understood that the provisions in the Agreement requiring the Consultant to carry insurance shall not be construed as in any manner waiving or restricting the liability of the Consultant as to any obligations imposed under the Agreement, including, but not limited to, obligations imposed under the provisions of Article 11 of the AIA A201-2017 General Conditions.

Insurance requirements for Contractors

1. CONTRACTOR'S INSURANCE – to be used with AIA A101-2017
   The Contractor shall at its own expense maintain in effect at all times during the performance of the Work under the Agreement at least the following coverage and limits of insurance:

   a. Commercial General Liability

      i. General Aggregate $1,500,000

      ii. Products/Completed Operations Aggregate $1,500,000

      iii. Per Occurrence $1,500,000

      The Owner shall be named as additional insured for Commercial General Liability Insurance

   b. Automobile Insurance

      i. Per Occurrence $1,000,000

      ii. PIP Basic

      iii. Underinsured Motorist $1,000,000

      iv. Uninsured Motorist $1,000,000

   c. Workers Compensation

      i. Coverage A is statutory.

      ii. Coverage B $500,000 Each Accident

      iii. $500,000 Each Employee

d. Professional Liability (if the Contractor is hiring professionals)

   i. Per Claim $2,000,000

   For Projects with an estimated construction cost of over $10,000,000 or major structural work, additional Aggregate coverage of $4,000,000 is required.

e. Manned or Unmanned Aircraft Coverage (if used)

   i. Per Claim $1,000,000

   ii. Aggregate $1,000,000

f. Property Insurance

   i. Per Claim $1,000,000

   ii. Aggregate $1,000,000

   This insurance is only required for materials stored offsite and not incorporated into the project at delivery. For material stored on site, no additional insurance is required.

g. Builders "all risk" Insurance

   i. Per Claim $2,000,000

   ii. Aggregate $4,000,000

   This insurance is only required for additions exceeding $10,000,000. Renovations to existing schools are not required to have builders all risk insurance.

h. Umbrella Liability

   i. Aggregate limit $5,000,000

   This insurance is required only for projects larger than $10,000,000 in total construction costs.

Exhibit D – Project Schedule

FY21 North High School Renovations-Bid Pack 4 Work Scope 07-H Roofing

OP#:25-2512

Description

Perform roofing in accordance with Work Scope 07-H for the North High School Phase 4 renovations.

Schedule

Start Construction: On or about March 2025 but within 5 days of notice to proceed as directed by the Construction Manager. Please refer to schedule provided in Specifications.
To be completed in 2025-June 2025 to August 2025
Base Bid Level 1 Area E
Base Bid Level 2 Area F, Area G, Area E
Area D Bathrooms March 2025 – May 2025 and September 2025 to December 2025.
Base Bid Level 2 Area E classrooms March 2025-May 2025
Base Bid Area Level 1 Area C – June 2026-August 2026
Base Bid Level 2 Area G – June 2026-August 2026
Bae Bid Level2 Area D – January 2026-August 2026
Alternate #3 – March 2025 through August 2026
Alternate #4 – June 2025-August 2025
Alternate #5 – June 2025-August 2026
Substantial Completion: August 21, 2026.

Major School Days
Recordkeeping Day – March 28, 2025
Spring Break – March 31 – April 4, 2025
Memorial Day – May 26, 2025
Last Day of School – June 6, 2025
Juneteenth – June 19, 2025
Independence Day – July 4, 2025
Last day for Staff – June 30, 2025
Labor Day – September 1, 2025
First Day of School – September 2, 2025

Rosh Hashanah – September 23, 2025
Yom Kippur – October 2, 2025
MEA – October 16-17, 2025
Recordkeeping Day – November 4, 2025
Thanksgiving – November 26-28, 2025
Winter Break – December 22, 2025 to January 2, 2026
Martin Luther King Day – January 19, 2026
Recordkeeping Day – January 23, 2026
Presidents Day – February 16, 2026
Professional Development – February 17, 2026
Eid al-Fitr – March 20, 2026
Recordkeeping Day – March 27, 2026
Memorial Day – May 25, 2026
Professional Development – May 26, 2026
Eid al Adha – May 27, 2026
Juneteenth – June 19, 2026
Independence Day – July 4, 2026
Labor Day – September 7, 2026
First day of School – September 8, 2026

Substantial Completion

The Work will be substantially complete on or before August 21, 2026

FY25 Marquee Signs (Hall, Franklin, Sullivan/Anishinabe)

Contract Sum: $239,784.00

Contractor: Construction Results Corp

Project Name and Number

Hall STEM Academy
1601 North Aldrich Avenue
Minneapolis MN 55411

Franklin Middle School
1501 North Aldrich Avenue
Minneapolis MN 55411

Sullivan/Anishinabe
3100 East 28th Street
Minneapolis MN 55406

Minneapolis Public Schools Project Number: 24MULTI007

Official Publication No. 25-2511

Description

The Contract includes General Construction work, including site, electrical, & data work required to construct three marquee signs at the addresses referenced above for Minneapolis Public Schools, Special School District No. 1, Minneapolis, MN, as shown on the Contract Drawings and described in the Project Manual dated 11.15.2024 prepared by Wold Architects & Engineers.

Contract Sum details

Item	Price	Status
Base Bid	$239,784	accepted

Contract Documents

AIA Document A101-2017
AIA Document A101 Exhibit A-2017
Exhibit B – Project Charter
Exhibit C – Project Schedule
AIA Document A201-2017

AIA® Document A101® – 2017

Standard Form of Agreement Between Owner and Contractor where the basis of payment is a Stipulated Sum

AGREEMENT made as of the 9th day of December in the year 2024
(In words, indicate day, month and year.)

BETWEEN the Owner:
(Name, legal status, address and other information)

Minneapolis Public Schools Special School District #1
1250 West Broadway Avenue
Minneapolis, MN 55411

and the Contractor:
(Name, legal status, address and other information)

Construction Results Corporation
5465 Highway 169 North
Plymouth, MN 55442

for the following Project:
(Name, location and detailed description)

MPS Marquee Signs at Hall, Franklin, Sullivan/Anishinabe
1501 & 1601 North Aldrich Avenue, Minneapolis, MN 55411
3100 East 28th Street, Minneapolis, MN 55406

The Architect:
(Name, legal status, address and other information)

Wold Architects & Engineers
332 Minnesota Street, Suite W2000
Saint Paul, MN 55101

The Owner and Contractor agree as follows.

ADDITIONS AND DELETIONS:
The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

The parties should complete A101®–2017, Exhibit A, Insurance and Bonds, contemporaneously with this Agreement. AIA Document A201®–2017, General Conditions of the Contract for Construction, is adopted in this document by reference. Do not use with other general conditions unless this document is modified.

Init.
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TABLE OF ARTICLES

1 THE CONTRACT DOCUMENTS

2 THE WORK OF THIS CONTRACT

3 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

4 CONTRACT SUM

5 PAYMENTS

6 DISPUTE RESOLUTION

7 TERMINATION OR SUSPENSION

8 MISCELLANEOUS PROVISIONS

9 ENUMERATION OF CONTRACT DOCUMENTS

EXHIBIT A INSURANCE AND BONDS

ARTICLE 1 THE CONTRACT DOCUMENTS

The Contract Documents consist of this Agreement, Conditions of the Contract (General, Supplementary, and other Conditions), Drawings, Specifications, Addenda issued prior to execution of this Agreement, other documents listed in this Agreement, and Modifications issued after execution of this Agreement, all of which form the Contract, and are as fully a part of the Contract as if attached to this Agreement or repeated herein. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations, or agreements, either written or oral. An enumeration of the Contract Documents, other than a Modification, appears in Article 9.

ARTICLE 2 THE WORK OF THIS CONTRACT

The Contractor shall fully execute the Work described in the Contract Documents, except as specifically indicated in the Contract Documents to be the responsibility of others.

ARTICLE 3 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

§ 3.1 The date of commencement of the Work shall be:
(Check one of the following boxes.)

[ ] The date of this Agreement.

[X] A date set forth in a notice to proceed issued by the Owner.

[ ] Established as follows:
(Insert a date or a means to determine the date of commencement of the Work.)

If a date of commencement of the Work is not selected, then the date of commencement shall be the date of this Agreement.

§ 3.2 The Contract Time shall be measured from the date of commencement of the Work.

§ 3.3 Substantial Completion

§ 3.3.1 The Contractor shall achieve Substantial Completion of the entire Work:
(Check one of the following boxes and complete the necessary information.)

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[ ] Not later than ( ) calendar days from the date of commencement of the Work.

[X] By the following date: Defined in EXH-D Project Schedule

§ 3.3.2 Subject to adjustments of the Contract Time as provided in the Contract Documents, if portions of the Work are to be completed prior to Substantial Completion of the entire Work, the Contractor shall achieve Substantial Completion of such portions by the following dates are defined in EXH-D Project Schedule. Such portions of the work not completed as defined in EXH-D Project Schedule shall be subject to liquidated damages as set forth in Article 4.5.

(Table Deleted)

§ 3.3.3 If the Contractor fails to achieve Substantial Completion as provided in this Section 3.3, liquidated damages, if any, shall be assessed as set forth in Section 4.5.

ARTICLE 4 CONTRACT SUM

§ 4.1 The Owner shall pay the Contractor the Contract Sum in current funds for the Contractor's performance of the Contract as defined in EXH-B Project Charter, subject to additions and deductions as provided in the Contract Documents.

§ 4.2 Alternates

§ 4.2.1 Alternates, if any, included in the Contract Sum are defined in EXH-B Project Charter.

(Table Deleted)

§ 4.2.2 Subject to the conditions noted in EXH-B Project Charter, alternates may be accepted by the Owner following execution of this Agreement. Upon acceptance, the Owner shall issue a Modification to this Agreement.

(Paragraph Deleted)

(Table Deleted)

§ 4.3 Allowances, if any, included in the Contract Sum are defined in EXH-B Project Charter.

(Paragraph Deleted)

(Table Deleted)

§ 4.4 Unit prices, if any are defined in EXH-B Project Charter.

(Paragraph Deleted)

(Table Deleted)

§ 4.5 Liquidated damages

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Contractor and Owner recognized that time is of the essence for the Project and the Owner will suffer financial loss if the Work is not completed in the time specified in the Contract Documents. The parties also recognized the delays, expenses, and difficulties involved in proving in a legal or arbitration proceeding the actual loss suffered by the Owner if the Work is not completed on time. Accordingly, instead of requiring such proof, the Owner and Contractor agree that as liquidated
damages for delay (but not as penalty), Contractor shall pay Owner $1,000.00 per calendar day for each day that expires after the time specified for Substantial Completion in EXH-D Project Schedule until such time the Work is determined to be substantially complete by the
Owner.

(Paragraph Deleted)

After Substantial Completion, if Contractor shall neglect, refuse, or fail to complete the remaining work within the Contract time specified in the Contract Documents, the contractor shall pay the Owner $1,000.00 per day that expires after the time specified in the Contract Documents for Final Completion and readiness for Final Payment until the Work is completed.

ARTICLE 5 PAYMENTS

§ 5.1 Progress Payments

§ 5.1.1 Based upon Applications for Payment submitted to the Architect by the Contractor and Certificates for Payment issued by the Architect, the Owner shall make progress payments on account of the Contract Sum to the Contractor as provided below and elsewhere in the Contract Documents.

§ 5.1.2 The period covered by each Application for Payment shall be one calendar month ending on the last day of the
month.

§ 5.1.3 When an Application for Payment is received by the Architect, payment of the amount certified shall be made by the Owner not later than 45 (forty-five) days after the Architect receives the Application for Payment.

(Paragraph Deleted)

§ 5.1.4 Each Application for Payment shall be based on the most recent schedule of values submitted by the Contractor on AIA G702 Application and Certificate for Payment in accordance with the Contract Documents. The schedule of values shall allocate the entire Contract Sum among the various portions of the Work. The schedule of values shall be prepared in such form, and supported by such data to substantiate its accuracy, as the Architect may require. This schedule of values shall be used as a basis for reviewing the Contractor's Applications for Payment.

§ 5.1.5 Applications for Payment shall show the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment.

§ 5.1.6 In accordance with AIA Document A201™–2017, General Conditions of the Contract for Construction, and subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

§ 5.1.6.1 The amount of each progress payment shall first include:

- **.1** That portion of the Contract Sum properly allocable to completed Work;
- **.2** That portion of the Contract Sum properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction, or, if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing; and
- **.3** That portion of Construction Change Directives that the Architect determines, in the Architect's professional judgment, to be reasonably justified.

§ 5.1.6.2 The amount of each progress payment shall then be reduced by:

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.1 The aggregate of any amounts previously paid by the Owner;
.2 The amount, if any, for Work that remains uncorrected and for which the Architect has previously withheld a Certificate for Payment as provided in Article 9 of AIA Document A201–2017;
.3 Any amount for which the Contractor does not intend to pay a Subcontractor or material supplier, unless the Work has been performed by others the Contractor intends to pay;
.4 For Work performed or defects discovered since the last payment application, any amount for which the Architect may withhold payment, or nullify a Certificate of Payment in whole or in part, as provided in Article 9 of AIA Document A201–2017; and
.5 Retainage withheld pursuant to Section 5.1.7.

§ 5.1.7 Retainage

§ 5.1.7.1 For each progress payment made prior to Substantial Completion of the Work, the Owner may withhold the following amount, as retainage, from the payment otherwise due:

(Paragraph Deleted)

5% (five percent)

§ 5.1.7.1.1 The following items are not subject to retainage:
(Insert any items not subject to the withholding of retainage, such as general conditions, insurance, etc.)

For major items installed into the Work, the Contractor may request full payment for the items to ensure prompt delivery and fabrication. Such items shall be recommended by the Architect and approved by the Owner as not requiring retainage. Prompt payment for the items shall be documented by the Contractor to the Owner in the subsequent payment application by submitting a full lien release for the items. Major items may include mechanical units with long lead times, structural systems with long lead times, critical path systems or items, etc. Major items will be discussed and defined by Owner, Architect, and Contractor.

§ 5.1.7.2 Reduction or limitation of retainage, if any, shall be as follows:
Prior to Substantial Completion and at the discretion of the Owner, retainage may be reduced. If the Work has been 50% completed as
determined by the Architect and is satisfactory to the Owner, then 90% of the retained amount may be released to the Contractor for completed work (with 10% of the total retained by the Owner.) Upon Substantial Completion, additional retainage may be returned to the Contractor as recommended by the Architect and approved by the Owner to an amount sufficient to satisfactorily complete the Work. Retainage release will comply with Minnesota Statute 15.72 after Substantial Completion and punch list acceptance by the Owner.

(Paragraph Deleted)

§ 5.1.8 If final completion of the Work is materially delayed through no fault of the Contractor, the Owner shall pay the Contractor any additional amounts in accordance with Article 9 of AIA Document A201–2017.

§ 5.1.9 Except with the Owner's prior approval, the Contractor shall not make advance payments to suppliers for materials or equipment which have not been delivered and stored at the site or otherwise stored offsite with adequate Owner approved insurance provided to the Owner.

§ 5.2 Final Payment

§ 5.2.1 Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Contractor when

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.1 the Contractor has fully performed the Contract except for the Contractor's responsibility to correct Work as provided in Article 12 of AIA Document A201–2017, and to satisfy other requirements, if any, which extend beyond final payment; and

.2 a final Certificate for Payment has been issued by the Architect.

.3 all lien waivers and IC134 forms have been delivered to the Owner.

§ 5.2.2 The Owner's final payment to the Contractor shall be made no later than 45 days after the issuance of the Architect's final Certificate for Payment.

§ 5.3 Interest

Payments due and unpaid under the Contract shall bear interest from the date payment is due at the rate stated below, or in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located. Owner will pay the Contractor 0% interest for Payments not due made within forty five (45) days.
(Paragraph Deleted)

§ 5.4 Prompt Payment to Subcontractors

This Contract requires the Contractor and all Subcontractors and Sub-subcontractors (of any tier) to promptly pay any subcontractor or material supplier contract within ten (10) days of receipt of payment by Owner for undisputed services provided by the party requesting payment. The party responsible for payment (other than the Owner) shall pay interest of one and one half (1-1/2) percent per month to the party requesting payment on any undisputed amount not paid on time. The minimum monthly interest penalty payment for an unpaid balance of $100 or more is $10. For an unpaid balance of less than $100, the party responsible for payment shall pay the actual penalty due to the party requesting payment.

ARTICLE 6 DISPUTE RESOLUTION

§ 6.1 Initial Decision Maker

The Architect will serve as the Initial Decision Maker pursuant to Article 15 of AIA Document A201–2017.

§ 6.1.1 Mediation

Either the Owner or the Contractor may request mediation of any Claim submitted to the Architect for decision before such decision becomes final and binding. The mediation will be governed by the Construction Industry Mediation Rules of the American Arbitration Association in effect at the date of this contract. The request for mediation shall be made in writing to the American Arbitration Association and to the other party of this contract.

Owner and Contractor shall participate in the mediation process in good faith. The process shall be concluded within sixty (60) days of the date of filing the request.

If the Claim is not resolved by mediation, the Architect's action shall become final and binding thirty (30) days after termination of the mediation proceedings. Within the time period, the Owner and Contractor mayrequest Binding Dispute Resolution.

The Work must continue, at the Owner's discretion, in accordance with paragraph 15.1.4.1 of AIA Document A201-2017.

§ 6.2 Binding Dispute Resolution

For any Claim subject to, but not resolved by, mediation pursuant to Article 15 of AIA Document A201–2017, the method of binding dispute resolution shall be as follows:

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(Check the appropriate box.)

[ ] Arbitration pursuant to Section 15.4 of AIA Document A201–2017

[X] Litigation in a court of competent jurisdiction

[ ] Other *(Specify)*

If the Owner and Contractor do not select a method of binding dispute resolution, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, Claims will be resolved by litigation in a court of competent jurisdiction.

ARTICLE 7 TERMINATION OR SUSPENSION

§ 7.1 The Contract may be terminated by the Owner or the Contractor as provided in Article 14 of AIA Document A201–2017.

§ 7.1.1 If the Contract is terminated for the Owner's convenience in accordance with Article 14 of AIA Document A201–2017, then the Owner shall pay the Contractor a termination fee as follows:
(Insert the amount of, or method for determining, the fee, if any, payable to the Contractor following a termination for the Owner's convenience.)

Termination fee will be based on the percentage of work completed and any materials purchased or in production at the time of termination. Said fee and justification shall be provided to the Owner by the Contractor within ten (10) days of the notice of termination.

§ 7.2 The Work may be suspended by the Owner as provided in Article 14 of AIA Document A201–2017.

ARTICLE 8 MISCELLANEOUS PROVISIONS

§ 8.1 Where reference is made in this Agreement to a provision of AIA Document A201–2017 or another Contract Document, the reference refers to that provision as amended or supplemented by other provisions of the Contract Documents.

§ 8.2 The Owner's representative:
(Name, address, email address, and other information)

Mauricio Ochoa
1250 West Broadway Avenue
Minneapolis, MN 55411

§ 8.3 The Contractor's representative:
(Name, address, email address, and other information)

Carl Hoikka, Project Manager
Construction Results Corporation
5465 Highway 169 North
Plymouth, MN 55442

§ 8.4 Neither the Owner's nor the Contractor's representative shall be changed without ten days' prior notice to the other party.

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§ 8.5 Insurance and Bonds

§ 8.5.1 The Owner and the Contractor shall purchase and maintain insurance as set forth in AIA Document A101™–2017, Standard Form of Agreement Between Owner and Contractor where the basis of payment is a Stipulated Sum, Exhibit A, Insurance and Bonds, and elsewhere in the Contract Documents.

§ 8.5.2 The Contractor shall provide bonds as set forth in AIA Document A101™–2017 Exhibit A, and elsewhere in the Contract Documents.

§ 8.6 Notice in electronic format, pursuant to Article 1 of AIA Document A201–2017, may be given in accordance with AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, if completed, or as otherwise set forth below:

(If other than in accordance with AIA Document E203–2013, insert requirements for delivering notice in electronic format such as name, title, and email address of the recipient and whether and how the system will be required to generate a read receipt for the transmission.)

§ 8.7 Other provisions:

Owner prohibits Contractor from using the Work in any marketing material or business developement practice. Contractor is prohibited from communication with any news outlet or public without Owner's written approval.

Floor plans, designs, wiring, safety and security measures shall be kept confidential by the Contractor, the Subcontractors, the Sub-subcontractors (of any tier) during and after completion of the Work.

ARTICLE 9 ENUMERATION OF CONTRACT DOCUMENTS

§ 9.1 This Agreement is comprised of the following documents:

.1 AIA Document A101™–2017, Standard Form of Agreement Between Owner and Contractor

.2 AIA Document A101™–2017, Exhibit A, Insurance and Bonds

.3 AIA Document A201™–2017, General Conditions of the Contract for Construction

.4 AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, dated as indicated below:

(Insert the date of the E203-2013 incorporated into this Agreement.)

January 31, 2020

.5 Drawings

Number	Title	Date

.6 Specifications

Section	Title	Date	Pages

.7 Addenda, if any:

Number	Date	Pages

Portions of Addenda relating to bidding or proposal requirements are not part of the Contract Documents unless the bidding or proposal requirements are also enumerated in this Article 9.

.8 Other Exhibits:

(Paragraphs Deleted)

EXH-B Project Charter

Init.
/
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(Paragraph Deleted)

EXH-C Owner Insurance
EXH-D Project Schedule

(Paragraph Deleted)

(Table Deleted)

[ ] Supplementary and other Conditions of the Contract:

Document	Title	Date	Pages

.9 Other documents, if any, listed below:
(List here any additional documents that are intended to form part of the Contract Documents. AIA Document A201™–2017 provides that the advertisement or invitation to bid, Instructions to Bidders, sample forms, the Contractor's bid or proposal, portions of Addenda relating to bidding or proposal requirements, and other information furnished by the Owner in anticipation of receiving bids or proposals, are not part of the Contract Documents unless enumerated in this Agreement. Any such documents should be listed here only if intended to be part of the Contract Documents.)

This Agreement entered into as of the day and year first written above.

OWNER *(Signature)*	Mike Luurtsema **CONTRACTOR** *(Signature)*
(Printed name and title)	Mike Luurtsema President *(Printed name and title)*

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Additions and Deletions Report for
AIA® Document A101® – 2017

This Additions and Deletions Report, as defined on page 1 of the associated document, reproduces below all text the author has added to the standard form AIA document in order to complete it, as well as any text the author may have added to or deleted from the original AIA text. Added text is shown underlined. Deleted text is indicated with a horizontal line through the original AIA text.

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PAGE 1

AGREEMENT made as of the 9th day of December in the year 2024

...

Minneapolis Public Schools Special School District #1
1250 West Broadway Avenue
Minneapolis, MN 55411

...

Construction Results Corporation
5465 Highway 169 North
Plymouth, MN 55442

...

MPS Marquee Signs at Hall, Franklin, Sullivan/Anishinabe
1501 & 1601 North Aldrich Avenue, Minneapolis, MN 55411
3100 East 28th Street, Minneapolis, MN 55406

...

Wold Architects & Engineers
332 Minnesota Street, Suite W2000
Saint Paul, MN 55101

PAGE 2

[X] A date set forth in a notice to proceed issued by the Owner.

...

§ 3.3.1 ~~Subject to adjustments of the Contract Time as provided in the Contract Documents, the~~ The Contractor shall achieve Substantial Completion of the entire Work:

PAGE 3

[X] By the following date: Defined in EXH-D Project Schedule

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...

§ 3.3.2 Subject to adjustments of the Contract Time as provided in the Contract Documents, if portions of the Work are to be completed prior to Substantial Completion of the entire Work, the Contractor shall achieve Substantial Completion of such portions by the following ~~dates:~~dates are defined in EXH-D Project Schedule. Such portions of the work not completed as defined in EXH-D Project Schedule shall be subject to liquidated damages as set forth in Article 4.5.

...

~~**Portion of Work** **Substantial Completion Date**~~

...

§ 4.1 The Owner shall pay the Contractor the Contract Sum in current funds for the Contractor's performance of the ~~Contract. The Contract Sum shall be ($),~~ Contract as defined in EXH-B Project Charter, subject to additions and deductions as provided in the Contract Documents.

...

§ 4.2.1 Alternates, if any, included in the Contract ~~Sum:~~Sum are defined in EXH-B Project Charter.

...

~~**Item** **Price**~~

...

§ 4.2.2 Subject to the conditions noted ~~below, the following~~ in EXH-B Project Charter, alternates may be accepted by the Owner following execution of this Agreement. Upon acceptance, the Owner shall issue a Modification to this Agreement.

...

~~*(Insert below each alternate and the conditions that must be met for the Owner to accept the alternate.)*~~

...

~~**Item** **Price** **Conditions for Acceptance**~~

...

§ 4.3 Allowances, if any, included in the Contract ~~Sum:~~Sum are defined in EXH-B Project Charter.

...

~~*(Identify each allowance.)*~~

...

~~**Item** **Price**~~

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...

§ 4.4 Unit prices, if ~~any:~~any are defined in EXH-B Project Charter.

...

~~*(Identify the item and state the unit price and quantity limitations, if any, to which the unit price will be applicable.)*~~

...

~~Item~~	~~Units and Limitations~~	~~Price per Unit ($0.00)~~

...

§ 4.5 Liquidated ~~damages, if any:~~damages

PAGE 4

~~*(Insert terms and conditions for liquidateddamages, if any.)*~~*Contractor and Owner recognized that time is of the essence for the Project and the Owner will suffer financial loss if the Work is not completed in the time specified in the Contract Documents. The parties also recognized the delays, expenses, and difficulties involved in proving in a legal or arbitration proceeding the actual loss suffered by the Owner if the Work is not completed on time. Accordingly, instead of requiring such proof, the Owner and Contractor agree that as liquidated*

...

damages for delay (but not as penalty), Contractor shall pay Owner $1,000.00 per calendar day for each day that expires after the time specified for Substantial Completion in EXH-D Project Schedule until such time the Work is determined to be substantially complete by the

...

Owner.

...

~~**§ 4.6** Other:~~

...

~~*(Insert provisions for bonus or other incentives, if any, that might result in a change to the Contract Sum.)*~~*After Substantial Completion, if Contractor shall neglect, refuse, or fail to complete the remaining work within the Contract time specified in the Contract Documents, the contractor shall pay the Owner $1,000.00 per day that expires after the time specified in the Contract Documents for Final Completion and readiness for Final Payment until the Work is completed.*

...

§ 5.1.2 The period covered by each Application for Payment shall be one calendar month ending on the last day of the ~~month, or as follows:~~

...

month.

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...

§ 5.1.3 ~~Provided that~~ When an Application for Payment is received by the Architect~~not later than the day of a month, the Owner shall make payment of the amount certified to the Contractor not later than the day of the month. If an Application for Payment is received by the Architect after the application date fixed above,~~ , payment of the amount certified shall be made by the Owner not later than 45 (forty-five) days after the Architect receives the Application for Payment.

...

~~*(Federal, state or local laws may require payment within a certain period of time.)*~~

...

§ 5.1.4 Each Application for Payment shall be based on the most recent schedule of values submitted by the Contractor on AIA G702 Application and Certificate for Payment in accordance with the Contract Documents. The schedule of values shall allocate the entire Contract Sum among the various portions of the Work. The schedule of values shall be prepared in such form, and supported by such data to substantiate its accuracy, as the Architect may require. This schedule of values shall be used as a basis for reviewing the Contractor's Applications for Payment.

PAGE 5

~~*(Insert a percentage or amount to be withheld as retainage from each Application for Payment. The amount of retainage may be limited by governing law.)*~~

...

5% (five percent)

...

For major items installed into the Work, the Contractor may request full payment for the items to ensure prompt delivery and fabrication. Such items shall be recommended by the Architect and approved by the Owner as not requiring retainage. Prompt payment for the items shall be documented by the Contractor to the Owner in the subsequent payment application by submitting a full lien release for the items. Major items may include mechanical units with long lead times, structural systems with long lead times, critical path systems or items, etc. Major items will be discussed and defined by Owner, Architect, and Contractor.

...

~~*(If the retainage established in Section 5.1.7.1 is to be modified prior to Substantial Completion of the entire Work, including modifications for Substantial Completion of portions of the Work asprovided in Section 3.3.2, insert provisions for such modifications.)*~~*Prior to Substantial Completion and at the discretion of the Owner, retainage may be reduced. If the Work has been 50% completed as*

...

~~**§ 5.1.7.3** Except as set forth in this Section 5.1.7.3, upon Substantial Completion of the Work, the Contractor may submit an Application for Payment that includes the retainage withheld from prior Applications for Payment pursuant to this Section 5.1.7. The Application for Payment submitted at Substantial Completion shall not include~~

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~~retainage as follows:~~determined by the Architect and is satisfactory to the Owner, then 90% of the retained amount may be released to the Contractor for completed work (with 10% of the total retained by the Owner.) Upon Substantial Completion, additional retainage may be returned to the Contractor as recommended by the Architect and approved by the Owner to an amount sufficient to satisfactorily complete the Work. Retainage release will comply with Minnesota Statute 15.72 after Substantial Completion and punch list acceptance by the Owner.

...

~~*(Insert any other conditions for release of retainage upon Substantial Completion.)*~~

...

§ 5.1.9 Except with the Owner's prior approval, the Contractor shall not make advance payments to suppliers for materials or equipment which have not been delivered and stored at the ~~site.~~site or otherwise stored offsite with adequate Owner approved insurance provided to the Owner.

PAGE 6

.3 all lien waivers and IC134 forms have been delivered to the Owner.

...

§ 5.2.2 The Owner's final payment to the Contractor shall be made no later than ~~30~~ 45 days after the issuance of the Architect's final Certificate for ~~Payment, or as follows:~~Payment.

...

Payments due and unpaid under the Contract shall bear interest from the date payment is due at the rate stated below, or in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located. Owner will pay the Contractor 0% interest for Payments not due made within forty five (45) days.

...

~~*(Insert rate*~~

...

§ 5.4 Prompt Payment to Subcontractors

...

This Contract requires the Contractor and all Subcontractors and Sub-subcontractors (of any tier) to promptly pay any subcontractor or material supplier contract within ten (10) days of receipt of payment by Owner for undisputed services provided by the party requesting payment. The party responsible for payment (other than the Owner) shall pay interest of ~~interest agreed upon, if any.)~~one and one half (1-1/2) percent per month to the party requesting payment on any undisputed amount not paid on time. The minimum monthly interest penalty payment for an unpaid

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balance of $100 or more is $10. For an unpaid balance of less than $100, the party responsible for payment shall pay the actual penalty due to the party requesting payment.

...

The Architect will serve as the Initial Decision Maker pursuant to Article 15 of AIA Document ~~A201–2017, unless~~ A201–2017.

...

§ 6.1.1 Mediation

...

~~the parties appoint below another individual, not a party to this Agreement, to serve as the Initial Decision Maker.~~Either the Owner or the Contractor may request mediation of any Claim submitted to the Architect for decision before such decision becomes final and binding. The mediation will be governed by the Construction Industry Mediation Rules of the American Arbitration Association in effect at the date of this contract. The request for mediation shall be made in writing to the American Arbitration Association and to the other party of this contract.

...

Owner and Contractor shall participate in the mediation process in good faith. The process shall be concluded within sixty (60) days of the date of filing the request.

...

~~*(If the parties mutually agree, insert the name, address and other contact information of the Initial Decision Maker, if other than the Architect.)*~~*If the Claim is not resolved by mediation, the Architect's action shall become final and binding thirty (30) days after termination of the mediation proceedings. Within the time period, the Owner and Contractor mayrequest Binding Dispute Resolution.*

...

The Work must continue, at the Owner's discretion, in accordance with paragraph 15.1.4.1 of AIA Document A201-2017.

PAGE 7

[**X**] Litigation in a court of competent jurisdiction

...

Termination fee will be based on the percentage of work completed and any materials purchased or in production at the time of termination. Said fee and justification shall be provided to the Owner by the Contractor within ten (10) days of the notice of termination.

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User Notes: (3B9ADA36)

...

Mauricio Ochoa
1250 West Broadway Avenue
Minneapolis, MN 55411

...

Carl Hoikka, Project Manager
Construction Results Corporation
5465 Highway 169 North
Plymouth, MN 55442

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§ 8.6 Notice in electronic format, pursuant to Article 1 of AIA Document A201–2017, may be given in accordance with ~~a building information modeling exhibit,~~ AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, if completed, or as otherwise set forth below:

...

(If other than in accordance with ~~a building information modeling exhibit,~~ AIA Document E203–2013, insert requirements for delivering notice in electronic format such as name, title, and email address of the recipient and whether and how the system will be required to generate a read receipt for the transmission.)

...

Owner prohibits Contractor from using the Work in any marketing material or business developement practice. Contractor is prohibited from communication with any news outlet or public without Owner's written approval.

Floor plans, designs, wiring, safety and security measures shall be kept confidential by the Contractor, the Subcontractors, the Sub-subcontractors (of any tier) during and after completion of the Work.

...

.4 ~~Building information modeling exhibit,~~ AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, dated as indicated below:

...

(Insert the date of the ~~building information modeling exhibit~~ E203-2013 incorporated into this Agreement.)

...

January 31, 2020

...

~~(Check all boxes that apply and include appropriate information identifying the exhibit where required.)~~

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...

~~[ ] AIA Document E204™–2017, Sustainable Projects Exhibit, dated as indicated below:~~

...

EXH-B Project Charter

PAGE 9

~~(Insert the date of the E204-2017 incorporated into this Agreement.)~~

...

EXH-C Owner Insurance

...

EXH-D Project Schedule

...

~~[ ] The Sustainability Plan:~~

...

~~Title~~	~~Date~~	~~Pages~~

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Certification of Document's Authenticity

AIA® Document D401™ – 2003

I, , hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with its associated Additions and Deletions Report and this certification at 15:08:41 CT on 01/22/2025 under Order No. 4104251278 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document A101™ - 2017, Standard Form of Agreement Between Owner and Contractor where the basis of payment is a Stipulated Sum, other than those additions and deletions shown in the associated Additions and Deletions Report.



(Signed)

Curtis Hartog, Executive Director

(Title)

1/22/2025

(Dated)

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AIA® Document A101® – 2017 Exhibit A

Insurance and Bonds

This Insurance and Bonds Exhibit is part of the Agreement, between the Owner and the Contractor, dated the 9th day of December in the year 2024
(In words, indicate day, month and year.)

for the following **PROJECT**:
(Name and location or address)

MPS Marquee Signs at Hall, Franklin, Sullivan/Anishinabe
1501 & 1601 North Aldrich Avenue, Minneapolis, MN
3100 East 28th Street, Minneapolis, MN 55406

THE OWNER:
(Name, legal status and address)

Minneapolis Public Schools, SSD #1
1250 West Broadway Avenue, Minneapolis, MN 55411

THE CONTRACTOR:
(Name, legal status and address)

Construction Results Corporation
5465 Highway 169 North, Plymouth, MN 55442

TABLE OF ARTICLES

A.1 GENERAL

A.2 OWNER'S INSURANCE

A.3 CONTRACTOR'S INSURANCE AND BONDS

A.4 SPECIAL TERMS AND CONDITIONS

ADDITIONS AND DELETIONS:
The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

This document is intended to be used in conjunction with AIA Document A201®–2017, General Conditions of the Contract for Construction. Article 11 of A201®–2017 contains additional insurance provisions.

ARTICLE A.1 GENERAL

The Owner and Contractor shall purchase and maintain insurance, and provide bonds, as set forth in this Exhibit. As used in this Exhibit, the term General Conditions refers to AIA Document A201™–2017, General Conditions of the Contract for Construction.

ARTICLE A.2 OWNER'S INSURANCE

§ A.2.1 General

Prior to commencement of the Work, the Owner shall secure the insurance, and provide evidence of the coverage, required under this Article A.2 and, upon the Contractor's request, provide a copy of the property insurance policy or policies required by Section A.2.3. The copy of the policy or policies provided shall contain all applicable conditions, definitions, exclusions, and endorsements.

§ A.2.2 Liability Insurance

The Owner shall be responsible for purchasing and maintaining the Owner's usual general liability insurance.

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§ A.2.3 Required Property Insurance

§ A.2.3.1 Unless this obligation is placed on the Contractor pursuant to Section A.3.3.2.1, the Owner shall purchase and maintain, from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located, property insurance written on a builder's risk "all-risks" completed value or equivalent policy form and sufficient to cover the total value of the entire Project on a replacement cost basis. The Owner's property insurance coverage shall be no less than the amount of the initial Contract Sum, plus the value of subsequent Modifications and labor performed and materials or equipment supplied by others. The property insurance shall be maintained until Substantial Completion and thereafter as provided in Section A.2.3.1.3, unless otherwise provided in the Contract Documents or otherwise agreed in writing by the parties to this Agreement. This insurance shall include the interests of the Owner, Contractor, Subcontractors, and Sub-subcontractors in the Project as insureds. This insurance shall include the interests of mortgagees as loss payees.

§ A.2.3.1.1 Causes of Loss. The insurance required by this Section A.2.3.1 shall provide coverage for direct physical loss or damage, and shall not exclude the risks of fire, explosion, theft, vandalism, malicious mischief, collapse, earthquake, flood, or windstorm. The insurance shall also provide coverage for ensuing loss or resulting damage from error, omission, or deficiency in construction methods, design, specifications, workmanship, or materials. Sub-limits, if any, are as follows:
(Indicate below the cause of loss and any applicable sub-limit.)

Causes of Loss	Sub-Limit

§ A.2.3.1.2 Specific Required Coverages. The insurance required by this Section A.2.3.1 shall provide coverage for loss or damage to falsework and other temporary structures, and to building systems from testing and startup. The insurance shall also cover debris removal, including demolition occasioned by enforcement of any applicable legal requirements, and reasonable compensation for the Architect's and Contractor's services and expenses required as a result of such insured loss, including claim preparation expenses. Sub-limits, if any, are as follows:
(Indicate below type of coverage and any applicable sub-limit for specific required coverages.)

Coverage	Sub-Limit

§ A.2.3.1.3 Unless the parties agree otherwise, upon Substantial Completion, the Owner shall continue the insurance required by Section A.2.3.1 or, if necessary, replace the insurance policy required under Section A.2.3.1 with property insurance written for the total value of the Project that shall remain in effect until expiration of the period for correction of the Work set forth in Section 12.2.2 of the General Conditions.

§ A.2.3.1.4 Deductibles and Self-Insured Retentions. If the insurance required by this Section A.2.3 is subject to deductibles or self-insured retentions, the Owner shall be responsible for all loss not covered because of such deductibles or retentions.

§ A.2.3.2 Occupancy or Use Prior to Substantial Completion. The Owner's occupancy or use of any completed or partially completed portion of the Work prior to Substantial Completion shall not commence until the insurance company or companies providing the insurance under Section A.2.3.1 have consented in writing to the continuance of coverage. The Owner and the Contractor shall take no action with respect to partial occupancy or use that would cause cancellation, lapse, or reduction of insurance, unless they agree otherwise in writing.

§ A.2.3.3 Insurance for Existing Structures

If the Work involves remodeling an existing structure or constructing an addition to an existing structure, the Owner shall purchase and maintain, until the expiration of the period for correction of Work as set forth in Section 12.2.2 of the General Conditions, "all-risks" property insurance, on a replacement cost basis, protecting the existing structure against direct physical loss or damage from the causes of loss identified in Section A.2.3.1, notwithstanding the undertaking of the Work. The Owner shall be responsible for all co-insurance penalties.

§ A.2.4 Optional Extended Property Insurance.

The Owner shall purchase and maintain the insurance selected and described below.

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(Select the types of insurance the Owner is required to purchase and maintain by placing an X in the box(es) next to the description(s) of selected insurance. For each type of insurance selected, indicate applicable limits of coverage or other conditions in the fill point below the selected item.)

[ ] **§ A.2.4.1 Loss of Use, Business Interruption, and Delay in Completion Insurance**, to reimburse the Owner for loss of use of the Owner's property, or the inability to conduct normal operations due to a covered cause of loss.

[ ] **§ A.2.4.2 Ordinance or Law Insurance**, for the reasonable and necessary costs to satisfy the minimum requirements of the enforcement of any law or ordinance regulating the demolition, construction, repair, replacement or use of the Project.

[ ] **§ A.2.4.3 Expediting Cost Insurance**, for the reasonable and necessary costs for the temporary repair of damage to insured property, and to expedite the permanent repair or replacement of the damaged property.

[ ] **§ A.2.4.4 Extra Expense Insurance**, to provide reimbursement of the reasonable and necessary excess costs incurred during the period of restoration or repair of the damaged property that are over and above the total costs that would normally have been incurred during the same period of time had no loss or damage occurred.

[ ] **§ A.2.4.5 Civil Authority Insurance**, for losses or costs arising from an order of a civil authority prohibiting access to the Project, provided such order is the direct result of physical damage covered under the required property insurance.

[ ] **§ A.2.4.6 Ingress/Egress Insurance**, for loss due to the necessary interruption of the insured's business due to physical prevention of ingress to, or egress from, the Project as a direct result of physical damage.

[ ] **§ A.2.4.7 Soft Costs Insurance**, to reimburse the Owner for costs due to the delay of completion of the Work, arising out of physical loss or damage covered by the required property insurance: including construction loan fees; leasing and marketing expenses; additional fees, including those of architects, engineers, consultants, attorneys and accountants, needed for the completion of the construction, repairs, or reconstruction; and carrying costs such as property taxes, building permits, additional interest on loans, realty taxes, and insurance premiums over and above normal expenses.

§ A.2.5 Other Optional Insurance.

The Owner shall purchase and maintain the insurance selected below.

(Select the types of insurance the Owner is required to purchase and maintain by placing an X in the box(es) next to the description(s) of selected insurance.)

[ ] **§ A.2.5.1 Cyber Security Insurance** for loss to the Owner due to data security and privacy breach,

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including costs of investigating a potential or actual breach of confidential or private information.
(Indicate applicable limits of coverage or other conditions in the fill point below.)

[ ] **§ A.2.5.2 Other Insurance**
(List below any other insurance coverage to be provided by the Owner and any applicable limits.)

Coverage	Limits

ARTICLE A.3 CONTRACTOR'S INSURANCE AND BONDS

§ A.3.1 General

§ A.3.1.1 Certificates of Insurance. The Contractor shall provide certificates of insurance acceptable to the Owner evidencing compliance with the requirements in this Article A.3 at the following times: (1) prior to commencement of the Work; (2) upon renewal or replacement of each required policy of insurance; and (3) upon the Owner's written request. An additional certificate evidencing continuation of commercial liability coverage, including coverage for completed operations, shall be submitted with the final Application for Payment and thereafter upon renewal or replacement of such coverage until the expiration of the periods required by Section A.3.2.1 and Section A.3.3.1. The certificates will show the Owner as an additional insured on the Contractor's Commercial General Liability and excess or umbrella liability policy or policies.

§ A.3.1.2 Deductibles and Self-Insured Retentions. The Contractor shall disclose to the Owner any deductible or self-insured retentions applicable to any insurance required to be provided by the Contractor.

§ A.3.1.3 Additional Insured Obligations. To the fullest extent permitted by law, the Contractor shall cause the commercial general liability coverage to include (1) the Owner, the Architect, and the Architect's consultants as additional insureds for claims caused in whole or in part by the Contractor's negligent acts or omissions during the Contractor's operations; and (2) the Owner as an additional insured for claims caused in whole or in part by the Contractor's negligent acts or omissions for which loss occurs during completed operations. The additional insured coverage shall be primary and non-contributory to any of the Owner's general liability insurance policies and shall apply to both ongoing and completed operations. To the extent commercially available, the additional insured coverage shall be no less than that provided by Insurance Services Office, Inc. (ISO) forms CG 20 10 07 04, CG 20 37 07 04, and, with respect to the Architect and the Architect's consultants, CG 20 32 07 04.

§ A.3.2 Contractor's Required Insurance Coverage

§ A.3.2.1 The Contractor shall purchase and maintain the following types and limits of insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The Contractor shall maintain the required insurance until the expiration of the period for correction of Work as set forth in Section 12.2.2 of the General Conditions, unless a different duration is stated below:
(If the Contractor is required to maintain insurance for a duration other than the expiration of the period for correction of Work, state the duration.)

§ A.3.2.2 Commercial General Liability

§ A.3.2.2.1 Commercial General Liability insurance for the Project written on an occurrence form with policy limits as defined is ECH-C Owner Insurance, providing coverage for claims including

.1 damages because of bodily injury, sickness or disease, including occupational sickness or disease, and death of any person;
.2 personal injury and advertising injury;
.3 damages because of physical damage to or destruction of tangible property, including the loss of use of such property;
.4 bodily injury or property damage arising out of completed operations; and
.5 the Contractor's indemnity obligations under Section 3.18 of the General Conditions.

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§ A.3.2.2.2 The Contractor's Commercial General Liability policy under this Section A.3.2.2 shall not contain an exclusion or restriction of coverage for the following:

.1 Claims by one insured against another insured, if the exclusion or restriction is based solely on the fact that the claimant is an insured, and there would otherwise be coverage for the claim.

.2 Claims for property damage to the Contractor's Work arising out of the products-completed operations hazard where the damaged Work or the Work out of which the damage arises was performed by a Subcontractor.

.3 Claims for bodily injury other than to employees of the insured.

.4 Claims for indemnity under Section 3.18 of the General Conditions arising out of injury to employees of the insured.

.5 Claims or loss excluded under a prior work endorsement or other similar exclusionary language.

.6 Claims or loss due to physical damage under a prior injury endorsement or similar exclusionary language.

.7 Claims related to residential, multi-family, or other habitational projects, if the Work is to be performed on such a project.

.8 Claims related to roofing, if the Work involves roofing.

.9 Claims related to exterior insulation finish systems (EIFS), synthetic stucco or similar exterior coatings or surfaces, if the Work involves such coatings or surfaces.

.10 Claims related to earth subsidence or movement, where the Work involves such hazards.

.11 Claims related to explosion, collapse and underground hazards, where the Work involves such hazards.

§ A.3.2.3 Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Contractor, with policy limits as defined in EXH-C Owner Insurance .

§ A.3.2.4 The Contractor may achieve the required limits and coverage for Commercial General Liability and Automobile Liability through a combination of primary and excess or umbrella liability insurance, provided such primary and excess or umbrella insurance policies result in the same or greater coverage as the coverages required under Section A.3.2.2 and A.3.2.3, and in no event shall any excess or umbrella liability insurance provide narrower coverage than the primary policy. The excess policy shall not require the exhaustion of the underlying limits only through the actual payment by the underlying insurers. Umbrella coverage as defined in EXH-C Owner Insurance

§ A.3.2.5 Workers' Compensation at statutory limits for Coverage A as defined in EXH-C Owner Insurance.

§ A.3.2.6 Employers' Liability Coverage B as defined in EXH-C Owner Insurance .

(Paragraph deleted)

§ A.3.2.8 If the Contractor is required to furnish professional services as part of the Work, the Contractor shall procure Professional Liability insurance covering performance of the professional services, with policy limits as defined in EXH-C Owner Insurance .

.

(Paragraphs deleted)

§ A.3.2.12 Insurance for the use or operation of manned or unmanned aircraft, if the Work requires such activities, with policy limits as defined in EXH-C Owner Insurance.

§ A.3.3 Contractor's Other Insurance Coverage

§ A.3.3.1 Insurance selected and described in this Section A.3.3 shall be purchased from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The Contractor shall maintain the required insurance until the expiration of the period for correction of Work as set forth in Section 12.2.2 of the General Conditions, unless a different duration is stated below:

(If the Contractor is required to maintain any of the types of insurance selected below for a duration other than the expiration of the period for correction of Work, state the duration.)

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If Professional Liability Insurance is required as part of this contract or becomes required during the course of the project coverage shall be in accordance with A.3.2.8, the insurance coverage shall be maintained for one calendar year after the date of Substantial Completion

§ A.3.3.2 The Contractor shall purchase and maintain the following types and limits of insurance in accordance with Section A.3.3.1 as defined in EXH-C Owner Insurance.

(Paragraphs deleted)

§ A.3.4 Performance Bond and Payment Bond

The Contractor shall provide surety bonds, from a company or companies lawfully authorized to issue surety bonds in the jurisdiction where the Project is located, as follows:
(Specify type and penal sum of bonds.)

Type	Penal Sum ($0.00)
Payment Bond	Full contract value
Performance Bond	Full contract value

Payment and Performance Bonds shall be AIA Document A312™, Payment Bond and Performance Bond, or contain provisions identical to AIA Document A312™, current as of the date of this Agreement.

ARTICLE A.4 SPECIAL TERMS AND CONDITIONS

Special terms and conditions that modify this Insurance and Bonds Exhibit, if any, are as follows:

None

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Additions and Deletions Report for
AIA® Document A101® – 2017 Exhibit A

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PAGE 1

This Insurance and Bonds Exhibit is part of the Agreement, between the Owner and the Contractor, dated the 9th day of December in the year 2024

...

MPS Marquee Signs at Hall, Franklin, Sullivan/Anishinabe
1501 & 1601 North Aldrich Avenue, Minneapolis, MN
3100 East 28th Street, Minneapolis, MN 55406

...

Minneapolis Public Schools, SSD #1
1250 West Broadway Avenue, Minneapolis, MN 55411

...

Construction Results Corporation
5465 Highway 169 North, Plymouth, MN 55442

PAGE 4

§ A.3.2.2.1 Commercial General Liability insurance for the Project written on an occurrence form with policy limits ~~of not less than ($) each occurrence, ($) general aggregate, and ($) aggregate for products-completed operations hazard,~~ as defined is ECH-C Owner Insurance, providing coverage for claims including

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§ A.3.2.3 Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Contractor, with policy limits ~~of not less than ($) per accident, for bodily injury, death of any person, and property damage arising out of the ownership, maintenance and use of those motor vehicles along with any other statutorily required automobile coverage.~~as defined in EXH-C Owner Insurance .

§ A.3.2.4 The Contractor may achieve the required limits and coverage for Commercial General Liability and Automobile Liability through a combination of primary and excess or umbrella liability insurance, provided such primary and excess or umbrella insurance policies result in the same or greater coverage as the coverages required under Section A.3.2.2 and A.3.2.3, and in no event shall any excess or umbrella liability insurance provide narrower coverage than the primary policy. The excess policy shall not require the exhaustion of the underlying limits only through the actual payment by the underlying insurers. Umbrella coverage as defined in EXH-C Owner Insurance

§ A.3.2.5 Workers' Compensation at statutory ~~limits.~~limits for Coverage A as defined in EXH-C Owner Insurance.

§ A.3.2.6 Employers' Liability ~~with policy limits not less than ($) each accident, ($) each employee, and ($) policy limit.~~Coverage B as defined in EXH-C Owner Insurance .

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~~**§ A.3.2.7** Jones Act, and the Longshore & Harbor Workers' Compensation Act, as required, if the Work involves hazards arising from work on or near navigable waterways, including vessels and docks~~

§ A.3.2.8 If the Contractor is required to furnish professional services as part of the Work, the Contractor shall procure Professional Liability insurance covering performance of the professional services, with policy limits ~~of not less than ($) per claim and ($) in the aggregate.~~as defined in EXH-C Owner Insurance .

.

~~**§ A.3.2.9** If the Work involves the transport, dissemination, use, or release of pollutants, the Contractor shall procure Pollution Liability insurance, with policy limits of not less than ($) per claim and ($) in the aggregate.~~

~~**§ A.3.2.10** Coverage under Sections A.3.2.8 and A.3.2.9 may be procured through a Combined Professional Liability and Pollution Liability insurance policy, with combined policy limits of not less than ($) per claim and ($) in the aggregate.~~

~~**§ A.3.2.11** Insurance for maritime liability risks associated with the operation of a vessel, if the Work requires such activities, with policy limits of not less than ($) per claim and ($) in the aggregate.~~

§ A.3.2.12 Insurance for the use or operation of manned or unmanned aircraft, if the Work requires such activities, with policy limits ~~of not less than ($) per claim and ($) in the aggregate.~~as defined in EXH-C Owner Insurance.
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If Professional Liability Insurance is required as part of this contract or becomes required during the course of the project coverage shall be in accordance with A.3.2.8, the insurance coverage shall be maintained for one calendar year after the date of Substantial Completion

§ A.3.3.2 The Contractor shall purchase and maintain the following types and limits of insurance in accordance with Section ~~A.3.3.1.~~
~~*(Select the types of insurance the Contractor is required to purchase and maintain by placing an X in the box(es) next to the description(s) of selected insurance. Where policy limits are provided, include the policy limit in the appropriate fill point.)*~~A.3.3.1 as defined in EXH-C Owner Insurance.

~~[–] **§ A.3.3.2.1** Property insurance of the same type and scope satisfying the requirements identified in Section A.2.3, which, if selected in this section A.3.3.2.1, relieves the Owner of the responsibility to purchase and maintain such insurance except insurance required by Section A.2.3.1.3 and Section A.2.3.3. The Contractor shall comply with all obligations of the Owner under Section A.2.3 except to the extent provided below. The Contractor shall disclose to the Owner the amount of any deductible, and the Owner shall be responsible for losses within the deductible. Upon request, the Contractor shall provide the Owner with a copy of the property insurance policy or policies required. The Owner shall adjust and settle the loss with the insurer and be the trustee of the proceeds of the property insurance in accordance with Article 11 of the General Conditions unless otherwise set forth below:
(Where the Contractor's obligation to provide property insurance differs from the Owner's obligations as described under Section A.2.3, indicate such differences in the space below. Additionally, if a party other than the Owner will be responsible for adjusting and settling a loss with the insurer and acting as the trustee of the proceeds of property insurance in accordance with Article 11 of the General Conditions, indicate the responsible party below.)~~

~~[–] **§ A.3.3.2.2 Railroad Protective Liability Insurance**, with policy limits of not less than ($) per claim and ($) in the aggregate, for Work within fifty (50) feet of railroad property.~~

~~[–] **§ A.3.3.2.3 Asbestos Abatement Liability Insurance**, with policy limits of not less than ($) per claim and ($) in the aggregate, for liability arising from the encapsulation, removal, handling, storage,~~

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~~transportation, and disposal of asbestos-containing materials.~~

~~[–] § A.3.3.2.4 Insurance for physical damage to property while it is in storage and in transit to the construction site on an "all-risks" completed value form.~~

~~[–] § A.3.3.2.5 Property insurance on an "all-risks" completed value form, covering property owned by the Contractor and used on the Project, including scaffolding and other equipment.~~

~~[–] § A.3.3.2.6 Other Insurance~~

~~*(List below any other insurance coverage to be provided by the Contractor and any applicable limits.)*~~

~~Coverage~~	~~Limits~~

§ A.3.4 Performance Bond and Payment Bond

...

Payment Bond	Full contract value
Performance Bond	Full contract value

...

None

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General Conditions of the Contract for Construction

for the following PROJECT:
(Name and location or address)

MPS Marquee Signs at Hall, Franklin, Sullivan/Anishinabe 1501 & 1601 North Aldrich Avenue, Minneapolis, MN 55411
3100 East 28th Street, Minneapolis, MN 55406

THE OWNER:
(Name, legal status and address)

Minneapolis Public Schools Special School District 1
1250 West Broadway Avenue
Minneapolis, MN 55411

THE ARCHITECT:
(Name, legal status and address)

Wold Architects & Engineers332 Minnesota Street, Suite W2000
Saint Paul, MN 55101

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12 UNCOVERING AND CORRECTION OF WORK

13 MISCELLANEOUS PROVISIONS

ADDITIONS AND DELETIONS:
The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

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For guidance in modifying this document to include supplementary conditions, see AIA Document A503™, Guide for Supplementary Conditions.

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ARTICLE 1 GENERAL PROVISIONS

§ 1.1 Basic Definitions

§ 1.1.1 The Contract Documents

The Contract Documents are enumerated in the Agreement between the Owner and Contractor (hereinafter the Agreement) and consist of the Agreement, Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, Addenda issued prior to execution of the Contract, other documents listed in the Agreement, and Modifications issued after execution of the Contract. A Modification is (1) a written amendment to the Contract signed by both parties, (2) a Change Order, (3) a Construction Change Directive, or (4) a written order for a minor change in the Work issued by the Architect. Unless specifically enumerated in the Agreement, the Contract Documents do not include the advertisement or invitation to bid, Instructions to Bidders, sample forms, other information furnished by the Owner in anticipation of receiving bids or proposals, the Contractor's bid or proposal, or portions of Addenda relating to bidding or proposal requirements.

§ 1.1.2 The Contract

The Contract Documents form the Contract for Construction. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations, or agreements, either written or oral. The Contract may be amended or modified only by a Modification. The Contract Documents shall not be construed to create a contractual relationship of any kind (1) between the Contractor and the Architect or the Architect's consultants, (2) between the Owner and a Subcontractor or a Sub-subcontractor, (3) between the Owner and the Architect or the Architect's consultants, or (4) between any persons or entities other than the Owner and the Contractor. The Architect shall, however, be entitled to performance and enforcement of obligations under the Contract intended to facilitate performance of the Architect's duties.

§ 1.1.3 The Work

The term "Work" means the construction and services required by the Contract Documents, whether completed or partially completed, and includes all other labor, materials, equipment, and services provided or to be provided by the Contractor to fulfill the Contractor's obligations. The Work may constitute the whole or a part of the Project.

§ 1.1.4 The Project

The Project is the total construction of which the Work performed under the Contract Documents may be the whole or a part and which may include construction by the Owner and by Separate Contractors.

§ 1.1.5 The Drawings

The Drawings are the graphic and pictorial portions of the Contract Documents showing the design, location and dimensions of the Work, generally including plans, elevations, sections, details, schedules, and diagrams.

§ 1.1.6 The Specifications

The Specifications are that portion of the Contract Documents consisting of the written requirements for materials, equipment, systems, standards and workmanship for the Work, and performance of related services.

§ 1.1.7 Instruments of Service

Instruments of Service are representations, in any medium of expression now known or later developed, of the tangible and intangible creative work performed by the Architect and the Architect's consultants under their respective professional services agreements. Instruments of Service may include, without limitation, studies, surveys, models, sketches, drawings, specifications, and other similar materials.

§ 1.1.8 Initial Decision Maker

The Initial Decision Maker is the person identified in the Agreement to render initial decisions on Claims in accordance with Section 15.2. The Initial Decision Maker shall not show partiality to the Owner or Contractor and shall not be liable for results of interpretations or decisions rendered in good faith.

§ 1.2 Correlation and Intent of the Contract Documents

§ 1.2.1 The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work by the Contractor. The Contract Documents are complementary, and what is required by one shall be as binding as if required by all; performance by the Contractor shall be required only to the extent consistent with the Contract Documents and reasonably inferable from them as being necessary to produce the indicated results.

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§ 1.2.1.1 The invalidity of any provision of the Contract Documents shall not invalidate the Contract or its remaining provisions. If it is determined that any provision of the Contract Documents violates any law, or is otherwise invalid or unenforceable, then that provision shall be revised to the extent necessary to make that provision legal and enforceable. In such case the Contract Documents shall be construed, to the fullest extent permitted by law, to give effect to the parties' intentions and purposes in executing the Contract.

§ 1.2.2 Organization of the Specifications into divisions, sections and articles, and arrangement of Drawings shall not control the Contractor in dividing the Work among Subcontractors or in establishing the extent of Work to be performed by any trade.

§ 1.2.3 Unless otherwise stated in the Contract Documents, words that have well-known technical or construction industry meanings are used in the Contract Documents in accordance with such recognized meanings.

§ 1.3 Capitalization

Terms capitalized in these General Conditions include those that are (1) specifically defined, (2) the titles of numbered articles, or (3) the titles of other documents published by the American Institute of Architects.

§ 1.4 Interpretation

In the interest of brevity the Contract Documents frequently omit modifying words such as "all" and "any" and articles such as "the" and "an," but the fact that a modifier or an article is absent from one statement and appears in another is not intended to affect the interpretation of either statement.

§ 1.5 Ownership and Use of Drawings, Specifications, and Other Instruments of Service

§ 1.5.1 The Architect and the Architect's consultants shall be deemed the authors and owners of their respective Instruments of Service, including the Drawings and Specifications, and retain all common law, statutory, and other reserved rights in their Instruments of Service, including copyrights. The Contractor, Subcontractors, Sub-subcontractors, and suppliers shall not own or claim a copyright in the Instruments of Service. Submittal or distribution to meet official regulatory requirements or for other purposes in connection with the Project is not to be construed as publication in derogation of the Architect's or Architect's consultants' reserved rights.

§ 1.5.2 The Contractor, Subcontractors, Sub-subcontractors, and suppliers are authorized to use and reproduce the Instruments of Service provided to them, subject to any protocols established pursuant to Sections 1.7 and 1.8, solely and exclusively for execution of the Work. All copies made under this authorization shall bear the copyright notice, if any, shown on the Instruments of Service. The Contractor, Subcontractors, Sub-subcontractors, and suppliers may not use the Instruments of Service on other projects or for additions to the Project outside the scope of the Work without the specific written consent of the Owner, Architect, and the Architect's consultants.

§ 1.6 Notice

§ 1.6.1 Except as otherwise provided in Section 1.6.2, where the Contract Documents require one party to notify or give notice to the other party, such notice shall be provided in writing to the designated representative of the party to whom the notice is addressed and shall be deemed to have been duly served if delivered in person, by mail, by courier, or by electronic transmission if a method for electronic transmission is set forth in the Agreement.

§ 1.6.2 Notice of Claims as provided in Section 15.1.3 shall be provided in writing and shall be deemed to have been duly served only if delivered to the designated representative of the party to whom the notice is addressed by certified or registered mail, or by courier providing proof of delivery.

§ 1.7 Digital Data Use and Transmission

The parties shall agree upon protocols governing the transmission and use of Instruments of Service or any other information or documentation in digital form. The parties will use AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, to establish the protocols for the development, use, transmission, and exchange of digital data.

§ 1.8 Building Information Models Use and Reliance

Any use of, or reliance on, all or a portion of a building information model without agreement to protocols governing the use of, and reliance on, the information contained in the model and without having those protocols set forth in AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, and the requisite AIA Document

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G202™–2013, Project Building Information Modeling Protocol Form, shall be at the using or relying party's sole risk and without liability to the other party and its contractors or consultants, the authors of, or contributors to, the building information model, and each of their agents and employees.

ARTICLE 2 OWNER

§ 2.1 General

§ 2.1.1 The Owner is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The Owner shall designate in writing a representative who shall have express authority to bind the Owner with respect to all matters requiring the Owner's approval or authorization. Except as otherwise provided in Section 4.2.1, the Architect does not have such authority. The term "Owner" means the Owner or the Owner's authorized representative.

§ 2.1.2 The Owner shall furnish to the Contractor, within fifteen days after receipt of a written request, information necessary and relevant for the Contractor to evaluate, give notice of, or enforce mechanic's lien rights. Such information shall include a correct statement of the record legal title to the property on which the Project is located, usually referred to as the site, and the Owner's interest therein.

§ 2.2 Evidence of the Owner's Financial Arrangements

§ 2.2.1 Prior to commencement of the Work and upon written request by the Contractor, the Owner shall furnish to the Contractor reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Contract. The Contractor shall have no obligation to commence the Work until the Owner provides such evidence. If commencement of the Work is delayed under this Section 2.2.1, the Contract Time shall be extended appropriately.

§ 2.2.2 Following commencement of the Work and upon written request by the Contractor, the Owner shall furnish to the Contractor reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Contract only if (1) the Owner fails to make payments to the Contractor as the Contract Documents require; (2) the Contractor identifies in writing a reasonable concern regarding the Owner's ability to make payment when due; or (3) a change in the Work materially changes the Contract Sum. If the Owner fails to provide such evidence, as required, within fourteen days of the Contractor's request, the Contractor may immediately stop the Work and, in that event, shall notify the Owner that the Work has stopped. However, if the request is made because a change in the Work materially changes the Contract Sum under (3) above, the Contractor may immediately stop only that portion of the Work affected by the change until reasonable evidence is provided. If the Work is stopped under this Section 2.2.2, the Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable costs of shutdown, delay and start-up, plus interest as provided in the Contract Documents.

§ 2.2.3 After the Owner furnishes evidence of financial arrangements under this Section 2.2, the Owner shall not materially vary such financial arrangements without prior notice to the Contractor.

§ 2.2.4 Where the Owner has designated information furnished under this Section 2.2 as "confidential," the Contractor shall keep the information confidential and shall not disclose it to any other person. However, the Contractor may disclose "confidential" information, after seven (7) days' notice to the Owner, where disclosure is required by law, including a subpoena or other form of compulsory legal process issued by a court or governmental entity, or by court or arbitrator(s) order. The Contractor may also disclose "confidential" information to its employees, consultants, sureties, Subcontractors and their employees, Sub-subcontractors, and others who need to know the content of such information solely and exclusively for the Project and who agree to maintain the confidentiality of such information.

§ 2.3 Information and Services Required of the Owner

§ 2.3.1 Except for permits and fees that are the responsibility of the Contractor under the Contract Documents, including those required under Section 3.7.1, the Owner shall secure and pay for necessary approvals, easements, assessments and charges required for construction, use or occupancy of permanent structures or for permanent changes in existing facilities.

§ 2.3.2 The Owner shall retain an architect lawfully licensed to practice architecture, or an entity lawfully practicing architecture, in the jurisdiction where the Project is located. That person or entity is identified as the Architect in the Agreement and is referred to throughout the Contract Documents as if singular in number.

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§ 2.3.3 If the employment of the Architect terminates, the Owner shall employ a successor to whom the Contractor has no reasonable objection and whose status under the Contract Documents shall be that of the Architect.

§ 2.3.4 The Owner shall furnish surveys describing physical characteristics, legal limitations and utility locations for the site of the Project, and a legal description of the site. The Contractor shall be entitled to rely on the accuracy of information furnished by the Owner but shall exercise proper precautions relating to the safe performance of the Work.

§ 2.3.5 The Owner shall furnish information or services required of the Owner by the Contract Documents with reasonable promptness. The Owner shall also furnish any other information or services under the Owner's control and relevant to the Contractor's performance of the Work with reasonable promptness after receiving the Contractor's written request for such information or services.

§ 2.3.6 Unless otherwise provided in the Contract Documents, the Owner shall furnish to the Contractor one copy of the Contract Documents for purposes of making reproductions pursuant to Section 1.5.2.

§ 2.4 Owner's Right to Stop the Work

If the Contractor fails to correct Work that is not in accordance with the requirements of the Contract Documents as required by Section 12.2 or repeatedly fails to carry out Work in accordance with the Contract Documents, the Owner may issue a written order to the Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, the right of the Owner to stop the Work shall not give rise to a duty on the part of the Owner to exercise this right for the benefit of the Contractor or any other person or entity, except to the extent required by Section 6.1.3.

§ 2.5 Owner's Right to Carry Out the Work

If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within a ten-day period after receipt of notice from the Owner to commence and continue correction of such default or neglect with diligence and promptness, the Owner may, without prejudice to other remedies the Owner may have, correct such default or neglect. Such action by the Owner and amounts charged to the Contractor are both subject to prior approval of the Architect and the Architect may, pursuant to Section 9.5.1, withhold or nullify a Certificate for Payment in whole or in part, to the extent reasonably necessary to reimburse the Owner for the reasonable cost of correcting such deficiencies, including Owner's expenses and compensation for the Architect's additional services made necessary by such default, neglect, or failure. If current and future payments are not sufficient to cover such amounts, the Contractor shall pay the difference to the Owner. If the Contractor disagrees with the actions of the Owner or the Architect, or the amounts claimed as costs to the Owner, the Contractor may file a Claim pursuant to Article 15.

ARTICLE 3 CONTRACTOR

§ 3.1 General

§ 3.1.1 The Contractor is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The Contractor shall be lawfully licensed, if required in the jurisdiction where the Project is located. The Contractor shall designate in writing a representative who shall have express authority to bind the Contractor with respect to all matters under this Contract. The term "Contractor" means the Contractor or the Contractor's authorized representative.

§ 3.1.2 The Contractor shall perform the Work in accordance with the Contract Documents.

§ 3.1.3 The Contractor shall not be relieved of its obligations to perform the Work in accordance with the Contract Documents either by activities or duties of the Architect in the Architect's administration of the Contract, or by tests, inspections or approvals required or performed by persons or entities other than the Contractor.

§ 3.2 Review of Contract Documents and Field Conditions by Contractor

§ 3.2.1 Execution of the Contract by the Contractor is a representation that the Contractor has visited the site, become generally familiar with local conditions under which the Work is to be performed, and correlated personal observations with requirements of the Contract Documents.

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§ 3.2.2 Because the Contract Documents are complementary, the Contractor shall, before starting each portion of the Work, carefully study and compare the various Contract Documents relative to that portion of the Work, as well as the information furnished by the Owner pursuant to Section 2.3.4, shall take field measurements of any existing conditions related to that portion of the Work, and shall observe any conditions at the site affecting it. These obligations are for the purpose of facilitating coordination and construction by the Contractor and are not for the purpose of discovering errors, omissions, or inconsistencies in the Contract Documents; however, the Contractor shall promptly report to the Architect any errors, inconsistencies or omissions discovered by or made known to the Contractor as a request for information in such form as the Architect may require. It is recognized that the Contractor's review is made in the Contractor's capacity as a contractor and not as a licensed design professional, unless otherwise specifically provided in the Contract Documents.

§ 3.2.3 The Contractor is not required to ascertain that the Contract Documents are in accordance with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, but the Contractor shall promptly report to the Architect any nonconformity discovered by or made known to the Contractor as a request for information in such form as the Architect may require.

§ 3.2.4 If the Contractor believes that additional cost or time is involved because of clarifications or instructions the Architect issues in response to the Contractor's notices or requests for information pursuant to Sections 3.2.2 or 3.2.3, the Contractor shall submit Claims as provided in Article 15. If the Contractor fails to perform the obligations of Sections 3.2.2 or 3.2.3, the Contractor shall pay such costs and damages to the Owner, subject to Section 15.1.7, as would have been avoided if the Contractor had performed such obligations. If the Contractor performs those obligations, the Contractor shall not be liable to the Owner or Architect for damages resulting from errors, inconsistencies or omissions in the Contract Documents, for differences between field measurements or conditions and the Contract Documents, or for nonconformities of the Contract Documents to applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities.

§ 3.3 Supervision and Construction Procedures

§ 3.3.1 The Contractor shall supervise and direct the Work, using the Contractor's best skill and attention. The Contractor shall be solely responsible for, and have control over, construction means, methods, techniques, sequences, and procedures, and for coordinating all portions of the Work under the Contract. If the Contract Documents give specific instructions concerning construction means, methods, techniques, sequences, or procedures, the Contractor shall evaluate the jobsite safety thereof and shall be solely responsible for the jobsite safety of such means, methods, techniques, sequences, or procedures. If the Contractor determines that such means, methods, techniques, sequences or procedures may not be safe, the Contractor shall give timely notice to the Owner and Architect, and shall propose alternative means, methods, techniques, sequences, or procedures. The Architect shall evaluate the proposed alternative solely for conformance with the design intent for the completed construction. Unless the Architect objects to the Contractor's proposed alternative, the Contractor shall perform the Work using its alternative means, methods, techniques, sequences, or procedures.

§ 3.3.2 The Contractor shall be responsible to the Owner for acts and omissions of the Contractor's employees, Subcontractors and their agents and employees, and other persons or entities performing portions of the Work for, or on behalf of, the Contractor or any of its Subcontractors.

§ 3.3.3 The Contractor shall be responsible for inspection of portions of Work already performed to determine that such portions are in proper condition to receive subsequent Work.

§ 3.4 Labor and Materials

§ 3.4.1 Unless otherwise provided in the Contract Documents, the Contractor shall provide and pay for labor, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation, and other facilities and services necessary for proper execution and completion of the Work, whether temporary or permanent and whether or not incorporated or to be incorporated in the Work.

§ 3.4.2 Except in the case of minor changes in the Work approved by the Architect in accordance with Section 3.12.8 or ordered by the Architect in accordance with Section 7.4, the Contractor may make substitutions only with the consent of the Owner, after evaluation by the Architect and in accordance with a Change Order or Construction Change Directive.

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§ 3.4.3 The Contractor shall enforce strict discipline and good order among the Contractor's employees and other persons carrying out the Work. The Contractor shall not permit employment of unfit persons or persons not properly skilled in tasks assigned to them.

§ 3.5 Warranty

§ 3.5.1 The Contractor warrants to the Owner and Architect that materials and equipment furnished under the Contract will be of good quality and new unless the Contract Documents require or permit otherwise. The Contractor further warrants that the Work will conform to the requirements of the Contract Documents and will be free from defects, except for those inherent in the quality of the Work the Contract Documents require or permit. Work, materials, or equipment not conforming to these requirements may be considered defective. The Contractor's warranty excludes remedy for damage or defect caused by abuse, alterations to the Work not executed by the Contractor, improper or insufficient maintenance, improper operation, or normal wear and tear and normal usage. If required by the Architect, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment.

§ 3.5.2 All material, equipment, or other special warranties required by the Contract Documents shall be issued in the name of the Owner, or shall be transferable to the Owner, and shall commence in accordance with Section 9.8.4.

§ 3.6 Taxes

The Contractor shall pay sales, consumer, use and similar taxes for the Work provided by the Contractor that are legally enacted when bids are received or negotiations concluded, whether or not yet effective or merely scheduled to go into effect.

§ 3.7 Permits, Fees, Notices and Compliance with Laws

§ 3.7.1 Unless otherwise provided in the Contract Documents, the Contractor shall secure and pay for the building permit as well as for other permits, fees, licenses, and inspections by government agencies necessary for proper execution and completion of the Work that are customarily secured after execution of the Contract and legally required at the time bids are received or negotiations concluded.

§ 3.7.2 The Contractor shall comply with and give notices required by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities applicable to performance of the Work.

§ 3.7.3 If the Contractor performs Work knowing it to be contrary to applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, the Contractor shall assume appropriate responsibility for such Work and shall bear the costs attributable to correction.

§ 3.7.4 Concealed or Unknown Conditions

If the Contractor encounters conditions at the site that are (1) subsurface or otherwise concealed physical conditions that differ materially from those indicated in the Contract Documents or (2) unknown physical conditions of an unusual nature that differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents, the Contractor shall promptly provide notice to the Owner and the Architect before conditions are disturbed and in no event later than 14 days after first observance of the conditions. The Architect will promptly investigate such conditions and, if the Architect determines that they differ materially and cause an increase or decrease in the Contractor's cost of, or time required for, performance of any part of the Work, will recommend that an equitable adjustment be made in the Contract Sum or Contract Time, or both. If the Architect determines that the conditions at the site are not materially different from those indicated in the Contract Documents and that no change in the terms of the Contract is justified, the Architect shall promptly notify the Owner and Contractor, stating the reasons. If either party disputes the Architect's determination or recommendation, that party may submit a Claim as provided in Article 15.

§ 3.7.5 If, in the course of the Work, the Contractor encounters human remains or recognizes the existence of burial markers, archaeological sites or wetlands not indicated in the Contract Documents, the Contractor shall immediately suspend any operations that would affect them and shall notify the Owner and Architect. Upon receipt of such notice, the Owner shall promptly take any action necessary to obtain governmental authorization required to resume the operations. The Contractor shall continue to suspend such operations until otherwise instructed by the Owner but shall continue with all other operations that do not affect those remains or features. Requests for adjustments in the Contract Sum and Contract Time arising from the existence of such remains or features may be made as provided in Article 15.

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§ 3.8 Allowances

§ 3.8.1 The Contractor shall include in the Contract Sum all allowances stated in the Contract Documents. Items covered by allowances shall be supplied for such amounts and by such persons or entities as the Owner may direct, but the Contractor shall not be required to employ persons or entities to whom the Contractor has reasonable objection.

§ 3.8.2 Unless otherwise provided in the Contract Documents,

- **.1** allowances shall cover the cost to the Contractor of materials and equipment delivered at the site and all required taxes, less applicable trade discounts;
- **.2** Contractor's costs for unloading and handling at the site, labor, installation costs, overhead, profit, and other expenses contemplated for stated allowance amounts shall be included in the Contract Sum but not in the allowances; and
- **.3** whenever costs are more than or less than allowances, the Contract Sum shall be adjusted accordingly by Change Order. The amount of the Change Order shall reflect (1) the difference between actual costs and the allowances under Section 3.8.2.1 and (2) changes in Contractor's costs under Section 3.8.2.2.

§ 3.8.3 Materials and equipment under an allowance shall be selected by the Owner with reasonable promptness.

§ 3.9 Superintendent

§ 3.9.1 The Contractor shall employ a competent superintendent and necessary assistants who shall be in attendance at the Project site during performance of the Work. The superintendent shall represent the Contractor, and communications given to the superintendent shall be as binding as if given to the Contractor.

§ 3.9.2 The Contractor, as soon as practicable after award of the Contract, shall notify the Owner and Architect of the name and qualifications of a proposed superintendent. Within 14 days of receipt of the information, the Architect may notify the Contractor, stating whether the Owner or the Architect (1) has reasonable objection to the proposed superintendent or (2) requires additional time for review. Failure of the Architect to provide notice within the 14-day period shall constitute notice of no reasonable objection.

§ 3.9.3 The Contractor shall not employ a proposed superintendent to whom the Owner or Architect has made reasonable and timely objection. The Contractor shall not change the superintendent without the Owner's consent, which shall not unreasonably be withheld or delayed.

§ 3.10 Contractor's Construction and Submittal Schedules

§ 3.10.1 The Contractor, promptly after being awarded the Contract, shall submit for the Owner's and Architect's information a Contractor's construction schedule for the Work. The schedule shall contain detail appropriate for the Project, including (1) the date of commencement of the Work, interim schedule milestone dates, and the date of Substantial Completion; (2) an apportionment of the Work by construction activity; and (3) the time required for completion of each portion of the Work. The schedule shall provide for the orderly progression of the Work to completion and shall not exceed time limits current under the Contract Documents. The schedule shall be revised at appropriate intervals as required by the conditions of the Work and Project.

§ 3.10.2 The Contractor, promptly after being awarded the Contract and thereafter as necessary to maintain a current submittal schedule, shall submit a submittal schedule for the Architect's approval. The Architect's approval shall not be unreasonably delayed or withheld. The submittal schedule shall (1) be coordinated with the Contractor's construction schedule, and (2) allow the Architect reasonable time to review submittals. If the Contractor fails to submit a submittal schedule, or fails to provide submittals in accordance with the approved submittal schedule, the Contractor shall not be entitled to any increase in Contract Sum or extension of Contract Time based on the time required for review of submittals.

§ 3.10.3 The Contractor shall perform the Work in general accordance with the most recent schedules submitted to the Owner and Architect.

§ 3.11 Documents and Samples at the Site

The Contractor shall make available, at the Project site, the Contract Documents, including Change Orders, Construction Change Directives, and other Modifications, in good order and marked currently to indicate field changes and selections made during construction, and the approved Shop Drawings, Product Data, Samples, and similar required submittals. These shall be in electronic form or paper copy, available to the Architect and Owner, and

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delivered to the Architect for submittal to the Owner upon completion of the Work as a record of the Work as constructed.

§ 3.12 Shop Drawings, Product Data and Samples

§ 3.12.1 Shop Drawings are drawings, diagrams, schedules, and other data specially prepared for the Work by the Contractor or a Subcontractor, Sub-subcontractor, manufacturer, supplier, or distributor to illustrate some portion of the Work.

§ 3.12.2 Product Data are illustrations, standard schedules, performance charts, instructions, brochures, diagrams, and other information furnished by the Contractor to illustrate materials or equipment for some portion of the Work.

§ 3.12.3 Samples are physical examples that illustrate materials, equipment, or workmanship, and establish standards by which the Work will be judged.

§ 3.12.4 Shop Drawings, Product Data, Samples, and similar submittals are not Contract Documents. Their purpose is to demonstrate how the Contractor proposes to conform to the information given and the design concept expressed in the Contract Documents for those portions of the Work for which the Contract Documents require submittals. Review by the Architect is subject to the limitations of Section 4.2.7. Informational submittals upon which the Architect is not expected to take responsive action may be so identified in the Contract Documents. Submittals that are not required by the Contract Documents may be returned by the Architect without action.

§ 3.12.5 The Contractor shall review for compliance with the Contract Documents, approve, and submit to the Architect, Shop Drawings, Product Data, Samples, and similar submittals required by the Contract Documents, in accordance with the submittal schedule approved by the Architect or, in the absence of an approved submittal schedule, with reasonable promptness and in such sequence as to cause no delay in the Work or in the activities of the Owner or of Separate Contractors.

§ 3.12.6 By submitting Shop Drawings, Product Data, Samples, and similar submittals, the Contractor represents to the Owner and Architect that the Contractor has (1) reviewed and approved them, (2) determined and verified materials, field measurements and field construction criteria related thereto, or will do so, and (3) checked and coordinated the information contained within such submittals with the requirements of the Work and of the Contract Documents.

§ 3.12.7 The Contractor shall perform no portion of the Work for which the Contract Documents require submittal and review of Shop Drawings, Product Data, Samples, or similar submittals, until the respective submittal has been approved by the Architect.

§ 3.12.8 The Work shall be in accordance with approved submittals except that the Contractor shall not be relieved of responsibility for deviations from the requirements of the Contract Documents by the Architect's approval of Shop Drawings, Product Data, Samples, or similar submittals, unless the Contractor has specifically notified the Architect of such deviation at the time of submittal and (1) the Architect has given written approval to the specific deviation as a minor change in the Work, or (2) a Change Order or Construction Change Directive has been issued authorizing the deviation. The Contractor shall not be relieved of responsibility for errors or omissions in Shop Drawings, Product Data, Samples, or similar submittals, by the Architect's approval thereof.

§ 3.12.9 The Contractor shall direct specific attention, in writing or on resubmitted Shop Drawings, Product Data, Samples, or similar submittals, to revisions other than those requested by the Architect on previous submittals. In the absence of such notice, the Architect's approval of a resubmission shall not apply to such revisions.

§ 3.12.10 The Contractor shall not be required to provide professional services that constitute the practice of architecture or engineering unless such services are specifically required by the Contract Documents for a portion of the Work or unless the Contractor needs to provide such services in order to carry out the Contractor's responsibilities for construction means, methods, techniques, sequences, and procedures. The Contractor shall not be required to provide professional services in violation of applicable law.

§ 3.12.10.1 If professional design services or certifications by a design professional related to systems, materials, or equipment are specifically required of the Contractor by the Contract Documents, the Owner and the Architect will

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specify all performance and design criteria that such services must satisfy. The Contractor shall be entitled to rely upon the adequacy and accuracy of the performance and design criteria provided in the Contract Documents. The Contractor shall cause such services or certifications to be provided by an appropriately licensed design professional, whose signature and seal shall appear on all drawings, calculations, specifications, certifications, Shop Drawings, and other submittals prepared by such professional. Shop Drawings, and other submittals related to the Work, designed or certified by such professional, if prepared by others, shall bear such professional's written approval when submitted to the Architect. The Owner and the Architect shall be entitled to rely upon the adequacy and accuracy of the services, certifications, and approvals performed or provided by such design professionals, provided the Owner and Architect have specified to the Contractor the performance and design criteria that such services must satisfy. Pursuant to this Section 3.12.10, the Architect will review and approve or take other appropriate action on submittals only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents.

§ 3.12.10.2 If the Contract Documents require the Contractor's design professional to certify that the Work has been performed in accordance with the design criteria, the Contractor shall furnish such certifications to the Architect at the time and in the form specified by the Architect.

§ 3.13 Use of Site

The Contractor shall confine operations at the site to areas permitted by applicable laws, statutes, ordinances, codes, rules and regulations, lawful orders of public authorities, and the Contract Documents and shall not unreasonably encumber the site with materials or equipment.

§ 3.14 Cutting and Patching

§ 3.14.1 The Contractor shall be responsible for cutting, fitting, or patching required to complete the Work or to make its parts fit together properly. All areas requiring cutting, fitting, or patching shall be restored to the condition existing prior to the cutting, fitting, or patching, unless otherwise required by the Contract Documents.

§ 3.14.2 The Contractor shall not damage or endanger a portion of the Work or fully or partially completed construction of the Owner or Separate Contractors by cutting, patching, or otherwise altering such construction, or by excavation. The Contractor shall not cut or otherwise alter construction by the Owner or a Separate Contractor except with written consent of the Owner and of the Separate Contractor. Consent shall not be unreasonably withheld. The Contractor shall not unreasonably withhold, from the Owner or a Separate Contractor, its consent to cutting or otherwise altering the Work.

§ 3.15 Cleaning Up

§ 3.15.1 The Contractor shall keep the premises and surrounding area free from accumulation of waste materials and rubbish caused by operations under the Contract. At completion of the Work, the Contractor shall remove waste materials, rubbish, the Contractor's tools, construction equipment, machinery, and surplus materials from and about the Project.

§ 3.15.2 If the Contractor fails to clean up as provided in the Contract Documents, the Owner may do so and the Owner shall be entitled to reimbursement from the Contractor.

§ 3.16 Access to Work

The Contractor shall provide the Owner and Architect with access to the Work in preparation and progress wherever located.

§ 3.17 Royalties, Patents and Copyrights

The Contractor shall pay all royalties and license fees. The Contractor shall defend suits or claims for infringement of copyrights and patent rights and shall hold the Owner and Architect harmless from loss on account thereof, but shall not be responsible for defense or loss when a particular design, process, or product of a particular manufacturer or manufacturers is required by the Contract Documents, or where the copyright violations are contained in Drawings, Specifications, or other documents prepared by the Owner or Architect. However, if an infringement of a copyright or patent is discovered by, or made known to, the Contractor, the Contractor shall be responsible for the loss unless the information is promptly furnished to the Architect.

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§ 3.18 Indemnification

§ 3.18.1 To the fullest extent permitted by law, the Contractor shall indemnify and hold harmless the Owner, Architect, Architect's consultants, and agents and employees of any of them from and against claims, damages, losses, and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), but only to the extent caused by the negligent acts or omissions of the Contractor, a Subcontractor, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss, or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity that would otherwise exist as to a party or person described in this Section 3.18.

§ 3.18.2 In claims against any person or entity indemnified under this Section 3.18 by an employee of the Contractor, a Subcontractor, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, the indemnification obligation under Section 3.18.1 shall not be limited by a limitation on amount or type of damages, compensation, or benefits payable by or for the Contractor or a Subcontractor under workers' compensation acts, disability benefit acts, or other employee benefit acts.

ARTICLE 4 ARCHITECT

§ 4.1 General

§ 4.1.1 The Architect is the person or entity retained by the Owner pursuant to Section 2.3.2 and identified as such in the Agreement.

§ 4.1.2 Duties, responsibilities, and limitations of authority of the Architect as set forth in the Contract Documents shall not be restricted, modified, or extended without written consent of the Owner, Contractor, and Architect. Consent shall not be unreasonably withheld.

§ 4.2 Administration of the Contract

§ 4.2.1 The Architect will provide administration of the Contract as described in the Contract Documents and will be an Owner's representative during construction until the date the Architect issues the final Certificate for Payment. The Architect will have authority to act on behalf of the Owner only to the extent provided in the Contract Documents.

§ 4.2.2 The Architect will visit the site at intervals appropriate to the stage of construction, or as otherwise agreed with the Owner, to become generally familiar with the progress and quality of the portion of the Work completed, and to determine in general if the Work observed is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the Architect will not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. The Architect will not have control over, charge of, or responsibility for the construction means, methods, techniques, sequences or procedures, or for the safety precautions and programs in connection with the Work, since these are solely the Contractor's rights and responsibilities under the Contract Documents.

§ 4.2.3 On the basis of the site visits, the Architect will keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, and promptly report to the Owner (1) known deviations from the Contract Documents, (2) known deviations from the most recent construction schedule submitted by the Contractor, and (3) defects and deficiencies observed in the Work. The Architect will not be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The Architect will not have control over or charge of, and will not be responsible for acts or omissions of, the Contractor, Subcontractors, or their agents or employees, or any other persons or entities performing portions of the Work.

§ 4.2.4 Communications

The Owner and Contractor shall include the Architect in all communications that relate to or affect the Architect's services or professional responsibilities. The Owner shall promptly notify the Architect of the substance of any direct communications between the Owner and the Contractor otherwise relating to the Project. Communications by and with the Architect's consultants shall be through the Architect. Communications by and with Subcontractors and suppliers shall be through the Contractor. Communications by and with Separate Contractors shall be through the Owner. The Contract Documents may specify other communication protocols.

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§ 4.2.5 Based on the Architect's evaluations of the Contractor's Applications for Payment, the Architect will review and certify the amounts due the Contractor and will issue Certificates for Payment in such amounts.

§ 4.2.6 The Architect has authority to reject Work that does not conform to the Contract Documents. Whenever the Architect considers it necessary or advisable, the Architect will have authority to require inspection or testing of the Work in accordance with Sections 13.4.2 and 13.4.3, whether or not the Work is fabricated, installed or completed. However, neither this authority of the Architect nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect to the Contractor, Subcontractors, suppliers, their agents or employees, or other persons or entities performing portions of the Work.

§ 4.2.7 The Architect will review and approve, or take other appropriate action upon, the Contractor's submittals such as Shop Drawings, Product Data, and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Architect's action will be taken in accordance with the submittal schedule approved by the Architect or, in the absence of an approved submittal schedule, with reasonable promptness while allowing sufficient time in the Architect's professional judgment to permit adequate review. Review of such submittals is not conducted for the purpose of determining the accuracy and completeness of other details such as dimensions and quantities, or for substantiating instructions for installation or performance of equipment or systems, all of which remain the responsibility of the Contractor as required by the Contract Documents. The Architect's review of the Contractor's submittals shall not relieve the Contractor of the obligations under Sections 3.3, 3.5, and 3.12. The Architect's review shall not constitute approval of safety precautions or of any construction means, methods, techniques, sequences, or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

§ 4.2.8 The Architect will prepare Change Orders and Construction Change Directives, and may order minor changes in the Work as provided in Section 7.4. The Architect will investigate and make determinations and recommendations regarding concealed and unknown conditions as provided in Section 3.7.4.

§ 4.2.9 The Architect will conduct inspections to determine the date or dates of Substantial Completion and the date of final completion; issue Certificates of Substantial Completion pursuant to Section 9.8; receive and forward to the Owner, for the Owner's review and records, written warranties and related documents required by the Contract and assembled by the Contractor pursuant to Section 9.10; and issue a final Certificate for Payment pursuant to Section 9.10.

§ 4.2.10 If the Owner and Architect agree, the Architect will provide one or more Project representatives to assist in carrying out the Architect's responsibilities at the site. The Owner shall notify the Contractor of any change in the duties, responsibilities and limitations of authority of the Project representatives.

§ 4.2.11 The Architect will interpret and decide matters concerning performance under, and requirements of, the Contract Documents on written request of either the Owner or Contractor. The Architect's response to such requests will be made in writing within any time limits agreed upon or otherwise with reasonable promptness.

§ 4.2.12 Interpretations and decisions of the Architect will be consistent with the intent of, and reasonably inferable from, the Contract Documents and will be in writing or in the form of drawings. When making such interpretations and decisions, the Architect will endeavor to secure faithful performance by both Owner and Contractor, will not show partiality to either, and will not be liable for results of interpretations or decisions rendered in good faith.

§ 4.2.13 The Architect's decisions on matters relating to aesthetic effect will be final if consistent with the intent expressed in the Contract Documents.

§ 4.2.14 The Architect will review and respond to requests for information about the Contract Documents. The Architect's response to such requests will be made in writing within any time limits agreed upon or otherwise with reasonable promptness. If appropriate, the Architect will prepare and issue supplemental Drawings and Specifications in response to the requests for information.

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ARTICLE 5 SUBCONTRACTORS

§ 5.1 Definitions

§ 5.1.1 A Subcontractor is a person or entity who has a direct contract with the Contractor to perform a portion of the Work at the site. The term "Subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Subcontractor or an authorized representative of the Subcontractor. The term "Subcontractor" does not include a Separate Contractor or the subcontractors of a Separate Contractor.

§ 5.1.2 A Sub-subcontractor is a person or entity who has a direct or indirect contract with a Subcontractor to perform a portion of the Work at the site. The term "Sub-subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Sub-subcontractor or an authorized representative of the Sub-subcontractor.

§ 5.2 Award of Subcontracts and Other Contracts for Portions of the Work

§ 5.2.1 Unless otherwise stated in the Contract Documents, the Contractor, as soon as practicable after award of the Contract, shall notify the Owner and Architect of the persons or entities proposed for each principal portion of the Work, including those who are to furnish materials or equipment fabricated to a special design. Within 14 days of receipt of the information, the Architect may notify the Contractor whether the Owner or the Architect (1) has reasonable objection to any such proposed person or entity or (2) requires additional time for review. Failure of the Architect to provide notice within the 14-day period shall constitute notice of no reasonable objection.

§ 5.2.2 The Contractor shall not contract with a proposed person or entity to whom the Owner or Architect has made reasonable and timely objection. The Contractor shall not be required to contract with anyone to whom the Contractor has made reasonable objection.

§ 5.2.3 If the Owner or Architect has reasonable objection to a person or entity proposed by the Contractor, the Contractor shall propose another to whom the Owner or Architect has no reasonable objection. If the proposed but rejected Subcontractor was reasonably capable of performing the Work, the Contract Sum and Contract Time shall be increased or decreased by the difference, if any, occasioned by such change, and an appropriate Change Order shall be issued before commencement of the substitute Subcontractor's Work. However, no increase in the Contract Sum or Contract Time shall be allowed for such change unless the Contractor has acted promptly and responsively in submitting names as required.

§ 5.2.4 The Contractor shall not substitute a Subcontractor, person, or entity for one previously selected if the Owner or Architect makes reasonable objection to such substitution.

§ 5.3 Subcontractual Relations

By appropriate written agreement, the Contractor shall require each Subcontractor, to the extent of the Work to be performed by the Subcontractor, to be bound to the Contractor by terms of the Contract Documents, and to assume toward the Contractor all the obligations and responsibilities, including the responsibility for safety of the Subcontractor's Work that the Contractor, by these Contract Documents, assumes toward the Owner and Architect. Each subcontract agreement shall preserve and protect the rights of the Owner and Architect under the Contract Documents with respect to the Work to be performed by the Subcontractor so that subcontracting thereof will not prejudice such rights, and shall allow to the Subcontractor, unless specifically provided otherwise in the subcontract agreement, the benefit of all rights, remedies, and redress against the Contractor that the Contractor, by the Contract Documents, has against the Owner. Where appropriate, the Contractor shall require each Subcontractor to enter into similar agreements with Sub-subcontractors. The Contractor shall make available to each proposed Subcontractor, prior to the execution of the subcontract agreement, copies of the Contract Documents to which the Subcontractor will be bound, and, upon written request of the Subcontractor, identify to the Subcontractor terms and conditions of the proposed subcontract agreement that may be at variance with the Contract Documents. Subcontractors will similarly make copies of applicable portions of such documents available to their respective proposed Sub-subcontractors.

§ 5.4 Contingent Assignment of Subcontracts

§ 5.4.1 Each subcontract agreement for a portion of the Work is assigned by the Contractor to the Owner, provided that

- **.1** assignment is effective only after termination of the Contract by the Owner for cause pursuant to Section 14.2 and only for those subcontract agreements that the Owner accepts by notifying the Subcontractor and Contractor; and
- **.2** assignment is subject to the prior rights of the surety, if any, obligated under bond relating to the Contract.

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When the Owner accepts the assignment of a subcontract agreement, the Owner assumes the Contractor's rights and obligations under the subcontract.

§ 5.4.2 Upon such assignment, if the Work has been suspended for more than 30 days, the Subcontractor's compensation shall be equitably adjusted for increases in cost resulting from the suspension.

§ 5.4.3 Upon assignment to the Owner under this Section 5.4, the Owner may further assign the subcontract to a successor contractor or other entity. If the Owner assigns the subcontract to a successor contractor or other entity, the Owner shall nevertheless remain legally responsible for all of the successor contractor's obligations under the subcontract.

ARTICLE 6 CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTORS

§ 6.1 Owner's Right to Perform Construction and to Award Separate Contracts

§ 6.1.1 The term "Separate Contractor(s)" shall mean other contractors retained by the Owner under separate agreements. The Owner reserves the right to perform construction or operations related to the Project with the Owner's own forces, and with Separate Contractors retained under Conditions of the Contract substantially similar to those of this Contract, including those provisions of the Conditions of the Contract related to insurance and waiver of subrogation.

§ 6.1.2 When separate contracts are awarded for different portions of the Project or other construction or operations on the site, the term "Contractor" in the Contract Documents in each case shall mean the Contractor who executes each separate Owner-Contractor Agreement.

§ 6.1.3 The Owner shall provide for coordination of the activities of the Owner's own forces and of each Separate Contractor with the Work of the Contractor, who shall cooperate with them. The Contractor shall participate with any Separate Contractors and the Owner in reviewing their construction schedules. The Contractor shall make any revisions to its construction schedule deemed necessary after a joint review and mutual agreement. The construction schedules shall then constitute the schedules to be used by the Contractor, Separate Contractors, and the Owner until subsequently revised.

§ 6.1.4 Unless otherwise provided in the Contract Documents, when the Owner performs construction or operations related to the Project with the Owner's own forces or with Separate Contractors, the Owner or its Separate Contractors shall have the same obligations and rights that the Contractor has under the Conditions of the Contract, including, without excluding others, those stated in Article 3, this Article 6, and Articles 10, 11, and 12.

§ 6.2 Mutual Responsibility

§ 6.2.1 The Contractor shall afford the Owner and Separate Contractors reasonable opportunity for introduction and storage of their materials and equipment and performance of their activities, and shall connect and coordinate the Contractor's construction and operations with theirs as required by the Contract Documents.

§ 6.2.2 If part of the Contractor's Work depends for proper execution or results upon construction or operations by the Owner or a Separate Contractor, the Contractor shall, prior to proceeding with that portion of the Work, promptly notify the Architect of apparent discrepancies or defects in the construction or operations by the Owner or Separate Contractor that would render it unsuitable for proper execution and results of the Contractor's Work. Failure of the Contractor to notify the Architect of apparent discrepancies or defects prior to proceeding with the Work shall constitute an acknowledgment that the Owner's or Separate Contractor's completed or partially completed construction is fit and proper to receive the Contractor's Work. The Contractor shall not be responsible for discrepancies or defects in the construction or operations by the Owner or Separate Contractor that are not apparent.

§ 6.2.3 The Contractor shall reimburse the Owner for costs the Owner incurs that are payable to a Separate Contractor because of the Contractor's delays, improperly timed activities or defective construction. The Owner shall be responsible to the Contractor for costs the Contractor incurs because of a Separate Contractor's delays, improperly timed activities, damage to the Work or defective construction.

§ 6.2.4 The Contractor shall promptly remedy damage that the Contractor wrongfully causes to completed or partially completed construction or to property of the Owner or Separate Contractor as provided in Section 10.2.5.

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§ 6.2.5 The Owner and each Separate Contractor shall have the same responsibilities for cutting and patching as are described for the Contractor in Section 3.14.

§ 6.3 Owner's Right to Clean Up

If a dispute arises among the Contractor, Separate Contractors, and the Owner as to the responsibility under their respective contracts for maintaining the premises and surrounding area free from waste materials and rubbish, the Owner may clean up and the Architect will allocate the cost among those responsible.

ARTICLE 7 CHANGES IN THE WORK

§ 7.1 General

§ 7.1.1 Changes in the Work may be accomplished after execution of the Contract, and without invalidating the Contract, by Change Order, Construction Change Directive or order for a minor change in the Work, subject to the limitations stated in this Article 7 and elsewhere in the Contract Documents.

§ 7.1.2 A Change Order shall be based upon agreement among the Owner, Contractor, and Architect. A Construction Change Directive requires agreement by the Owner and Architect and may or may not be agreed to by the Contractor. An order for a minor change in the Work may be issued by the Architect alone.

§ 7.1.3 Changes in the Work shall be performed under applicable provisions of the Contract Documents. The Contractor shall proceed promptly with changes in the Work, unless otherwise provided in the Change Order, Construction Change Directive, or order for a minor change in the Work.

§ 7.2 Change Orders

§ 7.2.1 A Change Order is a written instrument prepared by the Architect and signed by the Owner, Contractor, and Architect stating their agreement upon all of the following:

.1 The change in the Work;
.2 The amount of the adjustment, if any, in the Contract Sum; and
.3 The extent of the adjustment, if any, in the Contract Time.

§ 7.3 Construction Change Directives

§ 7.3.1 A Construction Change Directive is a written order prepared by the Architect and signed by the Owner and Architect, directing a change in the Work prior to agreement on adjustment, if any, in the Contract Sum or Contract Time, or both. The Owner may by Construction Change Directive, without invalidating the Contract, order changes in the Work within the general scope of the Contract consisting of additions, deletions, or other revisions, the Contract Sum and Contract Time being adjusted accordingly.

§ 7.3.2 A Construction Change Directive shall be used in the absence of total agreement on the terms of a Change Order.

§ 7.3.3 If the Construction Change Directive provides for an adjustment to the Contract Sum, the adjustment shall be based on one of the following methods:

.1 Mutual acceptance of a lump sum properly itemized and supported by sufficient substantiating data to permit evaluation;
.2 Unit prices stated in the Contract Documents or subsequently agreed upon;
.3 Cost to be determined in a manner agreed upon by the parties and a mutually acceptable fixed or percentage fee; or
.4 As provided in Section 7.3.4.

§ 7.3.4 If the Contractor does not respond promptly or disagrees with the method for adjustment in the Contract Sum, the Architect shall determine the adjustment on the basis of reasonable expenditures and savings of those performing the Work attributable to the change, including, in case of an increase in the Contract Sum, an amount for overhead and profit as set forth in the Agreement, or if no such amount is set forth in the Agreement, a reasonable amount. In such case, and also under Section 7.3.3.3, the Contractor shall keep and present, in such form as the Architect may prescribe, an itemized accounting together with appropriate supporting data. Unless otherwise provided in the Contract Documents, costs for the purposes of this Section 7.3.4 shall be limited to the following:

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.1 Costs of labor, including applicable payroll taxes, fringe benefits required by agreement or custom, workers' compensation insurance, and other employee costs approved by the Architect;

.2 Costs of materials, supplies, and equipment, including cost of transportation, whether incorporated or consumed;

.3 Rental costs of machinery and equipment, exclusive of hand tools, whether rented from the Contractor or others;

.4 Costs of premiums for all bonds and insurance, permit fees, and sales, use, or similar taxes, directly related to the change; and

.5 Costs of supervision and field office personnel directly attributable to the change.

§ 7.3.5 If the Contractor disagrees with the adjustment in the Contract Time, the Contractor may make a Claim in accordance with applicable provisions of Article 15.

§ 7.3.6 Upon receipt of a Construction Change Directive, the Contractor shall promptly proceed with the change in the Work involved and advise the Architect of the Contractor's agreement or disagreement with the method, if any, provided in the Construction Change Directive for determining the proposed adjustment in the Contract Sum or Contract Time.

§ 7.3.7 A Construction Change Directive signed by the Contractor indicates the Contractor's agreement therewith, including adjustment in Contract Sum and Contract Time or the method for determining them. Such agreement shall be effective immediately and shall be recorded as a Change Order.

§ 7.3.8 The amount of credit to be allowed by the Contractor to the Owner for a deletion or change that results in a net decrease in the Contract Sum shall be actual net cost as confirmed by the Architect. When both additions and credits covering related Work or substitutions are involved in a change, the allowance for overhead and profit shall be figured on the basis of net increase, if any, with respect to that change.

§ 7.3.9 Pending final determination of the total cost of a Construction Change Directive to the Owner, the Contractor may request payment for Work completed under the Construction Change Directive in Applications for Payment. The Architect will make an interim determination for purposes of monthly certification for payment for those costs and certify for payment the amount that the Architect determines, in the Architect's professional judgment, to be reasonably justified. The Architect's interim determination of cost shall adjust the Contract Sum on the same basis as a Change Order, subject to the right of either party to disagree and assert a Claim in accordance with Article 15.

§ 7.3.10 When the Owner and Contractor agree with a determination made by the Architect concerning the adjustments in the Contract Sum and Contract Time, or otherwise reach agreement upon the adjustments, such agreement shall be effective immediately and the Architect will prepare a Change Order. Change Orders may be issued for all or any part of a Construction Change Directive.

§ 7.4 Minor Changes in the Work

The Architect may order minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. The Architect's order for minor changes shall be in writing. If the Contractor believes that the proposed minor change in the Work will affect the Contract Sum or Contract Time, the Contractor shall notify the Architect and shall not proceed to implement the change in the Work. If the Contractor performs the Work set forth in the Architect's order for a minor change without prior notice to the Architect that such change will affect the Contract Sum or Contract Time, the Contractor waives any adjustment to the Contract Sum or extension of the Contract Time.

ARTICLE 8 TIME

§ 8.1 Definitions

§ 8.1.1 Unless otherwise provided, Contract Time is the period of time, including authorized adjustments, allotted in the Contract Documents for Substantial Completion of the Work.

§ 8.1.2 The date of commencement of the Work is the date established in the Agreement.

§ 8.1.3 The date of Substantial Completion is the date certified by the Architect in accordance with Section 9.8.

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§ 8.1.4 The term "day" as used in the Contract Documents shall mean calendar day unless otherwise specifically defined.

§ 8.2 Progress and Completion

§ 8.2.1 Time limits stated in the Contract Documents are of the essence of the Contract. By executing the Agreement, the Contractor confirms that the Contract Time is a reasonable period for performing the Work.

§ 8.2.2 The Contractor shall not knowingly, except by agreement or instruction of the Owner in writing, commence the Work prior to the effective date of insurance required to be furnished by the Contractor and Owner.

§ 8.2.3 The Contractor shall proceed expeditiously with adequate forces and shall achieve Substantial Completion within the Contract Time.

§ 8.3 Delays and Extensions of Time

§ 8.3.1 If the Contractor is delayed at any time in the commencement or progress of the Work by (1) an act or neglect of the Owner or Architect, of an employee of either, or of a Separate Contractor; (2) by changes ordered in the Work; (3) by labor disputes, fire, unusual delay in deliveries, unavoidable casualties, adverse weather conditions documented in accordance with Section 15.1.6.2, or other causes beyond the Contractor's control; (4) by delay authorized by the Owner pending mediation and binding dispute resolution; or (5) by other causes that the Contractor asserts, and the Architect determines, justify delay, then the Contract Time shall be extended for such reasonable time as the Architect may determine.

§ 8.3.2 Claims relating to time shall be made in accordance with applicable provisions of Article 15.

§ 8.3.3 This Section 8.3 does not preclude recovery of damages for delay by either party under other provisions of the Contract Documents.

ARTICLE 9 PAYMENTS AND COMPLETION

§ 9.1 Contract Sum

§ 9.1.1 The Contract Sum is stated in the Agreement and, including authorized adjustments, is the total amount payable by the Owner to the Contractor for performance of the Work under the Contract Documents.

§ 9.1.2 If unit prices are stated in the Contract Documents or subsequently agreed upon, and if quantities originally contemplated are materially changed so that application of such unit prices to the actual quantities causes substantial inequity to the Owner or Contractor, the applicable unit prices shall be equitably adjusted.

§ 9.2 Schedule of Values

Where the Contract is based on a stipulated sum or Guaranteed Maximum Price, the Contractor shall submit a schedule of values to the Architect before the first Application for Payment, allocating the entire Contract Sum to the various portions of the Work. The schedule of values shall be prepared in the form, and supported by the data to substantiate its accuracy, required by the Architect. This schedule, unless objected to by the Architect, shall be used as a basis for reviewing the Contractor's Applications for Payment. Any changes to the schedule of values shall be submitted to the Architect and supported by such data to substantiate its accuracy as the Architect may require, and unless objected to by the Architect, shall be used as a basis for reviewing the Contractor's subsequent Applications for Payment.

§ 9.3 Applications for Payment

§ 9.3.1 At least ten days before the date established for each progress payment, the Contractor shall submit to the Architect an itemized Application for Payment prepared in accordance with the schedule of values, if required under Section 9.2, for completed portions of the Work. The application shall be notarized, if required, and supported by all data substantiating the Contractor's right to payment that the Owner or Architect require, such as copies of requisitions, and releases and waivers of liens from Subcontractors and suppliers, and shall reflect retainage if provided for in the Contract Documents.

§ 9.3.1.1 As provided in Section 7.3.9, such applications may include requests for payment on account of changes in the Work that have been properly authorized by Construction Change Directives, or by interim determinations of the Architect, but not yet included in Change Orders.

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§ 9.3.1.2 Applications for Payment shall not include requests for payment for portions of the Work for which the Contractor does not intend to pay a Subcontractor or supplier, unless such Work has been performed by others whom the Contractor intends to pay.

§ 9.3.2 Unless otherwise provided in the Contract Documents, payments shall be made on account of materials and equipment delivered and suitably stored at the site for subsequent incorporation in the Work. If approved in advance by the Owner, payment may similarly be made for materials and equipment suitably stored off the site at a location agreed upon in writing. Payment for materials and equipment stored on or off the site shall be conditioned upon compliance by the Contractor with procedures satisfactory to the Owner to establish the Owner's title to such materials and equipment or otherwise protect the Owner's interest, and shall include the costs of applicable insurance, storage, and transportation to the site, for such materials and equipment stored off the site.

§ 9.3.3 The Contractor warrants that title to all Work covered by an Application for Payment will pass to the Owner no later than the time of payment. The Contractor further warrants that upon submittal of an Application for Payment all Work for which Certificates for Payment have been previously issued and payments received from the Owner shall, to the best of the Contractor's knowledge, information, and belief, be free and clear of liens, claims, security interests, or encumbrances, in favor of the Contractor, Subcontractors, suppliers, or other persons or entities that provided labor, materials, and equipment relating to the Work.

§ 9.4 Certificates for Payment

§ 9.4.1 The Architect will, within seven days after receipt of the Contractor's Application for Payment, either (1) issue to the Owner a Certificate for Payment in the full amount of the Application for Payment, with a copy to the Contractor; or (2) issue to the Owner a Certificate for Payment for such amount as the Architect determines is properly due, and notify the Contractor and Owner of the Architect's reasons for withholding certification in part as provided in Section 9.5.1; or (3) withhold certification of the entire Application for Payment, and notify the Contractor and Owner of the Architect's reason for withholding certification in whole as provided in Section 9.5.1.

§ 9.4.2 The issuance of a Certificate for Payment will constitute a representation by the Architect to the Owner, based on the Architect's evaluation of the Work and the data in the Application for Payment, that, to the best of the Architect's knowledge, information, and belief, the Work has progressed to the point indicated, the quality of the Work is in accordance with the Contract Documents, and that the Contractor is entitled to payment in the amount certified. The foregoing representations are subject to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, to results of subsequent tests and inspections, to correction of minor deviations from the Contract Documents prior to completion, and to specific qualifications expressed by the Architect. However, the issuance of a Certificate for Payment will not be a representation that the Architect has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work; (2) reviewed construction means, methods, techniques, sequences, or procedures; (3) reviewed copies of requisitions received from Subcontractors and suppliers and other data requested by the Owner to substantiate the Contractor's right to payment; or (4) made examination to ascertain how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

§ 9.5 Decisions to Withhold Certification

§ 9.5.1 The Architect may withhold a Certificate for Payment in whole or in part, to the extent reasonably necessary to protect the Owner, if in the Architect's opinion the representations to the Owner required by Section 9.4.2 cannot be made. If the Architect is unable to certify payment in the amount of the Application, the Architect will notify the Contractor and Owner as provided in Section 9.4.1. If the Contractor and Architect cannot agree on a revised amount, the Architect will promptly issue a Certificate for Payment for the amount for which the Architect is able to make such representations to the Owner. The Architect may also withhold a Certificate for Payment or, because of subsequently discovered evidence, may nullify the whole or a part of a Certificate for Payment previously issued, to such extent as may be necessary in the Architect's opinion to protect the Owner from loss for which the Contractor is responsible, including loss resulting from acts and omissions described in Section 3.3.2, because of

- **.1** defective Work not remedied;
- **.2** third party claims filed or reasonable evidence indicating probable filing of such claims, unless security acceptable to the Owner is provided by the Contractor;
- **.3** failure of the Contractor to make payments properly to Subcontractors or suppliers for labor, materials or equipment;

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.4 reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Sum;
.5 damage to the Owner or a Separate Contractor;
.6 reasonable evidence that the Work will not be completed within the Contract Time, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay; or
.7 repeated failure to carry out the Work in accordance with the Contract Documents.

§ 9.5.2 When either party disputes the Architect's decision regarding a Certificate for Payment under Section 9.5.1, in whole or in part, that party may submit a Claim in accordance with Article 15.

§ 9.5.3 When the reasons for withholding certification are removed, certification will be made for amounts previously withheld.

§ 9.5.4 If the Architect withholds certification for payment under Section 9.5.1.3, the Owner may, at its sole option, issue joint checks to the Contractor and to any Subcontractor or supplier to whom the Contractor failed to make payment for Work properly performed or material or equipment suitably delivered. If the Owner makes payments by joint check, the Owner shall notify the Architect and the Contractor shall reflect such payment on its next Application for Payment.

§ 9.6 Progress Payments

§ 9.6.1 After the Architect has issued a Certificate for Payment, the Owner shall make payment in the manner and within the time provided in the Contract Documents, and shall so notify the Architect.

§ 9.6.2 The Contractor shall pay each Subcontractor, no later than seven days after receipt of payment from the Owner, the amount to which the Subcontractor is entitled, reflecting percentages actually retained from payments to the Contractor on account of the Subcontractor's portion of the Work. The Contractor shall, by appropriate agreement with each Subcontractor, require each Subcontractor to make payments to Sub-subcontractors in a similar manner.

§ 9.6.3 The Architect will, on request, furnish to a Subcontractor, if practicable, information regarding percentages of completion or amounts applied for by the Contractor and action taken thereon by the Architect and Owner on account of portions of the Work done by such Subcontractor.

§ 9.6.4 The Owner has the right to request written evidence from the Contractor that the Contractor has properly paid Subcontractors and suppliers amounts paid by the Owner to the Contractor for subcontracted Work. If the Contractor fails to furnish such evidence within seven days, the Owner shall have the right to contact Subcontractors and suppliers to ascertain whether they have been properly paid. Neither the Owner nor Architect shall have an obligation to pay, or to see to the payment of money to, a Subcontractor or supplier, except as may otherwise be required by law.

§ 9.6.5 The Contractor's payments to suppliers shall be treated in a manner similar to that provided in Sections 9.6.2, 9.6.3 and 9.6.4.

§ 9.6.6 A Certificate for Payment, a progress payment, or partial or entire use or occupancy of the Project by the Owner shall not constitute acceptance of Work not in accordance with the Contract Documents.

§ 9.6.7 Unless the Contractor provides the Owner with a payment bond in the full penal sum of the Contract Sum, payments received by the Contractor for Work properly performed by Subcontractors or provided by suppliers shall be held by the Contractor for those Subcontractors or suppliers who performed Work or furnished materials, or both, under contract with the Contractor for which payment was made by the Owner. Nothing contained herein shall require money to be placed in a separate account and not commingled with money of the Contractor, create any fiduciary liability or tort liability on the part of the Contractor for breach of trust, or entitle any person or entity to an award of punitive damages against the Contractor for breach of the requirements of this provision.

§ 9.6.8 Provided the Owner has fulfilled its payment obligations under the Contract Documents, the Contractor shall defend and indemnify the Owner from all loss, liability, damage or expense, including reasonable attorney's fees and litigation expenses, arising out of any lien claim or other claim for payment by any Subcontractor or supplier of any tier. Upon receipt of notice of a lien claim or other claim for payment, the Owner shall notify the Contractor. If approved by the applicable court, when required, the Contractor may substitute a surety bond for the property against which the lien or other claim for payment has been asserted.

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§ 9.7 Failure of Payment

If the Architect does not issue a Certificate for Payment, through no fault of the Contractor, within seven days after receipt of the Contractor's Application for Payment, or if the Owner does not pay the Contractor within seven days after the date established in the Contract Documents, the amount certified by the Architect or awarded by binding dispute resolution, then the Contractor may, upon seven additional days' notice to the Owner and Architect, stop the Work until payment of the amount owing has been received. The Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable costs of shutdown, delay and start-up, plus interest as provided for in the Contract Documents.

§ 9.8 Substantial Completion

§ 9.8.1 Substantial Completion is the stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work for its intended use.

§ 9.8.2 When the Contractor considers that the Work, or a portion thereof which the Owner agrees to accept separately, is substantially complete, the Contractor shall prepare and submit to the Architect a comprehensive list of items to be completed or corrected prior to final payment. Failure to include an item on such list does not alter the responsibility of the Contractor to complete all Work in accordance with the Contract Documents.

§ 9.8.3 Upon receipt of the Contractor's list, the Architect will make an inspection to determine whether the Work or designated portion thereof is substantially complete. If the Architect's inspection discloses any item, whether or not included on the Contractor's list, which is not sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work or designated portion thereof for its intended use, the Contractor shall, before issuance of the Certificate of Substantial Completion, complete or correct such item upon notification by the Architect. In such case, the Contractor shall then submit a request for another inspection by the Architect to determine Substantial Completion.

§ 9.8.4 When the Work or designated portion thereof is substantially complete, the Architect will prepare a Certificate of Substantial Completion that shall establish the date of Substantial Completion; establish responsibilities of the Owner and Contractor for security, maintenance, heat, utilities, damage to the Work and insurance; and fix the time within which the Contractor shall finish all items on the list accompanying the Certificate. Warranties required by the Contract Documents shall commence on the date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion.

§ 9.8.5 The Certificate of Substantial Completion shall be submitted to the Owner and Contractor for their written acceptance of responsibilities assigned to them in the Certificate. Upon such acceptance, and consent of surety if any, the Owner shall make payment of retainage applying to the Work or designated portion thereof. Such payment shall be adjusted for Work that is incomplete or not in accordance with the requirements of the Contract Documents.

§ 9.9 Partial Occupancy or Use

§ 9.9.1 The Owner may occupy or use any completed or partially completed portion of the Work at any stage when such portion is designated by separate agreement with the Contractor, provided such occupancy or use is consented to by the insurer and authorized by public authorities having jurisdiction over the Project. Such partial occupancy or use may commence whether or not the portion is substantially complete, provided the Owner and Contractor have accepted in writing the responsibilities assigned to each of them for payments, retainage, if any, security, maintenance, heat, utilities, damage to the Work and insurance, and have agreed in writing concerning the period for correction of the Work and commencement of warranties required by the Contract Documents. When the Contractor considers a portion substantially complete, the Contractor shall prepare and submit a list to the Architect as provided under Section 9.8.2. Consent of the Contractor to partial occupancy or use shall not be unreasonably withheld. The stage of the progress of the Work shall be determined by written agreement between the Owner and Contractor or, if no agreement is reached, by decision of the Architect.

§ 9.9.2 Immediately prior to such partial occupancy or use, the Owner, Contractor, and Architect shall jointly inspect the area to be occupied or portion of the Work to be used in order to determine and record the condition of the Work.

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§ 9.9.3 Unless otherwise agreed upon, partial occupancy or use of a portion or portions of the Work shall not constitute acceptance of Work not complying with the requirements of the Contract Documents.

§ 9.10 Final Completion and Final Payment

§ 9.10.1 Upon receipt of the Contractor's notice that the Work is ready for final inspection and acceptance and upon receipt of a final Application for Payment, the Architect will promptly make such inspection. When the Architect finds the Work acceptable under the Contract Documents and the Contract fully performed, the Architect will promptly issue a final Certificate for Payment stating that to the best of the Architect's knowledge, information and belief, and on the basis of the Architect's on-site visits and inspections, the Work has been completed in accordance with the Contract Documents and that the entire balance found to be due the Contractor and noted in the final Certificate is due and payable. The Architect's final Certificate for Payment will constitute a further representation that conditions listed in Section 9.10.2 as precedent to the Contractor's being entitled to final payment have been fulfilled.

§ 9.10.2 Neither final payment nor any remaining retained percentage shall become due until the Contractor submits to the Architect (1) an affidavit that payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which the Owner or the Owner's property might be responsible or encumbered (less amounts withheld by Owner) have been paid or otherwise satisfied, (2) a certificate evidencing that insurance required by the Contract Documents to remain in force after final payment is currently in effect, (3) a written statement that the Contractor knows of no reason that the insurance will not be renewable to cover the period required by the Contract Documents, (4) consent of surety, if any, to final payment, (5) documentation of any special warranties, such as manufacturers' warranties or specific Subcontractor warranties, and (6) if required by the Owner, other data establishing payment or satisfaction of obligations, such as receipts and releases and waivers of liens, claims, security interests, or encumbrances arising out of the Contract, to the extent and in such form as may be designated by the Owner. If a Subcontractor refuses to furnish a release or waiver required by the Owner, the Contractor may furnish a bond satisfactory to the Owner to indemnify the Owner against such lien, claim, security interest, or encumbrance. If a lien, claim, security interest, or encumbrance remains unsatisfied after payments are made, the Contractor shall refund to the Owner all money that the Owner may be compelled to pay in discharging the lien, claim, security interest, or encumbrance, including all costs and reasonable attorneys' fees.

§ 9.10.3 If, after Substantial Completion of the Work, final completion thereof is materially delayed through no fault of the Contractor or by issuance of Change Orders affecting final completion, and the Architect so confirms, the Owner shall, upon application by the Contractor and certification by the Architect, and without terminating the Contract, make payment of the balance due for that portion of the Work fully completed, corrected, and accepted. If the remaining balance for Work not fully completed or corrected is less than retainage stipulated in the Contract Documents, and if bonds have been furnished, the written consent of the surety to payment of the balance due for that portion of the Work fully completed and accepted shall be submitted by the Contractor to the Architect prior to certification of such payment. Such payment shall be made under terms and conditions governing final payment, except that it shall not constitute a waiver of Claims.

§ 9.10.4 The making of final payment shall constitute a waiver of Claims by the Owner except those arising from

- **.1** liens, Claims, security interests, or encumbrances arising out of the Contract and unsettled;
- **.2** failure of the Work to comply with the requirements of the Contract Documents;
- **.3** terms of special warranties required by the Contract Documents; or
- **.4** audits performed by the Owner, if permitted by the Contract Documents, after final payment.

§ 9.10.5 Acceptance of final payment by the Contractor, a Subcontractor, or a supplier, shall constitute a waiver of claims by that payee except those previously made in writing and identified by that payee as unsettled at the time of final Application for Payment.

ARTICLE 10 PROTECTION OF PERSONS AND PROPERTY

§ 10.1 Safety Precautions and Programs

The Contractor shall be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the performance of the Contract.

§ 10.2 Safety of Persons and Property

§ 10.2.1 The Contractor shall take reasonable precautions for safety of, and shall provide reasonable protection to prevent damage, injury, or loss to

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.1 employees on the Work and other persons who may be affected thereby;
.2 the Work and materials and equipment to be incorporated therein, whether in storage on or off the site, under care, custody, or control of the Contractor, a Subcontractor, or a Sub-subcontractor; and
.3 other property at the site or adjacent thereto, such as trees, shrubs, lawns, walks, pavements, roadways, structures, and utilities not designated for removal, relocation, or replacement in the course of construction.

§ 10.2.2 The Contractor shall comply with, and give notices required by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities, bearing on safety of persons or property or their protection from damage, injury, or loss.

§ 10.2.3 The Contractor shall implement, erect, and maintain, as required by existing conditions and performance of the Contract, reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards; promulgating safety regulations; and notifying the owners and users of adjacent sites and utilities of the safeguards.

§ 10.2.4 When use or storage of explosives or other hazardous materials or equipment, or unusual methods are necessary for execution of the Work, the Contractor shall exercise utmost care and carry on such activities under supervision of properly qualified personnel.

§ 10.2.5 The Contractor shall promptly remedy damage and loss (other than damage or loss insured under property insurance required by the Contract Documents) to property referred to in Sections 10.2.1.2 and 10.2.1.3 caused in whole or in part by the Contractor, a Subcontractor, a Sub-subcontractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable and for which the Contractor is responsible under Sections 10.2.1.2 and 10.2.1.3. The Contractor may make a Claim for the cost to remedy the damage or loss to the extent such damage or loss is attributable to acts or omissions of the Owner or Architect or anyone directly or indirectly employed by either of them, or by anyone for whose acts either of them may be liable, and not attributable to the fault or negligence of the Contractor. The foregoing obligations of the Contractor are in addition to the Contractor's obligations under Section 3.18.

§ 10.2.6 The Contractor shall designate a responsible member of the Contractor's organization at the site whose duty shall be the prevention of accidents. This person shall be the Contractor's superintendent unless otherwise designated by the Contractor in writing to the Owner and Architect.

§ 10.2.7 The Contractor shall not permit any part of the construction or site to be loaded so as to cause damage or create an unsafe condition.

§ 10.2.8 Injury or Damage to Person or Property

If either party suffers injury or damage to person or property because of an act or omission of the other party, or of others for whose acts such party is legally responsible, notice of the injury or damage, whether or not insured, shall be given to the other party within a reasonable time not exceeding 21 days after discovery. The notice shall provide sufficient detail to enable the other party to investigate the matter.

§ 10.3 Hazardous Materials and Substances

§ 10.3.1 The Contractor is responsible for compliance with any requirements included in the Contract Documents regarding hazardous materials or substances. If the Contractor encounters a hazardous material or substance not addressed in the Contract Documents and if reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a material or substance, including but not limited to asbestos or polychlorinated biphenyl (PCB), encountered on the site by the Contractor, the Contractor shall, upon recognizing the condition, immediately stop Work in the affected area and notify the Owner and Architect of the condition.

§ 10.3.2 Upon receipt of the Contractor's notice, the Owner shall obtain the services of a licensed laboratory to verify the presence or absence of the material or substance reported by the Contractor and, in the event such material or substance is found to be present, to cause it to be rendered harmless. Unless otherwise required by the Contract Documents, the Owner shall furnish in writing to the Contractor and Architect the names and qualifications of persons or entities who are to perform tests verifying the presence or absence of the material or substance or who are to perform the task of removal or safe containment of the material or substance. The Contractor and the Architect will

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promptly reply to the Owner in writing stating whether or not either has reasonable objection to the persons or entities proposed by the Owner. If either the Contractor or Architect has an objection to a person or entity proposed by the Owner, the Owner shall propose another to whom the Contractor and the Architect have no reasonable objection. When the material or substance has been rendered harmless, Work in the affected area shall resume upon written agreement of the Owner and Contractor. By Change Order, the Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable additional costs of shutdown, delay, and start-up.

§ 10.3.3 To the fullest extent permitted by law, the Owner shall indemnify and hold harmless the Contractor, Subcontractors, Architect, Architect's consultants, and agents and employees of any of them from and against claims, damages, losses, and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work in the affected area if in fact the material or substance presents the risk of bodily injury or death as described in Section 10.3.1 and has not been rendered harmless, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), except to the extent that such damage, loss, or expense is due to the fault or negligence of the party seeking indemnity.

§ 10.3.4 The Owner shall not be responsible under this Section 10.3 for hazardous materials or substances the Contractor brings to the site unless such materials or substances are required by the Contract Documents. The Owner shall be responsible for hazardous materials or substances required by the Contract Documents, except to the extent of the Contractor's fault or negligence in the use and handling of such materials or substances.

§ 10.3.5 The Contractor shall reimburse the Owner for the cost and expense the Owner incurs (1) for remediation of hazardous materials or substances the Contractor brings to the site and negligently handles, or (2) where the Contractor fails to perform its obligations under Section 10.3.1, except to the extent that the cost and expense are due to the Owner's fault or negligence.

§ 10.3.6 If, without negligence on the part of the Contractor, the Contractor is held liable by a government agency for the cost of remediation of a hazardous material or substance solely by reason of performing Work as required by the Contract Documents, the Owner shall reimburse the Contractor for all cost and expense thereby incurred.

§ 10.4 Emergencies

In an emergency affecting safety of persons or property, the Contractor shall act, at the Contractor's discretion, to prevent threatened damage, injury, or loss. Additional compensation or extension of time claimed by the Contractor on account of an emergency shall be determined as provided in Article 15 and Article 7.

ARTICLE 11 INSURANCE AND BONDS

§ 11.1 Contractor's Insurance and Bonds

§ 11.1.1 The Contractor shall purchase and maintain insurance of the types and limits of liability, containing the endorsements, and subject to the terms and conditions, as described in the Agreement or elsewhere in the Contract Documents. The Contractor shall purchase and maintain the required insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The Owner, Architect, and Architect's consultants shall be named as additional insureds under the Contractor's commercial general liability policy or as otherwise described in the Contract Documents.

§ 11.1.2 The Contractor shall provide surety bonds of the types, for such penal sums, and subject to such terms and conditions as required by the Contract Documents. The Contractor shall purchase and maintain the required bonds from a company or companies lawfully authorized to issue surety bonds in the jurisdiction where the Project is located.

§ 11.1.3 Upon the request of any person or entity appearing to be a potential beneficiary of bonds covering payment of obligations arising under the Contract, the Contractor shall promptly furnish a copy of the bonds or shall authorize a copy to be furnished.

§ 11.1.4 Notice of Cancellation or Expiration of Contractor's Required Insurance. Within three (3) business days of the date the Contractor becomes aware of an impending or actual cancellation or expiration of any insurance required by the Contract Documents, the Contractor shall provide notice to the Owner of such impending or actual cancellation or expiration. Upon receipt of notice from the Contractor, the Owner shall, unless the lapse in coverage arises from an act

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or omission of the Owner, have the right to stop the Work until the lapse in coverage has been cured by the procurement of replacement coverage by the Contractor. The furnishing of notice by the Contractor shall not relieve the Contractor of any contractual obligation to provide any required coverage.

§ 11.2 Owner's Insurance

§ 11.2.1 The Owner shall purchase and maintain insurance of the types and limits of liability, containing the endorsements, and subject to the terms and conditions, as described in the Agreement or elsewhere in the Contract Documents. The Owner shall purchase and maintain the required insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located.

§ 11.2.2 Failure to Purchase Required Property Insurance. If the Owner fails to purchase and maintain the required property insurance, with all of the coverages and in the amounts described in the Agreement or elsewhere in the Contract Documents, the Owner shall inform the Contractor in writing prior to commencement of the Work. Upon receipt of notice from the Owner, the Contractor may delay commencement of the Work and may obtain insurance that will protect the interests of the Contractor, Subcontractors, and Sub-Subcontractors in the Work. When the failure to provide coverage has been cured or resolved, the Contract Sum and Contract Time shall be equitably adjusted. In the event the Owner fails to procure coverage, the Owner waives all rights against the Contractor, Subcontractors, and Sub-subcontractors to the extent the loss to the Owner would have been covered by the insurance to have been procured by the Owner. The cost of the insurance shall be charged to the Owner by a Change Order. If the Owner does not provide written notice, and the Contractor is damaged by the failure or neglect of the Owner to purchase or maintain the required insurance, the Owner shall reimburse the Contractor for all reasonable costs and damages attributable thereto.

§ 11.2.3 Notice of Cancellation or Expiration of Owner's Required Property Insurance. Within three (3) business days of the date the Owner becomes aware of an impending or actual cancellation or expiration of any property insurance required by the Contract Documents, the Owner shall provide notice to the Contractor of such impending or actual cancellation or expiration. Unless the lapse in coverage arises from an act or omission of the Contractor: (1) the Contractor, upon receipt of notice from the Owner, shall have the right to stop the Work until the lapse in coverage has been cured by the procurement of replacement coverage by either the Owner or the Contractor; (2) the Contract Time and Contract Sum shall be equitably adjusted; and (3) the Owner waives all rights against the Contractor, Subcontractors, and Sub-subcontractors to the extent any loss to the Owner would have been covered by the insurance had it not expired or been cancelled. If the Contractor purchases replacement coverage, the cost of the insurance shall be charged to the Owner by an appropriate Change Order. The furnishing of notice by the Owner shall not relieve the Owner of any contractual obligation to provide required insurance.

§ 11.3 Waivers of Subrogation

§ 11.3.1 The Owner and Contractor waive all rights against (1) each other and any of their subcontractors, sub-subcontractors, agents, and employees, each of the other; (2) the Architect and Architect's consultants; and (3) Separate Contractors, if any, and any of their subcontractors, sub-subcontractors, agents, and employees, for damages caused by fire, or other causes of loss, to the extent those losses are covered by property insurance required by the Agreement or other property insurance applicable to the Project, except such rights as they have to proceeds of such insurance. The Owner or Contractor, as appropriate, shall require similar written waivers in favor of the individuals and entities identified above from the Architect, Architect's consultants, Separate Contractors, subcontractors, and sub-subcontractors. The policies of insurance purchased and maintained by each person or entity agreeing to waive claims pursuant to this section 11.3.1 shall not prohibit this waiver of subrogation. This waiver of subrogation shall be effective as to a person or entity (1) even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, (2) even though that person or entity did not pay the insurance premium directly or indirectly, or (3) whether or not the person or entity had an insurable interest in the damaged property.

§ 11.3.2 If during the Project construction period the Owner insures properties, real or personal or both, at or adjacent to the site by property insurance under policies separate from those insuring the Project, or if after final payment property insurance is to be provided on the completed Project through a policy or policies other than those insuring the Project during the construction period, to the extent permissible by such policies, the Owner waives all rights in accordance with the terms of Section 11.3.1 for damages caused by fire or other causes of loss covered by this separate property insurance.

§ 11.4 Loss of Use, Business Interruption, and Delay in Completion Insurance

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The Owner, at the Owner's option, may purchase and maintain insurance that will protect the Owner against loss of use of the Owner's property, or the inability to conduct normal operations, due to fire or other causes of loss. The Owner waives all rights of action against the Contractor and Architect for loss of use of the Owner's property, due to fire or other hazards however caused.

§11.5 Adjustment and Settlement of Insured Loss

§ 11.5.1 A loss insured under the property insurance required by the Agreement shall be adjusted by the Owner as fiduciary and made payable to the Owner as fiduciary for the insureds, as their interests may appear, subject to requirements of any applicable mortgagee clause and of Section 11.5.2. The Owner shall pay the Architect and Contractor their just shares of insurance proceeds received by the Owner, and by appropriate agreements the Architect and Contractor shall make payments to their consultants and Subcontractors in similar manner.

§ 11.5.2 Prior to settlement of an insured loss, the Owner shall notify the Contractor of the terms of the proposed settlement as well as the proposed allocation of the insurance proceeds. The Contractor shall have 14 days from receipt of notice to object to the proposed settlement or allocation of the proceeds. If the Contractor does not object, the Owner shall settle the loss and the Contractor shall be bound by the settlement and allocation. Upon receipt, the Owner shall deposit the insurance proceeds in a separate account and make the appropriate distributions. Thereafter, if no other agreement is made or the Owner does not terminate the Contract for convenience, the Owner and Contractor shall execute a Change Order for reconstruction of the damaged or destroyed Work in the amount allocated for that purpose. If the Contractor timely objects to either the terms of the proposed settlement or the allocation of the proceeds, the Owner may proceed to settle the insured loss, and any dispute between the Owner and Contractor arising out of the settlement or allocation of the proceeds shall be resolved pursuant to Article 15. Pending resolution of any dispute, the Owner may issue a Construction Change Directive for the reconstruction of the damaged or destroyed Work.

ARTICLE 12 UNCOVERING AND CORRECTION OF WORK

§ 12.1 Uncovering of Work

§ 12.1.1 If a portion of the Work is covered contrary to the Architect's request or to requirements specifically expressed in the Contract Documents, it must, if requested in writing by the Architect, be uncovered for the Architect's examination and be replaced at the Contractor's expense without change in the Contract Time.

§ 12.1.2 If a portion of the Work has been covered that the Architect has not specifically requested to examine prior to its being covered, the Architect may request to see such Work and it shall be uncovered by the Contractor. If such Work is in accordance with the Contract Documents, the Contractor shall be entitled to an equitable adjustment to the Contract Sum and Contract Time as may be appropriate. If such Work is not in accordance with the Contract Documents, the costs of uncovering the Work, and the cost of correction, shall be at the Contractor's expense.

§ 12.2 Correction of Work

§ 12.2.1 Before Substantial Completion

The Contractor shall promptly correct Work rejected by the Architect or failing to conform to the requirements of the Contract Documents, discovered before Substantial Completion and whether or not fabricated, installed or completed. Costs of correcting such rejected Work, including additional testing and inspections, the cost of uncovering and replacement, and compensation for the Architect's services and expenses made necessary thereby, shall be at the Contractor's expense.

§ 12.2.2 After Substantial Completion

§ 12.2.2.1 In addition to the Contractor's obligations under Section 3.5, if, within one year after the date of Substantial Completion of the Work or designated portion thereof or after the date for commencement of warranties established under Section 9.9.1, or by terms of any applicable special warranty required by the Contract Documents, any of the Work is found to be not in accordance with the requirements of the Contract Documents, the Contractor shall correct it promptly after receipt of notice from the Owner to do so, unless the Owner has previously given the Contractor a written acceptance of such condition. The Owner shall give such notice promptly after discovery of the condition. During the one-year period for correction of Work, if the Owner fails to notify the Contractor and give the Contractor an opportunity to make the correction, the Owner waives the rights to require correction by the Contractor and to make a claim for breach of warranty. If the Contractor fails to correct nonconforming Work within a reasonable time during that period after receipt of notice from the Owner or Architect, the Owner may correct it in accordance with Section 2.5.

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§ 12.2.2.2 The one-year period for correction of Work shall be extended with respect to portions of Work first performed after Substantial Completion by the period of time between Substantial Completion and the actual completion of that portion of the Work.

§ 12.2.2.3 The one-year period for correction of Work shall not be extended by corrective Work performed by the Contractor pursuant to this Section 12.2.

§ 12.2.3 The Contractor shall remove from the site portions of the Work that are not in accordance with the requirements of the Contract Documents and are neither corrected by the Contractor nor accepted by the Owner.

§ 12.2.4 The Contractor shall bear the cost of correcting destroyed or damaged construction of the Owner or Separate Contractors, whether completed or partially completed, caused by the Contractor's correction or removal of Work that is not in accordance with the requirements of the Contract Documents.

§ 12.2.5 Nothing contained in this Section 12.2 shall be construed to establish a period of limitation with respect to other obligations the Contractor has under the Contract Documents. Establishment of the one-year period for correction of Work as described in Section 12.2.2 relates only to the specific obligation of the Contractor to correct the Work, and has no relationship to the time within which the obligation to comply with the Contract Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Contractor's liability with respect to the Contractor's obligations other than specifically to correct the Work.

§ 12.3 Acceptance of Nonconforming Work

If the Owner prefers to accept Work that is not in accordance with the requirements of the Contract Documents, the Owner may do so instead of requiring its removal and correction, in which case the Contract Sum will be reduced as appropriate and equitable. Such adjustment shall be effected whether or not final payment has been made.

ARTICLE 13 MISCELLANEOUS PROVISIONS

§ 13.1 Governing Law

The Contract shall be governed by the law of the place where the Project is located, excluding that jurisdiction's choice of law rules. If the parties have selected arbitration as the method of binding dispute resolution, the Federal Arbitration Act shall govern Section 15.4.

§ 13.2 Successors and Assigns

§ 13.2.1 The Owner and Contractor respectively bind themselves, their partners, successors, assigns, and legal representatives to covenants, agreements, and obligations contained in the Contract Documents. Except as provided in Section 13.2.2, neither party to the Contract shall assign the Contract as a whole without written consent of the other. If either party attempts to make an assignment without such consent, that party shall nevertheless remain legally responsible for all obligations under the Contract.

§ 13.2.2 The Owner may, without consent of the Contractor, assign the Contract to a lender providing construction financing for the Project, if the lender assumes the Owner's rights and obligations under the Contract Documents. The Contractor shall execute all consents reasonably required to facilitate the assignment.

§ 13.3 Rights and Remedies

§ 13.3.1 Duties and obligations imposed by the Contract Documents and rights and remedies available thereunder shall be in addition to and not a limitation of duties, obligations, rights, and remedies otherwise imposed or available by law.

§ 13.3.2 No action or failure to act by the Owner, Architect, or Contractor shall constitute a waiver of a right or duty afforded them under the Contract, nor shall such action or failure to act constitute approval of or acquiescence in a breach thereunder, except as may be specifically agreed upon in writing.

§ 13.4 Tests and Inspections

§ 13.4.1 Tests, inspections, and approvals of portions of the Work shall be made as required by the Contract Documents and by applicable laws, statutes, ordinances, codes, rules, and regulations or lawful orders of public authorities. Unless otherwise provided, the Contractor shall make arrangements for such tests, inspections, and

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approvals with an independent testing laboratory or entity acceptable to the Owner, or with the appropriate public authority, and shall bear all related costs of tests, inspections, and approvals. The Contractor shall give the Architect timely notice of when and where tests and inspections are to be made so that the Architect may be present for such procedures. The Owner shall bear costs of tests, inspections, or approvals that do not become requirements until after bids are received or negotiations concluded. The Owner shall directly arrange and pay for tests, inspections, or approvals where building codes or applicable laws or regulations so require.

§ 13.4.2 If the Architect, Owner, or public authorities having jurisdiction determine that portions of the Work require additional testing, inspection, or approval not included under Section 13.4.1, the Architect will, upon written authorization from the Owner, instruct the Contractor to make arrangements for such additional testing, inspection, or approval, by an entity acceptable to the Owner, and the Contractor shall give timely notice to the Architect of when and where tests and inspections are to be made so that the Architect may be present for such procedures. Such costs, except as provided in Section 13.4.3, shall be at the Owner's expense.

§ 13.4.3 If procedures for testing, inspection, or approval under Sections 13.4.1 and 13.4.2 reveal failure of the portions of the Work to comply with requirements established by the Contract Documents, all costs made necessary by such failure, including those of repeated procedures and compensation for the Architect's services and expenses, shall be at the Contractor's expense.

§ 13.4.4 Required certificates of testing, inspection, or approval shall, unless otherwise required by the Contract Documents, be secured by the Contractor and promptly delivered to the Architect.

§ 13.4.5 If the Architect is to observe tests, inspections, or approvals required by the Contract Documents, the Architect will do so promptly and, where practicable, at the normal place of testing.

§ 13.4.6 Tests or inspections conducted pursuant to the Contract Documents shall be made promptly to avoid unreasonable delay in the Work.

§ 13.5 Interest

Payments due and unpaid under the Contract Documents shall bear interest from the date payment is due at the rate the parties agree upon in writing or, in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located.

ARTICLE 14 TERMINATION OR SUSPENSION OF THE CONTRACT

§ 14.1 Termination by the Contractor

§ 14.1.1 The Contractor may terminate the Contract if the Work is stopped for a period of 30 consecutive days through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, their agents or employees, or any other persons or entities performing portions of the Work, for any of the following reasons:

- **.1** Issuance of an order of a court or other public authority having jurisdiction that requires all Work to be stopped;
- **.2** An act of government, such as a declaration of national emergency, that requires all Work to be stopped;
- **.3** Because the Architect has not issued a Certificate for Payment and has not notified the Contractor of the reason for withholding certification as provided in Section 9.4.1, or because the Owner has not made payment on a Certificate for Payment within the time stated in the Contract Documents; or
- **.4** The Owner has failed to furnish to the Contractor reasonable evidence as required by Section 2.2.

§ 14.1.2 The Contractor may terminate the Contract if, through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, their agents or employees, or any other persons or entities performing portions of the Work, repeated suspensions, delays, or interruptions of the entire Work by the Owner as described in Section 14.3, constitute in the aggregate more than 100 percent of the total number of days scheduled for completion, or 120 days in any 365-day period, whichever is less.

§ 14.1.3 If one of the reasons described in Section 14.1.1 or 14.1.2 exists, the Contractor may, upon seven days' notice to the Owner and Architect, terminate the Contract and recover from the Owner payment for Work executed, as well as reasonable overhead and profit on Work not executed, and costs incurred by reason of such termination.

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§ 14.1.4 If the Work is stopped for a period of 60 consecutive days through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, or their agents or employees or any other persons or entities performing portions of the Work because the Owner has repeatedly failed to fulfill the Owner's obligations under the Contract Documents with respect to matters important to the progress of the Work, the Contractor may, upon seven additional days' notice to the Owner and the Architect, terminate the Contract and recover from the Owner as provided in Section 14.1.3.

§ 14.2 Termination by the Owner for Cause

§ 14.2.1 The Owner may terminate the Contract if the Contractor

- **.1** repeatedly refuses or fails to supply enough properly skilled workers or proper materials;
- **.2** fails to make payment to Subcontractors or suppliers in accordance with the respective agreements between the Contractor and the Subcontractors or suppliers;
- **.3** repeatedly disregards applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of a public authority; or
- **.4** otherwise is guilty of substantial breach of a provision of the Contract Documents.

§ 14.2.2 When any of the reasons described in Section 14.2.1 exist, and upon certification by the Architect that sufficient cause exists to justify such action, the Owner may, without prejudice to any other rights or remedies of the Owner and after giving the Contractor and the Contractor's surety, if any, seven days' notice, terminate employment of the Contractor and may, subject to any prior rights of the surety:

- **.1** Exclude the Contractor from the site and take possession of all materials, equipment, tools, and construction equipment and machinery thereon owned by the Contractor;
- **.2** Accept assignment of subcontracts pursuant to Section 5.4; and
- **.3** Finish the Work by whatever reasonable method the Owner may deem expedient. Upon written request of the Contractor, the Owner shall furnish to the Contractor a detailed accounting of the costs incurred by the Owner in finishing the Work.

§ 14.2.3 When the Owner terminates the Contract for one of the reasons stated in Section 14.2.1, the Contractor shall not be entitled to receive further payment until the Work is finished.

§ 14.2.4 If the unpaid balance of the Contract Sum exceeds costs of finishing the Work, including compensation for the Architect's services and expenses made necessary thereby, and other damages incurred by the Owner and not expressly waived, such excess shall be paid to the Contractor. If such costs and damages exceed the unpaid balance, the Contractor shall pay the difference to the Owner. The amount to be paid to the Contractor or Owner, as the case may be, shall be certified by the Initial Decision Maker, upon application, and this obligation for payment shall survive termination of the Contract.

§ 14.3 Suspension by the Owner for Convenience

§ 14.3.1 The Owner may, without cause, order the Contractor in writing to suspend, delay or interrupt the Work, in whole or in part for such period of time as the Owner may determine.

§ 14.3.2 The Contract Sum and Contract Time shall be adjusted for increases in the cost and time caused by suspension, delay, or interruption under Section 14.3.1. Adjustment of the Contract Sum shall include profit. No adjustment shall be made to the extent

- **.1** that performance is, was, or would have been, so suspended, delayed, or interrupted, by another cause for which the Contractor is responsible; or
- **.2** that an equitable adjustment is made or denied under another provision of the Contract.

§ 14.4 Termination by the Owner for Convenience

§ 14.4.1 The Owner may, at any time, terminate the Contract for the Owner's convenience and without cause.

§ 14.4.2 Upon receipt of notice from the Owner of such termination for the Owner's convenience, the Contractor shall

- **.1** cease operations as directed by the Owner in the notice;
- **.2** take actions necessary, or that the Owner may direct, for the protection and preservation of the Work; and
- **.3** except for Work directed to be performed prior to the effective date of termination stated in the notice, terminate all existing subcontracts and purchase orders and enter into no further subcontracts and purchase orders.

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§ 14.4.3 In case of such termination for the Owner's convenience, the Owner shall pay the Contractor for Work properly executed; costs incurred by reason of the termination, including costs attributable to termination of Subcontracts; and the termination fee, if any, set forth in the Agreement.

ARTICLE 15 CLAIMS AND DISPUTES

§ 15.1 Claims

§ 15.1.1 Definition

A Claim is a demand or assertion by one of the parties seeking, as a matter of right, payment of money, a change in the Contract Time, or other relief with respect to the terms of the Contract. The term "Claim" also includes other disputes and matters in question between the Owner and Contractor arising out of or relating to the Contract. The responsibility to substantiate Claims shall rest with the party making the Claim. This Section 15.1.1 does not require the Owner to file a Claim in order to impose liquidated damages in accordance with the Contract Documents.

§ 15.1.2 Time Limits on Claims

The Owner and Contractor shall commence all Claims and causes of action against the other and arising out of or related to the Contract, whether in contract, tort, breach of warranty or otherwise, in accordance with the requirements of the binding dispute resolution method selected in the Agreement and within the period specified by applicable law, but in any case not more than 10 years after the date of Substantial Completion of the Work. The Owner and Contractor waive all Claims and causes of action not commenced in accordance with this Section 15.1.2.

§ 15.1.3 Notice of Claims

§ 15.1.3.1 Claims by either the Owner or Contractor, where the condition giving rise to the Claim is first discovered prior to expiration of the period for correction of the Work set forth in Section 12.2.2, shall be initiated by notice to the other party and to the Initial Decision Maker with a copy sent to the Architect, if the Architect is not serving as the Initial Decision Maker. Claims by either party under this Section 15.1.3.1 shall be initiated within 21 days after occurrence of the event giving rise to such Claim or within 21 days after the claimant first recognizes the condition giving rise to the Claim, whichever is later.

§ 15.1.3.2 Claims by either the Owner or Contractor, where the condition giving rise to the Claim is first discovered after expiration of the period for correction of the Work set forth in Section 12.2.2, shall be initiated by notice to the other party. In such event, no decision by the Initial Decision Maker is required.

§ 15.1.4 Continuing Contract Performance

§ 15.1.4.1 Pending final resolution of a Claim, except as otherwise agreed in writing or as provided in Section 9.7 and Article 14, the Contractor shall proceed diligently with performance of the Contract and the Owner shall continue to make payments in accordance with the Contract Documents.

§ 15.1.4.2 The Contract Sum and Contract Time shall be adjusted in accordance with the Initial Decision Maker's decision, subject to the right of either party to proceed in accordance with this Article 15. The Architect will issue Certificates for Payment in accordance with the decision of the Initial Decision Maker.

§ 15.1.5 Claims for Additional Cost

If the Contractor wishes to make a Claim for an increase in the Contract Sum, notice as provided in Section 15.1.3 shall be given before proceeding to execute the portion of the Work that is the subject of the Claim. Prior notice is not required for Claims relating to an emergency endangering life or property arising under Section 10.4.

§ 15.1.6 Claims for Additional Time

§ 15.1.6.1 If the Contractor wishes to make a Claim for an increase in the Contract Time, notice as provided in Section 15.1.3 shall be given. The Contractor's Claim shall include an estimate of cost and of probable effect of delay on progress of the Work. In the case of a continuing delay, only one Claim is necessary.

§ 15.1.6.2 If adverse weather conditions are the basis for a Claim for additional time, such Claim shall be documented by data substantiating that weather conditions were abnormal for the period of time, could not have been reasonably anticipated, and had an adverse effect on the scheduled construction.

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§ 15.1.7 Waiver of Claims for Consequential Damages

The Contractor and Owner waive Claims against each other for consequential damages arising out of or relating to this Contract. This mutual waiver includes

.1 damages incurred by the Owner for rental expenses, for losses of use, income, profit, financing, business and reputation, and for loss of management or employee productivity or of the services of such persons; and

.2 damages incurred by the Contractor for principal office expenses including the compensation of personnel stationed there, for losses of financing, business and reputation, and for loss of profit, except anticipated profit arising directly from the Work.

This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination in accordance with Article 14. Nothing contained in this Section 15.1.7 shall be deemed to preclude assessment of liquidated damages, when applicable, in accordance with the requirements of the Contract Documents.

§ 15.2 Initial Decision

§ 15.2.1 Claims, excluding those where the condition giving rise to the Claim is first discovered after expiration of the period for correction of the Work set forth in Section 12.2.2 or arising under Sections 10.3, 10.4, and 11.5, shall be referred to the Initial Decision Maker for initial decision. The Architect will serve as the Initial Decision Maker, unless otherwise indicated in the Agreement. Except for those Claims excluded by this Section 15.2.1, an initial decision shall be required as a condition precedent to mediation of any Claim. If an initial decision has not been rendered within 30 days after the Claim has been referred to the Initial Decision Maker, the party asserting the Claim may demand mediation and binding dispute resolution without a decision having been rendered. Unless the Initial Decision Maker and all affected parties agree, the Initial Decision Maker will not decide disputes between the Contractor and persons or entities other than the Owner.

§ 15.2.2 The Initial Decision Maker will review Claims and within ten days of the receipt of a Claim take one or more of the following actions: (1) request additional supporting data from the claimant or a response with supporting data from the other party, (2) reject the Claim in whole or in part, (3) approve the Claim, (4) suggest a compromise, or (5) advise the parties that the Initial Decision Maker is unable to resolve the Claim if the Initial Decision Maker lacks sufficient information to evaluate the merits of the Claim or if the Initial Decision Maker concludes that, in the Initial Decision Maker's sole discretion, it would be inappropriate for the Initial Decision Maker to resolve the Claim.

§ 15.2.3 In evaluating Claims, the Initial Decision Maker may, but shall not be obligated to, consult with or seek information from either party or from persons with special knowledge or expertise who may assist the Initial Decision Maker in rendering a decision. The Initial Decision Maker may request the Owner to authorize retention of such persons at the Owner's expense.

§ 15.2.4 If the Initial Decision Maker requests a party to provide a response to a Claim or to furnish additional supporting data, such party shall respond, within ten days after receipt of the request, and shall either (1) provide a response on the requested supporting data, (2) advise the Initial Decision Maker when the response or supporting data will be furnished, or (3) advise the Initial Decision Maker that no supporting data will be furnished. Upon receipt of the response or supporting data, if any, the Initial Decision Maker will either reject or approve the Claim in whole or in part.

§ 15.2.5 The Initial Decision Maker will render an initial decision approving or rejecting the Claim, or indicating that the Initial Decision Maker is unable to resolve the Claim. This initial decision shall (1) be in writing; (2) state the reasons therefor; and (3) notify the parties and the Architect, if the Architect is not serving as the Initial Decision Maker, of any change in the Contract Sum or Contract Time or both. The initial decision shall be final and binding on the parties but subject to mediation and, if the parties fail to resolve their dispute through mediation, to binding dispute resolution.

§ 15.2.6 Either party may file for mediation of an initial decision at any time, subject to the terms of Section 15.2.6.1.

§ 15.2.6.1 Either party may, within 30 days from the date of receipt of an initial decision, demand in writing that the other party file for mediation. If such a demand is made and the party receiving the demand fails to file for mediation within 30 days after receipt thereof, then both parties waive their rights to mediate or pursue binding dispute resolution proceedings with respect to the initial decision.

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§ 15.2.7 In the event of a Claim against the Contractor, the Owner may, but is not obligated to, notify the surety, if any, of the nature and amount of the Claim. If the Claim relates to a possibility of a Contractor's default, the Owner may, but is not obligated to, notify the surety and request the surety's assistance in resolving the controversy.

§ 15.2.8 If a Claim relates to or is the subject of a mechanic's lien, the party asserting such Claim may proceed in accordance with applicable law to comply with the lien notice or filing deadlines.

§ 15.3 Mediation

§ 15.3.1 Claims, disputes, or other matters in controversy arising out of or related to the Contract, except those waived as provided for in Sections 9.10.4, 9.10.5, and 15.1.7, shall be subject to mediation as a condition precedent to binding dispute resolution.

§ 15.3.2 The parties shall endeavor to resolve their Claims by mediation which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Mediation Procedures in effect on the date of the Agreement. A request for mediation shall be made in writing, delivered to the other party to the Contract, and filed with the person or entity administering the mediation. The request may be made concurrently with the filing of binding dispute resolution proceedings but, in such event, mediation shall proceed in advance of binding dispute resolution proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order. If an arbitration is stayed pursuant to this Section 15.3.2, the parties may nonetheless proceed to the selection of the arbitrator(s) and agree upon a schedule for later proceedings.

§ 15.3.3 Either party may, within 30 days from the date that mediation has been concluded without resolution of the dispute or 60 days after mediation has been demanded without resolution of the dispute, demand in writing that the other party file for binding dispute resolution. If such a demand is made and the party receiving the demand fails to file for binding dispute resolution within 60 days after receipt thereof, then both parties waive their rights to binding dispute resolution proceedings with respect to the initial decision.

§ 15.3.4 The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

§ 15.4 Arbitration

§ 15.4.1 If the parties have selected arbitration as the method for binding dispute resolution in the Agreement, any Claim subject to, but not resolved by, mediation shall be subject to arbitration which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Arbitration Rules in effect on the date of the Agreement. The Arbitration shall be conducted in the place where the Project is located, unless another location is mutually agreed upon. A demand for arbitration shall be made in writing, delivered to the other party to the Contract, and filed with the person or entity administering the arbitration. The party filing a notice of demand for arbitration must assert in the demand all Claims then known to that party on which arbitration is permitted to be demanded.

§ 15.4.1.1 A demand for arbitration shall be made no earlier than concurrently with the filing of a request for mediation, but in no event shall it be made after the date when the institution of legal or equitable proceedings based on the Claim would be barred by the applicable statute of limitations. For statute of limitations purposes, receipt of a written demand for arbitration by the person or entity administering the arbitration shall constitute the institution of legal or equitable proceedings based on the Claim.

§ 15.4.2 The award rendered by the arbitrator or arbitrators shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.

§ 15.4.3 The foregoing agreement to arbitrate and other agreements to arbitrate with an additional person or entity duly consented to by parties to the Agreement, shall be specifically enforceable under applicable law in any court having jurisdiction thereof.

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§ 15.4.4 Consolidation or Joinder

§ 15.4.4.1 Subject to the rules of the American Arbitration Association or other applicable arbitration rules, either party may consolidate an arbitration conducted under this Agreement with any other arbitration to which it is a party provided that (1) the arbitration agreement governing the other arbitration permits consolidation, (2) the arbitrations to be consolidated substantially involve common questions of law or fact, and (3) the arbitrations employ materially similar procedural rules and methods for selecting arbitrator(s).

§ 15.4.4.2 Subject to the rules of the American Arbitration Association or other applicable arbitration rules, either party may include by joinder persons or entities substantially involved in a common question of law or fact whose presence is required if complete relief is to be accorded in arbitration, provided that the party sought to be joined consents in writing to such joinder. Consent to arbitration involving an additional person or entity shall not constitute consent to arbitration of any claim, dispute or other matter in question not described in the written consent.

§ 15.4.4.3 The Owner and Contractor grant to any person or entity made a party to an arbitration conducted under this Section 15.4, whether by joinder or consolidation, the same rights of joinder and consolidation as those of the Owner and Contractor under this Agreement.

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Additions and Deletions Report for
AIA® Document A201® – 2017

This Additions and Deletions Report, as defined on page 1 of the associated document, reproduces below all text the author has added to the standard form AIA document in order to complete it, as well as any text the author may have added to or deleted from the original AIA text. Added text is shown underlined. Deleted text is indicated with a horizontal line through the original AIA text.

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PAGE 1

MPS Marquee Signs at Hall, Franklin, Sullivan/Anishinabe 1501 & 1601 North Aldrich Avenue, Minneapolis, MN 55411
3100 East 28th Street, Minneapolis, MN 55406

...

Minneapolis Public Schools Special School District 1
1250 West Broadway Avenue
Minneapolis, MN 55411

...

Wold Architects & Engineers332 Minnesota Street, Suite W2000
Saint Paul, MN 55101

PAGE 11

The parties shall agree upon ~~written~~ protocols governing the transmission and use ~~of, and reliance on,~~ of Instruments of Service or any other information or documentation in digital form. The parties will use AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, to establish the protocols for the development, use, transmission, and exchange of digital data.

...

Any use of, or reliance on, all or a portion of a building information model without agreement to ~~written~~ protocols governing the use of, and reliance on, the information contained in the model and without having those protocols set forth in AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, and the requisite AIA Document G202™–2013, Project Building Information Modeling Protocol Form, shall be at the using or relying party's sole risk and without liability to the other party and its contractors or consultants, the authors of, or contributors to, the building information model, and each of their agents and employees.

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Certification of Document's Authenticity

AIA® Document D401™ – 2003

I, , hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with its associated Additions and Deletions Report and this certification at 15:10:38 CT on 01/22/2025 under Order No. 4104251278 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document A201™ – 2017, General Conditions of the Contract for Construction, other than those additions and deletions shown in the associated Additions and Deletions Report.



(Signed)

Curtis Hartog, Executive Director

(Title)

1/22/2025

(Dated)

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Exhibit B – Project Charter

Project Name and Number

Hall STEM Academy
1601 North Aldrich Avenue
Minneapolis MN 55411

Franklin Middle School
1501 North Aldrich Avenue
Minneapolis MN 55411

Sullivan/Anishinabe
3100 East 28th Street
Minneapolis MN 55406

Minneapolis Public Schools Project Number: 24MULTI007

Official Publication No. 25-2511

Description

The Contract includes General Construction work, including site, electrical, & data work required to construct three marquee signs at the addresses referenced above for Minneapolis Public Schools, Special School District No. 1, Minneapolis, MN, as shown on the Contract Drawings and described in the Project Manual dated 11.15.2024 prepared by Wold Architects & Engineers.

Contract Sum

The Contract Sum shall be $239,784.00

Alternates

Item	Price	Status
None		

Conditions

Item	Price	Conditions for Acceptance
None		

Allowances

Item	Price
None	

Unit Prices

Item	Units and Limitations	Price per Unit ($0.00)
None		

EXHIBIT C Owner Insurance

Insurance Requirements

1. CONSULTANT'S INSURANCE – to be used with AIA B101-2017, AIA C103-2015, or similar non-contractor consultants:
   The Consultant shall at its own expense maintain in effect at all times during the performance of the Work under the Agreement at least the following coverage and limits of insurance:

   a. Worker's Compensation and Employer's Liability Insurance

      i. Coverage A is statutory.

      ii. Coverage B
      $500,000 Each Accident
      $500,000 Each Employee
      $500,000 Policy Limit (Disease)

   b. Comprehensive General Liability Insurance *

General Aggregate	$1,000,000
Products/Completed Operations Aggregate	$1,000,000
Per Occurrence	$1,000,000
Medical Payments	$10,000

   * The Owner should be named as an additional insured for Comprehensive General Liability Insurance.

   c. Automobile Insurance

Per Occurrence	$1,000,000
PIP	Basic
Underinsured Motorist	$1,000,000
Uninsured Motorist	$1,000,000

   d. Professional Liability Insurance

      i. Per Claim $2,000,000

ii. For projects with an estimated construction Contract Sum of over $10,000,000 or major structural work an aggregate is required as follows:
Aggregate $4,000,000

e. Umbrella Liability Insurance

i. Per Occurrence $2,000,000

ii. For projects with an estimated construction Contract Sum of over $10,000,000 or major structural work an aggregate is required as follows:
Aggregate $2,000,000

f. Manned or Unmanned Aircraft Coverage (if used)

i. Per Claim $1,000,000

ii. Aggregate $1,000,000

For specialty consultants used for commissioning activities, studies, asbestos surveys and security, items A, B, C and F shall apply.

Special Asbestos Abatement Liability Insurance is required for Asbestos Abatement Contractors. The limits are $1,500,000 per claim, for liability arising from the encapsulation, removal, handling, storage, transportation, and disposal of asbestos-containing materials.

2. CONSULTANT'S OBLIGATIONS

Consultant shall not violate or knowingly permit any violation of any conditions or terms of the policies of insurance required to be carried under the terms hereof and shall endeavor to satisfy the requirements of the insurance companies issuing them. In the event Consultant neglects, refuses or fails to provide or maintain any of the insurance required to be carried under the Agreement, or if such insurance is canceled for any reason, the Owner or the Owner's lender(s) shall have the right, but not the duty, to procure or maintain the same.

In the event the Owner or the Owner's lender(s) do procure or maintain such insurance, the Owner or the Owner's lender(s) shall have, in additional to any and all other available remedies, the right to recover from the Consultant (including the right of set-off against sums otherwise due the Consultant) all of the costs associated with procuring or maintaining such insurance.

3. PROFESSIONAL LIABILITY INSURANCE

   a. Professional Liability Coverage of $2,000,000 shall be maintained for one (1) year from the date of Substantial Completion. If the Consultant discontinues its business and if directed by Owner in writing, Consultant shall purchase such insurance in such amount for an extended discovery period beyond the one (1) year after the date of Substantial Completion, with the premium cost to be a reimbursable expense paid by the Owner. The limit of liability for such policy may not be reduced below $2,000,000 without the Owner giving its prior, written consent. All policies of insurance that Consultant is required under the terms of this Exhibit C Owner's Insurance to secure and maintain shall bear the endorsement "Not to be canceled until sixty (60) calendar days after Owner has received a written notice from insurer as evidence by a return receipt of registered or certified mail."

   b. The Owner shall not be responsible for obtaining or paying premiums or other expenses in connection with insurance required to be carried under the Agreement or normally carried by the Consultant's consultants, and the obligation to obtain such insurance and to pay such premiums and other expenses shall be solely that of the Consultant.

   c. The Consultant shall bear all the costs of any and all deductible amounts under any insurance policies required to be carried under the Agreement and shall remain solely and fully liable for the full amount of any claim or item not compensated by insurance (to the extent that any amount resulted from damages that arose out of the Consultant's sole negligence.)

4. COVERAGE
   The coverage's referred to above are set forth in full in the respective policy forms, and the foregoing descriptions of such policies are not intended to be complete.

5. GENERALLY

   a. The Consultant thereby represents and warrants to the Owner that, as of the date of the execution of the Agreement, the Consultant is not aware of any claims or potential claims which have been made, filed or threatened against any of the insurance or for damages covered by any of the insurance required to be carried under the Agreement that would affect the Consultant's ability to provide the insurance coverage required by this agreement.

b. It is understood that the provisions in the Agreement requiring the Consultant to carry insurance shall not be construed as in any manner waiving or restricting the liability of the Consultant as to any obligations imposed under the Agreement, including, but not limited to, obligations imposed under the provisions of Article 11 of the AIA A201-2017 General Conditions.

Insurance requirements for Contractors

1. CONTRACTOR'S INSURANCE – to be used with AIA A101-2017
   The Contractor shall at its own expense maintain in effect at all times during the performance of the Work under the Agreement at least the following coverage and limits of insurance:

   a. Commercial General Liability

      i. General Aggregate $1,500,000

      ii. Products/Completed Operations Aggregate $1,500,000

      iii. Per Occurrence $1,500,000

      The Owner shall be named as additional insured for Commercial General Liability Insurance

   b. Automobile Insurance

      i. Per Occurrence $1,000,000

      ii. PIP Basic

      iii. Underinsured Motorist $1,000,000

      iv. Uninsured Motorist $1,000,000

   c. Workers Compensation

      i. Coverage A is statutory.

      ii. Coverage B $500,000 Each Accident

      iii. $500,000 Each Employee

d. Professional Liability (if the Contractor is hiring professionals)

   i. Per Claim $2,000,000

   For Projects with an estimated construction cost of over $10,000,000 or major structural work, additional Aggregate coverage of $4,000,000 is required.

e. Manned or Unmanned Aircraft Coverage (if used)

   i. Per Claim $1,000,000

   ii. Aggregate $1,000,000

f. Property Insurance

   i. Per Claim $1,000,000

   ii. Aggregate $1,000,000

   This insurance is only required for materials stored offsite and not incorporated into the project at delivery. For material stored on site, no additional insurance is required.

g. Builders “all risk” Insurance

   i. Per Claim $2,000,000

   ii. Aggregate $4,000,000

   This insurance is only required for additions exceeding $10,000,000. Renovations to existing schools are not required to have builders all risk insurance.

h. Umbrella Liability

   i. Aggregate limit $5,000,000

   This insurance is required only for projects larger than $10,000,000 in total construction costs.

Exhibit D – Project Schedule

Project Name and Number

Hall STEM Academy
1601 North Aldrich Avenue
Minneapolis MN 55411

Franklin Middle School
1501 North Aldrich Avenue
Minneapolis MN 55411

Sullivan/Anishinabe
3100 East 28th Street
Minneapolis MN 55406

Minneapolis Public Schools Project Number: 24MULTI007

Official Publication No. 25-2511

Description

The Contract includes General Construction work, including site, electrical, & data work required to construct three marquee signs at the addresses referenced above for Minneapolis Public Schools, Special School District No. 1, Minneapolis, MN, as shown on the Contract Drawings and described in the Project Manual dated 11.15.2024 prepared by Wold Architects & Engineers.

Schedule

Winter Break: December 23rd – January 3rd, 2025
MPS Formal Board Approval: January 14th, 2025
Pre-Construction Meeting: To be scheduled following award
Construction Commences: Following board approval
Spring Break: March 31st – April 4th, 2025
Last Day of School: June 6th, 2025
Juneteenth Holiday: June 19, 2025 (All MPS Buildings Closed)
Substantial Completion: June 30, 2025
Final Completion: July 15, 2025

Close-out Documents no later than 60 days past date of Substantial Completion

Substantial Completion

The Work will be substantially complete on or before June 30th, 2025.

Signature Certificate

Reference number: NDWVF-G7FBM-ALQ4A-E9RBN

Signer	Timestamp	Signature
Mike Luurtsema Email: mike.luurtsema@constructionresults.com		
Sent:	23 Jan 2025 14:13:21 UTC	
Viewed:	23 Jan 2025 14:21:35 UTC	
Signed:	23 Jan 2025 14:22:37 UTC	
Recipient Verification:		
✔Email verified	23 Jan 2025 14:21:35 UTC	



IP address: 96.78.81.138
Location: Minneapolis, United States

Document completed by all parties on:
23 Jan 2025 14:22:37 UTC

Signed with PandaDoc

PandaDoc is a document workflow and certified eSignature solution trusted by 50,000+ companies worldwide.

FY25 South Entrance

Contract Sum: $381,900

Architect: Cuningham Group Architecture, Inc.

Project Name and Number

South High School
3131 19th Ave. S
Minneapolis MN 55407
Minneapolis Public Schools Project Number: 25SOUT001
RFP 25-05

Description

Architectural and engineering services at South High School to accommodate a new safe & welcoming entrance. Includes a new entrance on the south side of the building and the relocation of administrative offices. It also includes geotechnical exploration with soil borings, community engagement, and security systems commissioning.

Contract Documents

AIA Document B101-2017
Exhibit A – Project Charter
Exhibit B – Project Design Milestones & Deliverables
Exhibit C – Owner Insurance
Exhibit D – Owner Requirements

AIA® Document B101® – 2017

Standard Form of Agreement Between Owner and Architect

AGREEMENT made as of the 10th day of December in the year 2024
(In words, indicate day, month and year.)

BETWEEN the Architect's client identified as the Owner:
(Name, legal status, address and other information)

Minneapolis Public Schools
Special School District #1
1250 West Broadway Avenue
Minneapolis, MN 55411

and the Architect:
(Name, legal status, address and other information)

Cuningham Group Architecture, Inc.
201 SE Main Street
Suite 325
Minneapolis, Minnesota 55414

for the following Project:
(Name, location and detailed description)

South High School Safe & Welcoming Entrance
3131 19th Avenue S
Minneapolis, Minnesota 55407

The Owner and Architect agree as follows.

The standards of professional services are set forth in this document and schedule of exhibits as follows:

EXH-A Project Charter
EXH-B Project Design Milestones & Deliverables
EXH-C Owner Insurance
EXH-D Owner Requirements

ADDITIONS AND DELETIONS:
The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

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6 COST OF THE WORK

7 COPYRIGHTS AND LICENSES

8 CLAIMS AND DISPUTES

9 TERMINATION OR SUSPENSION

10 MISCELLANEOUS PROVISIONS

11 COMPENSATION

12 SPECIAL TERMS AND CONDITIONS

13 SCOPE OF THE AGREEMENT

ARTICLE 1 INITIAL INFORMATION

§ 1.1 This Agreement is based on the Initial Information set forth in this Section 1.1.
(For each item in this section, insert the information or a statement such as "not applicable" or "unknown at time of execution.")

§ 1.1.1 The Owner's program for the Project:
(Insert the Owner's program, identify documentation that establishes the Owner's program, or state the manner in which the program will be developed.)

Defined in EXH-A Project Charter

§ 1.1.2 The Project's physical characteristics:
(Identify or describe pertinent information about the Project's physical characteristics, such as size; location; dimensions; geotechnical reports; site boundaries; topographic surveys; traffic and utility studies; availability of public and private utilities and services; legal description of the site, etc.)

Defined in EXH-A Project Charter

§ 1.1.3 The Owner's budget for the Cost of the Work, as defined in Section 6.1:
(Provide total and, if known, a line item breakdown.)

Defined in EXH-A Project Charter

§ 1.1.4 The Owner's anticipated design and construction milestone dates:

.1 Design phase milestone dates, if any:

Init.
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Defined in EXH-B Project Design Milestones & Deliverables

.2 Construction commencement date:

Defined in EXH-A Project Charter and EXH-B Project Design Milestones & Deliverables

.3 Substantial Completion date or dates:

Defined in EXH-A Project Charter

.4 Other milestone dates:

Defined in EXH-B Project Design Milestones & Deliverables

§ 1.1.5 The Owner intends the following procurement and delivery method for the Project:
(Identify method such as competitive bid or negotiated contract, as well as any requirements for accelerated or fast-track design and construction, multiple bid packages, or phased construction.)

Defined in EXH-A Project Charter

§ 1.1.6 The Owner's anticipated Sustainable Objective for the Project:
(Identify and describe the Owner's Sustainable Objective for the Project, if any.)

Sustainable Design solutions which optimize or promote improved energy efficiency, occupant well-being, comfort, health, and improved long-term maintenance serviceability as standard to LEED rating system and B3 requirements are valued. Owner will not pursue LEED certification or complete B3 compliance. The Architect is not required to provide additional services for Sustainable Design.
(Paragraph Deleted)

§ 1.1.6.1 If the Owner identifies a Sustainable Objective, the Owner and Architect shall complete and incorporate AIA Document E204™–2017, Sustainable Projects Exhibit, into this Agreement to define the terms, conditions and services related to the Owner's Sustainable Objective. If E204–2017 is incorporated into this agreement, the Owner and Architect shall incorporate the completed E204–2017 into the agreements with the consultants and contractors performing services or Work in any way associated with the Sustainable Objective.

§ 1.1.7 The Owner identifies the following representative in accordance with Section 5.3:
(List name, address, and other contact information.)

Mauricio Ochoa, Project Manager
Capital Planning, Construction, & Maintenance
Minneapolis Public Schools, SSD#1
1250 West Broadway Avenue
Minneapolis, MN 55411

§ 1.1.8 The persons or entities, in addition to the Owner's representative, who are required to review the Architect's submittals to the Owner are as follows:
(List name, address, and other contact information.)

MPS QA/QC trades personnel, school principal

§ 1.1.9 The Owner shall retain the following consultants and contractors:
(List name, legal status, address, and other contact information.)

.1 Geotechnical Engineer:

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.2 Civil Engineer:

.3 Other, if any:
(List any other consultants and contractors retained by the Owner.)

Commissioning Agent, Geotechnical Engineer, Special Inspections, Hazardous Materials Abatement, Special Testing, and Investigative Analysis

§ 1.1.10 The Architect identifies the following representative in accordance with Section 2.3:
(List name, address, and other contact information.)

Paolo Lovagnini, AIA, LEED AP
Cuningham Group Architecture, Inc – 201 SE Main St, Suite 325, Minneapolis, MN 55414
Civil & Structural Engineer - BKBM
MEP Engineers – CMTA, Inc
Low Voltage & Tech – True North Consulting
Cost Estimating – Rockwise Strategies

§ 1.1.11 The Architect shall retain the consultants identified in EXH-A Project Charter.

(Paragraphs Deleted)

§ 1.1.12 Other Initial Information on which the Agreement is based:

Professional Consultant Team as defined in EXH-A Project Charter

§ 1.2 The Owner and Architect may rely on the Initial Information. Both parties, however, recognize that the Initial Information may materially change and, in that event, the Owner and the Architect shall appropriately adjust the Architect's services, schedule for the Architect's services, and the Architect's compensation. The Owner shall adjust the Owner's budget for the Cost of the Work and the Owner's anticipated design and construction milestones, as necessary, to accommodate material changes in the Initial Information.

§ 1.3 The parties shall agree upon protocols governing the transmission and use of Instruments of Service or any other information or documentation in digital form. The parties will use AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, to establish the protocols for the development, use, transmission, and exchange of digital data.

§ 1.3.1 Any use of, or reliance on, all or a portion of a building information model without agreement to protocols governing the use of, and reliance on, the information contained in the model and without having those protocols set forth in AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, and the requisite AIA Document G202™–2013, Project Building Information Modeling Protocol Form, shall be at the using or relying party's sole risk and without liability to the other party and its contractors or consultants, the authors of, or contributors to, the building information model, and each of their agents and employees.

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ARTICLE 2 ARCHITECT'S RESPONSIBILITIES

§ 2.1 The Architect shall provide professional services as set forth in this Agreement. The Architect represents that it is properly licensed in the jurisdiction where the Project is located to provide the services required by this Agreement, or shall cause such services to be performed by appropriately licensed design professionals.

§ 2.2 The Architect shall perform its services consistent with the professional skill and care ordinarily provided by architects practicing in the same or similar locality under the same or similar circumstances. The Architect shall perform its services as expeditiously as is consistent with such professional skill and care and the orderly progress of the Project.

§ 2.3 The Architect shall identify a representative authorized to act on behalf of the Architect with respect to the Project.

§ 2.4 Except with the Owner's knowledge and consent, the Architect shall not engage in any activity, or accept any employment, interest or contribution that would reasonably appear to compromise the Architect's professional judgment with respect to this Project.

§ 2.5 The Architect shall maintain insurance as defined in EXH-C Owner Insurance until termination of this Agreement and for the period of the statutes of repose set forth in Minnesota Statute 541.051, so long as such insurance is commercially available and reasonably affordable. If any of the requirements set forth below are in addition to the types and limits the Architect normally maintains, the Owner shall pay the Architect as set forth in Section 11.9.

§ 2.5.1 Commercial General Liability with policy limits as defined in EXH-C Owner Insurance.

§ 2.5.2 Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Architect with policy limits as defined in EXH-C Owner Insurance.

§ 2.5.3 The Architect may achieve the required limits and coverage for Commercial General Liability and Automobile Liability through a combination of primary and excess or umbrella liability insurance, provided such primary and excess or umbrella liability insurance policies result in the same or greater coverage as the coverages required under Sections 2.5.1 and 2.5.2, and in no event shall any excess or umbrella liability insurance provide narrower coverage than the primary policy. The excess policy shall not require the exhaustion of the underlying limits only through the actual payment by the underlying insurers. Defined in EXH-C Owner Insurance.

§ 2.5.4 Workers' Compensation at statutory limits. Defined in EXH-C Owner Insurance.

§ 2.5.5 Employers' Liability with policy limits as defined in EXH-C Owner Insurance.

§ 2.5.6 Professional Liability covering negligent acts, errors and omissions in the performance of professional services with policy limits as defined in EXH-C Owner Insurance.

§ 2.5.7 Additional Insured Obligations. To the fullest extent permitted by law, the Architect shall cause the primary and excess or umbrella polices for Commercial General Liability and Automobile Liability to include the Owner as an additional insured for claims caused in whole or in part by the Architect's negligent acts or omissions. The additional insured coverage shall be primary and non-contributory to any of the Owner's insurance policies and shall apply to both ongoing and completed operations.

§ 2.5.8 The Architect shall provide certificates of insurance to the Owner that evidence compliance with the requirements in this Section 2.5.

ARTICLE 3 SCOPE OF ARCHITECT'S BASIC SERVICES

§ 3.1 The Architect's Basic Services consist of those described in this Article 3 and include usual and customary structural, mechanical, and electrical engineering services. Services not set forth in this Article 3 are Supplemental or Additional Services. The Architect's Basic Services are defined in EXH-B Project Design Milestones & Deliverables.

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§ 3.1.1 The Architect shall manage the Architect's services, research applicable design criteria, attend Project meetings, communicate with members of the Project team, and report progress to the Owner.

§ 3.1.2 The Architect shall coordinate its services with those services provided by the Owner and the Owner's consultants. The Architect shall be entitled to rely on, and shall not be responsible for, the accuracy, completeness, and timeliness of, services and information furnished by the Owner and the Owner's consultants. The Architect shall provide prompt (within 7-10 business days of discovery) written notice to the Owner if the Architect becomes aware of any error, omission, or inconsistency in such services or information. The Architect is encouraged to provide prompt written notice to the Owner within this timeframe; it is most critical during the construction administration phase.

§ 3.1.3 As soon as practicable after the date of this Agreement, the Architect shall submit for the Owner's approval a schedule for the performance of the Architect's services. The schedule initially shall include anticipated dates for the commencement of construction and for Substantial Completion of the Work as set forth in the Initial Information and defined in EXH-B Project Design Milestones & Deliverables. The schedule shall include allowances for periods of time required for the Owner's review, for the performance of the Owner's consultants, and for approval of submissions by authorities having jurisdiction over the Project. Once approved by the Owner, time limits established by the schedule shall not, except for reasonable cause, be exceeded by the Architect or Owner. With the Owner's approval, the Architect shall adjust the schedule, if necessary, as the Project proceeds until the commencement of construction.

§ 3.1.4 The Architect shall not be responsible for an Owner's directive or substitution, or for the Owner's acceptance of non-conforming Work, made or given without the Architect's written approval.

§ 3.1.5 The Architect shall contact governmental authorities required to approve the Construction Documents and entities providing utility services to the Project. The Architect shall respond to applicable design requirements imposed by those authorities and entities and initiate governmental planning review processes as defined in EXH-B Project Design Milestones & Deliverables.

§ 3.1.6 The Architect shall assist the Owner in connection with the Owner's responsibility for filing documents required for the approval of governmental authorities having jurisdiction over the Project.

§ 3.1.7 The Architect shall fully cooperate and coordinate with the Owner and its hired Commissioning Agent during all phases of design, construction, and commissioning to achieve the Project's final completion and full systems operability and ongoing use per the approved final design. The Architect is responsible for the duration of the contract to provide adequate support to its sub-consultants who provide services integral to commissioning.

§ 3.1.8 The Architect shall assist the Owner in connection with the Owner's responsibility to communicate the project design and construction to the school community, school neighbors, and neighborhood associations.

§ 3.1.9 The Owner shall provide available historical building documentation and the Architect shall field verify building elements as a basis for design. Additional design fees and reimbursable expenses incurred by the Architect related to remedying or addressing incorrectly identified building elements following the Architect's completion of field verification shall be borne solely by the Architect. Field verification shall include (1) field measurements of readily visible elements, (2) removing and replacing lay-in ceiling tiles, and (3) opening and closing access panels. The Architect is encouraged to identify areas that are not readily visible and merit further destructive testing that may include (1) drilling holes to use a scope camera to see inside a wall, (2) cutting small holes to identify sub surface conditions, or (3) moving non-functioning equipment to facilitate investigation. The Owner will perform any requested destructive testing. The Architect is responsible for field verification for the portion of the building within the scope of services. Field verification and destructive testing shall not be required for portions of the building or building systems that are not within the scope of services as defined in AIA G202-2013 Article
(Paragraph Deleted)

3.3.

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§ 3.2 Schematic Design Phase Services

§ 3.2.1 The Architect shall review the program and other information furnished by the Owner, and shall review laws, codes, and regulations applicable to the Architect's services. The Architect shall submit reports, documents for review, and deliverables as defined in EXH-B Project Design Milestones & Deliverables, AIA contracts G201-2013, G202-2013, and E203-2013.

§ 3.2.2 The Architect shall prepare a preliminary evaluation of the Owner's program, schedule, budget for the Cost of the Work, Project site, the proposed procurement and delivery method, and other Initial Information, each in terms of the other, to ascertain the requirements of the Project. The Architect shall notify the Owner of (1) any inconsistencies discovered in the information, and (2) other information or consulting services that may be reasonably needed for the Project.

§ 3.2.3 The Architect shall present its preliminary evaluation to the Owner and shall discuss with the Owner alternative approaches to design and construction of the Project. The Architect shall reach an understanding with the Owner regarding the requirements of the Project.

§ 3.2.4 Based on the Project requirements agreed upon with the Owner, the Architect shall prepare and present, for the Owner's approval, a preliminary design illustrating the scale and relationship of the Project components.

§ 3.2.5 Based on the Owner's approval of the preliminary design, the Architect shall prepare Schematic Design Documents for the Owner's approval. The Schematic Design Documents shall consist of drawings and other documents including a site plan, if appropriate, and preliminary building plans, sections and elevations; and may include some combination of study models, perspective sketches, or digital representations. Preliminary selections of major building systems and construction materials shall be noted on the drawings or described in writing.

§ 3.2.5.1 The Architect shall consider sustainable design alternatives, such as material choices and building orientation, together with other considerations based on program and aesthetics, in developing a design that is consistent with the Owner's program, schedule and budget for the Cost of the Work. The Owner may obtain more advanced sustainable design services as a Supplemental Service under Section 4.1.1.

§ 3.2.5.2 The Architect shall consider the value of alternative materials, building systems and equipment, together with other considerations based on program and aesthetics, in developing a design for the Project that is consistent with the Owner's program, schedule, and budget for the Cost of the Work.

§ 3.2.6 The Architect shall submit to the Owner an estimate of the Cost of the Work prepared in accordance with Section 6.3.

§ 3.2.7 The Architect shall submit the Schematic Design Documents to the Owner as defined in EXH-B Design Milestones & Deliverables, and request the Owner's approval before proceeding with Design Development Documents as defined in EXH-B Design Milestones & Deliverables.

§ 3.3 Design Development Phase Services

§ 3.3.1 Based on the Owner's approval of the Schematic Design Documents, and on the Owner's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, the Architect shall prepare Design Development Documents for the Owner's approval. The Design Development Documents shall illustrate and describe the development of the approved Schematic Design Documents and shall consist of drawings and other documents including plans, sections, elevations, typical construction details, and diagrammatic layouts of building systems to fix and describe the size and character of the Project as to architectural, structural, mechanical and electrical systems, and other appropriate elements. The Design Development Documents shall also include outline specifications that identify major materials and systems and establish, in general, their quality levels. The Architect shall submit reports, documents for review, and deliverables as defined in EXH-B Project Design Milestones & Deliverables and AIA contracts G201-2013, G202-2013, and E203-2013.

§ 3.3.2 The Architect shall update the estimate of the Cost of the Work prepared in accordance with Section 6.3.

§ 3.3.3 The Architect shall submit the Design Development Documents to the Owner, advise the Owner of any adjustments to the estimate of the Cost of the Work as defined in EXH-B Project Design Milestones & Deliverables,

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and request the Owner's approval before proceeding with Construction Documents as defined in EXH-B Design Milestones & Deliverables.

§ 3.4 Construction Documents Phase Services

§ 3.4.1 Based on the Owner's approval of the Design Development Documents, and on the Owner's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, the Architect shall prepare Construction Documents for the Owner's approval. The Construction Documents shall illustrate and describe the further development of the approved Design Development Documents and shall consist of Drawings and Specifications setting forth in detail the quality levels and performance criteria of materials and systems and other requirements for the construction of the Work. The Owner and Architect acknowledge that, in order to perform the Work, the Contractor will provide additional information, including Shop Drawings, Product Data, Samples and other similar submittals, which the Architect shall review in accordance with Section 3.6.4.

§ 3.4.2 The Architect shall incorporate the design requirements of governmental authorities having jurisdiction over the Project into the Construction Documents.

§ 3.4.3 During the development of the Construction Documents, the Architect shall assist the Owner in the development and preparation of (1) procurement information that describes the time, place, and conditions of bidding, including bidding or proposal forms; (2) the form of agreement between the Owner and Contractor; and (3) the Conditions of the Contract for Construction (General, Supplementary and other Conditions). The Architect shall also compile a project manual that includes the Conditions of the Contract for Construction and Specifications, and may include bidding requirements and sample forms.

§ 3.4.4 The Architect shall update the estimate for the Cost of the Work prepared in accordance with Section 6.3.

§ 3.4.5 The Architect shall submit the Construction Documents to the Owner, advise the Owner of any adjustments to the estimate of the Cost of the Work, take any action required under Section 6.5, and request the Owner's approval. The Architect shall submit construction documents which are estimated to bid within 5% of the budgeted construction cost. The Cost of Work submittal is defined in EXH-B Project Design Milestones & Deliverables.

§ 3.5 Procurement Phase Services

§ 3.5.1 General

The Architect shall assist the Owner in establishing a list of prospective contractors. Following the Owner's approval of the Construction Documents, the Architect shall assist the Owner in (1) obtaining either competitive bids or negotiated proposals; (2) confirming responsible and responsiveness of bids or proposals; (3) determining the successful bid or proposal, if any; (4) awarding and preparing contracts for construction; and, (5) Any review of bid anomalies or irregularities requiring legal review shall be provided by the Owner.

§ 3.5.2 Competitive Bidding

§ 3.5.2.1 Bidding Documents shall consist of bidding requirements and proposed Contract Documents.

§ 3.5.2.2 The Architect shall assist the Owner in bidding the Project by:

- **.1** facilitating the distribution of Bidding Documents to prospective bidders;
- **.2** organizing and conducting a pre-bid conference for prospective bidders;
- **.3** preparing responses to questions from prospective bidders and providing clarifications and interpretations of the Bidding Documents to the prospective bidders in the form of addenda; and,
- **.4** organizing and conducting the opening of the bids, and subsequently documenting and distributing the bidding results, as directed by the Owner.

§ 3.5.2.3 If the Bidding Documents permit substitutions, upon the Owner's written authorization, the Architect shall consider requests for substitutions and prepare and distribute addenda identifying approved substitutions to all prospective bidders.

§ 3.5.3 Negotiated Proposals

§ 3.5.3.1 Proposal Documents shall consist of proposal requirements and proposed Contract Documents.

§ 3.5.3.2 The Architect shall assist the Owner in obtaining proposals by:

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.1 facilitating the distribution of Proposal Documents for distribution to prospective contractors and requesting their return upon completion of the negotiation process;
.2 organizing and participating in selection interviews with prospective contractors;
.3 preparing responses to questions from prospective contractors and providing clarifications and interpretations of the Proposal Documents to the prospective contractors in the form of addenda; and,
.4 participating in negotiations with prospective contractors, and subsequently preparing a summary report of the negotiation results, as directed by the Owner.

§ 3.5.3.3 If the Proposal Documents permit substitutions, upon the Owner's written authorization, the Architect shall, as an Additional Service, consider requests for substitutions and prepare and distribute addenda identifying approved substitutions to all prospective contractors.

§ 3.6 Construction Phase Services

§ 3.6.1 General

§ 3.6.1.1 The Architect shall provide administration of the Contract between the Owner and the Contractor as set forth below and in AIA Document A201™–2017, General Conditions of the Contract for Construction. If the Owner and Contractor modify AIA Document A201–2017, those modifications shall not affect the Architect's services under this Agreement unless the Owner and the Architect amend this Agreement.

§ 3.6.1.2 The Architect shall advise, lead, and consult with the Owner during the Construction Phase Services. The Architect shall have authority to act on behalf of the Owner only to the extent provided in this Agreement. The Architect shall not have control over, charge of, or responsibility for the construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work, nor shall the Architect be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The Architect shall be responsible for the Architect's negligent acts, errors, or omissions, but shall not have control over or charge of, and shall not be responsible for, acts or omissions of the Contractor or of any other persons or entities performing portions of the Work.

§ 3.6.1.3 Subject to Section 4.2 and except as provided in Section 3.6.6.5, the Architect's responsibility to provide Construction Phase Services commences with the award of the Contract for Construction and the Owner's written notice to proceed to Construction Administration and terminates on the date the Architect authorizes the Contractor's final Certificate for Payment.

§ 3.6.2 Evaluations of the Work

§ 3.6.2.1 The Architect shall visit the site at intervals appropriate to the stage of construction, or as otherwise required in Section 4.2.3, to become generally familiar with the progress and quality of the portion of the Work completed, and to determine, in general, if the Work observed is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the Architect shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. On the basis of the site visits, the Architect shall keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, and promptly report to the Owner (1) known deviations from the Contract Documents, (2) known deviations from the most recent construction schedule submitted by the Contractor, and (3) defects and deficiencies observed in the Work.

§ 3.6.2.2 The Architect has the authority and obligation to reject Work that does not conform to the Contract Documents unless the Owner accepts non-conforming work in writing after consulting with the Architect. Whenever the Architect considers it necessary or advisable, the Architect shall have the authority and obligation to require inspection or testing of the Work in accordance with the provisions of the Contract Documents, whether or not the Work is fabricated, installed or completed. However, neither this authority and obligation of the Architect nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect to the Contractor, Subcontractors, suppliers, their agents or employees, or other persons or entities performing portions of the Work.

§ 3.6.2.3 The Architect shall interpret and decide matters concerning performance under, and requirements of, the Contract Documents on written request of either the Owner or Contractor. The Architect's response to such requests shall be made in writing within five business days of requests or otherwise with reasonable promptness.

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§ 3.6.2.4 Interpretations and decisions of the Architect shall be consistent with the intent of, and reasonably inferable from, the Contract Documents and shall be in writing or in the form of drawings. When making such interpretations and decisions, the Architect shall endeavor to secure faithful performance by both Owner and Contractor, shall not show partiality to either, and shall not be liable for results of interpretations or decisions rendered in good faith. The Architect's decisions on matters relating to aesthetic effect shall be final if consistent with the intent expressed in the Contract Documents.

§ 3.6.2.5 Unless the Owner and Contractor designate another person to serve as an Initial Decision Maker, as that term is defined in AIA Document A201–2017, the Architect shall render initial decisions on Claims between the Owner and Contractor as provided in the Contract Documents.

§ 3.6.3 Certificates for Payment to Contractor

§ 3.6.3.1 The Architect shall review and certify the amounts due the Contractor and shall issue certificates in such amounts. The Architect's certification for payment shall constitute a representation to the Owner, based on the Architect's evaluation of the Work as provided in Section 3.6.2 and on the data comprising the Contractor's Application for Payment, that, to the best of the Architect's knowledge, information and belief, the Work has progressed to the point indicated, the quality of the Work is in accordance with the Contract Documents, and that the Contractor is entitled to payment in the amount certified. The foregoing representations are subject to (1) an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, (2) results of subsequent documented tests and inspections, (3) correction of minor deviations from the Contract Documents prior to completion, and (4) specific qualifications expressed by the Architect. The Architect's certification on the Certificate for Payment shall be that the percentages of Work shown on the application are completed, to the best of the Architect's knowledge, information, and belief. No judgement is made by the Architect as to the value of the Work or the value of uncompleted Work.

§ 3.6.3.2 The issuance of a Certificate for Payment shall not be a representation that the Architect has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work, (2) reviewed construction means, methods, techniques, sequences or procedures, (3) reviewed copies of requisitions received from Subcontractors and suppliers and other data requested by the Owner to substantiate the Contractor's right to payment, or (4) ascertained how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

§ 3.6.3.3 The Architect shall maintain a record of the Applications and Certificates for Payment.

§ 3.6.4 Submittals

§ 3.6.4.1 The Architect shall review the Contractor's submittal schedule and shall not unreasonably delay or withhold approval of the schedule. The Architect's action in reviewing submittals shall be taken in accordance with the approved submittal schedule or, in the absence of an approved submittal schedule, with reasonable promptness while allowing sufficient time, in the Architect's professional judgment, to permit adequate review.

§ 3.6.4.2 The Architect shall review and approve, or take other appropriate action upon, the Contractor's submittals such as Shop Drawings, Product Data and Samples, but only for the limited purpose of checking for conformance with the Contract Documents. Review of such submittals is not for the purpose of determining the accuracy and completeness of other information such as dimensions, quantities, and installation or performance of equipment or systems, which are the Contractor's responsibility. The Architect's review shall not constitute approval of safety precautions or construction means, methods, techniques, sequences or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

§ 3.6.4.3 If the Contract Documents specifically require the Contractor to provide professional design services or certifications by a design professional related to systems, materials, or equipment, the Architect shall specify the appropriate performance and design criteria that such services must satisfy. The Architect shall review and take appropriate action on Shop Drawings and other submittals related to the Work designed or certified by the Contractor's design professional, provided the submittals bear such professional's seal and signature when submitted to the Architect. The Architect's review shall be for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Architect shall be entitled to rely upon, and shall not be responsible for, the adequacy and accuracy of the services, certifications, and approvals performed or provided by such design professionals.

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§ 3.6.4.4 Subject to Section 4.2, the Architect shall review and respond to requests for information about the Contract Documents. The Architect shall set forth, in the Contract Documents, the requirements for requests for information. Requests for information shall include, at a minimum, a detailed written statement that indicates the specific Drawings or Specifications in need of clarification and the nature of the clarification requested. The Architect's response to such requests shall be made in writing within any time limits agreed upon, or otherwise with reasonable promptness. If appropriate, the Architect shall prepare and issue supplemental Drawings and Specifications in response to the requests for information.

§ 3.6.4.5 The Architect shall maintain a record of submittals and copies of submittals supplied by the Contractor in accordance with the requirements of the Contract Documents.

§ 3.6.5 Changes in the Work

§ 3.6.5.1 The Architect may order minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. Subject to Section 4.2, the Architect shall prepare Change Orders and Construction Change Directives for the Owner's approval and execution in accordance with the Contract Documents.

§ 3.6.5.2 The Architect shall maintain records relative to changes in the Work.

§ 3.6.6 Project Completion

§ 3.6.6.1 The Architect shall:

.1 conduct inspections to determine the date or dates of Substantial Completion and the date of final completion;

.2 issue Certificates of Substantial Completion;

.3 forward to the Owner, for the Owner's review and records, written warranties including a warranty schedule of major building systems and warranty expiration dates, and related documents required by the Contract Documents and received from the Contractor; and,

.4 issue a final Certificate for Payment based upon a final inspection indicating that, to the best of the Architect's knowledge, information, and belief, the Work complies with the requirements of the Contract Documents.

.5 The Architect shall produce punch list items as part of the certificate of Substantial Completion issued to the Contractor. The Architect shall create the list(s), present them to the Owner, incorporate Owner feedback, and compile all punch items for the contractor in a timely manner.

§ 3.6.6.2 The Architect's inspections shall be conducted with the Owner to check conformance of the Work with the requirements of the Contract Documents and to verify the accuracy and completeness of the list(s) including and not limited to Architectural, Civil, Mechanical, Electrical, Structural, and Plumbing systems submitted by the Contractor of Work to be completed or corrected.

§ 3.6.6.3 When Substantial Completion has been achieved, the Architect shall inform the Owner about the balance of the Contract Sum remaining to be paid the Contractor, including the amount to be retained from the Contract Sum, if any, for final completion or correction of the Work.

§ 3.6.6.4 The Architect shall forward to the Owner the following information received from the Contractor: (1) consent of surety or sureties, if any, to reduction in or partial release of retainage or the making of final payment; (2) affidavits, receipts, releases and waivers of liens, or bonds indemnifying the Owner against liens; and (3) any other documentation required of the Contractor under the Contract Documents.

§ 3.6.6.5 Upon request of the Owner ten (10) months following substantial completion, and prior to the expiration of one year from the date of Substantial Completion, the Architect shall, without additional compensation, conduct a meeting with the Owner to review the facility operations and performance.

§ 3.6.6.6 The Architect shall issue an As Constructed Record set of construction documents that will consist of the As Designed Record Sets of construction documents and Revit model with redlined changes from the General

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Contractor incorporated into the digital deliverables as defined in AIA G201 2013 Article 2.3 to the Owner upon final completion of the Project. The As Constructed Record documents shall reflect all digital changes made by the Architect between issuing the Bid Documents set and final completion as well as the General Contractor's redline changes. The Architect shall not be held responsible for field verification of the General Contractor's changes. The Architect's full set of deliverables during Construction Administration are defined in EXH-D Owner Requirements.

ARTICLE 4 SUPPLEMENTAL AND ADDITIONAL SERVICES

§ 4.1 Supplemental Services

§ 4.1.1 The services listed below are not included in Basic Services but may be required for the Project. The Architect shall provide the listed Supplemental Services only if specifically designated in the table below as the Architect's responsibility, and the Owner shall compensate the Architect as provided in Section 11.2. Unless otherwise specifically addressed in this Agreement, if neither the Owner nor the Architect is designated, the parties agree that the listed Supplemental Service is not being provided for the Project.

(Designate the Architect's Supplemental Services and the Owner's Supplemental Services required for the Project by indicating whether the Architect or Owner shall be responsible for providing the identified Supplemental Service. Insert a description of the Supplemental Services in Section 4.1.2 below or attach the description of services as an exhibit to this Agreement.)

Supplemental Services	**Responsibility** *(Architect, Owner, or not provided)*
§ 4.1.1.1 Programming	
§ 4.1.1.2 Multiple preliminary designs	
§ 4.1.1.3 Measured drawings	
§ 4.1.1.4 Existing facilities surveys	
§ 4.1.1.5 Site evaluation and planning	
§ 4.1.1.6 Building Information Model management responsibilities	
§ 4.1.1.7 Development of Building Information Models for post construction use	
§ 4.1.1.8 Civil engineering	
§ 4.1.1.9 Landscape design	
§ 4.1.1.10 Architectural interior design	
§ 4.1.1.11 Value analysis	
§ 4.1.1.12 Detailed cost estimating beyond that required in Section 6.3	
§ 4.1.1.13 On-site project representation	
§ 4.1.1.14 Conformed documents for construction	
§ 4.1.1.15 As-designed record drawings	
§ 4.1.1.16 As-constructed record drawings	
§ 4.1.1.17 Post-occupancy evaluation	
§ 4.1.1.18 Facility support services	
§ 4.1.1.19 Tenant-related services	
§ 4.1.1.20 Architect's coordination of the Owner's consultants	
§ 4.1.1.21 Telecommunications/data design	
§ 4.1.1.22 Security evaluation and planning	
§ 4.1.1.23 Commissioning	
§ 4.1.1.24 Sustainable Project Services pursuant to Section 4.1.3	
§ 4.1.1.25 Fast-track design services	
§ 4.1.1.26 Multiple bid packages	

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§ 4.1.1.27	Historic preservation	
§ 4.1.1.28	Furniture, furnishings, and equipment design	
§ 4.1.1.29	Other services provided by specialty Consultants	
§ 4.1.1.30	Other Supplemental Services	

§ 4.1.2 Description of Supplemental Services

§ 4.1.2.1 A description of each Supplemental Service identified in Section 4.1.1 as the Architect's responsibility is provided below.

(Describe in detail the Architect's Supplemental Services identified in Section 4.1.1 or, if set forth in an exhibit, identify the exhibit. The AIA publishes a number of Standard Form of Architect's Services documents that can be included as an exhibit to describe the Architect's Supplemental Services.)

§ 4.1.2.2 A description of each Supplemental Service identified in Section 4.1.1 as the Owner's responsibility is provided below.

(Describe in detail the Owner's Supplemental Services identified in Section 4.1.1 or, if set forth in an exhibit, identify the exhibit.)

§ 4.1.3 If the Owner identified a Sustainable Objective in Article 1, the Architect shall provide, as a Supplemental Service, the Sustainability Services required in AIA Document E204™–2017, Sustainable Projects Exhibit, attached to this Agreement. The Owner shall compensate the Architect as provided in Section 11.2.

§ 4.2 Architect's Additional Services

The Architect may provide Additional Services after execution of this Agreement without invalidating the Agreement. Except for services required due to the fault of the Architect, any Additional Services provided in accordance with this Section 4.2 shall entitle the Architect to compensation pursuant to Section 11.3 and an appropriate adjustment in the Architect's schedule. Additional Services are Defined in EXH-A Project Charter.

§ 4.2.1 Upon recognizing the need to perform the following Additional Services, the Architect shall notify the Owner with reasonable promptness and explain the facts and circumstances giving rise to the need. The Architect shall not proceed to provide the following Additional Services until the Architect receives the Owner's written authorization:

.1 Services necessitated by a change in the Initial Information, previous instructions or approvals given by the Owner, or a material change in the Project including size, quality, complexity, the Owner's schedule or budget for Cost of the Work, or procurement or delivery method;

.2 Services necessitated by the enactment or revision of codes, laws, or regulations, including changing or editing previously prepared Instruments of Service;

.3 Changing or editing previously prepared Instruments of Service necessitated by official interpretations of applicable codes, laws or regulations that are contrary to requirements of the Instruments of Service when those Instruments of Service were prepared in accordance with the applicable standard of care;

.4 Services necessitated by decisions of the Owner not rendered in a timely manner or any other failure of performance on the part of the Owner or the Owner's consultants or contractors;

(Paragraphs Deleted)

.8 Preparation for, and attendance at, a dispute resolution proceeding or legal proceeding, except where the Architect is party thereto;

(Paragraph Deleted)

.10 Consultation concerning replacement of Work resulting from fire or other cause during construction; or,

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(Paragraph Deleted)

§ 4.2.2 To avoid delay in the Construction Phase, the Architect shall provide the following Additional Services, notify the Owner with reasonable promptness, and explain the facts and circumstances giving rise to the need. If, upon receipt of the Architect's notice, the Owner determines that all or parts of the services are not required, the Owner shall give prompt written notice to the Architect of the Owner's determination. The Owner shall compensate the Architect for the services provided prior to the Architect's receipt of the Owner's notice.

.1 Reviewing a Contractor's submittal out of sequence from the submittal schedule approved by the Architect;

.2 Responding to the Contractor's requests for information that are not prepared in accordance with the Contract Documents or where such information is available to the Contractor from a careful study and comparison of the Contract Documents, field conditions, other Owner-provided information, Contractor-prepared coordination drawings, or prior Project correspondence or documentation;

.3 Preparing Change Orders and Construction Change Directives that require evaluation of Contractor's proposals and supporting data, or the preparation or revision of Instruments of Service;

.4 Evaluating an extensive number of Claims as the Initial Decision Maker; or,

.5 Evaluating substitutions proposed by the Owner or Contractor and making subsequent revisions to Instruments of Service resulting therefrom.

§ 4.2.3 The Architect shall provide Construction Phase Services exceeding the limits set forth below as Additional Services. When the limits below are reached, the Architect shall notify the Owner:

.1 2 (two) reviews of each Shop Drawing, Product Data item, sample and similar submittals of the Contractor

.2 1 (one) visits per week to the site by the Architect during construction

.3 2 (two) inspections for any portion of the Work to determine whether such portion of the Work is substantially complete in accordance with the requirements of the Contract Documents

.4 1 (one) inspections for any portion of the Work to determine final completion.

§ 4.2.4 Except for services required under Section 3.6.6.5 and those services that do not exceed the limits set forth in Section 4.2.3, Construction Phase Services provided more than 60 days after (1) the date of Substantial Completion of the Work or (2) the initial date of Substantial Completion identified in the agreement between the Owner and Contractor, whichever is earlier, shall be compensated as Additional Services to the extent the Architect incurs additional cost in providing those Construction Phase Services.

§ 4.2.5 If the services covered by this Agreement have not been completed within eighteen (18) months of the date of this Agreement, through no fault of the Architect, extension of the Architect's services beyond that time shall be compensated as Additional Services.

ARTICLE 5 OWNER'S RESPONSIBILITIES

§ 5.1 Unless otherwise provided for under this Agreement, the Owner shall provide information in a timely manner regarding requirements for and limitations on the Project, including a written program, which shall set forth the Owner's objectives; schedule; constraints and criteria, including space requirements and relationships; flexibility; expandability; special equipment; systems; and site requirements and stakeholder engagement requirements as defined in EXH-B Project Design Milestones & Deliverables.

§ 5.2 The Owner shall establish the Owner's budget for the Project, including (1) the budget for the Cost of the Work as defined in Section 6.1; (2) the Owner's other costs; and, (3) reasonable contingencies related to all of these costs. The Owner shall update the Owner's budget for the Project as necessary throughout the duration of the Project until final completion. If the Owner significantly increases or decreases the Owner's budget for the Cost of the Work, the Owner shall notify the Architect. The Owner and the Architect shall thereafter agree to a corresponding change in the Project's scope and quality.

§ 5.3 The Owner shall identify a representative authorized to act on the Owner's behalf with respect to the Project. The Owner shall render decisions and approve the Architect's submittals in a timely manner in order to avoid unreasonable delay in the orderly and sequential progress of the Architect's services.

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§ 5.4 The Owner shall furnish surveys to describe physical characteristics, legal limitations and utility locations for the site of the Project, and a written legal description of the site. The surveys and legal information shall include, as applicable, grades and lines of streets, alleys, pavements and adjoining property and structures; designated wetlands; adjacent drainage; rights-of-way, restrictions, easements, encroachments, zoning, deed restrictions, boundaries and contours of the site; locations, dimensions, and other necessary data with respect to existing buildings, other improvements and trees; and information concerning available utility services and lines, both public and private, above and below grade, including inverts and depths. All the information on the survey shall be referenced to a Project benchmark.

§ 5.5 The Owner shall furnish services of geotechnical engineers, which may include test borings, test pits, determinations of soil bearing values, percolation tests, evaluations of hazardous materials, seismic evaluation, ground corrosion tests and resistivity tests, including necessary operations for anticipating subsoil conditions, with written reports and appropriate recommendations.

§ 5.6 The Owner shall provide the Supplemental Services designated as the Owner's responsibility in Section 4.1.1.

§ 5.7 If the Owner identified a Sustainable Objective in Article 1, the Owner shall fulfill its responsibilities as required in AIA Document E204™–2017, Sustainable Projects Exhibit, attached to this Agreement.

§ 5.8 The Owner shall coordinate the services of its own consultants with those services provided by the Architect. Upon the Architect's request, the Owner shall furnish copies of the scope of services in the contracts between the Owner and the Owner's consultants. The Owner shall furnish the services of consultants other than those designated as the responsibility of the Architect in this Agreement, or authorize the Architect to furnish them as an Additional Service, when the Architect requests such services and demonstrates that they are reasonably required by the scope of the Project. The Owner shall require that its consultants and contractors maintain insurance, including professional liability insurance, as appropriate to the services or work provided and defined in Article 2.

§ 5.8.1 Architect's responsibility in connection with the services of Owner's consultants, contractors, or design-build contractor shall be to coordinate Owner's consultants', contractors', or design-build contractor's portion of the Instruments of Service. Owner shall require consultants, contractors, or design-build contractor retained by Owner to coordinate their services and documents with those of Architect and Architect's consultants.

§ 5.9 The Owner shall furnish tests, inspections and reports required by law or the Contract Documents, such as structural, mechanical, and chemical tests, tests for air and water pollution, and tests for hazardous materials.

§ 5.10 The Owner shall furnish all legal, insurance and accounting services, including auditing services, that may be reasonably necessary at any time for the Project to meet the Owner's needs and interests.

§ 5.11 The Owner shall provide prompt written notice to the Architect if the Owner becomes aware of any fault or defect in the Project, including errors, omissions or inconsistencies in the Architect's Instruments of Service.

§ 5.12 The Owner shall include the Architect in all communications with the Contractor that relate to or affect the Architect's services or professional responsibilities. The Owner shall promptly notify the Architect of the substance of any direct communications between the Owner and the Contractor otherwise relating to the Project. Communications by and with the Architect's consultants shall be through the Architect.

§ 5.13 Before executing the Contract for Construction, the Owner shall coordinate the Architect's duties and responsibilities set forth in the Contract for Construction with the Architect's services set forth in this Agreement. The Owner shall provide the Architect a copy of the executed agreement between the Owner and Contractor, including the General Conditions of the Contract for Construction.

§ 5.14 The Owner shall provide the Architect access to the Project site prior to commencement of the Work and shall obligate the Contractor to provide the Architect access to the Work wherever it is in preparation or progress.

§ 5.15 Within 15 days after receipt of a written request from the Architect, the Owner shall furnish the requested information as necessary and relevant for the Architect to evaluate, give notice of, or enforce lien rights.

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§ 5.16 The Owner shall provide coordination, installation, and procurement of furniture, furnishings, and equipment for the Project.

§ 5.17 The Owner shall provide Information Technology equipment plugged into networks. Cabling and infrastructure designed by the Architect and installed by the Contractor.

§ 5.18 The Owner shall provide Testing and Special Inspections.

§ 5.19 The Owner shall coordinate closely with the Architect and the Contractor for design and installation of security systems in the Project. The Owner shall design systems by locating cameras and designating doors for access control, the Architect shall document and complete the initial design by designing pathways, the Contractor shall install cabling and infrastructure required for the systems to be operational as well as devices, and the Owner shall work with the Contractor to program and test the
(Paragraph Deleted)

systems.

ARTICLE 6 COST OF THE WORK

§ 6.1 For purposes of this Agreement, the Cost of the Work shall be the total cost to the Owner to construct all elements of the Project designed or specified by the Architect and shall include contractors' general conditions costs, overhead and profit. The Cost of the Work also includes the reasonable value of labor including escalation for phased work or market conditions, materials, and equipment, donated to, or otherwise furnished by, the Owner. The Cost of the Work does not include the compensation of the Architect; the costs of the land, rights-of-way, financing, or contingencies for changes in the Work; or other costs that are the responsibility of the Owner.

§ 6.2 The Owner's budget for the Cost of the Work is provided in Initial Information, and shall be adjusted throughout the Project as required under Sections 5.2, 6.4 and 6.5. Evaluations of the Owner's budget for the Cost of the Work, and the preliminary estimate of the Cost of the Work and updated estimates of the Cost of the Work, prepared by the Architect, represent the Architect's judgment as a design professional. It is recognized, however, that neither the Architect nor the Owner has control over the cost of labor, materials, or equipment; the Contractor's methods of determining bid prices; or competitive bidding, market, or negotiating conditions. Accordingly, the Architect cannot and does not warrant or represent that bids or negotiated prices will not vary from the Owner's budget for the Cost of the Work, or from any estimate of the Cost of the Work, or evaluation, prepared or agreed to by the Architect.

§ 6.3 In preparing estimates of the Cost of Work, the Architect shall be permitted to include contingencies for design, bidding, and price escalation; to determine what materials, equipment, component systems, and types of construction are to be included in the Contract Documents; to recommend reasonable adjustments in the program and scope of the Project; and to include design alternates as may be necessary to adjust the estimated Cost of the Work to meet the Owner's budget as defined in EXH-A Project Charter and EXH-B Project Design Milestones & Deliverables. The Architect's estimate of the Cost of the Work shall be based on current area, volume or similar conceptual estimating techniques. If the Owner requires a detailed estimate of the Cost of the Work, the Architect shall provide such an estimate, if identified as the Architect's responsibility in Section 4.1.1, as a Supplemental Service.

§ 6.4 If, through no fault of the Architect, the Procurement Phase has not commenced within 90 days after the Architect submits the Construction Documents to the Owner, the Owner's budget for the Cost of the Work may be adjusted to reflect changes in the general level of prices in the applicable construction market.

§ 6.5 If at any time the Architect's estimate of the Cost of the Work exceeds the Owner's budget for the Cost of the Work, the Architect shall make appropriate recommendations to the Owner to adjust the Project's size, quality, or budget for the Cost of the Work, and the Owner shall cooperate with the Architect in making such adjustments.

§ 6.6 If the Owner's budget for the Cost of the Work at the conclusion of the Construction Documents Phase Services is exceeded by five percent (5%) by the lowest bona fide bid or negotiated proposal, the Owner shall

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.1 give written approval of an increase in the budget for the Cost of the Work;
.2 authorize rebidding or renegotiating of the Project within a reasonable time;
.3 terminate in accordance with Section 9.5;
.4 in consultation with the Architect, revise the Project program, scope, or quality as required to reduce the Cost of the Work; or,
.5 cooperate in revising the Project scope as required to reduce the estimated construction cost to an estimated cost within the Owner's budget. Costs or time incurred by the Architect to review the design to align with the Budget shall be borne entirely by the Architect.
.6 implement any other mutually acceptable alternative, which may include the Owner's decision to suspend the Project, in which case the Architect shall be paid for services actually rendered under this agreement.

§ 6.7 If the Owner chooses to proceed under Section 6.6.4, the Architect shall modify the Construction Documents as necessary to comply with the Owner's budget for the Cost of the Work at the conclusion of the Construction Documents Phase Services, or the budget as adjusted under Section 6.6.1. If the Owner requires the Architect to modify the Construction Documents because the lowest bona fide bid or negotiated proposal exceeds the Owner's budget for the Cost of the Work due to market conditions the Architect could not reasonably anticipate, the Owner shall compensate the Architect for the modifications as an Additional Service pursuant to Section 11.3; otherwise the Architect's services for modifying the Construction Documents shall be without additional compensation. In any event, the Architect's modification of the Construction Documents shall be the limit of the Architect's responsibility under this Article 6.

ARTICLE 7 COPYRIGHTS AND LICENSES

§ 7.1 The Architect and the Owner warrant that in transmitting Instruments of Service, or any other information, the transmitting party is the copyright owner of such information or has permission from the copyright owner to transmit such information for its use on the Project.

§ 7.2 The Architect and the Architect's consultants shall be deemed the authors and owners of their respective Instruments of Service, including the Drawings and Specifications, and shall retain all common law, statutory and other reserved rights, including copyrights. Submission or distribution of Instruments of Service to meet official regulatory requirements or for similar purposes in connection with the Project is not to be construed as publication in derogation of the reserved rights of the Architect and the Architect's consultants.

§ 7.3 The Architect grants to the Owner a nonexclusive license to use the Architect's Instruments of Service solely and exclusively for purposes of constructing, using, maintaining, altering and adding to the Project, provided that the Owner substantially performs its obligations under this Agreement, including prompt payment of all sums due pursuant to Article 9 and Article 11. The Architect shall obtain similar nonexclusive licenses from the Architect's consultants consistent with this Agreement. The license granted under this section permits the Owner to authorize the Contractor, Subcontractors, Sub-subcontractors, and suppliers, as well as the Owner's consultants and separate contractors, to reproduce applicable portions of the Instruments of Service, subject to any protocols established pursuant to Section 1.3, solely and exclusively for use in performing services or construction for the Project. If the Architect rightfully terminates this Agreement for cause as provided in Section 9.4, the license granted in this Section 7.3 shall terminate.

§ 7.3.1 In the event the Owner uses the Instruments of Service without retaining the authors of the Instruments of Service, the Owner releases the Architect and Architect's consultant(s) from all claims and causes of action arising from such uses. The Owner, to the extent permitted by law, further agrees to indemnify and hold harmless the Architect and its consultants from all costs and expenses, including the cost of defense, related to claims and causes of action asserted by any third person or entity to the extent such costs and expenses arise from the Owner's use of the Instruments of Service under this Section 7.3.1. The terms of this Section 7.3.1 shall not apply if the Owner rightfully terminates this Agreement for cause under Section 9.4.

§ 7.4 Any unauthorized use of the Instruments of Service shall be at the Owner's sole risk and without liability to the Architect and the Architect's consultants. The Owner retains full rights to all Instruments of Service for use in the Project and any existing or future projects.

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§ 7.5 Except as otherwise stated in Section 7.3, the provisions of this Article 7 shall survive the termination of this Agreement.

ARTICLE 8 CLAIMS AND DISPUTES

§ 8.1 General

§ 8.1.1 The Owner and Architect shall commence all claims and causes of action against the other and arising out of or related to this Agreement, whether in contract, tort, or otherwise, in accordance with the requirements of the binding dispute resolution method selected in this Agreement and within the period specified by applicable law, but in any case not more than 10 years after the date of Substantial Completion of the Work. The Owner and Architect waive all claims and causes of action not commenced in accordance with this Section 8.1.1.

§ 8.1.2 To the extent damages are covered by property insurance, the Owner and Architect waive all rights against each other and against the contractors, consultants, agents, and employees of the other for damages, except such rights as they may have to the proceeds of such insurance as set forth in AIA Document A201–2017, General Conditions of the Contract for Construction. The Owner or the Architect, as appropriate, shall require of the contractors, consultants, agents, and employees of any of them, similar waivers in favor of the other parties enumerated herein.

§ 8.1.3 The Architect and Owner waive consequential damages for claims, disputes, or other matters in question, arising out of or relating to this Agreement. This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination of this Agreement, except as specifically provided in Section 9.7.

§ 8.2 Mediation

§ 8.2.1 Any claim, dispute or other matter in question arising out of or related to this Agreement shall be subject to mediation as a condition precedent to binding dispute resolution. If such matter relates to or is the subject of a lien arising out of the Architect's services, the Architect may proceed in accordance with applicable law to comply with the lien notice or filing deadlines prior to resolution of the matter by mediation or by binding dispute resolution.

§ 8.2.2 The Owner and Architect shall endeavor to resolve claims, disputes and other matters in question between them by mediation, which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Mediation Procedures in effect on the date of this Agreement. A request for mediation shall be made in writing, delivered to the other party to this Agreement, and filed with the person or entity administering the mediation. The request may be made concurrently with the filing of a complaint or other appropriate demand for binding dispute resolution but, in such event, mediation shall proceed in advance of binding dispute resolution proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order. If an arbitration proceeding is stayed pursuant to this section, the parties may nonetheless proceed to the selection of the arbitrator(s) and agree upon a schedule for later proceedings.

§ 8.2.3 The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

§ 8.2.4 If the parties do not resolve a dispute through mediation pursuant to this Section 8.2, the method of binding dispute resolution shall be the following:
(Check the appropriate box.)

[ ] Arbitration pursuant to Section 8.3 of this Agreement

[X] Litigation in a court of competent jurisdiction

[ ] Other: *(Specify)*

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If the Owner and Architect do not select a method of binding dispute resolution, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, the dispute will be resolved in a court of competent jurisdiction.

§ 8.3 Arbitration

§ 8.3.1 If the parties have selected arbitration as the method for binding dispute resolution in this Agreement, any claim, dispute or other matter in question arising out of or related to this Agreement subject to, but not resolved by, mediation shall be subject to arbitration, which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Arbitration Rules in effect on the date of this Agreement. A demand for arbitration shall be made in writing, delivered to the other party to this Agreement, and filed with the person or entity administering the arbitration.

§ 8.3.1.1 A demand for arbitration shall be made no earlier than concurrently with the filing of a request for mediation, but in no event shall it be made after the date when the institution of legal or equitable proceedings based on the claim, dispute or other matter in question would be barred by the applicable statute of limitations. For statute of limitations purposes, receipt of a written demand for arbitration by the person or entity administering the arbitration shall constitute the institution of legal or equitable proceedings based on the claim, dispute or other matter in question.

§ 8.3.2 The foregoing agreement to arbitrate, and other agreements to arbitrate with an additional person or entity duly consented to by parties to this Agreement, shall be specifically enforceable in accordance with applicable law in any court having jurisdiction thereof.

§ 8.3.3 The award rendered by the arbitrator(s) shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.

§ 8.3.4 Consolidation or Joinder

§ 8.3.4.1 Either party, at its sole discretion, may consolidate an arbitration conducted under this Agreement with any other arbitration to which it is a party provided that (1) the arbitration agreement governing the other arbitration permits consolidation; (2) the arbitrations to be consolidated substantially involve common questions of law or fact; and (3) the arbitrations employ materially similar procedural rules and methods for selecting arbitrator(s).

§ 8.3.4.2 Either party, at its sole discretion, may include by joinder persons or entities substantially involved in a common question of law or fact whose presence is required if complete relief is to be accorded in arbitration, provided that the party sought to be joined consents in writing to such joinder. Consent to arbitration involving an additional person or entity shall not constitute consent to arbitration of any claim, dispute or other matter in question not described in the written consent.

§ 8.3.4.3 The Owner and Architect grant to any person or entity made a party to an arbitration conducted under this Section 8.3, whether by joinder or consolidation, the same rights of joinder and consolidation as the Owner and Architect under this Agreement.

§ 8.4 The provisions of this Article 8 shall survive the termination of this Agreement.

ARTICLE 9 TERMINATION OR SUSPENSION

§ 9.1 If the Owner fails to make payments to the Architect in accordance with this Agreement, such failure shall be considered substantial nonperformance and cause for termination or, at the Architect's option, cause for suspension of performance of services under this Agreement. If the Architect elects to suspend services, the Architect shall give seven days' written notice to the Owner before suspending services. In the event of a suspension of services, the Architect shall have no liability to the Owner for delay or damage caused the Owner because of such suspension of services. Before resuming services, the Owner shall pay the Architect all sums due prior to suspension and any reasonable, quantifiable expenses incurred in the interruption and resumption of the Architect's services. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted.

§ 9.2 If the Owner suspends the Project, the Architect shall be compensated for services performed prior to notice of such suspension. When the Project is resumed, the Architect shall be compensated for expenses incurred in the

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interruption and resumption of the Architect's services. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted.

§ 9.3 If the Owner suspends the Project for more than 90 cumulative days for reasons other than the fault of the Architect, the Architect may terminate this Agreement by giving not less than seven days' written notice.

§ 9.4 Either party may terminate this Agreement upon not less than seven days' written notice should the other party fail substantially to perform in accordance with the terms of this Agreement through no fault of the party initiating the termination.

§ 9.5 The Owner may terminate this Agreement upon not less than seven days' written notice to the Architect for the Owner's convenience and without cause.

§ 9.6 If the Owner terminates this Agreement for its convenience pursuant to Section 9.5, or the Architect terminates this Agreement pursuant to Section 9.3, the Owner shall compensate the Architect for services performed prior to termination, Reimbursable Expenses incurred, and costs attributable to termination, including the committed costs or performance of services attributable to the Architect's termination of consultant agreements.

§ 9.7 In addition to any amounts paid under Section 9.6, if the Owner terminates this Agreement for its convenience pursuant to Section 9.5, or the Architect terminates this Agreement pursuant to Section 9.3, the Owner shall pay to the Architect the following fees:
(Set forth below the amount of any termination or licensing fee, or the method for determining any termination or licensing fee.)

.1 Termination Fee:

$0

.2 Licensing Fee if the Owner intends to continue using the Architect's Instruments of Service:

$0

§ 9.8 Except as otherwise expressly provided herein, this Agreement shall terminate one year from the date of Substantial Completion.

§ 9.9 The Owner's rights to use the Architect's Instruments of Service in the event of a termination of this Agreement are set forth in Article 7 and Section 9.7.

ARTICLE 10 MISCELLANEOUS PROVISIONS

§ 10.1 This Agreement shall be governed by the law of the place where the Project is located, excluding that jurisdiction's choice of law rules. If the parties have selected arbitration as the method of binding dispute resolution, the Federal Arbitration Act shall govern Section 8.3.

§ 10.2 Terms in this Agreement shall have the same meaning as those in AIA Document A201–2017, General Conditions of the Contract for Construction.

§ 10.3 The Owner and Architect, respectively, bind themselves, their agents, successors, assigns, and legal representatives to this Agreement. Neither the Owner nor the Architect shall assign this Agreement without the written consent of the other, except that the Owner may assign this Agreement to a lender providing financing for the Project if the lender agrees to assume the Owner's rights and obligations under this Agreement, including any payments due to the Architect by the Owner prior to the assignment.

§ 10.4 If the Owner requests the Architect to execute certificates, the proposed language of such certificates shall be submitted to the Architect for review at least 14 days prior to the requested dates of execution. If the Owner requests the Architect to execute consents reasonably required to facilitate assignment to a lender, the Architect shall execute all such consents that are consistent with this Agreement, provided the proposed consent is submitted to the

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Architect for review at least 14 days prior to execution. The Architect shall not be required to execute certificates or consents that would require knowledge, services, or responsibilities beyond the scope of this Agreement.

§ 10.5 Nothing contained in this Agreement shall create a contractual relationship with, or a cause of action in favor of, a third party against either the Owner or Architect.

§ 10.6 Unless otherwise required in this Agreement, the Architect shall have no responsibility for the discovery, presence, handling, removal or disposal of, or exposure of persons to, hazardous materials or toxic substances in any form at the Project site. A hazardous material or toxic substance is any material or substance that may be considered hazardous, toxic, or otherwise subject to statutory or regulatory requirements governing handling, disposal, and/or cleanup. For purposes of this agreement, the term hazardous material shall include and not be limited to asbestos, polychlorinated biphenyl (PCB), mold, mildew, fungi, or other similar microbial conditions.

§ 10.6.1 Owner agrees to defend, indemnify, and save harmless the Architect from and against any and all liabilities, demands, claims, penalties, forfeitures, suits, and the costs and expenses arising from the discovery, presence, handling, removal, or disposal of, or exposure to hazardous materials or toxic substances (as defined in § 10.6), except to the extent that the presence of or exposure to hazardous materials or toxic substances result from the sole negligence or willful misconduct of the Architect.

§ 10.7 The Architect shall have the right to include photographic or artistic representations of the design of the Project among the Architect's promotional and professional materials. The Architect shall be given reasonable access to the completed Project to make such representations. However, the Architect's materials shall not include the Owner's confidential or proprietary information if the Owner has previously advised the Architect in writing of the specific information considered by the Owner to be confidential or proprietary. The Owner shall provide professional credit for the Architect in the Owner's promotional materials for the Project. This Section 10.7 shall survive the termination of this Agreement unless the Owner terminates this Agreement for cause pursuant to Section 9.4.

§ 10.8 If the Architect or Owner receives information specifically designated as "confidential" or "business proprietary," the receiving party shall keep such information strictly confidential and shall not disclose it to any other person except as set forth in Section 10.8.1. This Section 10.8 shall survive the termination of this Agreement.

§ 10.8.1 The receiving party may disclose "confidential" or "business proprietary" information after 7 days' notice to the other party, when required by law, arbitrator's order, or court order, including a subpoena or other form of compulsory legal process issued by a court or governmental entity, or to the extent such information is reasonably necessary for the receiving party to defend itself in any dispute. The receiving party may also disclose such information to its employees, consultants, or contractors in order to perform services or work solely and exclusively for the Project, provided those employees, consultants and contractors are subject to the restrictions on the disclosure and use of such information as set forth in this Section 10.8.

§ 10.9 The invalidity of any provision of the Agreement shall not invalidate the Agreement or its remaining provisions. If it is determined that any provision of the Agreement violates any law, or is otherwise invalid or unenforceable, then that provision shall be revised to the extent necessary to make that provision legal and enforceable. In such case the Agreement shall be construed, to the fullest extent permitted by law, to give effect to the parties' intentions and purposes in executing the Agreement.

ARTICLE 11 COMPENSATION

§ 11.1 For the Architect's Basic Services described under Article 3, the Owner shall compensate the Architect as follows:

.1 Stipulated Sum
(Insert amount)

Defined in EXH-A Project Charter

.2 Percentage Basis
(Insert percentage value)

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( ) % of the Owner's budget for the Cost of the Work, as calculated in accordance with Section 11.6.

.3 Other
(Describe the method of compensation)

Defined in EXH-A Project Charter

§ 11.2 For the Architect's Supplemental Services designated in Section 4.1.1 and for any Sustainability Services required pursuant to Section 4.1.3, the Owner shall compensate the Architect as follows:
(Insert amount of, or basis for, compensation. If necessary, list specific services to which particular methods of compensation apply.)

Defined in EXH-A Project Charter.

§ 11.3 For Additional Services that may arise during the course of the Project, including those under Section 4.2, the Owner shall compensate the Architect as follows:
(Insert amount of, or basis for, compensation.)

Defined in EXH-A Project Charter

§ 11.4 Compensation for Supplemental and Additional Services of the Architect's consultants when not included in Section 11.2 or 11.3, shall be the amount invoiced to the Architect plus percent (%), or as follows:
(Insert amount of, or basis for computing, Architect's consultants' compensation for Supplemental or Additional Services.)

§ 11.5 When compensation for Basic Services is based on a stipulated sum or a percentage basis, the proportion of compensation for each phase of services shall be as follows and defined in EXH-B Project Design Milestones & Deliverables:

Schematic Design Phase		percent (		%)
Design Development Phase		percent (		%)
Construction Documents Phase		percent (		%)
Procurement Phase		percent (		%)
Construction Phase		percent (		%)
Total Basic Compensation	one hundred	percent (	100	%)

§ 11.6 When compensation identified in Section 11.1 is on a percentage basis, progress payments for each phase of Basic Services shall be calculated by multiplying the percentages identified in this Article by the Owner's most recent budget for the Cost of the Work. Compensation paid in previous progress payments shall not be adjusted based on subsequent updates to the Owner's budget for the Cost of the Work.

§ 11.6.1 When compensation is on a percentage basis and any portions of the Project are deleted or otherwise not constructed, compensation for those portions of the Project shall be payable to the extent services are performed on those portions. The Architect shall be entitled to compensation in accordance with this Agreement for all services performed whether or not the Construction Phase is commenced.

§ 11.7 The hourly billing rates for services of the Architect and the Architect's consultants are set forth below. The rates shall be adjusted in accordance with the Architect's and Architect's consultants' normal review practices.
(If applicable, attach an exhibit of hourly billing rates or insert them below.)

Defined in EXH-A Project Charter

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Employee or Category	Rate ($0.00)

§ 11.8 Compensation for Reimbursable Expenses

§ 11.8.1 Reimbursable Expenses are in addition to compensation for Basic, Supplemental, and Additional Services and include expenses incurred by the Architect and the Architect's consultants directly related to the Project, as follows:

.1 Transportation and authorized out-of-town travel and subsistence;
.2 Long distance services, dedicated data and communication services, teleconferences, Project web sites, and extranets;
.3 Permitting and other fees required by authorities having jurisdiction over the Project;
.4 Printing, reproductions, plots, and standard form documents;
.5 Postage, handling, and delivery;
.6 Expense of overtime work requiring higher than regular rates, if authorized in advance by the Owner;
.7 Renderings, physical models, mock-ups, professional photography, and presentation materials requested by the Owner or required for the Project;
.8 If required by the Owner, and with the Owner's prior written approval, the Architect's consultants' expenses of professional liability insurance dedicated exclusively to this Project, or the expense of additional insurance coverage or limits in excess of that normally maintained by the Architect's consultants;
.9 All taxes levied on professional services and on reimbursable expenses;
.10 Site office expenses;
.11 Registration fees and any other fees charged by the Certifying Authority or by other entities as necessary to achieve the Sustainable Objective; and,
.12 Other similar Project-related expenditures.

§ 11.8.2 For Reimbursable Expenses the compensation shall be the expenses incurred by the Architect and the Architect's consultants plus five percent (5 %) of the expenses incurred.

§ 11.9 Architect's Insurance. If the types and limits of coverage required in Section 2.5 are in addition to the types and limits the Architect normally maintains, the Owner shall pay the Architect for the additional costs incurred by the Architect for the additional coverages as set forth below:
(Insert the additional coverages the Architect is required to obtain in order to satisfy the requirements set forth in Section 2.5, and for which the Owner shall reimburse the Architect.)

$0

§ 11.10 Payments to the Architect

§ 11.10.1 Initial Payments

§ 11.10.1.1 An initial payment of zero ($ 0) shall be made upon execution of this Agreement and is the minimum payment under this Agreement. It shall be credited to the Owner's account in the final invoice.

§ 11.10.1.2 If a Sustainability Certification is part of the Sustainable Objective, an initial payment to the Architect of zero ($ 0) shall be made upon execution of this Agreement for registration fees and other fees payable to the Certifying Authority and necessary to achieve the Sustainability Certification. The Architect's payments to the Certifying Authority shall be credited to the Owner's account at the time the expense is incurred.

§ 11.10.2 Progress Payments

§ 11.10.2.1 Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed. Payments are due and payable upon presentation of the Architect's invoice. Amounts unpaid thirty (30) days after the invoice date shall bear interest at the rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of the Architect. The Architect shall send invoices directly to the Contract Representative named in paragraph 1.1.7.
(Insert rate of monthly or annual interest agreed upon.)

%

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§ 11.10.2.2 The Owner shall not withhold amounts from the Architect's compensation to impose a penalty or liquidated damages on the Architect, or to offset sums requested by or paid to contractors for the cost of changes in the Work, unless the Architect agrees or has been found liable for the amounts in a binding dispute resolution proceeding.

§ 11.10.2.3 Records of Reimbursable Expenses, expenses pertaining to Supplemental and Additional Services, and services performed on the basis of hourly rates shall be available to the Owner upon written request.

ARTICLE 12 SPECIAL TERMS AND CONDITIONS

Special terms and conditions that modify this Agreement are as follows:
(Include other terms and conditions applicable to this Agreement.)

12.1 The Architect and the Owner agree that the Project may be phased, include multiple bid packs (as few as one or as many as three) or require accelerated design deliverables to best meet the Owner's schedule of funding approvals and day one operations for building occupants. As a standard of working with the Owner the Architect agrees that additional compensation above fees for Basic Services and Additional Services as defined in EXH-A Project Charter will not be paid to the Architect to perform and deliver services within known parameters for the Project as defined in EXH-A Project Charter, EXH-B Project Design Milestones & Deliverables, and EXH-D Owner Requirements.

12.2 The Architect and the Owner agree to incorporate the Owner's feedback as defined ni EXH-D Owner Requirements. The Owner's written notice to proceed to the next design phase will not be granted without written receipt of required deliverables.

12.3 If the Owner elects to employ an accelerated, phased, or fast track design process (in which some of the Architect's design services overlap the construction work and are out of sequence with the traditional delivery method), Owner does so with full recognition of the inherent risks associated with these design methodologies. Such risks include the Owner incurring costs for the Architect to coordinate and re-design portions of the Project affected by procuring or installing elements of the Project prior to the completion of all relevant Construction Documents, and costs for the Contractor to remove and replace previously installed Work. In recognition of the inherent risks of the fast tracking to the Architect and the benefits to the Owner, the Owner agrees to (i) waive all claims against the Architect for design changes, delays, disruptions, or other modifications of portions of the Work already constructed due to the Owner's decision to employ the fast track process and (ii) indemnify and hold the Architect harmless, to the maximum extent permitted by law, from any and all damage, liability, and cost, including reasonable attorney fees and defense costs, arising from third party claims, excepting those attributable to the negligence of the Architect or those for whom the Architect is legally liable. To compensate the Architect for all Additional Services required to modify, correct, or adjust the Construction Documents and coordinate them in order to meet the Owner's program requirements because of the Owner's decision to construct the Project in a fast track manner. Owner further agrees to include in the budget for the Project sufficient contingencies to cover such Additional Services.

12.4 The Owner agrees that the Architect is not responsible for damages arising directly or indirectly from any delays for causes beyond the Architect's control. For purposes of this Agreement, such causes include, but are not limited to, strikes or other labor disputes; severe weather disruptions, other natural disasters; fires, riots, acts of terrorism, war, or other emergencies or acts of God.

ARTICLE 13 SCOPE OF THE AGREEMENT

§ 13.1 This Agreement represents the entire and integrated agreement between the Owner and the Architect and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both the Owner and Architect.

§ 13.2 This Agreement is comprised of the following documents identified below:

.1 AIA Document B101™–2017, Standard Form Agreement Between Owner and Architect

.2 AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, dated as indicated below:

(Insert the date of the E203-2013 incorporated into this agreement.)

January 31, 2020

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.3 Exhibits: A-D as identified on page 1 of this agreement and named below

.4 AIA Document G201-2013 Project Digital Data Protocol Form

.5 AIA Document G202-2013 Project Building Information Modeling Protocol Form

(Check the appropriate box for any exhibits incorporated into this Agreement.)

[ ] AIA Document E204™–2017, Sustainable Projects Exhibit, dated as indicated below:
(Insert the date of the E204-2017 incorporated into this agreement.)

[X] Other Exhibits incorporated into this Agreement:
(Clearly identify any other exhibits incorporated into this Agreement, including any exhibits and scopes of services identified as exhibits in Section 4.1.2.)

EXH-A Project Charter
EXH-B Project Design Milestones & Deliverables
EXH-C Owner Insurance
EXH-D Owner Requirements

.6 Other documents:
(List other documents, if any, forming part of the Agreement.)

AIA Document A201-2017 General Conditions

This Agreement entered into as of the day and year first written above.

OWNER (Signature)	**ARCHITECT** (Signature)
(Printed name and title)	Heidi Neumueller, Principal, #47850 *(Printed name, title, and license number, if required)*

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Additions and Deletions Report for
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PAGE 1

AGREEMENT made as of the 10th day of December in the year 2024

...

Minneapolis Public Schools
Special School District #1
1250 West Broadway Avenue
Minneapolis, MN 55411

...

Cuningham Group Architecture, Inc.
201 SE Main Street
Suite 325
Minneapolis, Minnesota 55414

...

South High School Safe & Welcoming Entrance
3131 19th Avenue S
Minneapolis, Minnesota 55407

...

The standards of professional services are set forth in this document and schedule of exhibits as follows:

...

EXH-A Project Charter

...

EXH-B Project Design Milestones & Deliverables

...

EXH-C Owner Insurance

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...

EXH-D Owner Requirements

PAGE 2

TABLE OF ARTICLES

...

(Insert the Owner's program, identify documentation that establishes the Owner's program, or state the manner in which the program will be developed.)

...

Defined in EXH-A Project Charter

...

Defined in EXH-A Project Charter

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Defined in EXH-A Project Charter

PAGE 3

Defined in EXH-B Project Design Milestones & Deliverables

...

Defined in EXH-A Project Charter and EXH-B Project Design Milestones & Deliverables

...

Defined in EXH-A Project Charter

...

Defined in EXH-B Project Design Milestones & Deliverables

...

Defined in EXH-A Project Charter

...

Sustainable Design solutions which optimize or promote improved energy efficiency, occupant well-being, comfort, health, and improved long-term maintenance serviceability as standard to LEED rating system and B3 requirements are valued. Owner will not pursue LEED certification or complete B3 compliance. The Architect is not required to provide additional services for Sustainable Design.

...

Mauricio Ochoa, Project Manager

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Capital Planning, Construction, & Maintenance
Minneapolis Public Schools, SSD#1
1250 West Broadway Avenue
Minneapolis, MN 55411

...

MPS QA/QC trades personnel, school principal

PAGE 4

Commissioning Agent, Geotechnical Engineer, Special Inspections, Hazardous Materials Abatement, Special Testing, and Investigative Analysis

...

Paolo Lovagnini, AIA, LEED AP
Cuningham Group Architecture, Inc – 201 SE Main St, Suite 325, Minneapolis, MN 55414
Civil & Structural Engineer - BKBM
MEP Engineers – CMTA, Inc
Low Voltage & Tech – True North Consulting
Cost Estimating – Rockwise Strategies

...

§ 1.1.11 The Architect shall retain the consultants identified in ~~Sections 1.1.11.1 and 1.1.11.2:~~EXH-A Project Charter.

...

~~*(List name, legal status, address, and other contact information.)*~~

...

~~**§ 1.1.11.1** Consultants retained under Basic Services:~~

...

~~**.1** Structural Engineer:~~

...

~~**.2** Mechanical Engineer:~~

...

~~**.3** Electrical Engineer:~~

...

~~**§ 1.1.11.2** Consultants retained under Supplemental Services:~~

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...

Professional Consultant Team as defined in EXH-A Project Charter

...

§ 1.3 The parties shall agree upon ~~written~~ protocols governing the transmission and use ~~of, and reliance on,~~ of Instruments of Service or any other information or documentation in digital form. The parties will use AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, to establish the protocols for the development, use, transmission, and exchange of digital data.

...

§ 1.3.1 Any use of, or reliance on, all or a portion of a building information model without agreement to ~~written~~ protocols governing the use of, and reliance on, the information contained in the model and without having those protocols set forth in AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, and the requisite AIA Document G202™–2013, Project Building Information Modeling Protocol Form, shall be at the using or relying party's sole risk and without liability to the other party and its contractors or consultants, the authors of, or contributors to, the building information model, and each of their agents and employees.

PAGE 5

§ 2.5 The Architect shall maintain ~~the following insurance until termination of this Agreement.~~ insurance as defined in EXH-C Owner Insurance until termination of this Agreement and for the period of the statutes of repose set forth in Minnesota Statute 541.051, so long as such insurance is commercially available and reasonably affordable. If any of the requirements set forth below are in addition to the types and limits the Architect normally maintains, the Owner shall pay the Architect as set forth in Section 11.9.

...

§ 2.5.1 Commercial General Liability with policy limits ~~of not less than ($) for each occurrence and ($) in the aggregate for bodily injury and property damage.~~as defined in EXH-C Owner Insurance.

...

§ 2.5.2 Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Architect with policy limits ~~of not less than ($) per accident for bodily injury, death of any person, and property damage arising out of the ownership, maintenance and use of those motor vehicles, along with any other statutorily required automobile coverage.~~as defined in EXH-C Owner Insurance.

...

§ 2.5.3 The Architect may achieve the required limits and coverage for Commercial General Liability and Automobile Liability through a combination of primary and excess or umbrella liability insurance, provided such primary and excess or umbrella liability insurance policies result in the same or greater coverage as the coverages required under Sections 2.5.1 and 2.5.2, and in no event shall any excess or umbrella liability insurance provide narrower coverage than the primary policy. The excess policy shall not require the exhaustion of the underlying limits only through the actual payment by the underlying insurers. Defined in EXH-C Owner Insurance.

...

§ 2.5.4 Workers' Compensation at statutory limits. Defined in EXH-C Owner Insurance.

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...

§ 2.5.5 Employers' Liability with policy limits ~~not less than ($) each accident, ($) each employee, and ($) policy limit.~~as defined in EXH-C Owner Insurance.

...

§ 2.5.6 Professional Liability covering negligent acts, errors and omissions in the performance of professional services with policy limits ~~of not less than ($) per claim and ($) in the aggregate.~~as defined in EXH-C Owner Insurance.

...

§ 2.5.7 Additional Insured Obligations. To the fullest extent permitted by law, the Architect shall cause the primary and excess or umbrella ~~policies~~ polices for Commercial General Liability and Automobile Liability to include the Owner as an additional insured for claims caused in whole or in part by the Architect's negligent acts or omissions. The additional insured coverage shall be primary and non-contributory to any of the Owner's insurance policies and shall apply to both ongoing and completed operations.

...

§ 3.1 The Architect's Basic Services consist of those described in this Article 3 and include usual and customary structural, mechanical, and electrical engineering services. Services not set forth in this Article 3 are Supplemental or Additional Services. The Architect's Basic Services are defined in EXH-B Project Design Milestones & Deliverables.

PAGE 6

§ 3.1.2 The Architect shall coordinate its services with those services provided by the Owner and the Owner's consultants. The Architect shall be entitled to rely on, and shall not be responsible for, the accuracy, completeness, and timeliness of, services and information furnished by the Owner and the Owner's consultants. The Architect shall provide prompt (within 7-10 business days of discovery) written notice to the Owner if the Architect becomes aware of any error, omission, or inconsistency in such services or information. The Architect is encouraged to provide prompt written notice to the Owner within this timeframe; it is most critical during the construction administration phase.

...

§ 3.1.3 As soon as practicable after the date of this Agreement, the Architect shall submit for the Owner's approval a schedule for the performance of the Architect's services. The schedule initially shall include anticipated dates for the commencement of construction and for Substantial Completion of the Work as set forth in the Initial ~~Information.~~ Information and defined in EXH-B Project Design Milestones & Deliverables. The schedule shall include allowances for periods of time required for the Owner's review, for the performance of the Owner's consultants, and for approval of submissions by authorities having jurisdiction over the Project. Once approved by the Owner, time limits established by the schedule shall not, except for reasonable cause, be exceeded by the Architect or Owner. With the Owner's approval, the Architect shall adjust the schedule, if necessary, as the Project proceeds until the commencement of construction.

...

§ 3.1.5 The Architect shall contact governmental authorities required to approve the Construction Documents and entities providing utility services to the Project. The Architect shall respond to applicable design requirements imposed by those authorities and ~~entities.~~entities and initiate governmental planning review processes as defined in EXH-B Project Design Milestones & Deliverables.

...

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§ 3.1.7 The Architect shall fully cooperate and coordinate with the Owner and its hired Commissioning Agent during all phases of design, construction, and commissioning to achieve the Project's final completion and full systems operability and ongoing use per the approved final design. The Architect is responsible for the duration of the contract to provide adequate support to its sub-consultants who provide services integral to commissioning.

...

§ 3.1.8 The Architect shall assist the Owner in connection with the Owner's responsibility to communicate the project design and construction to the school community, school neighbors, and neighborhood associations.

...

§ 3.1.9 The Owner shall provide available historical building documentation and the Architect shall field verify building elements as a basis for design. Additional design fees and reimbursable expenses incurred by the Architect related to remedying or addressing incorrectly identified building elements following the Architect's completion of field verification shall be borne solely by the Architect. Field verification shall include (1) field measurements of readily visible elements, (2) removing and replacing lay-in ceiling tiles, and (3) opening and closing access panels. The Architect is encouraged to identify areas that are not readily visible and merit further destructive testing that may include (1) drilling holes to use a scope camera to see inside a wall, (2) cutting small holes to identify sub surface conditions, or (3) moving non-functioning equipment to facilitate investigation. The Owner will perform any requested destructive testing. The Architect is responsible for field verification for the portion of the building within the scope of services. Field verification and destructive testing shall not be required for portions of the building or building systems that are not within the scope of services as defined in AIA G202-2013 Article

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3.3.

PAGE 7

§ 3.2 Schematic Design Phase Services

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§ 3.2.1 The Architect shall review the program and other information furnished by the Owner, and shall review laws, codes, and regulations applicable to the Architect's services. The Architect shall submit reports, documents for review, and deliverables as defined in EXH-B Project Design Milestones & Deliverables, AIA contracts G201-2013, G202-2013, and E203-2013.

...

§ 3.2.7 The Architect shall submit the Schematic Design Documents to the ~~Owner, and request the Owner's approval.~~Owner as defined in EXH-B Design Milestones & Deliverables, and request the Owner's approval before proceeding with Design Development Documents as defined in EXH-B Design Milestones & Deliverables.

...

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§ 3.3.1 Based on the Owner's approval of the Schematic Design Documents, and on the Owner's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, the Architect shall prepare Design Development Documents for the Owner's approval. The Design Development Documents shall illustrate and describe the development of the approved Schematic Design Documents and shall consist of drawings and other documents including plans, sections, elevations, typical construction details, and diagrammatic layouts of building systems to fix and describe the size and character of the Project as to architectural, structural, mechanical and electrical systems, and other appropriate elements. The Design Development Documents shall also include outline specifications that identify major materials and systems and establish, in general, their quality levels. The Architect shall submit reports, documents for review, and deliverables as defined in EXH-B Project Design Milestones & Deliverables and AIA contracts G201-2013, G202-2013, and E203-2013.

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§ 3.3.3 The Architect shall submit the Design Development Documents to the Owner, advise the Owner of any adjustments to the estimate of the Cost of the ~~Work, and request the Owner's approval.~~Work as defined in EXH-B Project Design Milestones & Deliverables, and request the Owner's approval before proceeding with Construction Documents as defined in EXH-B Design Milestones & Deliverables.

...

§ 3.4.5 The Architect shall submit the Construction Documents to the Owner, advise the Owner of any adjustments to the estimate of the Cost of the Work, take any action required under Section 6.5, and request the Owner's approval. The Architect shall submit construction documents which are estimated to bid within 5% of the budgeted construction cost. The Cost of Work submittal is defined in EXH-B Project Design Milestones & Deliverables.

...

The Architect shall assist the Owner in establishing a list of prospective contractors. Following the Owner's approval of the Construction Documents, the Architect shall assist the Owner in (1) obtaining either competitive bids or negotiated proposals; (2) confirming responsible and responsiveness of bids or proposals; (3) determining the successful bid or proposal, if any; ~~and,~~ (4) awarding and preparing contracts for ~~construction.~~construction; and, (5) Any review of bid anomalies or irregularities requiring legal review shall be provided by the Owner.

...

§ 3.5.2.3 If the Bidding Documents permit substitutions, upon the Owner's written authorization, the Architect ~~shall, as an Additional Service,~~ shall consider requests for substitutions and prepare and distribute addenda identifying approved substitutions to all prospective bidders.

PAGE 9

§ 3.6.1.2 The Architect shall ~~advise~~ advise, lead, and consult with the Owner during the Construction Phase Services. The Architect shall have authority to act on behalf of the Owner only to the extent provided in this Agreement. The Architect shall not have control over, charge of, or responsibility for the construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work, nor shall the Architect be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The Architect shall be responsible for the Architect's negligent ~~acts~~ acts, errors, or omissions, but shall not have control over or charge of, and shall not be responsible for, acts or omissions of the Contractor or of any other persons or entities performing portions of the Work.

...

§ 3.6.1.3 Subject to Section 4.2 and except as provided in Section 3.6.6.5, the Architect's responsibility to provide Construction Phase Services commences with the award of the Contract for Construction and the Owner's written notice to proceed to Construction Administration and terminates on the date the Architect ~~issues the~~ authorizes the Contractor's final Certificate for Payment.

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§ 3.6.2.2 The Architect has the authority and obligation to reject Work that does not conform to the Contract ~~Documents.~~ Documents unless the Owner accepts non-conforming work in writing after consulting with the Architect. Whenever the Architect considers it necessary or advisable, the Architect shall have the authority and obligation to require inspection or testing of the Work in accordance with the provisions of the Contract Documents, whether or not the Work is fabricated, installed or completed. However, neither this authority and obligation of the Architect nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect to the Contractor, Subcontractors, suppliers, their agents or employees, or other persons or entities performing portions of the Work.

...

§ 3.6.2.3 The Architect shall interpret and decide matters concerning performance under, and requirements of, the Contract Documents on written request of either the Owner or Contractor. The Architect's response to such requests shall be made in writing within ~~any time limits agreed upon~~ five business days of requests or otherwise with reasonable promptness.

PAGE 10

§ 3.6.3.1 The Architect shall review and certify the amounts due the Contractor and shall issue certificates in such amounts. The Architect's certification for payment shall constitute a representation to the Owner, based on the Architect's evaluation of the Work as provided in Section 3.6.2 and on the data comprising the Contractor's Application for Payment, that, to the best of the Architect's knowledge, information and belief, the Work has progressed to the point indicated, the quality of the Work is in accordance with the Contract Documents, and that the Contractor is entitled to payment in the amount certified. The foregoing representations are subject to (1) an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, (2) results of subsequent documented tests and inspections, (3) correction of minor deviations from the Contract Documents prior to completion, and (4) specific qualifications expressed by the Architect. The Architect's certification on the Certificate for Payment shall be that the percentages of Work shown on the application are completed, to the best of the Architect's knowledge, information, and belief. No judgement is made by the Architect as to the value of the Work or the value of uncompleted Work.

...

§ 3.6.4.2 The Architect shall review and approve, or take other appropriate action upon, the Contractor's submittals such as Shop Drawings, Product Data and Samples, but only for the limited purpose of checking for conformance with ~~information given and the design concept expressed in~~ the Contract Documents. Review of such submittals is not for the purpose of determining the accuracy and completeness of other information such as dimensions, quantities, and installation or performance of equipment or systems, which are the Contractor's responsibility. The Architect's review shall not constitute approval of safety precautions or construction means, methods, techniques, sequences or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

PAGE 11

.3 forward to the Owner, for the Owner's review and records, written warranties including a warranty schedule of major building systems and warranty expiration dates, and related documents required by the Contract Documents and received from the Contractor; and,

...

.5 The Architect shall produce punch list items as part of the certificate of Substantial Completion issued to the Contractor. The Architect shall create the list(s), present them to the Owner, incorporate Owner feedback, and compile all punch items for the contractor in a timely

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manner.

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§ 3.6.6.2 The Architect's inspections shall be conducted with the Owner to check conformance of the Work with the requirements of the Contract Documents and to verify the accuracy and completeness of the ~~list~~ list(s) including and not limited to Architectural, Civil, Mechanical, Electrical, Structural, and Plumbing systems submitted by the Contractor of Work to be completed or corrected.

...

§ 3.6.6.5 Upon request of the ~~Owner,~~ Owner ten (10) months following substantial completion, and prior to the expiration of one year from the date of Substantial Completion, the Architect shall, without additional compensation, conduct a meeting with the Owner to review the facility operations and performance.

PAGE 12

§ 3.6.6.6 The Architect shall issue an As Constructed Record set of construction documents that will consist of the As Designed Record Sets of construction documents and Revit model with redlined changes from the General Contractor incorporated into the digital deliverables as defined in AIA G201 2013 Article 2.3 to the Owner upon final completion of the Project. The As Constructed Record documents shall reflect all digital changes made by the Architect between issuing the Bid Documents set and final completion as well as the General Contractor's redline changes. The Architect shall not be held responsible for field verification of the General Contractor's changes. The Architect's full set of deliverables during Construction Administration are defined in EXH-D Owner Requirements.

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The Architect may provide Additional Services after execution of this Agreement without invalidating the Agreement. Except for services required due to the fault of the Architect, any Additional Services provided in accordance with this Section 4.2 shall entitle the Architect to compensation pursuant to Section 11.3 and an appropriate adjustment in the Architect's schedule. Additional Services are Defined in EXH-A Project Charter.

...

.3 Changing or editing previously prepared Instruments of Service necessitated by official interpretations of applicable codes, laws or regulations that are ~~either (a) contrary to specific interpretations by the applicable authorities having jurisdiction made prior to the issuance of the building permit, or (b)~~ contrary to requirements of the Instruments of Service when those Instruments of Service were prepared in accordance with the applicable standard of care;

...

~~.5 Preparing digital models or other design documentation for transmission to the Owner's consultants and contractors, or to other Owner-authorized recipients;~~

...

~~.6 Preparation of design and documentation for alternate bid or proposal requests proposed by the Owner;~~

...

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~~.7 Preparation for, and attendance at, a public presentation, meeting or hearing;~~

...

~~.9 Evaluation of the qualifications of entities providing bids or proposals;~~

PAGE 14

~~.11 Assistance to the Initial Decision Maker, if other than the Architect.~~

...

.1 2 (two) reviews of each Shop Drawing, Product Data item, sample and similar submittals of the Contractor

...

.2 1 (one) visits per week to the site by the Architect during construction

...

.3 2 (two) inspections for any portion of the Work to determine whether such portion of the Work is substantially complete in accordance with the requirements of the Contract Documents

...

.4 1 (one) inspections for any portion of the Work to determine final completion.

...

§ 4.2.5 If the services covered by this Agreement have not been completed within eighteen (18) months of the date of this Agreement, through no fault of the Architect, extension of the Architect's services beyond that time shall be compensated as Additional Services.

...

§ 5.1 Unless otherwise provided for under this Agreement, the Owner shall provide information in a timely manner regarding requirements for and limitations on the Project, including a written program, which shall set forth the Owner's objectives; schedule; constraints and criteria, including space requirements and relationships; flexibility; expandability; special equipment; systems; and site ~~requirements.~~requirements and stakeholder engagement requirements as defined in EXH-B Project Design Milestones & Deliverables.

PAGE 15

§ 5.8 The Owner shall coordinate the services of its own consultants with those services provided by the Architect. Upon the Architect's request, the Owner shall furnish copies of the scope of services in the contracts between the Owner and the Owner's consultants. The Owner shall furnish the services of consultants other than those designated as the responsibility of the Architect in this Agreement, or authorize the Architect to furnish them as an Additional Service, when the Architect requests such services and demonstrates that they are reasonably required by the scope of the Project. The Owner shall require that its consultants and contractors maintain insurance, including professional liability insurance, as appropriate to the services or work ~~provided.~~provided and defined in Article 2.

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§ 5.8.1 Architect's responsibility in connection with the services of Owner's consultants, contractors, or design-build contractor shall be to coordinate Owner's consultants', contractors', or design-build contractor's portion of the Instruments of Service. Owner shall require consultants, contractors, or design-build contractor retained by Owner to coordinate their services and documents with those of Architect and Architect's consultants.

PAGE 16

§ 5.16 The Owner shall provide coordination, installation, and procurement of furniture, furnishings, and equipment for the Project.

...

§ 5.17 The Owner shall provide Information Technology equipment plugged into networks. Cabling and infrastructure designed by the Architect and installed by the Contractor.

...

§ 5.18 The Owner shall provide Testing and Special Inspections.

...

§ 5.19 The Owner shall coordinate closely with the Architect and the Contractor for design and installation of security systems in the Project. The Owner shall design systems by locating cameras and designating doors for access control, the Architect shall document and complete the initial design by designing pathways, the Contractor shall install cabling and infrastructure required for the systems to be operational as well as devices, and the Owner shall work with the Contractor to program and test the

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~~**ARTICLE**~~

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systems.

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ARTICLE 6 COST OF THE WORK

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§ 6.1 For purposes of this Agreement, the Cost of the Work shall be the total cost to the Owner to construct all elements of the Project designed or specified by the Architect and shall include contractors' general conditions costs, overhead and profit. The Cost of the Work also includes the reasonable value of ~~labor,~~ labor including escalation for phased work or market conditions, materials, and equipment, donated to, or otherwise furnished by, the Owner. The Cost of the Work does not include the compensation of the Architect; the costs of the land, rights-of-way, financing, or contingencies for changes in the Work; or other costs that are the responsibility of the Owner.

...

§ 6.3 In preparing estimates of the Cost of Work, the Architect shall be permitted to include contingencies for design, bidding, and price escalation; to determine what materials, equipment, component systems, and types of

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construction are to be included in the Contract Documents; to recommend reasonable adjustments in the program and scope of the Project; and to include design alternates as may be necessary to adjust the estimated Cost of the Work to meet the Owner's ~~budget.~~ budget as defined in EXH-A Project Charter and EXH-B Project Design Milestones & Deliverables. The Architect's estimate of the Cost of the Work shall be based on current area, volume or similar conceptual estimating techniques. If the Owner requires a detailed estimate of the Cost of the Work, the Architect shall provide such an estimate, if identified as the Architect's responsibility in Section 4.1.1, as a Supplemental Service.

...

§ 6.4 If, through no fault of the Architect, the Procurement Phase has not commenced within 90 days after the Architect submits the Construction Documents to the Owner, the Owner's budget for the Cost of the Work ~~shall~~ may be adjusted to reflect changes in the general level of prices in the applicable construction market.

...

§ 6.6 If the Owner's budget for the Cost of the Work at the conclusion of the Construction Documents Phase Services is exceeded by five percent (5%) by the lowest bona fide bid or negotiated proposal, the Owner shall

PAGE 17

.5 cooperate in revising the Project scope as required to reduce the estimated construction cost to an estimated cost within the Owner's budget. Costs or time incurred by the Architect to review the design to align with the Budget shall be borne entirely by the Architect.

...

~~implement any other mutually acceptable alternative.~~.6 implement any other mutually acceptable alternative, which may include the Owner's decision to suspend the Project, in which case the Architect shall be paid for services actually rendered under this agreement.

...

§ 7.4 ~~Except for the licenses granted in this Article 7, no other license or right shall be deemed granted or implied under this Agreement. The Owner shall not assign, delegate, sublicense, pledge or otherwise transfer any license granted herein to another party without the prior written agreement of the Architect.~~ Any unauthorized use of the Instruments of Service shall be at the Owner's sole risk and without liability to the Architect and the Architect's consultants. The Owner retains full rights to all Instruments of Service for use in the Project and any existing or future projects.

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[X] Litigation in a court of competent jurisdiction

PAGE 19

§ 9.1 If the Owner fails to make payments to the Architect in accordance with this Agreement, such failure shall be considered substantial nonperformance and cause for termination or, at the Architect's option, cause for suspension of performance of services under this Agreement. If the Architect elects to suspend services, the Architect shall give seven days' written notice to the Owner before suspending services. In the event of a suspension of services, the Architect shall have no liability to the Owner for delay or damage caused the Owner because of such suspension of services. Before resuming services, the Owner shall pay the Architect all sums due prior to suspension and any reasonable, quantifiable expenses incurred in the interruption and resumption of the Architect's services. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted.

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§ 9.6 If the Owner terminates this Agreement for its convenience pursuant to Section 9.5, or the Architect terminates this Agreement pursuant to Section 9.3, the Owner shall compensate the Architect for services performed prior to termination, Reimbursable Expenses incurred, and costs attributable to termination, including the committed costs or performance of services attributable to the Architect's termination of consultant agreements.

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§ 10.6 Unless otherwise required in this Agreement, the Architect shall have no responsibility for the discovery, presence, handling, removal or disposal of, or exposure of persons to, hazardous materials or toxic substances in any form at the Project site. A hazardous material or toxic substance is any material or substance that may be considered hazardous, toxic, or otherwise subject to statutory or regulatory requirements governing handling, disposal, and/or cleanup. For purposes of this agreement, the term hazardous material shall include and not be limited to asbestos, polychlorinated biphenyl (PCB), mold, mildew, fungi, or other similar microbial conditions.

...

§ 10.6.1 Owner agrees to defend, indemnify, and save harmless the Architect from and against any and all liabilities, demands, claims, penalties, forfeitures, suits, and the costs and expenses arising from the discovery, presence, handling, removal, or disposal of, or exposure to hazardous materials or toxic substances (as defined in §

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10.6), except to the extent that the presence of or exposure to hazardous materials or toxic substances result from the sole negligence or willful misconduct of the Architect.

...

Defined in EXH-A Project Charter

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Defined in EXH-A Project Charter

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Defined in EXH-A Project Charter.

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Defined in EXH-A Project Charter

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§ 11.5 When compensation for Basic Services is based on a stipulated sum or a percentage basis, the proportion of compensation for each phase of services shall be as ~~follows:~~follows and defined in EXH-B Project Design Milestones & Deliverables:

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Defined in EXH-A Project Charter

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§ 11.8.2 For Reimbursable Expenses the compensation shall be the expenses incurred by the Architect and the Architect's consultants plus five percent (5 %) of the expenses incurred.

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§ 11.10.1.1 An initial payment of zero ($ 0) shall be made upon execution of this Agreement and is the minimum payment under this Agreement. It shall be credited to the Owner's account in the final invoice.

...

§ 11.10.1.2 If a Sustainability Certification is part of the Sustainable Objective, an initial payment to the Architect of zero ($ 0) shall be made upon execution of this Agreement for registration fees and other fees payable to the Certifying Authority and necessary to achieve the Sustainability Certification. The Architect's payments to the Certifying Authority shall be credited to the Owner's account at the time the expense is incurred.

...

§ 11.10.2.1 Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed. Payments are due and payable upon presentation of the Architect's invoice. Amounts unpaid thirty (30) days after the invoice date shall bear interest at the rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of the Architect. The Architect shall send invoices directly to the Contract Representative named in paragraph 1.1.7.

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§ 11.10.2.3 Records of Reimbursable Expenses, expenses pertaining to Supplemental and Additional Services, and services performed on the basis of hourly rates shall be available to the Owner ~~at mutually convenient times.~~upon written request.

...

12.1 The Architect and the Owner agree that the Project may be phased, include multiple bid packs (as few as one or as many as three) or require accelerated design deliverables to best meet the Owner's schedule of funding approvals and day one operations for building occupants. As a standard of working with the Owner the Architect agrees that additional compensation above fees for Basic Services and Additional Services as defined in EXH-A Project Charter will not be paid to the Architect to perform and deliver services within known parameters for the Project as defined in EXH-A Project Charter, EXH-B Project Design Milestones & Deliverables, and EXH-D Owner Requirements.

12.2 The Architect and the Owner agree to incorporate the Owner's feedback as defined ni EXH-D Owner Requirements. The Owner's written notice to proceed to the next design phase will not be granted without written receipt of required deliverables.

12.3 If the Owner elects to employ an accelerated, phased, or fast track design process (in which some of the Architect's design services overlap the construction work and are out of sequence with the traditional delivery method), Owner does so with full recognition of the inherent risks associated with these design methodologies. Such risks include the Owner incurring costs for the Architect to coordinate and re-design portions of the Project affected by procuring or installing elements of the Project prior to the completion of all relevant Construction Documents,

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and costs for the Contractor to remove and replace previously installed Work. In recognition of the inherent risks of the fast tracking to the Architect and the benefits to the Owner, the Owner agrees to (i) waive all claims against the Architect for design changes, delays, disruptions, or other modifications of portions of the Work already constructed due to the Owner's decision to employ the fast track process and (ii) indemnify and hold the Architect harmless, to the maximum extent permitted by law, from any and all damage, liability, and cost, including reasonable attorney fees and defense costs, arising from third party claims, excepting those attributable to the negligence of the Architect or those for whom the Architect is legally liable. To compensate the Architect for all Additional Services required to modify, correct, or adjust the Construction Documents and coordinate them in order to meet the Owner's program requirements because of the Owner's decision to construct the Project in a fast track manner. Owner further agrees to include in the budget for the Project sufficient contingencies to cover such Additional Services.

12.4 The Owner agrees that the Architect is not responsible for damages arising directly or indirectly from any delays for causes beyond the Architect's control. For purposes of this Agreement, such causes include, but are not limited to, strikes or other labor disputes; severe weather disruptions, other natural disasters; fires, riots, acts of terrorism, war, or other emergencies or acts of God.

...

.2 AIA Document E203™–2013, Building Information Modeling ~~Exhibit, if completed:~~and Digital Data Exhibit, dated as indicated below:

...

(Insert the date of the E203-2013 incorporated into this agreement.)

...

January 31, 2020

PAGE 25

.3 Exhibits: A-D as identified on page 1 of this agreement and named below

...

.4 AIA Document G201-2013 Project Digital Data Protocol Form

...

.5 AIA Document G202-2013 Project Building Information Modeling Protocol Form

...

[X] Other Exhibits incorporated into this Agreement:

...

EXH-A Project Charter

...

EXH-B Project Design Milestones & Deliverables

...

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EXH-C Owner Insurance

...

EXH-D Owner Requirements

...

~~.4~~ .6 Other documents:

...

AIA Document A201-2017 General Conditions

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Certification of Document's Authenticity

AIA® Document D401™ – 2003

I, , hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with its associated Additions and Deletions Report and this certification at 15:18:15 CT on 12/10/2024 under Order No. 4104251278 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document B101™ - 2017, Standard Form of Agreement Between Owner and Architect, other than those additions and deletions shown in the associated Additions and Deletions Report.



(Signed)

Curtis Hartog, Executive Director

(Title)

12/10/2024

(Dated)

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EXHIBIT A - Project Charter

Project Identification, Intent, and Scope

Re: MPS Project Number: 25SOUT001
MPS Project Name: South High School Safe & Welcoming Entrance
School Website: south.mpschools.org

Context

Architectural and engineering services at South High School to accommodate a new safe & welcoming entrance. Includes a new entrance on the south side of the building and the relocation of administrative offices from center of building. It also includes geotechnical exploration with soil borings, community engagement, and security systems commissioning.

Project Summary

Project Delivery Method:	Design-Bid-Build
Project Construction Budget:	$3,750,000
Construction Substantial Completion:	August 15, 2026

Scope/Budget Context

It is possible that project scope items, not included in the Project Scope below, will be known at the commencement of project design or become apparent during design to one or more of the multiple stakeholders who may be represented on the Project Steering Committee and Project Review Committee. Some of these additional scope items will be desirable on their own merits but may not be possible due to project construction budget. Therefore, discipline on the part of the Consultant will be expected to focus on Project Scope identified below, while also documenting and, if requested, reviewing such items for possible inclusion in this project scope in lieu of scope defined below, or in future District capital projects.

Accordingly, not all the Building Context information contained herein will be applicable to project scope, but it is intended to inform the design process such that, at the conclusion of construction, the existing building is better positioned for current and future instructional activities; and additional capital investment that might be funded in future capital plans.

Project Schedule

Project Phase	Suggested Completion Date
BOE Design Contract Approval	February 11, 2025
Schematic Design Completion	April 2025
Stakeholder Review, Steering Committee Review, QAQC Review	April 2025
Design Development Completion	June 2025
Cost Estimate #1	June 2025
Construction Documents	August 2025
Cost Estimate #2	August 2025
Stakeholder Review, Steering Committee Review, QAQC Review	August 2025
Bid Documents Issued	November 2025
Pre-Bid Meeting	November 2025
Bid Due Date	December 2025
BOE Construction Contract Approval	April 2026
Pre-Construction Activities	May 2026
Construction start	May 2026
Construction substantial completion	August 15, 2026
Construction final completion	September 30, 2026
Warranty period ends (one year)	September 1, 2027

Project Staff

The following MPS staff are anticipated to serve on the **Steering Team**

Mauricio Ochoa	Project Manager – Capital Planning, Construction, and Maintenance (CPCM)
Curt Hartog	Executive Director - CPCM
Tom Parent	Senior Operations Officer
Grant Lindberg	Plant Maintenance
Dr Shawn Harris-Berry	Associate Superintendent
Dan Goemann	Master Planner - CPCM

The following MPS staff are anticipated to serve on the **Stakeholder Team**

Mauricio Ochoa	Project Manager – Capital Planning, Construction, and Maintenance (CPCM)
Ahmed Amin	Principal
TBD	Assistant Principal
TBD	Media Center Specialist
TBD	Health Office Specialist
TBD	PTO Chairperson

The following MPS staff are anticipated to serve on the **Trades QAQC Team**

	Project Manager – Capital Planning, Construction, and Maintenance (CPCM)
Jacob Vadnais	Carpenter, General Foreman
Brian Fritch	Carpenter. QAQC
Jason Kohnen	DDC Tech – QAQC Programmer
Justin Greif	Electrical, QAQC, General Foreman
Dan Skeie	Pipefitters, QAQC
James Rajala	Plumbing, QAQC
Troy Eiklenborg	Sheetmetal, QAQC
Matt Rozowski	Roofing, General Foreman
Jason Lindstrom	Sprinkler, General Foreman
Joseph Scull	KFI Engineers, Sprinkler QAQC
Jason Worwa	Enterprise IT Dept
Galiena Boyajian	IT - Communications
Brandon Frazier	True North Consulting

Project Communications

Consultant and District representative will coordinate the development and implementation of a project communications plan, including:

Communication
Meetings with Steering Team
Meetings with Stakeholder Team
Presentations to Community Groups if needed
Project web page updates
Project e-updates
Updates for elected representatives
Updates for families and staff
Updates for neighborhood
Construction signage
Board of Education updates

Project Budget

Construction Budget

TOTAL PROJECT BUDGET (inclusive of fees and soft costs): **$5,000,000**

Design & Engineering	$381,900
Design Contingency	$68,100
Construction	$3,750,000
Construction Contin.	$150,000
Operations	$350,000
Hazmat	$150,000
FF&E	$150,000

Consultant's Fee, Hourly Rates, and Reimbursable Expenses

Compensation for Project Services as defined herein is a fixed fee of $ 381,900. Basic Design Services will be allocated to the phases of work as defined in EXH-B Project Design Milestones & Deliverables.

Exhibit B – Project Design Milestones & Deliverables

Project Design Milestones

Architect Responsibilities		Owner Responsibilities
Fully Executed Contract	0%	
	1%	Project Steering Team Kickoff
	5%	QAQC #1 Existing Conditions
	10%	Project Stakeholder Team Kickoff
Three Design Options Delivered	15%	
City Planning Processes initiated	20%	Commissioning Provider Kickoff
Schematic Design Report Delivered	25%	
	35%	MEP Systems Decisions Made
Design Development Report Delivered	50%	All major scope items have final decisions
	75%	QAQC #3 Two Week Comprehensive Design Review
Construction Document Report Delivered	80%	
Procurement Begins	90%	
	95%	
Bid Period Ends	99%	
	100%	Fully Executed Construction Contract

Design Milestones

0% Complete – Fully executed architectural contract

Once the Architect has a fully executed contract, work may commence. The Architect and Design team are required to review Minneapolis Public Schools (MPS) District Master Specifications using SpecLink Cloud. Previous project specifications shall not be used as a template for new projects. All changes to MPS Master Specifications will be recorded with track changes, with additions and deletions clearly identified at each Design Report Phase. The Architect and Design team shall utilize the MPS Design Guidelines in the development of the Work. Deviations from design guidelines shall be documented and sent to the Owner for Approval. The Architect and Design team shall conform to the MPS Revit and Drafting Standards including MPS sheet numbering conventions and begin the Work with the MPS Revit template provided by the Owner

1% Complete – Project Steering Team Kickoff Meeting

The Owner will schedule the first meeting of the Project Steering Team, a team that discusses project scope, schedule, and budget and makes recommendations to the Owner. This team needs to meet at the onset of the project to provide background and input for the design team. The meeting will be in person and will have an agenda prepared by the Owner's Project Manager that includes:

1. Welcome and Introductions
2. Team roles and responsibilities
3. Communication protocol and confidentiality agreement
4. Project Overview
5. Next Steps

The Architect is expected to provide a presentation, a clear ask of the group, and any available graphics that can describe the scope of work to the team. Graphics at this stage may include aerial photographs, photographs of the building and site, massing models if available, or rudimentary renderings if available. Any graphics that were included in the RFP may be used to describe the scope of work. The Owner will present the most recent list of maintenance requirements that should be incorporated into the project. Generally, the maintenance needed matches the project budget detail. However, on occasion, the maintenance required for the project may change to accommodate the most needed items.

5% Complete – Quality Assurance / Quality Control (QAQC) #1 – Existing Conditions Meeting

The Owner will coordinate a meeting with the Architect and the Owner's QAQC team. The purpose of the meeting is to:

1. Introduce the design team to the QAQC team
2. Allow the QAQC team an opportunity to present important existing conditions to the Architect
3. Inform the Architect of any work that has been performed during pre-planning of the project and can be removed from scope.
4. Document all presented conditions for future reference whether they are included in the budget provided by the Owner at project kickoff or if they are outside the scope of the Work.
5. Identify known deficiencies in the building that are identified in the budget provided by the Owner at project kickoff.
6. Provide the Owner an opportunity to present deficiencies not identified in the budget that should be considered as part of the Work.

The Architect is expected to provide:

- Sign in sheet
- One person whose sole role at the meeting is to document the conversation and take photographs as needed
- Minutes that capture all presented conditions and general discussions during the meeting.
- If multiple component meetings are conducted (e.g. mechanical, electrical, plumbing) the Architect shall assign a person to each team to document the review.

10% Complete – Project Stakeholder Team Kickoff Meeting

The Owner will identify members of the Project Stakeholder team and schedule a meeting with the Architect. The Architect is expected to present preliminary information on the project that includes scope, schedule, and budget. The Architect shall provide graphics that are easy to interpret for a non-technical audience such as 3-D views, renderings, photographs, or video fly throughs.

15% Complete - Three Options Delivered

The Architect will deliver at least three options to illustrate proposed solutions that will be presented to the Steering Team. All three options must be within the budget provided by the Owner at project kickoff and address programmatic and maintenance goals of the Work. The goal of the meeting is to present options to the Steering Team and ask for recommendations to proceed with design. The Architect is responsible for providing:

- Images that depict the scope options in 3-D formats. Acceptable formats are:
    - Greyscale camera views from Revit
    - Video flythrough
    - perspectives
- Color-coded floor plan that clearly describes scope of work and any associated programmatic moves within the building.
- A table summary of preliminary costs broken into categories of maintenance and new items
- A meeting agenda
- A digital presentation as well as paper handouts
- Minutes

Estimates of expected costs at this stage shall be AACE International Class 4 levels. The cost estimate shall clearly show the expected accuracy range and provide sufficient detail and reference to determine the source and scope of the information. The estimate shall also identify potential risks to the project and estimated costs and mitigation strategies for further refinement.

20% Complete – City planning processes started

It is expected that projects with additions in excess of 2,500 sf or those that disturb more than one acre of land to take 10 to 12 weeks to complete the City of Minneapolis Planning Process. As soon as the Architect has:

- A survey, even in draft form
- A preliminary understand of how big and where any addition(s) will be
- Elevations or camera views from Revit
- Site plan, even in draft form

The Architect shall have an initial meeting with the Planning Department at the City of Minneapolis to discuss initial feedback related to site improvements and storm water conditions on the site. The architect shall

invite the Owner's Project Manager to the meeting. As soon as is practicable after the meeting, the Architect shall complete the online application to begin the PDR, LUA, CUP, and variance processes. The Architect shall develop meeting minutes for all meetings with the City. The meeting minutes shall be sent to all parties in attendance for verification of items discussed and to the Owner's Project Manager.

20% Complete – Commissioning Agent kickoff

The Owner will hire a Commissioning Agent for most projects. The Commissioning Agent will be responsible for design review and input throughout the project. The Architect will incorporate the Commissioning Agent comments upon review and approval by the Owner's Project Manager.

25% Complete – Schematic Design (SD) Report, Cost Estimate 1, Constructability Review 1, EDA preliminary report

The Architect will deliver the Schematic Design (SD) report to the Owner for review. The SD Report will be used to make final scope determinations, select mechanical options, and determine if the project is on budget and on schedule. The Owner will use Bluebeam software to compile Owner comments to return to the Architect. The Architect will identify any non-standard equipment or processes in this report for Owner approval. SD report shall include:

- All drawings created for the project to date. This shall include a complete title page that indicates all potential drawings that will form the Construction Drawings. All drawings shall be bookmarked in Bluebeam by the Architect as defined in Article 5 of the AIA E203-2015 to facilitate Owner reviews.
- MEP narratives
- Cost Estimate #1 that contains cost information for up to three mechanical options and up to two architectural variations that meet program needs. The cost estimate shall be an AACE International Class 3 estimate. The estimate shall provide enough detail to determine the major cost drivers for the project and adequate to understand the scope of the project. The cost estimate shall detail the level of accuracy and provide a narrative on the contingency value used and why. Where appropriate the maintenance items that are not part of the improvement items shall be detailed in the cost estimate
- Constructability Review #1
- Preliminary EDA report (not all projects should participate in EDA)
- All meeting minutes to date
- Survey
- City Planning Documentation
- Revit file archived at delivery of SD report

SD report must be in 8 ½ x 11 format with tabs. It must be delivered digitally as a PDF. The table of contents should read:

1. Project Background
    a. Executive Summary
    b. Project Goals
    c. Program goals
    d. Project Scope
    e. Preliminary Project Schedule showing both design, bidding and construction schedules
2. Existing Conditions
    a. Survey
    b. Site Plan
    c. Code Reviews

    d. Revit Camera Views or renderings
3. Design Options
    a. Architectural
    b. Mechanical
    c. Electrical
    d. Plumbing
    e. Food Service (if applicable), etc.
    f. Maintenance items identified in the 5% meeting.
4. Cost Estimate
    a. Project Budget breakdown for consultant services
    b. Cost Estimate. AACE International Class 3
    c. Constructability Review. List all risks and any unknown complexities.
5. EDA report (if applicable)
6. Minutes

35% Complete – MEP decisions Made

The Owner is committed to making any major MEP decisions such as choosing system types at this stage in order to allow the Architect to progress with drawings, designs and specifications. Documentation of decisions shall be provided in meeting minutes.

50% Complete – Design Development (DD) report, Cost Estimate 2, Constructability Review 2, Final EDA report

The Owner is committed to making design decisions early to have a robust submittal at this phase for review. For the DD Report, the Architect shall provide:

- Enough detail completed in at least one portion of the building (or major component of the project), to produce detail sheets, an idea of design intent with mechanical systems, and architectural decisions that indicate a final configuration.
- Specification sections that represent all or nearly all sections to be included in construction documents
- All drawings needed for a Construction Document shall be identified and in order.
- All drawings shall be bookmarked in Bluebeam by the Architect as defined in Article 5 of the AIA E203-2015 to facilitate Owner reviews.

DD report shall contain:

- Digital (PDF) drawings, and digital (MS Word) copy of the specification.
- All drawing sheets that will be included in the final set, even if they are blank,.
- Diagrammatic layouts of building systems
- Draft specification that contains all divisions, even if they are blank
- Cost estimate #2 in organized by major CSI division for construction items and detailed non-construction items. The cost estimate shall be an AACE International Class 3 estimate that shows the accuracy range of each item and the total.
- Constructability review #2
- Final EDA report (if applicable)
- Update on City of Minneapolis planning progress (if applicable)
- Revit file archived at delivery of DD report and delivered to the Owner

The Architect shall deliver one electronic copy to the Owner.

50% Complete – All major scope items have final decisions

The Owner will make final decisions on all major scope items to allow the Architect to create detailed drawings for the next review. The deliverable from the Owner to the Architect will be written confirmation of scope decisions.

75% Complete – QAQC #3 – Two Week Comprehensive Design Review

The Architect will prepare complete and detailed drawings and specifications for review by the Owner. The 75% set of drawings shall have 75% of all the drawings completed to 100%. All drawings in the Construction drawing set shall be identified on the index page. Detail numbering and references shown in the 75% drawings cannot be changed. Specifications shall be provided such that all specifications are identified and 75% of the specifications are in final form. All changes to the MPS Master Specifications shall be clearly shown using track changes. New specifications that are not part of the MPS Master Specifications shall be identified. Specifications shall be provided in an MS Word format for review. Drawings shall be provided in a PDF format for review. Comments to specifications will be made using track changes. Comments to drawings will be made in Bluebeam. The Architect shall document all comments and either incorporate them into the documents or provide an issue resolution document that details the comment and resolution and reasons not to include the change in the Construction Document. The Owner will compile comments and return them to the Architect following a two-week review period. Documentation shall include all elements required to accurately describe the work. The Architect shall maintain the 75% review set for reference. The Architect shall provide the Owner with a list of unresolved comments/changes at the 90% review stage. The Owner and Architect shall document any unresolved item not included in the final project set and place that in the file.

80% Complete – Construction Document (CD) report, Cost Estimate #3, Constructability Review #3

Construction Document (CD) report is the basis for a final quality control check by the Owner. The drawings shall be complete. Cost estimates shall be at the AACE International Class 2 level with documented levels of accuracy for each item. The estimate shall include any risks, contingencies, exceptions and sources. Expected accuracy for each item is -10% to +20% or better. An estimate simulation shall be completed showing the outcome of various scenarios inside of the accuracy range. The final cost estimate shall not contain any amount for design contingency. At a minimum, 5% of the budget shall be represented in add alternates. Deliverables will include:

- Electronic (PDF) drawing set, electronic (MS Word) of the specification. Both shall be indexed for ease of review.
- Digital versions of all documentation. Drawings shall be in PDF and REVIT.
- All drawings shall be bookmarked in Bluebeam by the Architect as defined in Article 5 of the AIA E203-2015 to facilitate Owner reviews.
- Specifications shall be in MS Word format.
- Correspondence relevant to City of Minneapolis Planning processes or Plan Review processes
- All drawing sheets that will be included in the final set.
- Egress plan for construction zones while building is occupied
- Diagrammatic layouts of building systems
- Draft specification that contains all divisions
- No major changes in design intent or scope can occur between DD and CD report

- cost Estimate #3 organized by CSI division for construction items and detailed non-construction items at Class 2 level
- Constructability Review narrative
- Revit file archived at delivery of CD report

The Owner will require two weeks to review the documents to ensure completeness and accuracy. Architect shall incorporate Owner comments into the final construction documents prior to issuing the set for bid release.

90% Complete – Procurement Begins

100% Construction Documentation set is released for public bid. Architect will coordinate with Owner to set a date for the mandatory pre-bid meeting, publicize bid release, and produce a call for bids. Owner will approve all addenda issued during the procurement process and will have adequate time to review any major changes issued via addenda. The Architect is expected to attend the pre-bid meeting and provide responses to questions, issue addendums and document changes to designs, specifications and contract documents.

95% Complete

This is considered as the bid opening. All addenda have been issued and questions responded to. The bid opening shall be attended by the Architect. The Architect shall provide a review of the apparent low bid and a written recommendation of award to the Owner. If the apparent low bid exceeds the cost estimate provided by the Architect, a detailed review and analysis shall be conducted by the Architect to determine the areas that caused the over bid. The Architect shall also make a written recommendation to accept or deny the add alternates in the bid document.

100% Complete – Fully executed contract between Owner and General Contractor

The Architect shall submit to the Owner the Revit file containing the Construction drawings, the specifications in an MS Word format and any addenda issued in an MS Word format. The architect shall prepare the contract documents for award of the contract using Owner provided forms, issue the notice of award to the Contractor and collect the payment and performance bonds, insurance, letter of assent and other documents. Once executed by the Contractor, the Architect shall provide a complete set to the Owner for signature. Upon Board of Education approval of the contract, the Architect shall prepare a Notice to Proceed for the Contractor. The Architect shall provide the Notice to Proceed to the Owner for review. The Owner shall issue the Notice to Proceed to the Contractor.

Construction Phase

The Architect shall prepare all meeting agendas and produce meeting minutes for regular meetings throughout the construction phase. The Architect will notify the Owner of discussion topics prior to the scheduled meeting so the Owner may invite the appropriate MPS staff to participate in the meeting. Meeting minutes for all meetings shall be distributed within 5 working days of the meeting. All agendas and meeting minutes shall be provided to the Owner for review in an MS Word format. Changes will be documented using track changes.

Submittals

The Architect shall follow the Owner's process for submittals. Contractor shall send submittals to the Architect in accordance with the submittal schedule prepared by the Contractor. The Architect shall document submittal schedule variances and provide the information to the Contractor and the Owner each

month. The Architect shall review all submittals and determine if the submittal meets the Contract Documents. Each submittal shall be labeled with a stamp or similar that identifies the reviewer of the submittal, date of review and action. Submittals shall be marked as:

- No exception taken
- Make Corrections Noted
- Revise and Resubmit
- Rejected
- No submittal is required

A copy of each submittal shall be provided to the Owner. The Architect shall be responsible for developing and maintaining a complete and accurate submittal log. The submittal log shall identify the submittal number, description, date received from contractor, date sent to reviewer, date returned from reviewer, action, date sent back to the Contractor and date when Owner was provided a copy. If the Architect is unclear as to the requirements of the contract documents or should the Architect need input from the Owner, the Architect shall contact the Owner's Project Manager. All substitution requests shall be sent to the Owner for review. The Owner requires a minimum of one week for all reviews. The Architect shall log and track all items sent to the Owner for review and monitor the review schedule.

Substantial Completion

The Architect shall review the punch list provided by the Contractor to verify the list is complete and accurate based on the Architect's review. The Architect shall issue a preliminary final punch list of items to the Owner and schedule a punch list site review with the Owner. The punch list may be modified because of the Owner's punch list site review. The Architect shall then issue a final punch list to the Owner and Contractor. If the Owner and Architect deem the project substantial complete in accordance with Contract Documents, the Architect shall prepare and deliver a Certificate of Substantial Completion to the Contractor and Owner establishing the date of substantial completion. The punch list provided at the time of Substantial Completion shall include the Architect's estimate of costs to repair each of the items on the punch list. The estimate provided shall form the basis of the amount of retainage to be withheld for the punch list items in accordance with Minnesota Statute. Issuance of the Certificate of Substantial Completion shall include the final punch list and establish the date of substantial completion. The punch list shall include a complete list of all manuals, warranties, commissioning reports and other items required by the Contractor as part of the Contract Documents that was not previously provided to the Owner and accepted. If the project is not deemed substantially complete by the date established in the Contract Documents, the Architect will inform the Contractor of the liquidated damages provision in the Contract Document and apply liquidated damages to the next progress payment as directed by the Owner until the Certificate of Substantial Completion is issued.

Final Completion

The architect shall schedule and be present at the final completion walk through with the Owner. This walk through shall be the final verification of outstanding item completion. Documentation of the completed items shall be maintained by the Architect and submitted to the Owner. The Architect will review the final documents and manuals provided by the Contractor. The Architect shall request a final payment application from the Contractor. After reviewing the final application and approving, forward to the Owner for final payment.

At final completion, the architect shall provide an updated floor plan for the entire building in a PDF format. The architect may amend existing floor plans to show the additions and renovations that have occurred.

Post Construction Phase

One Year Warranty Review

The Architect shall schedule with the Owner, the one-year warranty review. This will be scheduled between 10 and 12 months from the date of substantial completion. This meeting is designed to identify warranty items that need to be repaired/replaced as required by the Contract Documents. The Architect shall schedule the meeting, take notes and follow up on items identified in the warranty walk through.

EXHIBIT C Owner Insurance

Insurance Requirements

1. CONSULTANT'S INSURANCE – to be used with AIA B101-2017, AIA C103-2015, or similar non-contractor consultants:
   The Consultant shall at its own expense maintain in effect at all times during the performance of the Work under the Agreement at least the following coverage and limits of insurance:

   a. Worker's Compensation and Employer's Liability Insurance

      i. Coverage A is statutory.

      ii. Coverage B
      $500,000 Each Accident
      $500,000 Each Employee
      $500,000 Policy Limit (Disease)

   b. Comprehensive General Liability Insurance *

General Aggregate	$1,000,000
Products/Completed Operations Aggregate	$1,000,000
Per Occurrence	$1,000,000
Medical Payments	$10,000

   * The Owner should be named as an additional insured for Comprehensive General Liability Insurance.

   c. Automobile Insurance

Per Occurrence	$1,000,000
PIP	Basic
Underinsured Motorist	$1,000,000
Uninsured Motorist	$1,000,000

   d. Professional Liability Insurance

      i. Per Claim $2,000,000

ii. For projects with an estimated construction Contract Sum of over $10,000,000 or major structural work an aggregate is required as follows:
Aggregate $4,000,000

e. Umbrella Liability Insurance

i. Per Occurrence $2,000,000

ii. For projects with an estimated construction Contract Sum of over $10,000,000 or major structural work an aggregate is required as follows:
Aggregate $2,000,000

f. Manned or Unmanned Aircraft Coverage (if used)

i. Per Claim $1,000,000

ii. Aggregate $1,000,000

For specialty consultants used for commissioning activities, studies, asbestos surveys and security, items A, B, C and F shall apply.

Special Asbestos Abatement Liability Insurance is required for Asbestos Abatement Contractors. The limits are $1,500,000 per claim, for liability arising from the encapsulation, removal, handling, storage, transportation, and disposal of asbestos-containing materials.

2. CONSULTANT'S OBLIGATIONS

Consultant shall not violate or knowingly permit any violation of any conditions or terms of the policies of insurance required to be carried under the terms hereof and shall endeavor to satisfy the requirements of the insurance companies issuing them. In the event Consultant neglects, refuses or fails to provide or maintain any of the insurance required to be carried under the Agreement, or if such insurance is canceled for any reason, the Owner or the Owner's lender(s) shall have the right, but not the duty, to procure or maintain the same.

In the event the Owner or the Owner's lender(s) do procure or maintain such insurance, the Owner or the Owner's lender(s) shall have, in additional to any and all other available remedies, the right to recover from the Consultant (including the right of set-off against sums otherwise due the Consultant) all of the costs associated with procuring or maintaining such insurance.

3. PROFESSIONAL LIABILITY INSURANCE

   a. Professional Liability Coverage of $2,000,000 shall be maintained for one (1) year from the date of Substantial Completion. If the Consultant discontinues its business and if directed by Owner in writing, Consultant shall purchase such insurance in such amount for an extended discovery period beyond the one (1) year after the date of Substantial Completion, with the premium cost to be a reimbursable expense paid by the Owner. The limit of liability for such policy may not be reduced below $2,000,000 without the Owner giving its prior, written consent. All policies of insurance that Consultant is required under the terms of this Exhibit C Owner's Insurance to secure and maintain shall bear the endorsement "Not to be canceled until sixty (60) calendar days after Owner has received a written notice from insurer as evidence by a return receipt of registered or certified mail."

   b. The Owner shall not be responsible for obtaining or paying premiums or other expenses in connection with insurance required to be carried under the Agreement or normally carried by the Consultant's consultants, and the obligation to obtain such insurance and to pay such premiums and other expenses shall be solely that of the Consultant.

   c. The Consultant shall bear all the costs of any and all deductible amounts under any insurance policies required to be carried under the Agreement and shall remain solely and fully liable for the full amount of any claim or item not compensated by insurance (to the extent that any amount resulted from damages that arose out of the Consultant's sole negligence.)

4. COVERAGE
   The coverage's referred to above are set forth in full in the respective policy forms, and the foregoing descriptions of such policies are not intended to be complete.

5. GENERALLY

   a. The Consultant thereby represents and warrants to the Owner that, as of the date of the execution of the Agreement, the Consultant is not aware of any claims or potential claims which have been made, filed or threatened against any of the insurance or for damages covered by any of the insurance required to be carried under the Agreement that would affect the Consultant's ability to provide the insurance coverage required by this agreement.

b. It is understood that the provisions in the Agreement requiring the Consultant to carry insurance shall not be construed as in any manner waiving or restricting the liability of the Consultant as to any obligations imposed under the Agreement, including, but not limited to, obligations imposed under the provisions of Article 11 of the AIA A201-2017 General Conditions.

Insurance requirements for Contractors

1. CONTRACTOR'S INSURANCE – to be used with AIA A101-2017
   The Contractor shall at its own expense maintain in effect at all times during the performance of the Work under the Agreement at least the following coverage and limits of insurance:

   a. Commercial General Liability

      i. General Aggregate $1,500,000

      ii. Products/Completed Operations Aggregate $1,500,000

      iii. Per Occurrence $1,500,000

      The Owner shall be named as additional insured for Commercial General Liability Insurance

   b. Automobile Insurance

      i. Per Occurrence $1,000,000

      ii. PIP Basic

      iii. Underinsured Motorist $1,000,000

      iv. Uninsured Motorist $1,000,000

   c. Workers Compensation

      i. Coverage A is statutory.

      ii. Coverage B $500,000 Each Accident

      iii. $500,000 Each Employee

d. Professional Liability (if the Contractor is hiring professionals)

   i. Per Claim $2,000,000

   For Projects with an estimated construction cost of over $10,000,000 or major structural work, additional Aggregate coverage of $4,000,000 is required.

e. Manned or Unmanned Aircraft Coverage (if used)

   i. Per Claim $1,000,000

   ii. Aggregate $1,000,000

f. Property Insurance

   i. Per Claim $1,000,000

   ii. Aggregate $1,000,000

   This insurance is only required for materials stored offsite and not incorporated into the project at delivery. For material stored on site, no additional insurance is required.

g. Builders “all risk” Insurance

   i. Per Claim $2,000,000

   ii. Aggregate $4,000,000

   This insurance is only required for additions exceeding $10,000,000. Renovations to existing schools are not required to have builders all risk insurance.

h. Umbrella Liability

   i. Aggregate limit $5,000,000

   This insurance is required only for projects larger than $10,000,000 in total construction costs.

EXHIBIT D - Owner Requirements

Targeted Group Business

The Owner's Targeted Group Business goal is 12%. The Architect will employ the following strategies:

- Expanding the Professional identity of the targeted business with the design and construction industry.
- Creating opportunities for networking and exposure of the targeted business by team with other consultants.
- Encouraging leadership and management within both organizations and the targeted business through the design and construction process.
- Gaining new perspectives and encouraging cultural change within the firm by working with targeted business.

Quality Performance and Owner Provisions

The following are checklists to enhance quality performance tracking and requirements to promote improved delivery for Architect work items most commonly encountered throughout design and construction.

Before design commences

1. The Architect shall begin design with current download of the Owner's published Master Specifications as provided by the Owner at design kickoff.
2. The Architect shall design to the Owner's published design guidelines and requirements as provided by the Owner at design kickoff. Deviation from the design standard shall be clearly noted on all drawings and specifications up to CD.
3. The Architect shall conform to the Owner's Revit and Drafting Standards as provided by the Owner at design kickoff.
4. The Architect shall begin the 3-D model with the Owner's Revit template as provided by the Owner at design kickoff.
5. The Architect shall be familiar with the City of Minneapolis Planning Review Process.

During Design

1. Conform to all activities required in Article 3 of AIA Document B101-2017.
2. The Architect shall conform to the Owner's design milestones and deliverables as defined in EXH-B.

3. The Architect shall incorporate the Owner's review comments provided during design phases into the final design prior to project bid. Comments shall be cataloged by the Architect and resolution to comments clearly explained.
4. The Architect shall be familiar with the Owner's Procurement requirements.
5. The Architect shall own all agendas and meeting minutes throughout the design process.
6. The Architect shall document all major decision points.
7. The Architect shall present to the Owner's community stakeholders as required.

During Construction Administration

1. Conform to all activities required in Article 3 of AIA Document B101-2017.
2. The Architect shall own all agendas and meeting minutes throughout the construction process.

During Substantial Completion

1. Conform to the requirements of Article 3 in AIA Document B101-2017.
2. Confirm with the Owner the completeness of the punchlist before finalizing.
3. Provide the Owner with a detailed estimate to complete or repair all items on the substantial completion punchlist.

During Project Closeout

1. Conform to all activities required in Article 3 of AIA Document B101-2017.
2. Within thirty (30) days of the date of Substantial Completion, the Architect shall provide the Owner, in writing, a list of incomplete items and the cost to complete those items.

Safety Precautions and Programs

While on location of the Project, the Architect hereby agrees to and shall comply with the following Owner safety requirements.

1. Security Identification Badges: The Owner requires all personnel to wear an identification badge when at a facility of the Owner. The identification badge is to remain on personnel and clearly visible at all times. No one is permitted on-site without an identification badge. The identification badge shall contain the following:

    a. A legible photograph of the individual (passport sized photo)

    b. Name of the individual (Minimum 14 point font)

    c. Name of the employer (Company name, minimum 14 point font)

d. The badge shall be plastic-laminated.

e. The badge identification size shall be 3 ½" x 2 ½" minimum.

2. All personnel are required to check in with the main office to sign in, get a badge, and indicate their destination within the building while school is in session. All personnel are required to sign out in the main office upon completion of their site visit.

3. No personnel will be allowed to prop doors open and leave them unattended.

AIA® Document G202™ – 2013

Project Building Information Modeling Protocol Form

PROJECT: *(Name and address)*
Defined in EXH-A Project Charter

PROTOCOL VERSION NUMBER:

DATE: March 13, 2018

PREPARED BY: Minneapolis Public Schools

DISTRIBUTION TO: *(List each individual to whom this protocol is distributed. Include individuals listed in Section 1.1, or reference Section 1.1, along with any additional recipients.)*
Defined in EXH-A Project Charter

TABLE OF ARTICLES

1 GENERAL PROVISIONS

2 LEVEL OF DEVELOPMENT

3 MODEL ELEMENTS

ADDITIONS AND DELETIONS:
The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

This document is intended to be used in conjunction with a Project specific AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, which the Parties will incorporate into their agreement for the Project, and a Project specific AIA Document G201™–2013, Project Digital Data Protocol Form.

ARTICLE 1 GENERAL PROVISIONS

§ 1.1 For each Project Participant that has incorporated the Project specific AIA Document E203™–2013, Building Information Modeling and Digital Data Protocol Exhibit, dated , into its agreement for the Project, identify and provide the contact information for individuals responsible for implementation of the Modeling protocols. If, for any Project Participant, more than one individual will be responsible for implementation of the Modeling protocols, list each individual separately and describe the unique Modeling Role assigned to each individual.

Modeling Role	Project Participant	Individual Responsible	Contact Information

§ 1.2 This document establishes the Modeling protocols for the Project. For purposes of these protocols, the Model is comprised of the following information and other data sets: *(Indicate disciplines, separate models, and other data that will be included within the Model and governed by the Modeling protocols.)*

§ 1.3 Collaboration Protocols. The Project Participants' protocols for the collaborative utilization of the Model, if any, including communications protocols, a collaboration meeting schedule and colocation requirements, are as follows:

§ 1.4 Technical Requirements. The technical requirements relating to the utilization of Building Information Modeling, including specific software and hardware requirements are as follows:

Init.
/

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§ 1.5 Training and Support. The parameters for any training or support program(s) that will be implemented with respect to any collaboration strategy or technical requirements are set forth below:

§ 1.6 Model Standard. The Model shall be developed in accordance with the following Model Standard, if any:

§ 1.7 Model Management Protocols and Processes

The following Model Management Protocols and Processes shall apply to the Project only if specifically designated in the table below as being applicable.

(Designate the Model Management Protocols and Processes applicable to the Project in the second column of the table below. In the third column, indicate whether the detailed description of the Model Management Protocol or Process is located in Section 1.8 or in an attached exhibit. If in an exhibit, identify the exhibit.)

Model Management Protocols and Processes		Applicability to Project *(Applicable or Not Applicable)*	Location of Detailed Description *(Section 1.8 below or in an attachment to this exhibit identified below)*
§ 1.7.1	Model origin point, coordinate system, precision, file formats and units		
§ 1.7.2	Model file storage location(s)		
§ 1.7.3	Processes for transferring and accessing Model files		
§ 1.7.4	Naming conventions		
§ 1.7.5	Processes for aggregating Model files from varying software platforms		
§ 1.7.6	Model access rights		
§ 1.7.7	Design coordination and clash detection procedures.		
§ 1.7.8	Model security requirements		

§ 1.8 Insert a description of each Model Management Protocol and Process identified in Section 1.7, if not further described in an exhibit attached to this document:

§ 1.9 Terms in this document shall have the same meaning as those in AIA Document E203–2013.

ARTICLE 2 LEVEL OF DEVELOPMENT

§ 2.1 The Level of Development (LOD) descriptions, included in Section 2.2 through Section 2.6 below, identify the specific minimum content requirements and associated Authorized Uses for each Model Element at five progressively detailed levels of completeness. The Parties shall utilize the five LOD descriptions in completing the Model Element Table at Section 3.3.

§ 2.2 LOD 100

§ 2.2.1 Model Element Content Requirements. The Model Element may be graphically represented in the Model with a symbol or other generic representation, but does not satisfy the requirements for LOD 200. Information related to the Model Element (i.e., cost per square foot, tonnage of HVAC, etc.) can be derived from other Model Elements.

§ 2.2.2 Authorized Uses

§ 2.2.2.1 Analysis. The Model Element may be analyzed based on volume, area and orientation by application of generalized performance criteria assigned to other Model Elements.

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§ 2.2.2.2 Cost Estimating. The Model Element may be used to develop a cost estimate based on current area, volume or similar conceptual estimating techniques (e.g., square feet of floor area, condominium unit, hospital bed, etc.).

§ 2.2.2.3 Schedule. The Model Element may be used for Project phasing and determination of overall Project duration.

§ 2.2.2.4 Other Authorized Uses. Additional Authorized Uses of the Model Element developed to LOD 100, if any, are as follows:

§ 2.3 LOD 200

§ 2.3.1 Model Element Content Requirements. The Model Element is graphically represented within the Model as a generic system, object, or assembly with approximate quantities, size, shape, location, and orientation. Non-graphic information may also be attached to the Model Element.

§ 2.3.2 Authorized Uses

§ 2.3.2.1 Analysis. The Model Element may be analyzed for performance of selected systems by application of generalized performance criteria assigned to the representative Model Elements.

§ 2.3.2.2 Cost Estimating. The Model Element may be used to develop cost estimates based on the approximate data provided and quantitative estimating techniques (e.g., volume and quantity of elements or type of system selected).

§ 2.3.2.3 Schedule. The Model Element may be used to show ordered, time-scaled appearance of major elements and systems.

§ 2.3.2.4 Coordination. The Model Element may be used for general coordination with other Model Elements in terms of its size, location and clearance to other Model Elements.

§ 2.3.2.5 Other Authorized Uses. Additional Authorized Uses of the Model Element developed to LOD 200, if any, are as follows:

§ 2.4 LOD 300

§ 2.4.1 Model Element Content Requirements. The Model Element is graphically represented within the Model as a specific system, object or assembly in terms of quantity, size, shape, location, and orientation. Non-graphic information may also be attached to the Model Element.

§ 2.4.2 Authorized Uses

§ 2.4.2.1 Analysis. The Model Element may be analyzed for performance of selected systems by application of specific performance criteria assigned to the representative Model Element.

§ 2.4.2.2 Cost Estimating. The Model Element may be used to develop cost estimates suitable for procurement based on the specific data provided.

§ 2.4.2.3 Schedule. The Model Element may be used to show ordered, time-scaled appearance of detailed elements and systems.

§ 2.4.2.4 Coordination. The Model Element may be used for specific coordination with other Model Elements in terms of its size, location and clearance to other Model Elements including general operation issues.

§ 2.4.2.5 Other Authorized Uses. Additional Authorized Uses of the Model Element developed to LOD 300, if any, are as follows:

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§ 2.5 LOD 400

§ 2.5.1 Model Element Content Requirements. The Model Element is graphically represented within the Model as a specific system, object or assembly in terms of size, shape, location, quantity, and orientation with detailing, fabrication, assembly, and installation information. Non-graphic information may also be attached to the Model Element.

§ 2.5.2 Authorized Uses

§ 2.5.2.1 Analysis. The Model Element may be analyzed for performance of systems by application of actual performance criteria assigned to the Model Element.

§ 2.5.2.2 Cost Estimating. Costs are based on the actual cost of the Model Element at buyout.

§ 2.5.2.3 Schedule. The Model may be used to show ordered, time-scaled appearance of detailed specific elements and systems including construction means and methods.

§ 2.5.2.4 Coordination. The Model Element may be used for coordination with other Model Elements in terms of its size, location and clearance to other Model Elements, including fabrication, installation and detailed operation issues.

§ 2.5.2.5 Other Authorized Uses. Additional Authorized Uses of the Model Element developed to LOD 400, if any, are as follows:

§ 2.6 LOD 500

§ 2.6.1 Model Element Content Requirements. The Model Element is a field verified representation in terms of size, shape, location, quantity, and orientation. Non-graphic information may also be attached to the Model Elements.

§ 2.6.2 Authorized Uses. Specific Authorized Uses of the Model Element developed to LOD 500, if any, are as follows:

ARTICLE 3 MODEL ELEMENTS

§ 3.1 Reliance on Model Elements

§ 3.1.1 At any particular Project milestone, a Project Participant may rely on the accuracy and completeness of a Model Element only to the extent consistent with the minimum data required for the Model Element's LOD for that Project milestone as identified below in the Model Element Table, even if the content of a specific Model Element includes data that exceeds the minimum data required for the identified LOD.

§ 3.1.2 Coordination and Model Refinement

Where conflicts are found in the Model, regardless of the phase of the Project or LOD, the Project Participant that identifies the conflict shall promptly notify the Model Element Authors and the Project Participant identified in AIA Document E203–2013 Section 4.8 as being responsible for Model management. Upon such notification, the Model Element Author(s) shall act promptly to evaluate, mitigate and resolve the conflict in accordance with the processes established in Section 1.7.7, if applicable.

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§ 3.2 Table Instructions

§ 3.2.1 The Model Element Table in Section 3.3 indicates the LOD to which each Model Element shall be developed at each identified Project milestone and the Model Element Author.

§ 3.2.2 Abbreviations for each Model Element Author to be used in the Model Element Table are as follows:
(Provide abbreviations, such as "A—Architect," or "C—Contractor.")

Abbreviation	Model Element Author (MEA)

§ 3.3 Model Element Table

		Required LOD at Project milestones as defined in EXH-B Project Milestones & Deliverables					
Model Element Category	**Scope Status**	**15%**	**25%**	**50%**	**75%**	**90%**	**100%**
Exterior Walls	Within Scope	200	300	300	300	300	300
	Outside of Scope	100	300	300	300	300	300
Interior Walls	Within Scope	200	300	300	300	300	300
	Outside of Scope	100	200	200	200	200	200
Roofs	Within Scope	200	300	300	300	300	300
	Outside of Scope	100	300	300	300	300	300
Floors	Within Scope	200	300	300	300	300	300
	Outside of Scope	100	200	200	200	200	200
Exterior doors and windows	Within Scope	200	300	300	300	300	300
	Outside of Scope	100	300	300	300	300	300
Interior doors and windows	Within Scope	200	200	300	300	300	300
	Outside of Scope	100	200	200	200	200	200
Major structural elements	Within Scope	Not required	200	200	300	300	300
	Outside of Scope	Not required	Not required	Not required	Not required	Not required	Not required
Plumbing Fixtures	Within Scope	100	300	300	300	300	300
	Outside of Scope	Not required	Not required	Not required	Not required	Not required	Not required

§ 3.4 Model Element Table Notes

Notes:
(List by number shown on table.)

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Additions and Deletions Report for

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PAGE 1

Defined in EXH-A Project Charter

...

DATE: March 13, 2018
PREPARED BY: Minneapolis Public Schools

...

Defined in EXH-A Project Charter

PAGE 5

§ 3.3 Model Element Table

		Required LOD at Project milestones as defined in EXH-B Project Milestones & Deliverables					
Model Element Category	**Scope Status**	**15%**	**25%**	**50%**	**75%**	**90%**	**100%**
Exterior Walls	Within Scope	200	300	300	300	300	300
	Outside of Scope	100	300	300	300	300	300
Interior Walls	Within Scope	200	300	300	300	300	300
	Outside of Scope	100	200	200	200	200	200
Roofs	Within Scope	200	300	300	300	300	300
	Outside of Scope	100	300	300	300	300	300
Floors	Within Scope	200	300	300	300	300	300
	Outside of Scope	100	200	200	200	200	200
Exterior doors and windows	Within Scope	200	300	300	300	300	300
	Outside of Scope	100	300	300	300	300	300
Interior doors and windows	Within Scope	200	200	300	300	300	300

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	Outside of Scope	100	200	200	200	200	200
Major structural elements	Within Scope	Not required	200	200	300	300	300
	Outside of Scope	Not required	Not required	Not required	Not required	Not required	Not required
Plumbing Fixtures	Within Scope	100	300	300	300	300	300
	Outside of Scope	Not required	Not required	Not required	Not required	Not required	Not required

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Certification of Document's Authenticity

AIA® Document D401™ – 2003

I, , hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with its associated Additions and Deletions Report and this certification at 12:25:37 on 03/23/2018 under Order No. 8259021829 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document G202™ – 2013, Project Building Information Modeling Protocol Form , as published by the AIA in its software, other than those additions and deletions shown in the associated Additions and Deletions Report.

_____

(Signed)

_____

(Title)

_____

(Dated)

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AMENDMENT TO CONTRACT BETWEEN: SPECIAL SCHOOLS DISTRICT NO.1 AND Flagship Recreation

This Amendment ("Amendment") to the Contract between Special School District No. 1 and Flagship Recreation dated 03/11/2024 ("Contract") is made and entered into by and between Special School District No.1 ("District") and Flagship Recreation ("Contractor") (collectively "parties').

WHEREAS, Special School District No.1, a special school district created and existing under Minnesota law ("District") and Flagship Recreation ("Contractor") entered into a contract titled CONTRACT FOR SERVICES for a period between 2/28/2024 through 2/28/2025 ("Contract"), and

WHEREAS, the Parties now desire to amend the Contract number: SRM: 4400002162

Amendment Number/Change Order number: 01

1. *Original contract amount:* $152,508.76
2. *Amendment amount:* $39,102.32
3. *Accumulative contract amount:* $191,611.08

NOW THEREFORE IT IS HEREBY AGREED by the Parties to amend the Contract as follows:

Section 3.1: District's total obligation to Contractor under this Contract, including compensation for goods, services, and reimbursable expenses shall not exceed $191,611.08. Contractor shall not receive any additional reimbursement for materials or subsistence expenses incurred in the performance of this Contract.

Description: Amendment for updates to design based on hidden basement under playground. Contract end date extended to 12/31/2025.

Except as herein amended, the terms, conditions and provisions of the contract shall apply to and govern the provisions of this Amendment.

(The remainder of this page intentionally left blank.)

SPECIAL SCHOOL DISTRICT NO. 1

Signature: _____

Name: -

Title: -

Date: _____

FLAGSHIP RECREATION:

Signature: Bailey Wolf

Name: - Bailey Wolf

Title: - Sales Consultant

Date: 2/19/2025

Updated May, 2024

Date 2/19/2025
Expires 3/19/2025
Quote: Minneapolis Public Schools
Contact: Mauricio Ochoa
Phone: 612.559.2574
Email: Mauricio.Ochoa@mpls.k12.mn.us
OPTION 3

Ship To:	**Please Make PO's & Contracts Out To:**
Pratt Community School - Opt 2	**Flagship Recreation**
66 Malcolm Ave SE	**11123 Upper 33rd St. N**
Minneapolis, MN 55414	**Lake Elmo, MN 55042**
Bill To:	**Please Remit Payment To:**
Minneapolis Public Schools	**Flagship Recreation**
1250 West Broadway	**11123 Upper 33rd St. N**
Minneapolis, MN 55411	**Lake Elmo, MN 55042**

QTY	ITEM #	Description	UNIT PRICE	EXT. PRICE
1	EQUIPMENT	Pratt Community School - Opt 2,BW704PCS045678		$11,541.00
1	DISCOUNT	State Contract #218091	6.00%	($692.46)
		Eclipse Climber Cost ($30,156) - Restocking fee ($5,913) & State Contract		($22,303.00)
		Fee ($1,940)		
1	EQUIPMENT	Custom Equipment (Signs)		$4,932.40
1	DISCOUNT	State Contract #218091	5.00%	($246.62)
1	MOB	Mobilization	$750.00	$750.00
1	DUMPSTER	Excavation (new container)	$750.00	$750.00
230	SITE WORK	Demo & Removal of Existing Material for PIP Installation	Per Quote	$917.42
9	SUBGRADE	Compacted Class 5 Subgrade Base for PIP or Turf Surfacing (4"-6" Depth)	Per Quote	$1,310.70
230	SUBGRADE	Concrete Base for Mound or Sloped Surface (PIP or Turf)	Per Quote	$3,097.33
1	INSTALL	Playground Installation by Landscape Structures Certified Installers		$3,255.77
603	SURFACING	Poured In Place	Per Quote	$25,295.05
		- 50/50 standard color and black speckle mix		
		- 5 year warranty		
		- Price includes dumpster		
		- 8' Fall Height		
		24 Hr Site Security required during Installation & cure time. Cure times vary with weather and thickness - Averaging up to 3 days. Defects or damage due to trespass before sufficient cure time will not be covered by warranty. Flagship is not licensed for Security Services.		
15	SURFACING	DYNACUSHION- R20C4872 - Wear Mat (4' x 6' x 2")		$4,245.41
		- Installed over Coal Room		
1	FENCING	Chainlink Fencing		$2,289.33
		- installed prior to PIP installation		
		- Site is not monitored after fencing is installed. MPS is advised to still monitor		
		the site for up to 72 hours after PIP is fully installed		
			Subtotal	**$35,142.32**
			Freight	**$600.00**
			Total	**$35,742.32**

Quotes from Flagship Recreation. are subject to current Flagship Recreation policies as well as Terms & Conditions, Inclusions & Exclusions outlined below unless noted otherwise on this quote. Changes are subject to price adjustment. Sales tax, if applicable, will be applied unless a tax-exempt certificate is provided at the time of order entry. Customer deposits, if required, must be received before orders will be entered & installation scheduled. Purchases in excess of $1,000.00 must be supported by a formal Purchase Order made out to Flagship Recreation

State Contract #218091

Terms: Net 30 days; 1.5% finance charge on balances over 30 days

Terms & Conditions

Contract: Seller's Copy of signed quote represents the contract between Seller and Buyer. This form supersedes all previous communications and negotiations and constitutes the entire agreement between the parties. Any changes to this contract are not binding unless jointly agreed in writing via Change Order.

Project Scope *(This Section For Quotes Including Installation)*

Inclusions:

- One Mobilization
- Accepting & Unloading of Order Prior to Installation
- Unpacking of Play Equipment
- Assembly of Play Equipment
- Placing, Digging or Surface Mounting Equipment (as specified)
- Concrete for Play Equipment Footings
- Standard Insurance Offer (Detail Provided Upon Request)
- Standard Warranty Offer (Detail Provided Upon Request)
- Standard Wage Rates

Exclusions (Unless Specifically Quoted):

- Storage or Security of Equipment
- Private Utility Locates (irrigation, low voltage, lighting, etc.)
- Additional Labor Due to Site Access. Require 8' Wide Clearance from Staging Area to Play Space.
- Additional Labor and/or Related Costs Due to Subsurface Conditions (Rock, Hardpan, Heavy Clay, Ground Water, etc.)
- Additional Labor and/or Related Costs Due to Working in Unstable Soils (Sand, Pea Rock, Mud, Poor Site Drainage, etc.)
- Offsite Removal of Spoils From Footing Holes or Other Excavation. Can be stockpiled for owner removal or left in play space
- Disposal of Packing Material. Can be Stockpiled for Owner Removal or Deposited in Owners Onsite Dumpster
- Removal of Existing Play Equipment, Border or Safety Surfacing Material
- Site Work of Any Kind. Exclusions include, site grading (owner to provide max slope of 1%), site restoration, drainage, etc.
- Border for Play Space
- Bonding of Any Type
- Permits of Any Kind

Acceptance of Quotation:

Accepted By (Print) Mauricio Ochoa	
Signature:	Date:
	Purchase Amount: $35,742.32

Flagship Recreation
11123 Upper 33rd Street North
Lake Elmo, MN 55042

Phone # 763-550-7860

Invoice

Date 11/30/2024

Invoice # F23310

P.O. Number

Bill To

ISD 1 Minneapolis Public Schools
1250 West Broadway Ave
Minneapolis, MN 55411
mps_invoicecapture@concursolutions.com

Ship To

Pratt Community School
66 Malcom Ave SE
Minneapolis, MN 55414

Quantity	Item	Description	Price Each	Total Amount
		Change Order		
1	SITEWORK	Additional Hours – PIP/concrete removal & project modification due to Coal Room Discovery 24 added hours in total	3,360.00	3,360.00

Thank you for your order!

Subtotal	$3,360.00
Sales Tax (0.0%)	$0.00
Total	$3,360.00
Deposit	$0.00
Balance Due	$3,360.00

Terms - Net 30 days 1.5% finance charge on remaining balance

MINNEAPOLIS PUBLIC SCHOOLS
Urban Education. Global Citizens.

CONTRACT FOR GOODS – above $50,000

This Contract is entered into between Special School District No. 1, "District", a special school district created and existing under the laws of Minnesota, and Flagship Recreation "Contractor" (collectively "parties") to provide demolition, hauling, and installation of playground equipment at Pratt Elementary School.

1 *TERM OF CONTRACT*

1.1 This Contract is effective on February 28, 2024 or the date of the last signature of the parties, whichever is later, and shall remain in effect until February 28, 2025, or until all obligations set forth in this Contract have been satisfactorily fulfilled, or the Contract has been terminated, whichever occurs first. Contractor shall have a continuing obligation, after said Contract period, to comply with any provision of this Contract intended for District's protection or benefit, or that that by its sense and context, is intended to survive the completion, expiration or termination of this Contract.

1.2 Contractor understands that NO WORK SHOULD BEGIN UNDER THIS CONTRACT until all required signatures on this Contract have been obtained and the Contract has been authorized and/or approved by the District's Board. Any work performed by Contractor prior to such time shall be considered as having been performed at Contractor's OWN RISK and as a volunteer.

2 SCOPE OF WORK

2.1 Contractor shall perform all of the services set forth herein and any exhibits attached hereto as **Exhibit A** ("Scope of Work"). Contractor understands that time is of the essence in this Contract and agrees to meet all milestones indicated in this section, in the Contract herein and any exhibits attached hereto.

3 CONSIDERATION AND TERMS OF PAYMENT

The consideration for all services (and goods if any) performed or supplied by Contractor under this Contract shall be paid by District as described below.

3.1 *Total Obligation*

District's total obligation to Contractor under this Contract, including compensation for goods, services, and reimbursable expenses shall not exceed $152,508.76. Contractor shall not receive any additional reimbursement for materials or subsistence expenses incurred in the performance of this Contract.

3.2 *Frequency of Invoicing and Terms of Payment*

Subject to the conditions herein, payment shall be made by District within thirty (30) days upon receipt of Contractor's invoice for goods delivered or services rendered pursuant to this Contract. The Contractor's standard invoice shall be submitted after satisfactory completion of services on a monthly basis. District has no obligation to pay for services that are not satisfactorily performed or performed in violation of federal, state or local law, ordinance, rule or regulation. In the case of a dispute about satisfactory performance of services, the parties agree to work in good faith to resolve any disputes. If either party does not dispute an invoice in writing within 180 days of receipt of the invoice, no action challenging the invoice may be taken.

As applicable, for all agreed upon work performed by Contractor or Contractor's personnel in the provision of goods and/or services stipulated herein, District shall pay Contractor at the hourly or per diem rates as set forth in the applicable **Exhibit B**. Payment shall be made to Contractor based on the hours recorded provided such hours are in accordance with the terms of this Contract. Notwithstanding anything to the contrary, and without limitation, District has not promised or guaranteed any minimum amount of work, and Contractor understands and acknowledges same. District has no obligation to pay for overtime or holiday work, nor will it pay premiums for overtime and holidays.

3.3 *Taxes.*

District is exempt from paying Minnesota sales and use taxes on certain purchases, as provided in Minnesota Statute, Section 297A.70. Contractor shall not charge District for such sales and use taxes. Alternatively, Contractor shall be responsible for the payment of any and all sales taxes to the Minnesota Department of Revenue relating to the following taxable items sold pursuant to this Contract; construction materials, leasing of motor vehicles, food and lodging, [See Minnesota Statute 297A.70]. Contractor shall promptly reimburse District for any and all such sales and use taxes paid by District to any governmental authority on behalf of Contractor including penalties and interest with respect thereto, and including any and all expenses (including attorneys' fees) or damages

that result from a failure by Contractor to properly remit or reimburse District for any and all such sales and use taxes provided above.

District may be obligated by state and federal law to withhold state and federal taxes from the consideration stated herein. These taxes may consist of, but are not limited to, the Minnesota state entertainer tax, Minnesota state nonresident withholding tax, federal withholding on payments to foreign nonresident aliens, and federal backup withholding.

3.4 ***Fund Availability; Federal Funds Contingency.***

Financial obligations of District payable after the current fiscal year are contingent upon funds for that purpose being appropriated, budgeted and otherwise made available. If this Contract is funded in whole or in part with federal funds, District's payment obligations are subject to and contingent upon the continuing availability of federal funds for the purposes hereof.

4 GENERAL TERMS AND CONDITIONS

4.1 The terms and conditions contained in this Contract shall govern and shall take precedence over any different or additional terms and conditions which Contractor may have included in any documents attached to or accompanying this Contract. Any handwritten changes on the face of this document shall be ignored and have no legal effect unless initialed by all parties. If this Agreement was made pursuant to a Request for Proposal (RFP) or Request for Information (RFI), the following order of precedence shall apply: (1) this Contract and its Exhibits, (2) District's RFP or RFI, and (3) Contractor's Response to District's RFP or RFI.

5 AFFIRMATIVE ACTION, EQUAL EMPLOYMENT OPPORTUNITY

5.1 The District is committed to the policy that all persons shall have equal access to its programs, facilities, and employment without regard to race, color, creed, religion, sex, national origin, age, marital status, disability, public assistance status, veteran status, or sexual orientation and is committed to transacting business only with firms who follow these practices. Contractor must apply every good faith effort to ensure implementation of this policy in their practices of employment, upgrade, demotion or transfer, recruitment, or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. As applicable, Contractor shall also develop and have on file for each of its establishments, written Affirmative Action Plans, as may be required by the rules and regulations of the Secretary of Labor. If applicable, Contractor certifies that it has received a certificate of compliance from the Minnesota Commissioner of Human Rights for its affirmative action plan. By accepting this Contract, Contractor certifies that it complies with all applicable federal and state laws as well as District policies related to non-discrimination, equal employment opportunity, and affirmative action.

6 BACKGROUND CHECKS

6.1 Contractor shall screen Contractor and all paid and volunteer employees and agents, including interviews, reference checks, credit history (if handling district funds), driving history and insurance coverage (if transporting district staff, students or families). And, Contractor shall conduct criminal background checks in accordance with state and federal law and District policy for Contractor and all paid and volunteer employees and agents who will have direct contact with children under this Contract. Background checks will be done prior to any contact with children, and shall be done in accordance with applicable state and federal laws, including but not limited to Minn. Stat. Sections 299C.61-.64; Minn. Stat. Section 123B.03; 42 U.S.C.Section 5119a and 42 U.S.C. Section 14501-05.

6.2 Contractor is responsible for ensuring that all paid and volunteer employees and agents who will be in contact with District staff and students are appropriate persons to conduct such work.

7 DATA PRIVACY

7.1 Contractor agrees that any information it creates, collects, receives, stores, uses, or disseminates during the course of its performance, which concerns the personal, financial, or other affairs of the District, its Board, officers, employees or students shall be kept confidential and in conformance with all state and federal laws relating to data privacy, including, without limitation, the Minnesota Government Data Practices Act, Minnesota Statute, Chapter 13. Contractor must comply with any applicable requirements as if it were a governmental entity. The remedies in Minn. Stat. § 13.08 apply to the Contractor. The Contractor will report immediately to the District any requests from third parties for information related to this Contract. The District will respond to such data requests. All subcontracts, if allowed, shall contain the same or similar data practices compliance requirements.

8 OWNERSHIP OF MATERIAL

8.1 The Contractor expressly waives to the District any claim to copyright pertaining to all new materials, publications, and documents produced as a result of this Contract and agrees that the District shall have exclusive right to and responsibility for their distribution, publication, copyrighting (when applicable) and all other matters relating to dissemination of the materials. Contractor shall not use, willingly allow or cause to have such materials used for any purpose other than performance of Contractor's obligations under this Contract without prior written consent of the District.

9 USE OF DISTRICT NAME OR LOGO

9.1 Contractor agrees not to use the name, logo, or any other marks (including, but not limited to, colors and music) owned by or associated with the District or the name of any representative of the District in any sales promotion work or advertising, or any form of publicity, without the written permission of the District.

10 INDEPENDENT CONTRACTOR

10.1 Contractor shall perform its duties hereunder as an independent contractor and not as an employee of the District. Neither Contractor nor any agent or employee of Contractor shall be or shall be deemed to be an agent or employee of the District. Contractor shall pay when due all required employment taxes and income tax withholding, including all federal and state income tax on any monies paid pursuant to this Contract. Contractor acknowledges that Contractor and its employees are not entitled to tax withholding, worker's compensation, unemployment compensation, or any employee benefits, statutory or otherwise. Contractor shall have no authorization, express or implied, to bind District to any agreements, liability, or understanding except as expressly set forth herein. Contractor shall be solely responsible for the acts of Contractor, its employees and agents.

10.2 Contractor shall hold District completely harmless from and against any such contributions, premiums and taxes described above and from all claims and liability pertaining to those or any other item for which Contractor is responsible under this Contract, and from all attorney's fees and other costs incurred by District in contesting or defending against any responsibility therefore which is asserted against District.

11 WORKER HEALTH, SAFETY AND TRAINING

11.1 Contractor shall be solely responsible for the health and safety of its employees and/or self in connection with the work performed under this Contract. Contractor shall make arrangements to ensure the health and safety of all subagents and other persons who may perform work in connection to this Contract. Contractor shall ensure all personnel, subagents and/or self are properly trained and supervised and, when applicable, duly licensed or certified appropriate to the tasks performed under this Contract. Contractor shall comply with federal, state and local occupational safety and health standards, regulations, and rules promulgated pursuant to the Occupational Health and Safety Act that are applicable to the work performed by Contractor. Contractor shall develop and implement an emergency plan and procedures to follow in emergencies.

12 BUREAU OF CITIZENSHIP & IMMIGRATION SERVICES REQUIREMENTS

12.1 Contractor shall comply with all applicable requirements of the BCIS relating to employment including but not limited to confirming nationality for all employees and complying with requirements for employing aliens if appropriate.

13 INSURANCE

13.1 At all times during its performance under this Contract, Contractor shall obtain and keep in force comprehensive general liability insurance, including coverage for death, bodily or personal injury, property damage, liability and automobile coverages, with limits of not less than $1,500,000 each claim and $1,500,000 each occurrence covering claims that arise out of its acts and operations in providing services to the District or at limits established for a municipal corporation by Minnesota Statute Section 466.04. All such

certificates evidencing such insurance shall name District as additional insured. Contractor may meet the limits above $1,000,000 per occurrence through umbrella or excess coverage.

13.2 Contractor represents that it has worker's compensation insurance to the extent required by law and agrees to furnish proof of such insurance for worker's compensation and the liability insurance, upon request. Contractor also represents that it has professional liability insurance with limits of not less than $1,500,000 each claim and $1,500,000 each occurrence covering claims that arise out of its acts and operations in providing services to the District, but shall not name the District as an additional insured to the coverage.

13.3 Contractor or its members shall also maintain property insurance coverage for the facility in which the program is located if it is not in a district building. Contractor and its members shall obtain and maintain insurance covering claims for the loss of or damage to its personal property that may be caused by students attending its programs.

13.4 Contractor shall provide all such certificates to District. Contractor shall not cancel or revise any insurance coverage required by this section during the term of this Contract, and shall require its insurer to mail the District a notice if the coverage is cancelled or revised.

14 INDEMNIFICATION

14.1 Contractor agrees to release, defend, indemnify, and hold harmless District, its board, officers, students, employees, and agents from all liability, injuries, claims, damages (including claims of bodily injury, property damage, or negligence), or loss, including costs, expenses, and attorneys' fees, which arise in connection with, in relation to, or as a result of Contractor's negligent acts or omissions or in connection with Contractor's breach of warranties. The foregoing agreement to release, defend, indemnify and hold harmless shall not apply to the extent such liability, injuries, claims, damages, or loss was caused by the intentional, willful, or wanton acts of District. Contractor shall not settle or compromise any claim in which the District has been named a party and for which Contractor must indemnify the District without a signed agreement approved by the District.

15 LIMITATION ON LIABILTY

15.1 In no event shall the District be liable for any indirect, consequential, incidental, lost profits or like expectancy damages arising out of the Contract. District's maximum obligation under this Contract shall not exceed the amount set forth herein.

16 CONFLICT OF INTEREST/CODE OF ETHICS

16.1 Contractor agrees that it will not represent any other party or client which may create a conflict of interest in its representation with the District. Contractor agrees to be bound by the District's Code of Ethics. In particular, Contractor: (i) certifies that it has not paid kickbacks directly or indirectly to any District employee for the purpose of obtaining

this or any other District Contract; (ii) agrees to cooperate fully with any investigation involving a possible violation; and (iii) agrees to report any suspected violations to the District. Contractor certifies that it has provided no fees, gifts, gratuities, compensation, or anything of value in violation any applicable laws or District policies.

17 COMPLIANCE WITH LAWS AND DEBARMENT

17.1 Contractor certifies that all goods or services furnished under this Contract shall comply with all applicable federal, state, and local laws and regulations, as well as District policies and procedures, regardless of whether such laws and regulations are specifically set forth in this Contract. Contractor represents that it is not currently debarred or suspended by any federal agency from doing business with the federal or state government. Contractor shall notify District if it becomes debarred or suspended during the term of this Contract. District may immediately terminate this Contract in the event of such termination or suspension and Contractor shall be responsible for any costs incurred by District in connection therewith.

18 TERMINATION

18.1 The District and/or Contractor may terminate this Contract at any time without cause, upon thirty (30) days written notice to the other Party. In the event of such termination, Contractor shall be entitled to payment, calculated on a pro rata or other equitable basis, determined by District in its sole discretion, for work or services satisfactorily performed. In no event shall Contractor be paid for work performed or costs incurred after termination, or for costs incurred by suppliers or subcontractors which reasonably could have been avoided.

18.2 District may terminate this Contract in whole or in part for cause upon seven (7) days written notice if Contractor fails to comply with any material term or condition of this Contract, becomes insolvent or files for bankruptcy protection, or fails to comply in a material way with the requirements of this Contract. Late delivery of goods or services, or delivery of goods or services that are defective or do not conform to the Contract shall, without limitation, be causes allowing District to terminate for cause. If a determination is made that District improperly terminated this Contract for Cause, then such termination shall be deemed to have been for without cause.

18.3 Notwithstanding the above, Contractor shall not be relieved of liability to the District for damages sustained by the District as a result of any breach of this Contract by the contactor. The District, may, in such event, withhold payments due to the Contractor for the purpose of set-off until such time as the exact amount of damages due to the District is determined. The rights or remedies provided here shall not limit the District, in case of any default, error or omissions, by the Contractor, from asserting any other right or remedy allowed by law. Nothing in this Contract shall be construed as a waiver of any right, remedy, liability limit or immunity of the District under law.

19 RETURN OF DATA

19.1 Within ten (10) days of the completion, termination of this Contract, or upon request of the District, whichever occurs first; Contractor shall return all documents, data and other information provided by the District to Contractor, or Contractor's employees or agents in connection with this Contract. Or, Contractor, upon the request of the District, shall destroy all copies of such District provided data, documents, or information in Contractor's possession or control, and provide District with proof of such destruction.

19.2 Within fifteen (15) days of the completion or earlier termination of this Contract, or upon earlier request of the District, Contractor shall return all documents, data and other information provided by the District to Contractor, or Contractor's employees or agents in connection with this Contract. Additionally, Contractor, upon the request of the District, shall destroy all copies of such District provided data, documents, or information in Contractor's possession or control, and provide District with proof of such destruction.

20 RECORDS MANAGEMENT AND MAINTENANCE

20.1 District shall have the right to inspect and copy such books, records, and documents (in whatever medium they exist) as well as all accounting procedures and practices of Contractor, its agents, and subcontractors to verify Contractor's performance and all expenses submitted pursuant to the terms of this Contract. Contractor shall make such items available for inspection during normal business hours at Contractor's place of business. Such records may be subject to copy, review and/or audit by District, State Auditor and/or the Comptroller General of the United States, or a duly authorized representative, if federal funds are used for any work under this Contract. All such items shall be retained by Contractor during the term of this Contract and for a period of six (6) years after the delivery of the goods and/or services. Any items relating to a claim arising out of the performance of this Contract shall be retained by Contractor, its agents and subcontractors, if any, until the claim has been resolved.

21 NOTICES/ADMINISTRATION

Except as otherwise provided in this Contract, all notices, requests and other communications that a party is required or elects to deliver shall be in writing and shall be delivered personally, or by facsimile or electronic mail (provided such delivery is confirmed), or by a recognized overnight courier service or by United States mail, first-class, certified or registered, postage prepaid, return receipt requested, to the other parties at the address set forth below or to such other address as such party may designate by notice given pursuant to this section.

Special School District No. 1
Division: Capital Planning, Construction, & Maintenance
Attn: Curt Hartog – Executive Director
1250 W Broadway
Minneapolis, MN 55411

Email: Curtis.hartog@mpls.k12.mn.us

CONTRACTOR

NAME: Flagship Recreation
Address: 11123 Upper 33rd St. N, Lake Elmo, MN 55042
Phone: 763.439.3528
Email: bailey@flagshipplay.com

ACKNOWLEDGMENT

21.1 In signing, Contractor certifies under penalties of perjury (see Section 6109 of the IRS Code for further penalties) that: (1) the taxpayer ID number (TIN) provided to District is correct; (2) it is not subject to back up withholding because (a) it is exempt from such withholding, (b) it has not been notified by the IRS that it is subject to backup withholding as a failure to report all interest or dividends, or (c) the IRS has notified it that it is no longer subject to backup withholding; (3) it is a U.S. person (including a U.S. resident alien); and (4) it has full authority to execute this Contract and perform its obligation under this Contract. Contractor must cross out and initial item (2) and notify District in writing, if Contractor has been notified by the IRS that it is currently subject to backup withholding because of under reporting interest or dividends on its tax return. Contractor must cross out item (3) above if it is not a U.S person for tax purposes or U.S. resident alien.

21.2 Notwithstanding this certification, Contractor hereby acknowledges that District has the right to withhold amounts for federal backup withholding if such withholding is required by written notice from the Internal Revenue Service issued subsequent to the date this Contract is executed.

22 NON-WAIVER

22.1 No waiver by any party of any default or nonperformance shall be deemed a waiver of any subsequent default or nonperformance.

23 ASSIGNMENT

23.1 Contractor may not assign any obligations of this Contract without the prior written consent of District. In the event of any assignment, Contractor shall remain responsible for its performance and that of any assignee under this Contract. This Contract shall be binding upon Contractor, and its successors and assigns, if any. Any assignment attempted to be made in violation of this Contract shall be void. Notwithstanding any notice of assignment, District's tender of payment to Contractor named herein, or to any person reasonably

believed by District to be entitled to payment, shall satisfy District's obligation to pay, and in no event shall District be obligated to pay twice or be liable for any damages due to failure to pay the correct party.

24 CHOICE OF LAW, FORUM SELECTION, ENTIRE CONTRACT AND AMENDMENT

24.1 This Contract shall be construed under Minnesota law (without regard for choice of law considerations). Any action arising out of this Contract shall be heard by a state court in Minnesota. For this purpose, Contractor specifically consents to jurisdiction in Minnesota. This Contract constitutes the entire Contract and understanding of the parties and replaces any prior or contemporaneous agreement, whether written or oral. Any amendments to this Contract shall be in writing and executed by same parties who executed the original Contract, or their successors in office.

25 WARRANTY

25.1 Contractor expressly warrants and guarantees that the services performed under this Contract will be of the highest professional standards and quality. Contractor further represents that all services and goods (if any and as applicable) provided under this Contract: (i) are free from defects in material and workmanship; (ii) are of the quality, size and dimensions ordered; (iii) are fit for the particular needs and purposes of District as may be communicated to Contractor; (iv) comply with the highest warranties and representations expressed by Contractor orally or in any written document provided to or in the possession of District; (v) comply with all applicable laws, codes and regulations (including any published by any national or statewide association or groups); and (vi) are not restricted in any way by patents, copyrights, trade secrets, or any other rights of third parties. If any of the foregoing warranties are breached, Contractor agrees to correct all defects and nonconformities at Contractor's sole expense, to be liable for all direct damages suffered District and any other persons, and to defend, indemnify, and hold harmless District and its Board, officers, students, employees, and agents from any claim asserted by any person resulting in whole or in part from such breach. The foregoing warranties and guarantees shall not be deemed waived by reason of the acceptance of the goods or services or payment by District.

26 SEVERABILITY

26.1 If any provision of this Contract shall be invalid or unenforceable with respect to any party, the remainder of the Contract, or the application of such provision to persons other than those as to which it is held invalid or unenforceable, shall not be affected and each provision of the remainder of the Contract shall be valid and be enforceable to the fullest extent permitted by law.

27 SURVIVABILITY

27.1 The terms, provisions, representations, and warranties contained in this Contract that by their sense and context are intended to survive the performance thereof by any of the parties hereunder shall so survive the completion of performance and termination of this Contract, including the making of any and all payments hereunder.

[The remainder of this page intentionally left blank.]

SPECIAL SCHOOL DISTRICT NO. 1

Signature: Ibrahima Diop

Name: ~~Curtis Hartog~~
(Printed) Ibrahima Diop, Senior Officer of Finance & Operations

Title: ~~Executive Director~~

Date: 6/27/2024

CONTRACTOR NAME

Signature: Bailey Wolff

Name: Bailey Wolf
(Printed)

Title: Project Consultant

Date: 2/29/2024

EXHIBIT A: SCOPE OF WORK

Deliverables:

See Exhibit A

Service Outcome:

See Exhibit A

Method of Evaluation

Adherence to drawings dated 02/28/2024.

[The remainder of this page intentionally left blank.]

EXHIBIT B: PAYMENT TERMS

If there are exhibits to describe the payment terms:

See Exhibit A

FY21 North High School Renovations-Bid Pack 4
Work Scope 08-F Glass and Glazing

Contract Sum: $358,900

Contractor: Ford Metro, Inc.

Project Name and Number

North High School
1500 James Avenue N
Minneapolis, MN 55411
Minneapolis Public Schools Project Number
OP25-2512

Description

Perform glass and glazing in accordance with Work Scope 08-F for the North High School Phase 4 renovations

Contract Sum details

Item	Price	Status
Base Bid	$358,900	accepted
Alt #1: Health Office	$4,360	rejected
Alt #2: Athletic and Counseling Offices	$54,590	rejected
Alt #3: Electrical panel replacements	$0	accepted
Alt #4: AHU-41 replacement	$0	accepted
Alt #5: Direct digital controls	$0	accepted

Contract Documents

AIA Document A132-2019
AIA Document A132 Exhibit A-2019
Exhibit B – Project Charter
Exhibit C – Owner Insurance
Exhibit D – Project Schedule
AIA Document A232-2019

AIA® Document A132® – 2019

Standard Form of Agreement Between Owner and Contractor, Construction Manager as Adviser Edition

AGREEMENT made as of the first__ day of _February_____ in the year 2025_
(In words, indicate day, month, and year.)

BETWEEN the Owner:
(Name, legal status, address, and other information)

Minneapolis Public Schools Special School District #1
1250 West Broadway Avenue
Minneapolis, MN 55411

and the Contractor:
(Name, legal status, address, and other information)

Ford Metro, Inc.
3121 40th Avenue NW
Rochester, MN 55901

for the following Project:
(Name, location, and detailed description)

North High School Phase 4 Work Scope 08-F Glass and Glazing
1500 James Avenue
Minneapolis, MN 55411

The Construction Manager:
(Name, legal status, address, and other information)

Kraus-Anderson Construction Company
501 South 8th Street
Minneapolis, MN 55405

The Architect:
(Name, legal status, address, and other information)

LSE Architects
1401 Glenwood Avenue
Minneapolis, MN 55405

The Owner and Contractor agree as follows.

ADDITIONS AND DELETIONS:
The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

This document is intended to be used in conjunction with AIA Documents A232™–2019, General Conditions of the Contract for Construction, Construction Manager as Adviser Edition; B132™–2019, Standard Form of Agreement Between Owner and Architect, Construction Manager as Adviser Edition; and C132™–2019, Standard Form of Agreement Between Owner and Construction Manager as Adviser. AIA Document A232™–2019 is adopted in this document by reference. Do not use with other general conditions unless this document is modified.

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ARTICLE 1 THE CONTRACT DOCUMENTS

The Contract Documents consist of this Agreement, Conditions of the Contract (General, Supplementary, and other Conditions), Drawings, Specifications, Addenda issued prior to execution of this Agreement, other documents ("Contract" or "Contract Documents") listed in this Agreement, and Modifications issued after execution of this Agreement, all of which form the Contract, and are as fully a part of the Contract as if attached to this Agreement or repeated herein. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations, or agreements, either written or oral. An enumeration of the Contract Documents, other than Modifications, appears in Article 9.

§ 1.2 In the event that there are inconsistencies between any of the Project Contract Documents, all Contract Documents shall be construed together and shall be read with a purpose and intent to provide that the Contractor shall commit to fully complete its Project Work and services with the greater degree of commitment as referenced in the Contract Documents, including the plans and specifications, to work diligently to ensure completion of the Project in a timely and workmanlike manner and at the earliest stated times provided for in Project schedules, as they may be revised, and to ensure that Contractor, and all of its Subcontractors and suppliers complete the Project on schedule and within Project Contract Price, subject to approved change orders.

§ 1.3 Contractor acknowledges that it has had full, fair, and adequate opportunity to review all of the Project bidding and Contract Documents, that it has fully satisfied itself as to the scope and requirements of the Project, that it has fully and fairly investigated all Project site conditions and circumstances and Contract Documents, including any potential difficulties or interferences present in the same, that it has had the opportunity to ask questions during the bidding phase and that it has received adequate answers to any such questions, that it has had the opportunity to attend and fairly participate in all pre-bid conferences and pre-construction conferences, and that it has required the same of all of its Subcontractors.

ARTICLE 2 THE WORK OF THIS CONTRACT

The Contractor shall fully execute the Work described in the Contract Documents, except as specifically indicated in the Contract Documents to be the responsibility of others.

ARTICLE 3 DATE OF COMMENCEMENT AND DATES OF SUBSTANTIAL COMPLETION

§ 3.1 The date of commencement of the Work shall be:
(Check one of the following boxes.)

[ ] The date of this Agreement.

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[X] A date set forth in a notice to proceed issued by the Owner.

[ ] Established as follows:
(Insert a date or a means to determine the date of commencement of the Work.)

If a date of commencement of the Work is not selected, then the date of commencement shall be the date of this Agreement.

§ 3.2 The Contract Time shall be measured from the date of commencement of the Work.

§ 3.3 Substantial Completion of the Project or Portions Thereof

§ 3.3.1 Subject to adjustments of the Contract Time as provided in the Contract Documents, the date of Substantial Completion of the Work of all of the Contractors for the Project will be:
(Insert the date of Substantial Completion of the Work of all Contractors for the Project.)

Defined in EXH-D Project Schedule

§ 3.3.2 Subject to adjustments of the Contract Time as provided in the Contract Documents, if portions of the Work of all of the Contractors for the Project are to be completed prior to Substantial Completion of the entire Work of all of the Contractors for the Project, the Contractors shall achieve Substantial Completion of such portions by the following dates defined in EXH-D Project Schedule. Such portions of the Work not completed as defined in EXH-D Project Schedule shall be subject to liquidated damages as set forth in Article 4.5.

(Table deleted)
(Table deleted)
(Paragraphs deleted)
§ 3.4.3 If the Contractor fails to substantially complete the Work of this Contract, or portions thereof, as provided in this Section 3.4, liquidated damages, if any, shall be assessed as set forth in Section 4.5.

ARTICLE 4 CONTRACT SUM

§ 4.1 The Owner shall pay the Contractor the Contract Sum in current funds for the Contractor's performance of the
(Paragraphs deleted)
Contract as defined in EXH-B Project Charter, subject to additions and deductions as provided in the Contract Documents.

§ 4.2 Stipulated Sum

§ 4.2.1 The Contract Sum shall be three hundred fifty-eight thousand, nine hundred dollars ($ 358.900), subject to additions and deductions as provided in the Contract Documents.

§ 4.2.2 Alternates

§ 4.2.2.1 Alternates, if any, included in the Contract Sum are defined in EXH-B Project Charter.
(Table deleted)
§ 4.2.2.2 Subject to the conditions noted in EXH-B Project Charter, alternates may be accepted by the Owner following execution of this Agreement. Upon acceptance, the Owner shall issue a Modification to this Agreement.
(Paragraphs deleted)
(Table deleted)
§ 4.2.3 Allowances, if any, included in the Contract Sum are defined in EXH-B Project Charter.
(Identify each allowance.)

Item	Price

§ 4.2.4 Unit prices, if any are defined in EXH-B Project Charter.

(Table deleted)

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§ 4.3 Allowances, if any, included in the Contract Sum are defined in EXH-B Project Charter.

(Paragraph deleted)
(Table deleted)
(Paragraphs deleted)
§ 4.4 Unit prices, if any, are defined in EXH-B Project Charter.

(Paragraphs deleted)
(Table deleted)
(Paragraphs deleted)
(Table deleted)
(Paragraphs deleted)
(Table deleted)
(Paragraphs deleted)
(Table deleted)
(Paragraphs deleted)
§ 4.5 Liquidated damages, if any:
(Insert terms and conditions for liquidated damages, if any, to be assessed in accordance with Section 3.4.)

Contractor and Owner recognize that time is of the essence for the Project and the Owner will suffer financial loss if the Work is not completed in the time specified in the Contract Documents. The parties also recognize the delays, expenses, and difficulties involved in proving in a legal proceeding the actual loss suffered by the Owner if the Work is not completed on time. Accordingly, instead of requiring such proof, the Owner and Contractor agree that as liquidated damages for delay (but not as penalty), Contractor shall pay Owner One Thousand Dollars ($1,000.00) per calendar day for each day that expires after the time specified for Substantial Completion in EXH-D Project Schedule until such time the Work is determined to be substantially complete by the Owner.

After Substantial Completion, if Contractor neglects, refuses, or fails to complete the remaining Work within the Contract Time specified in the Contract Documents, the Contractor shall pay the Owner One Thousand Dollars ($1,000.00) per day that expires after the time specified in the Contract Documents for Final Completion and readiness for Final Payment until the Work is completed.

§ 4.6 Other:
(Insert provisions for bonus, cost savings or other incentives, if any, that might result in a change to the Contract Sum.)

None

ARTICLE 5 PAYMENTS

§ 5.1 Progress Payments

§ 5.1.1 Based upon Applications for Payment submitted to the Construction Manager by the Contractor, and Certificates for Payment issued by the Construction Manager and Architect and approval by the Owner's Representative, the Owner shall make progress payments on account of the Contract Sum, to the Contractor, as provided below and elsewhere in the Contract Documents.

§ 5.1.2 The period covered by each Application for Payment shall be one calendar month ending on the last day of the month.

§ 5.1.3 When an Application for Payment is received by the Construction Manager, payment of the amount certified shall be made by the Owner not later than forty-five (45) days after the Construction Manager receives the Application for Payment. Unless expressly otherwise agreed in this Contract, payments and payment disputes shall be governed by the Prompt Payment of Local Government Bills, Minnesota Statutes, Section 471.425 ("Prompt Payment Act").
(Federal, state or local laws may require payment within a certain period of time.)

§ 5.1.4 Progress Payments Where the Contract Sum is Based on a Stipulated Sum

§ 5.1.4.1 Each Application for Payment shall be based on the most recent schedule of values submitted by the Contractor on AIA G702 Application and Certificate for Payment in accordance with the Contract Documents. The schedule of

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values shall allocate the entire Contract Sum among the various portions of the Work. The schedule of values shall be prepared in such form, and supported by such data to substantiate its accuracy, as the Construction Manager and Architect may require. This schedule of values shall be used as a basis for reviewing the Contractor's Applications for Payment.

§ 5.1.4.2 Applications for Payment shall show the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment.

§ 5.1.4.3 In accordance with AIA Document A232™–2019, General Conditions of the Contract for Construction, Construction Manager as Adviser Edition, as modified and subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

§ 5.1.4.3.1 The amount of each progress payment shall first include:

.1 That portion of the Contract Sum properly allocable to completed Work;

.2 That portion of the Contract Sum properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction, or, if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing; and

.3 That portion of Construction Change Directives that the Architect determines, in the Architect's professional judgment, to be reasonably justified.

§ 5.1.4.3.2 The amount of each progress payment shall then be reduced by:

.1 The aggregate of any amounts previously paid by the Owner;

.2 The amount, if any, for Work that remains uncorrected and for which the Architect has previously withheld a Certificate for Payment as provided in Article 9 of AIA Document A232–2019;

.3 Any amount for which the Contractor does not intend to pay a Subcontractor or material supplier, unless the Work has been performed by others the Contractor intends to pay;

.4 For Work performed or defects discovered since the last payment application, any amount for which the Architect may withhold payment, or nullify a Certificate of Payment in whole or in part, as provided in Article 9 of AIA Document A232–2019; and

.5 Retainage withheld pursuant to Section 5.1.7.

(Paragraphs deleted)

§ 5.1.7 Retainage

§ 5.1.7.1 For each progress payment made prior to when the Work of this Contract is substantially complete, the Owner may withhold the following amount, as retainage, from the payment otherwise due:
(Insert a percentage or amount to be withheld as retainage from each Application for Payment. The amount of retainage may be limited by governing law.)

Five Percent (5%)

§ 5.1.7.1.1 The following items are not subject to retainage:
(Insert any items not subject to the withholding of retainage, such as general conditions, insurance, etc.)

For major items installed into the Work, the Contractor may request full payment for the items to ensure prompt delivery and fabrication. Such items shall be recommended by the Architect and approved by the Owner as not requiring retainage. Prompt payment for the items shall be documented by the Contractor to the Owner in the subsequent payment application by submitting a full lien release for the items. Major items may include mechanical units with long lead times, structural systems with long lead times, critical path systems or items, etc. Major items will be discussed and defined by Owner, Architect, Construction Manager and Contractor.

§ 5.1.7.2 Reduction or limitation of retainage, if any, shall be as follows:
(If the retainage established in Section 5.1.7.1 is to be modified prior to when the entire Work of this Contract is substantially complete, including modifications for completion of portions of the Work as provided in Section 3.4.2, insert provisions for such modifications.)

Prior to Substantial Completion and at the discretion of the Owner, retainage may be reduced. If the Work has been fifty percent (50%) completed as determined by the Architect and is satisfactory to the Owner, then ninety percent (90%) of the

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retained amount may be released to the Contractor for completed Work (with ten percent (10%) of the total retained by the Owner).

§ 5.1.7.3 Except as set forth in this Section 5.1.7.3, when the Work of this Contract is substantially complete, the Contractor may submit an Application for Payment that includes the retainage withheld from prior Applications for Payment pursuant to this Section 5.1.7. The Application for Payment submitted when the Work of this Contract is substantially complete shall not include retainage as follows:
(Insert any other conditions for release of retainage when the Work of this Contract is substantially complete, or upon Substantial Completion of the Work of all Contractors on the Project or portions thereof.)

Upon Substantial Completion, additional retainage may be returned to the Contractor as recommended by the Architect and Construction Manager and approved by the Owner to an amount sufficient to satisfactorily complete the Work. Retainage release will comply with Minnesota Statutes, Section 15.72 after Substantial Completion and punch list acceptance by the Owner.

§ 5.2 Final Payment
§ 5.2.1 Final Payment Where the Contract Sum is Based on a Stipulated Sum
§ 5.2.1.1 Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Contractor when

.1 the Contractor has fully performed the Contract except for the Contractor's responsibility to correct Work as provided in Article 12 of AIA Document A232–2019, and to satisfy other requirements, if any, which extend beyond final payment;
.2 a final Certificate for Payment or Project Certificate for Payment has been issued by the Architect; and
.3 all lien waivers and IC134 forms have been delivered to the Owner.

§ 5.2.1.2 The Owner's final payment to the Contractor shall be made no later than forty-five (45) days after the issuance of the Architect's final Certificate for Payment or Project Certificate for Payment, or as follows:

§ 5.2.2 Final Payment Where the Contract Sum is Based on the Cost of the Work with or without a Guaranteed Maximum Price
§ 5.2.2.1 Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Contractor when

.1 the Contractor has fully performed the Contract except for the Contractor's responsibility to correct Work as provided in Article 12 of AIA Document A232–2019, and to satisfy other requirements, if any, which extend beyond final payment;
.2 the Contractor has submitted a final accounting for the Cost of the Work, pursuant to Exhibit B, Determination of the Cost of the Work and a final Application for Payment; and
.3 a final Certificate for Payment or Project Certificate for Payment has been issued by the Architect in accordance with Exhibit B, Determination of the Cost of the Work.

§ 5.2.2.2 The Owner's final payment to the Contractor shall be made no later than 30 days after the issuance of the final Certificate for Payment or Project Certificate for Payment, or as follows:

§ 5.3 Payments due and unpaid under the Contract shall bear interest from the date payment is due at the rate stated below.
(Insert rate of interest agreed upon, if any.)

Zero %

ARTICLE 6 DISPUTE RESOLUTION
§ 6.1 Initial Decision Maker
The Architect will serve as Initial Decision Maker pursuant to Article 15 of AIA Document
(Paragraphs deleted)
A232–2019.

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§ 6.1.1 Mediation
The Owner or the Contractor may request mediation of any Claim submitted to the Initial Decision Maker before the decision becomes final and binding. The mediation shall be governed by the Construction Industry Mediation Rules of the American Arbitration Association in effect at the date of this contract. The request for mediation shall be made in writing by the party requesting mediation and the other party of this contract. The Owner and Contractor shall participate in mediation in good faith. The mediation shall be concluded within 60 days of the request. Mediation is not a condition precedent to commencing litigation. If litigation is commenced, the Owner and Contractor agree to mediate before any dispositive motion or trial.

§ 6.2 Binding Dispute Resolution
For any Claim subject to, but not resolved by, mediation pursuant to Article 15 of AIA Document A232–2019, the method of binding dispute resolution shall be as follows:
(Check the appropriate box.)

[ ] Arbitration pursuant to Article 15 of AIA Document A232–2019.

[X] Litigation in a state or federal court of competent jurisdiction located in Hennepin County, Minnesota.

[ ] Other: *(Specify)*

If the Owner and Contractor do not select a method of binding dispute resolution, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, Claims will be resolved by litigation in a court of competent jurisdiction.

ARTICLE 7 TERMINATION OR SUSPENSION
§ 7.1 Where the Contract Sum Is a Stipulated Sum
§ 7.1.1 The Contract may be terminated by the Owner or the Contractor as provided in Article 14 of AIA Document A232–2019.

§ 7.1.1.1 If the Contract is terminated for the Owner's convenience in accordance with Article 14 of AIA Document A232–2019, then the Owner shall pay the Contractor a termination fee as follows:
(Insert the amount of, or method for determining, the fee, if any, payable to the Contractor following a termination for the Owner's convenience.)

Termination fee will be based on the percentage of Work completed and any materials purchased or in production at the time of termination. Said fee and justification shall be provided to the Owner by the Contractor within ten (10) days' notice of the termination.

§ 7.1.2 The Work may be suspended by the Owner as provided in Article 14 of AIA Document A232–2019.

(Paragraphs deleted)
ARTICLE 8 MISCELLANEOUS PROVISIONS
§ 8.1 Where reference is made in this Agreement to a provision of AIA Document A232–2019 or another Contract Document, the reference refers to that provision as amended or supplemented by other provisions of the Contract Documents.

§ 8.2 The Owner's representative:
(Name, address, email address, and other information)

Curtis Hartog, PE, Executive Director
Minneapolis Public Schools, SSD#1
Capital Planning, Construction & Maintenance
1250 West Broadway Avenue, Minneapolis, MN 55411

§ 8.3 The Contractor's representative:

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(Name, address, email address, and other information)

Kevin Swanson

Ford Metro, Inc
3121 40th Avenue NW
Rochester, MN 55901

§ 8.4 Neither the Owner's nor the Contractor's representative shall be changed without ten days' prior notice to the other party.

§ 8.5 Record Keeping—Availability and Retention
Pursuant to Minnesota Statutes, Section 16C.05, subd. 5, Contractor agrees that the books, records, documents and accounting procedures and practices of Contractor, that are relevant to the Contract or transaction, are subject to examination by the Owner, the Owner's auditor, and the state auditor for a minimum of six (6) years. Contractor shall maintain such records for a minimum of six (6) years after final payment.

§ 8.6 Data Practices
Pursuant to Minnesota Statutes, Section 13.05, subd. 11, all of the data created, collected, received, stored, used, maintained, or disseminated by Contractor in performing this contract is subject to the requirements of the Minnesota Government Data Practices Act ("MGDPA"), Minnesota Statutes Chapter 13, and Contractor must comply with those requirements as if it were a government entity. The remedies in Minnesota Statutes, Section 13.08 apply to Contractor. Contractor does not have a duty to provide access to public data to the public if the public data are available from the Owner, except as required by the terms of this contract.

§ 8.7 Non-Discrimination
Pursuant to Minnesota Statutes, Section 181.59, the Contractor will take affirmative action to ensure that applicants are selected, and that employees are treated during employment, without regard to their race, color, creed, religion, national origin, sex, sexual orientation, marital status, status with regard to public assistance, membership or activity in a local civil rights commission, disability or age. The Contractor agrees to be bound by the provisions of Minnesota Statutes, Section 181.59, that prohibits certain discriminatory practices and the terms of said section are incorporated into this contract.

§ 8.8 Prompt Payment to Subcontractors
In accordance with the Prompt Payment Act, each Prime Contractor must pay any subcontractor within ten (10) days of the Prime Contractor's receipt of payment from the municipality for undisputed services provided by the subcontractor. The Subcontract must require the Prime Contractor to pay interest of 1-1/2 percent per month or any part of a month to the subcontractor on any undisputed amount not paid on time to the subcontractor. The minimum monthly interest penalty payment for an unpaid balance of $100 or more is $10. For an unpaid balance of less than $100, the Prime Contractor shall pay the actual penalty due to the subcontractor. A subcontractor who prevails in a civil action to collect interest penalties from a Prime Contractor must be awarded its costs and disbursements, including attorney's fees, incurred in bringing the action.

§ 8.9 Prevailing Wage
Contractor agrees that all laborers or mechanics working on the Project shall receive at least the prevailing wage rate in accordance with Minnesota Statutes Section 177.42, *et seq*. Contractor agrees further that it will incorporate any and all necessary contract language in its agreements with any subcontractors to allow Contractor to monitor and enforce the prevailing wage requirement for subcontractors of any tier.

§ 8.5 Insurance and Bonds
§ 8.5.1 The Owner and the Contractor shall purchase and maintain insurance as set forth EXH-C Owner Insurance.

§ 8.5.2 The Contractor shall provide bonds as set forth in AIA Document A132™–2019, Exhibit A, and elsewhere in the Contract Documents.

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§ 8.6 Notice in electronic format, pursuant to Article 1 of AIA Document A232–2019, may be given in accordance with AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, if completed, or as otherwise set forth below:
(If other than in accordance with AIA Document E203–2013, insert requirements for delivering notice in electronic format such as name, title, and email address of the recipient and whether and how the system will be required to generate a read receipt for the transmission.)

email to Owner's representative identified in Section 8.2

§ 8.7 Relationship of the Parties
Where the Contract is based on the Cost of the Work plus the Contractor's Fee, with or without a Guaranteed Maximum Price, the Contractor accepts the relationship of trust and confidence established by this Agreement and covenants with the Owner to cooperate with the Architect and exercise the Contractor's skill and judgment in furthering the interests of the Owner; to furnish efficient business administration and supervision; to furnish at all times an adequate supply of workers and materials; and to perform the Work in an expeditious and economical manner consistent with the Owner's interests. The Owner agrees to furnish and approve, in a timely manner, information required by the Contractor and to make payments to the Contractor in accordance with the requirements of the Contract Documents.

§ 8.8 Other provisions:

Owner prohibits Contractor from using the Work in any marketing material or business development practice. Contractor is prohibited from communication with any news outlet or public without Owner's written approval.

Floor plans, designs, wiring, safety and security measures shall be kept confidential by the Contractor, the Subcontractors, the Sub-Subcontractors (of any tier) during and after completion of the Work.

ARTICLE 9 ENUMERATION OF CONTRACT DOCUMENTS

§ 9.1 This Agreement is comprised of the following documents:

.1 AIA Document A132™–2019, Standard Form of Agreement Between Owner and Contractor, Construction Manager as Adviser Edition

.2 AIA Document A132™–2019, Exhibit A, Insurance and Bonds Exhibit

.3 AIA Document A232™–2019, General Conditions of the Contract for Construction, Construction Manager as Adviser Edition

.4 AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, dated as indicated below:
(Insert the date of the E203-2013 incorporated into this Agreement.)

Not Applicable

.5 Drawings

Number	Title	Date
139	North High School Renovations & CTE Center Vol 1 of 2	November 13, 2024
209	North High School Renovations & CTE Center Vol 2 of 2	November 13, 2024

.6 Specifications

Section	Title	Date	Pages
All Specifications	North High School Renovations and CTE Center Bid Package 4	November 13, 2024	1414

.7 Addenda, if any:

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Number	Date	Pages
1	December 2, 2024	70
2	December 9, 2024	165

Portions of Addenda relating to bidding or proposal requirements are not part of the Contract Documents unless the bidding or proposal requirements are also enumerated in this Article 9.

.8 Other Exhibits:

EXH-B Project Charter
EXH-C Owner Insurance
EXH-D Project Schedule
(Check all boxes that apply and include appropriate information identifying the exhibit where required.)

[ ]
(Paragraphs deleted)

[ ] Supplementary and other Conditions of the Contract:

Document	Title	Date	Pages

.9 Other documents, if any, listed below:
(List here any additional documents that are intended to form part of the Contract Documents. AIA Document A232–2019 provides that the advertisement or invitation to bid, Instructions to Bidders, sample forms, the Contractor's bid or proposal, portions of Addenda relating to bidding or proposal requirements, and other information furnished by the Owner in anticipation of receiving bids or proposals, are not part of the Contract Documents unless enumerated in this Agreement. Any such documents should be listed here only if intended to be part of the Contract Documents.)

Contractors Bid Documents

This Agreement is entered into as of the day and year first written above.

OWNER *(Signature)*

Tom Parent, Sr Operations Officer
(Printed name and title)

CONTRACTOR *(Signature)*

KEVIN SWANSON President.
(Printed name and title)

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Additions and Deletions Report for
AIA® Document A132® – 2019

This Additions and Deletions Report, as defined on page 1 of the associated document, reproduces below all text the author has added to the standard form AIA document in order to complete it, as well as any text the author may have added to or deleted from the original AIA text. Added text is shown underlined. Deleted text is indicated with a horizontal line through the original AIA text.

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PAGE 1

AGREEMENT made as of the first day of February in the year 2025

...

Minneapolis Public Schools Special School District #1
1250 West Broadway Avenue
Minneapolis, MN 55411

...

Ford Metro, Inc.
3121 40th Avenue NW
Rochester, MN 55901

...

North High School Phase 4 Work Scope 08-F Glass and Glazing
1500 James Avenue
Minneapolis, MN 55411

...

Kraus-Anderson Construction Company
501 South 8th Street
Minneapolis, MN 55405

...

LSE Architects
1401 Glenwood Avenue
Minneapolis, MN 55405

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The Contract Documents consist of this Agreement, Conditions of the Contract (General, Supplementary, and other Conditions), Drawings, Specifications, Addenda issued prior to execution of this Agreement, other documents ("Contract" or "Contract Documents") listed in this Agreement, and Modifications issued after execution of this Agreement, all of which form the Contract, and are as fully a part of the Contract as if attached to this Agreement or repeated herein. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations, or agreements, either written or oral. An enumeration of the Contract Documents, other than Modifications, appears in Article 9.

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§ 1.2 In the event that there are inconsistencies between any of the Project Contract Documents, all Contract Documents shall be construed together and shall be read with a purpose and intent to provide that the Contractor shall commit to fully complete its Project Work and services with the greater degree of commitment as referenced in the Contract Documents, including the plans and specifications, to work diligently to ensure completion of the Project in a timely and workmanlike manner and at the earliest stated times provided for in Project schedules, as they may be revised, and to ensure that Contractor, and all of its Subcontractors and suppliers complete the Project on schedule and within Project Contract Price, subject to approved change orders.

§ 1.3 Contractor acknowledges that it has had full, fair, and adequate opportunity to review all of the Project bidding and Contract Documents, that it has fully satisfied itself as to the scope and requirements of the Project, that it has fully and fairly investigated all Project site conditions and circumstances and Contract Documents, including any potential difficulties or interferences present in the same, that it has had the opportunity to ask questions during the bidding phase and that it has received adequate answers to any such questions, that it has had the opportunity to attend and fairly participate in all pre-bid conferences and pre-construction conferences, and that it has required the same of all of its Subcontractors.

[X] A date set forth in a notice to proceed issued by the Owner.

...

Defined in EXH-D Project Schedule

§ 3.3.2 Subject to adjustments of the Contract Time as provided in the Contract Documents, if portions of the Work of all of the Contractors for the Project are to be completed prior to Substantial Completion of the entire Work of all of the Contractors for the Project, the Contractors shall achieve Substantial Completion of such portions by the following ~~dates:~~dates defined in EXH-D Project Schedule. Such portions of the Work not completed as defined in EXH-D Project Schedule shall be subject to liquidated damages as set forth in Article 4.5.

~~**Portion of Work** **Substantial Completion Date**~~

~~**§ 3.4 When the Work of this Contract, or any Portion Thereof, is Substantially Complete**~~
~~§ 3.4.1 Subject to adjustments of the Contract Time as provided in the Contract Documents, the Contractor shall substantially complete the entire Work of this Contract:~~
~~*(Check one of the following boxes and complete the necessary information.)*~~

~~[ ] Not later than ( ) calendar days from the date of commencement of the Work.~~

~~[ ] By the following date:~~

~~§ 3.4.2 Subject to adjustments of the Contract Time as provided in the Contract Documents, if portions of the Work of this Contract are to be substantially complete prior to when the entire Work of this Contract shall be substantially complete, the Contractor shall substantially complete such portions by the following dates:~~

~~**Portion of Work** **Date to be substantially complete**~~

...

§ 4.1 The Owner shall pay the Contractor the Contract Sum in current funds for the Contractor's performance of the ~~Contract. The Contract Sum shall be one of the following:~~
~~*(Check the appropriate box.)*~~

~~[ ] Stipulated Sum, in accordance with Section 4.2 below~~

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[ ] Cost of the Work plus the Contractor's Fee, in accordance with Section 4.3 below

[ ] Cost of the Work plus the Contractor's Fee with a Guaranteed Maximum Price, in accordance with Section 4.4 below

(Based on the selection above, complete Section 4.2, 4.3 or 4.4 below.)
Contract as defined in EXH-B Project Charter, subject to additions and deductions as provided in the Contract Documents.

...

§ 4.2.1 The Contract Sum shall be three hundred fifty-eight thousand, nine hundred dollars ($ 358.900), subject to additions and deductions as provided in the Contract Documents.

...

§ 4.2.2.1 Alternates, if any, included in the Contract Sum:
Sum are defined in EXH-B Project Charter.

Item	Price

§ 4.2.2.2 Subject to the conditions noted below, the following in EXH-B Project Charter, alternates may be accepted by the Owner following execution of this Agreement. Upon acceptance, the Owner shall issue a Modification to this Agreement.
(Insert below each alternate and the conditions that must be met for the Owner to accept the alternate.)

Item	Price	Conditions for Acceptance

§ 4.2.3 Allowances, if any, included in the Contract Sum:Sum are defined in EXH-B Project Charter.

...

§ 4.2.4 Unit prices, if any:
(Identify the item and state the unit price, and quantity limitations, if any, to which the unit price will be applicable.)any are defined in EXH-B Project Charter.

Item	Units and Limitations	Price per Unit ($0.00)

§ 4.3 Cost of the Work Plus Contractor's Fee without a Guaranteed Maximum PriceAllowances, if any, included in the Contract Sum are defined in EXH-B Project Charter.
§ 4.3.1 The Cost of the Work is as defined in Exhibit B, Determination of the Cost of the Work.

§ 4.3.2 The Contractor's Fee:
(State a lump sum, percentage of Cost of the Work or other provision for determining the Contractor's Fee.)

§ 4.3.3 The method of adjustment of the Contractor's Fee for changes in the Work:

§ 4.3.4 Limitations, if any, on a Subcontractor's overhead and profit for increases in the cost of its portion of the Work:

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§ 4.3.5 Rental rates for Contractor-owned equipment shall not exceed percent (%) of the standard rental rate paid at the place of the Project.

§ 4.3.6 Unit prices, if any:
(Identify the item and state the unit price and quantity limitations, if any, to which the unit price will be applicable.)

Item	Units and Limitations	Price per Unit ($0.00)

§ 4.3.7 The Contractor shall prepare and submit to the Construction Manager, within 14 days of executing this Agreement, a written Control Estimate for the Owner's review and approval. The Control Estimate shall include the items in Section B.1 of Exhibit B, Determination of the Cost of the Work.

§ 4.4 Cost of the Work Plus Contractor's Fee with a Guaranteed Maximum PriceUnit prices, if any, are defined in EXH-B Project Charter.
§ 4.4.1 The Cost of the Work is as defined in Exhibit B, Determination of the Cost of the Work.

§ 4.4.2 The Contractor's Fee:
(State a lump sum, percentage of Cost of the Work or other provision for determining the Contractor's Fee.)

§ 4.4.3 The method of adjustment of the Contractor's Fee for changes in the Work:

§ 4.4.4 Limitations, if any, on a Subcontractor's overhead and profit for increases in the cost of its portion of the Work:

§ 4.4.5 Rental rates for Contractor-owned equipment shall not exceed percent (%) of the standard rental rate paid at the place of the Project.

§ 4.4.6 Unit Prices, if any:
(Identify the item and state the unit price and quantity limitations, if any, to which the unit price will be applicable.)

Item	Units and Limitations	Price per Unit ($0.00)

§ 4.4.7 Guaranteed Maximum Price
§ 4.4.7.1 The Contract Sum is guaranteed by the Contractor not to exceed ($), subject to additions and deductions by Change Order as provided in the Contract Documents. This maximum sum is referred to in the Contract Documents as the Guaranteed Maximum Price. Costs which would cause the Guaranteed Maximum Price to be exceeded shall be paid by the Contractor without reimbursement by the Owner.

§ 4.4.7.2 Alternates
§ 4.4.7.2.1 Alternates, if any, included in the Guaranteed Maximum Price:

Item	Price

§ 4.4.7.2.2 Subject to the conditions noted below, the following alternates may be accepted by the Owner following execution of this Agreement. Upon acceptance, the Owner shall issue a Modification to this Agreement.
(Insert below each alternate and the conditions that must be met for the Owner to accept the alternate.)

Item	Price	Conditions for Acceptance

§ 4.4.7.3 Allowances, if any, included in the Guaranteed Maximum Price:
(Identify each allowance.)

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~~Item~~ ~~Price~~

~~§ 4.4.7.4 Assumptions, if any, upon which the Guaranteed Maximum Price is based:~~
~~*(Identify each assumption.)*~~

~~§ 4.4.8 To the extent that the Contract Documents are anticipated to require further development, the Guaranteed Maximum Price includes the costs attributable to such further development consistent with the Contract Documents and reasonably inferable therefrom. Such further development does not include changes in scope, systems, kinds and quality of materials, finishes, or equipment, all of which, if required, shall be incorporated by Change Order.~~

~~§ 4.4.9 The Owner shall authorize preparation of revisions to the Contract Documents that incorporate the agreed-upon assumptions contained in Section 4.4.7.4. The Owner shall promptly furnish such revised Contract Documents to the Contractor. The Contractor shall notify the Owner and Architect of any inconsistencies between the agreed-upon assumptions contained in Section 4.4.7.4 and the revised Contract Documents.~~

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Contractor and Owner recognize that time is of the essence for the Project and the Owner will suffer financial loss if the Work is not completed in the time specified in the Contract Documents. The parties also recognize the delays, expenses, and difficulties involved in proving in a legal proceeding the actual loss suffered by the Owner if the Work is not completed on time. Accordingly, instead of requiring such proof, the Owner and Contractor agree that as liquidated damages for delay (but not as penalty), Contractor shall pay Owner One Thousand Dollars ($1,000.00) per calendar day for each day that expires after the time specified for Substantial Completion in EXH-D Project Schedule until such time the Work is determined to be substantially complete by the Owner.

After Substantial Completion, if Contractor neglects, refuses, or fails to complete the remaining Work within the Contract Time specified in the Contract Documents, the Contractor shall pay the Owner One Thousand Dollars ($1,000.00) per day that expires after the time specified in the Contract Documents for Final Completion and readiness for Final Payment until the Work is completed.

...

None

...

§ 5.1.1 Based upon Applications for Payment submitted to the Construction Manager by the Contractor, and Certificates for Payment issued by the Construction Manager and ~~Architect,~~ Architect and approval by the Owner's Representative, the Owner shall make progress payments on account of the Contract Sum, to the Contractor, as provided below and elsewhere in the Contract Documents.

§ 5.1.2 The period covered by each Application for Payment shall be one calendar month ending on the last day of the ~~month, or as follows:~~
month.

§ 5.1.3 ~~Provided that~~ When an Application for Payment is received by the Construction ~~Manager not later than the day of a month, the Owner shall make payment of the amount certified to the Contractor not later than the day of the month. If an Application for Payment is received by the Construction Manager after the application date fixed above, payment of the amount certified~~ Manager, payment of the amount certified shall be made by the Owner not later than forty-five (45) days after the Construction Manager receives the Application for Payment. Unless expressly otherwise agreed in this Contract, payments and payment disputes shall be governed by the Prompt Payment of Local Government Bills, Minnesota Statutes, Section 471.425 ("Prompt Payment Act").

...

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§ 5.1.4.1 Each Application for Payment shall be based on the most recent schedule of values submitted by the Contractor on AIA G702 Application and Certificate for Payment in accordance with the Contract Documents. The schedule of values shall allocate the entire Contract Sum among the various portions of the Work. The schedule of values shall be prepared in such form, and supported by such data to substantiate its accuracy, as the Construction Manager and Architect may require. This schedule of values shall be used as a basis for reviewing the Contractor's Applications for Payment.
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§ 5.1.4.3 In accordance with AIA Document A232™–2019, General Conditions of the Contract for Construction, Construction Manager as Adviser Edition, as modified and subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

...

~~**§ 5.1.5 Progress Payments Where the Contract Sum is Based on the Cost of the Work without a Guaranteed Maximum Price**~~

~~**§ 5.1.5.1** With each Application for Payment, the Contractor shall submit the cost control information required in Exhibit B, Determination of the Cost of the Work, along with payrolls, petty cash accounts, receipted invoices, or invoices with check vouchers attached, and any other evidence required by the Owner, Construction Manager or Architect to demonstrate that payments already made by the Contractor on account of the Cost of the Work equal or exceed progress payments already received by the Contractor, plus payrolls for the period covered by the present Application for Payment, less that portion of the payments attributable to the Contractor's Fee.~~

~~**§ 5.1.5.2** Applications for Payment shall show the Cost of the Work actually incurred by the Contractor through the end of the period covered by the Application for Payment and for which the Contractor has made or intends to make actual payment prior to the next Application for Payment.~~

~~**§ 5.1.5.3** In accordance with AIA Document A232–2019 and subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:~~

~~**§ 5.1.5.3.1** The amount of each progress payment shall first include:~~

- ~~.1 The Cost of the Work as described in Exhibit B, Determination of the Cost of the Work;~~
- ~~.2 That portion of Construction Change Directives that the Architect determines, in the Architect's professional judgment, to be reasonably justified; and~~
- ~~.3 The Contractor's Fee computed upon the Cost of the Work described in the preceding Section 5.1.5.3.1.1 at the rate stated in Section 4.3.2; or if the Contractor's Fee is stated as a fixed sum in Section 4.3.2 an amount which bears the same ratio to that fixed-sum Fee as the Cost of the Work included in Section 5.1.5.3.1.1 bears to a reasonable estimate of the probable Cost of the Work upon its completion.~~

~~**§ 5.1.5.3.2** The amount of each progress payment shall then be reduced by:~~

- ~~.1 The aggregate of any amounts previously paid by the Owner;~~
- ~~.2 The amount, if any, for Work that remains uncorrected and for which the Architect has previously withheld a Certificate for Payment as provided in Article 9 of AIA Document A232–2019;~~
- ~~.3 Any amount for which the Contractor does not intend to pay a Subcontractor or material supplier, unless the Work has been performed by others the Contractor intends to pay;~~
- ~~.4 For Work performed or defects discovered since the last payment application, any amount for which the Architect may withhold payment, or nullify a Certificate of Payment in whole or in part, as provided in Article 9 of AIA Document A232–2019;~~
- ~~.5 The shortfall, if any, indicated by the Contractor in the documentation required by Section 5.1.5.1 to substantiate prior Applications for Payment, or resulting from errors subsequently discovered by the Owner's auditors in such documentation; and~~
- ~~.6 Retainage withheld pursuant to Section 5.1.7.~~

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~~§ 5.1.5.4 The Owner, Construction Manager and Contractor shall agree upon a mutually acceptable procedure for review and approval of payments to Subcontractors and the percentage of retainage held on Subcontracts, and the Contractor shall execute subcontracts in accordance with those agreements.~~

~~§ 5.1.5.5 In taking action on the Contractor's Applications for Payment, the Construction Manager and Architect shall be entitled to rely on the accuracy and completeness of the information furnished by the Contractor, and such action shall not be deemed to be a representation that (1) the Construction Manager and Architect have made a detailed examination, audit or arithmetic verification of the documentation submitted in accordance with Article 5 or other supporting data; (2) that the Construction Manager and Architect have made exhaustive or continuous on-site inspections; or (3) that the Construction Manager and Architect have made examinations to ascertain how or for what purposes the Contractor has used amounts previously paid on account of the Contract. Such examinations, audits and verifications, if required by the Owner, will be performed by the Owner's auditors acting in the sole interest of the Owner.~~

~~§ 5.1.5.6 Except with the Owner's prior approval, the Contractor shall not make advance payments to suppliers for materials or equipment which have not been delivered and stored at the site.~~

~~§ 5.1.5.7 If final completion of the Work is materially delayed through no fault of the Contractor, then the Owner shall pay the Contractor any additional amounts in accordance with Article 9 of AIA Document A232-2019.~~

~~§ 5.1.6 Progress Payments Where the Contract Sum is Based on the Cost of the Work with a Guaranteed Maximum Price~~

~~§ 5.1.6.1 With each Application for Payment, the Contractor shall submit payrolls, petty cash accounts, receipted invoices or invoices with check vouchers attached, and any other evidence required by the Owner, Construction Manager or Architect to demonstrate that payments already made by the Contractor on account of the Cost of the Work equal or exceed progress payments already received by the Contractor plus payrolls for the period covered by the present Application for Payment, less that portion of the progress payments attributable to the Contractor's Fee.~~

~~§ 5.1.6.2 Each Application for Payment shall be based on the most recent schedule of values submitted by the Contractor in accordance with the Contract Documents. The schedule of values shall allocate the entire Guaranteed Maximum Price among: (1) the various portions of the Work; (2) any contingency for costs that are included in the Guaranteed Maximum Price but not otherwise allocated to another line item or included in a Change Order; and (3) the Contractor's Fee.~~

~~§ 5.1.6.2.1 The schedule of values shall be prepared in such form, and supported by such data to substantiate its accuracy, as the Construction Manager and Architect may require. This schedule of values shall be used as a basis for reviewing the Contractor's Applications for Payment.~~

~~§ 5.1.6.2.2 The allocation of the Guaranteed Maximum Price under this Section 5.1.6.2 shall not constitute a separate guaranteed maximum price for the Cost of the Work of each individual line item in the schedule of values.~~

~~§ 5.1.6.2.3 When the Contractor allocates costs from a contingency to another line item in the schedule of values, the Contractor shall submit supporting documentation to the Architect and Construction Manager.~~

~~§ 5.1.6.3 Applications for Payment shall show the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment. The percentage of completion shall be the lesser of (1) the percentage of that portion of the Work which has actually been completed; or (2) the percentage obtained by dividing (a) the expense that has actually been incurred by the Contractor on account of that portion of the Work and for which the Contractor has made payment or intends to make payment prior to the next Application for Payment by (b) the share of the Guaranteed Maximum Price allocated to that portion of the Work in the schedule of values.~~

~~§ 5.1.6.4 In accordance with AIA Document A232-2019, and subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:~~

~~§ 5.1.6.4.1 The amount of each progress payment shall first include:~~

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.1 That portion of the Guaranteed Maximum Price properly allocable to completed Work as determined by multiplying the percentage of completion of each portion of the Work by the share of the Guaranteed Maximum Price allocated to that portion of the Work in the most recent schedule of values;

.2 That portion of the Guaranteed Maximum Price properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction or, if approved in writing in advance by the Owner, suitably stored off the site at a location agreed upon in writing;

.3 That portion of Construction Change Directives that the Architect determines, in the Architect's professional judgment, to be reasonably justified; and

.4 The Contractor's Fee, computed upon the Cost of the Work described in the preceding Sections 5.1.6.4.1.1 and 5.1.6.4.1.2 at the rate stated in Section 4.4.2 or, if the Contractor's Fee is stated as a fixed sum in that Section, an amount that bears the same ratio to that fixed-sum fee as the Cost of the Work included in Sections 5.1.6.4.1.1 and 5.1.6.4.1.2 bears to a reasonable estimate of the probable Cost of the Work upon its completion.

§ 5.1.6.4.2 The amount of each progress payment shall then be reduced by:

.1 The aggregate of any amounts previously paid by the Owner;

.2 The amount, if any, for Work that remains uncorrected and for which the Architect has previously withheld a Certificate for Payment as provided in Article 9 of AIA Document A232–2019;

.3 Any amount for which the Contractor does not intend to pay a Subcontractor or material supplier, unless the Work has been performed by others the Contractor intends to pay;

.4 For Work performed or defects discovered since the last payment application, any amount for which the Architect may withhold payment, or nullify a Certificate of Payment in whole or in part, as provided in Article 9 of AIA Document A232–2019;

.5 The shortfall, if any, indicated by the Contractor in the documentation required by Section 5.1.6.1 to substantiate prior Applications for Payment, or resulting from errors subsequently discovered by the Owner's auditors in such documentation; and

.6 Retainage withheld pursuant to Section 5.1.7.

§ 5.1.6.5 The Owner and the Contractor shall agree upon a mutually acceptable procedure for review and approval of payments to Subcontractors and the percentage of retainage held on Subcontracts, and the Contractor shall execute subcontracts in accordance with those agreements.

§ 5.1.6.6 In taking action on the Contractor's Applications for Payment, the Construction Manager and Architect shall be entitled to rely on the accuracy and completeness of the information furnished by the Contractor and such action shall not be deemed to be a representation that (1) the Construction Manager or Architect have made a detailed examination, audit, or arithmetic verification of the documentation submitted in accordance with Section 5.1.6.1 or other supporting data; (2) that the Construction Manager or Architect have made exhaustive or continuous on-site inspections; or (3) that the Construction Manager or Architect have made examinations to ascertain how or for what purposes the Contractor has used amounts previously paid on account of the Contract. Such examinations, audits, and verifications, if required by the Owner, will be performed by the Owner's auditors acting in the sole interest of the Owner.

§ 5.1.6.7 Except with the Owner's prior approval, the Contractor shall not make advance payments to suppliers for materials or equipment which have not been delivered and stored at the site.

§ 5.1.6.8 If final completion of the Work is materially delayed through no fault of the Contractor, then the Owner shall pay the Contractor any additional amounts in accordance with Article 9 of AIA Document A232-2019.

...

Five Percent (5%)

...

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For major items installed into the Work, the Contractor may request full payment for the items to ensure prompt delivery and fabrication. Such items shall be recommended by the Architect and approved by the Owner as not requiring retainage. Prompt payment for the items shall be documented by the Contractor to the Owner in the subsequent payment application by submitting a full lien release for the items. Major items may include mechanical units with long lead times, structural systems with long lead times, critical path systems or items, etc. Major items will be discussed and defined by Owner, Architect, Construction Manager and Contractor.

...

Prior to Substantial Completion and at the discretion of the Owner, retainage may be reduced. If the Work has been fifty percent (50%) completed as determined by the Architect and is satisfactory to the Owner, then ninety percent (90%) of the retained amount may be released to the Contractor for completed Work (with ten percent (10%) of the total retained by the Owner).
PAGE 6

Upon Substantial Completion, additional retainage may be returned to the Contractor as recommended by the Architect and Construction Manager and approved by the Owner to an amount sufficient to satisfactorily complete the Work. Retainage release will comply with Minnesota Statutes, Section 15.72 after Substantial Completion and punch list acceptance by the Owner.

...

.1 the Contractor has fully performed the Contract except for the Contractor's responsibility to correct Work as provided in Article 12 of AIA Document A232–2019, and to satisfy other requirements, if any, which extend beyond final payment; ~~and~~

.2 a final Certificate for Payment or Project Certificate for Payment has been issued by ~~the Architect.~~the Architect; and

.3 all lien waivers and IC134 forms have been delivered to the Owner.

§ 5.2.1.2 The Owner's final payment to the Contractor shall be made no later than ~~30~~ forty-five (45) days after the issuance of the Architect's final Certificate for Payment or Project Certificate for Payment, or as follows:

...

§ 5.3 Payments due and unpaid under the Contract shall bear interest from the date payment is due at the rate stated ~~below, or in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located.~~below.

...

Zero %

...

The Architect will serve as Initial Decision Maker pursuant to Article 15 of AIA Document ~~A232–2019, unless the parties appoint below another individual, not a party to this Agreement, to serve as Initial Decision Maker.~~
~~*(If the parties mutually agree, insert the name, address and other contact information of the Initial Decision Maker, if other than the Architect.)*~~

A232–2019.
§ 6.1.1 Mediation
The Owner or the Contractor may request mediation of any Claim submitted to the Initial Decision Maker before the decision becomes final and binding. The mediation shall be governed by the Construction Industry Mediation Rules of the American Arbitration Association in effect at the date of this contract. The request for mediation shall be made in

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writing by the party requesting mediation and the other party of this contract. The Owner and Contractor shall participate in mediation in good faith. The mediation shall be concluded within 60 days of the request. Mediation is not a condition precedent to commencing litigation. If litigation is commenced, the Owner and Contractor agree to mediate before any dispositive motion or trial.

PAGE 7

[ ] ~~Litigation in a court of competent jurisdiction.~~ [X] Litigation in a state or federal court of competent jurisdiction located in Hennepin County, Minnesota.

...

Termination fee will be based on the percentage of Work completed and any materials purchased or in production at the time of termination. Said fee and justification shall be provided to the Owner by the Contractor within ten (10) days' notice of the termination.

...

~~**§ 7.2 Where the Contract Sum is Based on the Cost of the Work with or without a Guaranteed Maximum Price**~~

~~**§ 7.2.1 Termination**~~

~~**§ 7.2.1.1** The Contract may be terminated by the Owner or the Contractor as provided in Article 14 of AIA Document A232–2019.~~

~~**§ 7.2.1.2 Termination by the Owner for Cause**~~

~~**§ 7.2.1.2.1** If the Owner terminates the Contract for cause as provided in Article 14 of AIA Document A232–2019, the Owner shall then only pay the Contractor an amount as follows:~~

- ~~.1 Take the Cost of the Work incurred by the Contractor to the date of termination;~~
- ~~.2 Add the Contractor's Fee, computed upon the Cost of the Work to the date of termination at the rate stated in Section 4.3.2 or 4.4.2, as applicable, or, if the Contractor's Fee is stated as a fixed sum in that Section, an amount that bears the same ratio to that fixed-sum Fee as the Cost of the Work at the time of termination bears to a reasonable estimate of the probable Cost of the Work upon its completion;~~
- ~~.3 Subtract the aggregate of previous payments made by the Owner; and~~
- ~~.4 Subtract the costs and damages incurred, or to be incurred, by the Owner under Article 14 of AIA Document A232–2019.~~

~~**§ 7.2.1.2.2** When the Contract Sum is based on the Cost of the Work with a Guaranteed Maximum Price, if the Owner terminates the Contract for cause as provided in Article 14 of AIA Document A232-2019, the amount, if any, to be paid to the Contractor under Article 14 of AIA Document A232-2019 shall not cause the Guaranteed Maximum Price to be exceeded, nor shall it exceed the amount calculated in Section 7.2.1.2.1.~~

~~**§ 7.2.1.2.3** The Owner shall also pay the Contractor fair compensation, either by purchase or rental at the election of the Owner, for any equipment owned by the Contractor that the Owner elects to retain and that is not otherwise included in the Cost of the Work under Section 7.2.1.2.1.1. To the extent that the Owner elects to take legal assignment of subcontracts and purchase orders (including rental agreements), the Contractor shall, as a condition of receiving the payments referred to in this Article 7, execute and deliver all such papers and take all such steps, including the legal assignment of such subcontracts and other contractual rights of the Contractor, as the Owner may require for the purpose of fully vesting in the Owner the rights and benefits of the Contractor under such subcontracts or purchase orders. All Subcontracts, purchase orders and rental agreements entered into by the Contractor will contain provisions allowing for assignment to the Owner as described above.~~

~~**§ 7.2.1.3 Termination by the Owner for Convenience**~~

~~If the Owner terminates the Contract for convenience in accordance with Article 14 of AIA Document A232–2019, then the Owner shall pay the Contractor a termination fee as follows:~~

~~*(Insert the amount of or method for determining the fee, if any, payable to the Contractor following a termination for the Owner's convenience.)*~~

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~~§ 7.3 Suspension~~

~~The Work may be suspended by the Owner as provided in Article 14 of AIA Document A232–2019; in such case, the Contract Sum and Contract Time shall be increased as provided in Article 14 of AIA Document A232–2019, except that the term "profit" shall be understood to mean the Contractor's Fee as described in Section 4.3.2 or 4.4.2, as applicable, of this Agreement.~~

...

Curtis Hartog, PE, Executive Director
Minneapolis Public Schools, SSD#1
Capital Planning, Construction & Maintenance
1250 West Broadway Avenue, Minneapolis, MN 55411
PAGE 8

Kevin Swanson

...

Ford Metro, Inc
3121 40th Avenue NW
Rochester, MN 55901

...

§ 8.5 ~~Insurance and Bonds~~Record Keeping—Availability and Retention

Pursuant to Minnesota Statutes, Section 16C.05, subd. 5, Contractor agrees that the books, records, documents and accounting procedures and practices of Contractor, that are relevant to the Contract or transaction, are subject to examination by the Owner, the Owner's auditor, and the state auditor for a minimum of six (6) years. Contractor shall maintain such records for a minimum of six (6) years after final payment.

§ 8.6 Data Practices

Pursuant to Minnesota Statutes, Section 13.05, subd. 11, all of the data created, collected, received, stored, used, maintained, or disseminated by Contractor in performing this contract is subject to the requirements of the Minnesota Government Data Practices Act ("MGDPA"), Minnesota Statutes Chapter 13, and Contractor must comply with those requirements as if it were a government entity. The remedies in Minnesota Statutes, Section 13.08 apply to Contractor. Contractor does not have a duty to provide access to public data to the public if the public data are available from the Owner, except as required by the terms of this contract.

§ 8.7 Non-Discrimination

Pursuant to Minnesota Statutes, Section 181.59, the Contractor will take affirmative action to ensure that applicants are selected, and that employees are treated during employment, without regard to their race, color, creed, religion, national origin, sex, sexual orientation, marital status, status with regard to public assistance, membership or activity in a local civil rights commission, disability or age. The Contractor agrees to be bound by the provisions of Minnesota Statutes, Section 181.59, that prohibits certain discriminatory practices and the terms of said section are incorporated into this contract.

§ 8.8 Prompt Payment to Subcontractors

In accordance with the Prompt Payment Act, each Prime Contractor must pay any subcontractor within ten (10) days of the Prime Contractor's receipt of payment from the municipality for undisputed services provided by the subcontractor. The Subcontract must require the Prime Contractor to pay interest of 1-1/2 percent per month or any part of a month to the subcontractor on any undisputed amount not paid on time to the subcontractor. The minimum monthly interest penalty payment for an unpaid balance of $100 or more is $10. For an unpaid balance of less than $100, the Prime Contractor shall pay the actual penalty due to the subcontractor. A subcontractor who prevails in a civil action to collect interest penalties from a Prime Contractor must be awarded its costs and disbursements, including attorney's fees, incurred in bringing the action.

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§ 8.9 Prevailing Wage

Contractor agrees that all laborers or mechanics working on the Project shall receive at least the prevailing wage rate in accordance with Minnesota Statutes Section 177.42, *et seq.* Contractor agrees further that it will incorporate any and all necessary contract language in its agreements with any subcontractors to allow Contractor to monitor and enforce the prevailing wage requirement for subcontractors of any tier.

§ 8.5 Insurance and Bonds

§ 8.5.1 The Owner and the Contractor shall purchase and maintain insurance as set forth ~~in AIA Document A132™–2019, Standard Form of Agreement Between Owner and Contractor, Construction Manager as Adviser Edition, Exhibit A, Insurance and Bonds, and elsewhere in the Contract Documents.~~EXH-C Owner Insurance.

PAGE 9

§ 8.6 Notice in electronic format, pursuant to Article 1 of AIA Document A232–2019, may be given in accordance with ~~a building information modeling exhibit,~~ AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, if completed, or as otherwise set forth below:

(If other than in accordance with ~~a building information modeling exhibit,~~ AIA Document E203–2013, insert requirements for delivering notice in electronic format such as name, title, and email address of the recipient and whether and how the system will be required to generate a read receipt for the transmission.)

email to Owner's representative identified in Section 8.2

...

Owner prohibits Contractor from using the Work in any marketing material or business development practice. Contractor is prohibited from communication with any news outlet or public without Owner's written approval.

Floor plans, designs, wiring, safety and security measures shall be kept confidential by the Contractor, the Subcontractors, the Sub-Subcontractors (of any tier) during and after completion of the Work.

...

.4 ~~Building Information Modeling Exhibit, if completed:~~AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, dated as indicated below:
(Insert the date of the E203-2013 incorporated into this Agreement.)

Not Applicable

...

139		North High School Renovations & CTE Center Vol 1 of 2	November 13, 2024
209		North High School Renovations & CTE Center Vol 2 of 2	November 13, 2024

...

	All Specifications	North High School Renovations and CTE Center Bid Package 4	November 13, 2024	1414

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1	December 2, 2024	70
2	December 9, 2024	165

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...

EXH-B Project Charter
EXH-C Owner Insurance
EXH-D Project Schedule
(Check all boxes that apply and include appropriate information identifying the exhibit where required.)

~~[ ] AIA Document A132™ 2019, Exhibit B, Determination of the Cost of the Work~~

[ ] ~~AIA Document E235™ 2019, Sustainable Projects Exhibit, Construction Manager as Adviser Edition, dated as indicated below:~~
~~*(Insert the date of the E235-2019 incorporated into this Agreement.)*~~

~~[ ] The Sustainability Plan:~~

~~Title~~	~~Date~~	~~Pages~~

...

Contractors Bid Documents

...

Tom Parent, Sr Operations Officer

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Certification of Document's Authenticity

AIA® Document D401™ – 2003

I, , hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with its associated Additions and Deletions Report and this certification at 10:46:04 CT on 02/07/2025 under Order No. 4104251278 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document A132™ – 2019, Standard Form of Agreement Between Owner and Contractor, Construction Manager as Adviser Edition, other than those additions and deletions shown in the associated Additions and Deletions Report.



(Signed)

Curtis Hartog, Executive Director

(Title)

2/7/2025

(Dated)

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AIA® Document A132® – 2019 Exhibit A

Insurance and Bonds

This Insurance and Bonds Exhibit is part of the Agreement, between the Owner and the Contractor, dated the _first_ day of _February____ in the year _2025
(In words, indicate day, month, and year.)

for the following **PROJECT**:
(Name and location or address)

North High School Phase 4 Work Scope 08-F Glass and Glazing
1500 James Avenue, Minneapolis, MN 55411

THE OWNER:
(Name, legal status, and address)

Minneapolis Public Schools Special School District #1
1250 West Broadway Avenue
Minneapolis, MN 55411

THE CONTRACTOR:
(Name, legal status, and address)

Ford Metro, Inc
3121 40th Avenue NW
Rochester, MN 55411

TABLE OF ARTICLES

A.1 GENERAL

A.2 OWNER'S INSURANCE

A.3 CONTRACTOR'S INSURANCE AND BONDS

A.4 SPECIAL TERMS AND CONDITIONS

ADDITIONS AND DELETIONS:
The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

This document is intended to be used in conjunction with AIA Document A232™–2019, General Conditions of the Contract for Construction. Article 11 of A232™–2019 contains additional insurance provisions

ARTICLE A.1 GENERAL

The Owner and Contractor shall purchase and maintain insurance, and provide bonds, as set forth in this Exhibit. As used in this Exhibit, the term General Conditions refers to AIA Document A232™–2019, General Conditions of the Contract for Construction.

ARTICLE A.2 OWNER'S INSURANCE

§ A.2.1 General

Prior to commencement of the Work, the Owner shall secure the insurance, and provide evidence of the coverage, required under this Article A.2 and, upon the Contractor's request, provide a copy of the property insurance policy or policies required by Section A.2.3. The copy of the policy or policies provided shall contain all applicable conditions, definitions, exclusions, and endorsements.

§ A.2.2 Liability Insurance

The Owner shall be responsible for purchasing and maintaining the Owner's usual general liability insurance.

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§ A.2.3 Required Property Insurance

§ A.2.3.1 Unless this obligation is placed on the Contractor pursuant to Section A.3.3.2.1, the Owner shall purchase and maintain, from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located, property insurance policy form and sufficient to cover the total value of the entire Project on a replacement cost basis. The Owner's property insurance coverage shall be no less than the amount of the initial Contract Sum, plus the value of subsequent Modifications and labor performed and materials or equipment supplied by others. The property insurance shall be maintained until Substantial Completion and thereafter as provided in Section A.2.3.1.3, unless otherwise provided in the Contract Documents or otherwise agreed in writing by the parties to this Agreement. This insurance shall include the interests of the Owner, Contractor, Subcontractors, and Sub-subcontractors in the Project as insureds. This insurance shall include the interests of mortgagees as loss payees.

§ A.2.3.1.1 Causes of Loss. The insurance required by this Section A.2.3.1 shall provide coverage for direct physical loss or damage, and shall not exclude the risks of fire, explosion, theft, vandalism, malicious mischief, collapse, earthquake, flood, or windstorm. The insurance shall also provide coverage for ensuing loss or resulting damage from error, omission, or deficiency in construction methods, design, specifications, workmanship, or materials. Sub-limits, if any, are as follows:
(Indicate below the cause of loss and any applicable sub-limit.)

Causes of Loss	Sub-Limit

§ A.2.3.1.2 Specific Required Coverages. The insurance required by this Section A.2.3.1 shall provide coverage for loss or damage to false work and other temporary structures, and to building systems from testing and startup. The insurance shall also cover debris removal, including demolition occasioned by enforcement of any applicable legal requirements, and reasonable compensation for the Architect's, Construction Manager's, and Contractor's services and expenses required as a result of such insured loss, including claim preparation expenses. Sub-limits, if any, are as follows:
(Indicate below type of coverage and any applicable sub-limit for specific required coverages.)

Coverage	Sub-Limit

§ A.2.3.1.3 Unless the parties agree otherwise, upon Substantial Completion, the Owner shall continue the insurance required by Section A.2.3.1 or, if necessary, replace the insurance policy required under Section A.2.3.1 with property insurance written for the total value of the Project that shall remain in effect until expiration of the period for correction of the Work set forth in Section 12.2.2 of the General Conditions.

§ A.2.3.1.4 Deductibles and Self-Insured Retentions. If the insurance required by this Section A.2.3 is subject to deductibles or self-insured retentions, the Owner shall be responsible for all loss not covered because of such deductibles or retentions.

§ A.2.3.2 Occupancy or Use Prior to Substantial Completion. The Owner's occupancy or use of any completed or partially completed portion of the Work prior to Substantial Completion shall not commence until the insurance company or companies providing the insurance under Section A.2.3.1 have consented in writing to the continuance of coverage. The Owner and the Contractor shall take no action with respect to partial occupancy or use that would cause cancellation, lapse, or reduction of insurance, unless they agree otherwise in writing.

§ A.2.3.3 Insurance for Existing Structures

If the Work involves remodeling an existing structure or constructing an addition to an existing structure, the Owner shall purchase and maintain, until the expiration of the period for correction of Work as set forth in Section 12.2.2 of the General Conditions, "all-risks" property insurance, on a replacement cost basis, protecting the existing structure against direct physical loss or damage from the causes of loss identified in Section A.2.3.1, notwithstanding the undertaking of the Work. The Owner shall be responsible for all co-insurance penalties.

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§ A.2.4 Optional Extended Property Insurance.
The Owner shall purchase and maintain the insurance selected and described below.
(Select the types of insurance the Owner is required to purchase and maintain by placing an X in the box(es) next to the description(s) of selected insurance. For each type of insurance selected, indicate applicable limits of coverage or other conditions in the fill point below the selected item.)

[ ] **§ A.2.4.1 Loss of Use, Business Interruption, and Delay in Completion Insurance**, to reimburse the Owner for loss of use of the Owner's property, or the inability to conduct normal operations due to a covered cause of loss.

[ ] **§ A.2.4.2 Ordinance or Law Insurance**, for the reasonable and necessary costs to satisfy the minimum requirements of the enforcement of any law or ordinance regulating the demolition, construction, repair, replacement or use of the Project.

[ ] **§ A.2.4.3 Expediting Cost Insurance**, for the reasonable and necessary costs for the temporary repair of damage to insured property, and to expedite the permanent repair or replacement of the damaged property.

[ ] **§ A.2.4.4 Extra Expense Insurance**, to provide reimbursement of the reasonable and necessary excess costs incurred during the period of restoration or repair of the damaged property that are over and above the total costs that would normally have been incurred during the same period of time had no loss or damage occurred.

[ ] **§ A.2.4.5 Civil Authority Insurance**, for losses or costs arising from an order of a civil authority prohibiting access to the Project, provided such order is the direct result of physical damage covered under the required property insurance.

[ ] **§ A.2.4.6 Ingress/Egress Insurance**, for loss due to the necessary interruption of the insured's business due to physical prevention of ingress to, or egress from, the Project as a direct result of physical damage.

[ ] **§ A.2.4.7 Soft Costs Insurance**, to reimburse the Owner for costs due to the delay of completion of the Work, arising out of physical loss or damage covered by the required property insurance: including construction loan fees; leasing and marketing expenses; additional fees, including those of architects, engineers, consultants, attorneys and accountants, needed for the completion of the construction, repairs, or reconstruction; and carrying costs such as property taxes, building permits, additional interest on loans, realty taxes, and insurance premiums over and above normal expenses.

§ A.2.5 Other Optional Insurance.
The Owner shall purchase and maintain the insurance selected below.
(Select the types of insurance the Owner is required to purchase and maintain by placing an X in the box(es) next to the description(s) of selected insurance.)

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[ ] **§ A.2.5.1 Cyber Security Insurance** for loss to the Owner due to data security and privacy breach, including costs of investigating a potential or actual breach of confidential or private information. *(Indicate applicable limits of coverage or other conditions in the fill point below.)*

[ ] **§ A.2.5.2 Other Insurance**
(List below any other insurance coverage to be provided by the Owner and any applicable limits.)

Coverage	Limits

ARTICLE A.3 CONTRACTOR'S INSURANCE AND BONDS

§ A.3.1 General

§ A.3.1.1 Certificates of Insurance. The Contractor shall provide certificates of insurance acceptable to the Owner evidencing compliance with the requirements in this Article A.3 at the following times: (1) prior to commencement of the Work; (2) upon renewal or replacement of each required policy of insurance; and (3) upon the Owner's written request. An additional certificate evidencing continuation of commercial liability coverage, including coverage for completed operations, shall be submitted with the final Application for Payment and thereafter upon renewal or replacement of such coverage until the expiration of the periods required by Section A.3.2.1 and Section A.3.3.1. The certificates will show the Owner as an additional insured on the Contractor's Commercial General Liability and excess or umbrella liability policy or policies.

§ A.3.1.2 Deductibles and Self-Insured Retentions. The Contractor shall disclose to the Owner any deductible or self-insured retentions applicable to any insurance required to be provided by the Contractor.

§ A.3.1.3 Additional Insured Obligations. To the fullest extent permitted by law, the Contractor shall cause the commercial general liability coverage to include (1) the Owner, the Architect and the Architect's consultants, and the Construction Manager and the Construction Manager's consultants, as additional insureds for claims caused in whole or in part by the Contractor's negligent acts or omissions during the Contractor's operations; and (2) the Owner as an additional insured for claims caused in whole or in part by the Contractor's negligent acts or omissions for which loss occurs during completed operations. The additional insured coverage shall be primary and non-contributory to any of the Owner's general liability insurance policies and shall apply to both ongoing and completed operations. To the extent commercially available, the additional insured coverage shall be no less than that provided by Insurance Services Office, Inc. (ISO) forms CG 20 10 07 04, CG 20 37 07 04, and, with respect to the Architect and the Architect's consultants, and the Construction Manager and the Construction Manager's consultants, CG 20 32 07 04.

§ A.3.2 Contractor's Required Insurance Coverage

§ A.3.2.1 The Contractor shall purchase and maintain the types and limits of insurance as defined in EXH-C Owner Insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The Contractor shall maintain the required insurance until the expiration of the period for correction of Work as set forth in Section 12.2.2 of the General Conditions, unless a different duration is stated below:
(If the Contractor is required to maintain insurance for a duration other than the expiration of the period for correction of Work, state the duration.)

§ A.3.2.2 Commercial General Liability

§ A.3.2.2.1 Commercial General Liability insurance for the Project written on an occurrence form with policy limits as defined in EXH-C Owner Insurance providing coverage for claims including

.1 damages because of bodily injury, sickness or disease, including occupational sickness or disease, and death of any person;
.2 personal injury and advertising injury;
.3 damages because of physical damage to or destruction of tangible property, including the loss of use of such property;
.4 bodily injury or property damage arising out of completed operations; and

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.5 the Contractor's indemnity obligations under Section 3.18 of the General Conditions.

§ A.3.2.2.2 The Contractor's Commercial General Liability policy under this Section A.3.2.2 shall not contain an exclusion or restriction of coverage for the following:

.1 Claims by one insured against another insured, if the exclusion or restriction is based solely on the fact that the claimant is an insured, and there would otherwise be coverage for the claim.

.2 Claims for property damage to the Contractor's Work arising out of the products-completed operations hazard where the damaged Work or the Work out of which the damage arises was performed by a Subcontractor.

.3 Claims for bodily injury other than to employees of the insured.

.4 Claims for indemnity under Section 3.18 of the General Conditions arising out of injury to employees of the insured.

.5 Claims or loss excluded under a prior work endorsement or other similar exclusionary language.

.6 Claims or loss due to physical damage under a prior injury endorsement or similar exclusionary language.

.7 Claims related to residential, multi-family, or other habitational projects, if the Work is to be performed on such a project.

.8 Claims related to roofing, if the Work involves roofing.

.9 Claims related to exterior insulation finish systems (EIFS), synthetic stucco or similar exterior coatings or surfaces, if the Work involves such coatings or surfaces.

.10 Claims related to earth subsidence or movement, where the Work involves such hazards.

.11 Claims related to explosion, collapse and underground hazards, where the Work involves such hazards.

§ A.3.2.3 Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Contractor, with policy limits as defined in EXH-C Owner Insurance.

§ A.3.2.4 The Contractor may achieve the required limits and coverage for Commercial General Liability and Automobile Liability through a combination of primary and excess or umbrella liability insurance, provided such primary and excess or umbrella insurance policies result in the same or greater coverage as the coverages required under Section A.3.2.2 and A.3.2.3, and in no event shall any excess or umbrella liability insurance provide narrower coverage than the primary policy. The excess policy shall not require the exhaustion of the underlying limits only through the actual payment by the underlying insurers. Umbrella coverage as defined in EXH-C Owner Insurance.

§ A.3.2.5 Workers' Compensation at statutory limits for Coverage A as defined in EXH-C Owner Insurance.

§ A.3.2.6 Employers' Liability Coverage B as defined in EXH-C Owner Insurance.

§ A.3.2.7 If the Contractor is required to furnish professional services as part of the Work, the Contractor shall procure Professional Liability insurance covering performance of the professional services, with policy limits as defined in EXH-C Owner Insurance.

§ A.3.2.8 Insurance for the use or operation of manned or unmanned aircraft, if the Work requires such activities, with policy limits as defined in EXH-C Owner Insurance.

(Paragraphs deleted)

§ A.3.3 Contractor's Other Insurance Coverage

§ A.3.3.1 Insurance selected and described in this Section A.3.3 shall be purchased from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The Contractor shall maintain the required insurance until the expiration of the period for correction of Work as set forth in Section 12.2.2 of the General Conditions, unless a different duration is stated below:

(If the Contractor is required to maintain any of the types of insurance selected below for a duration other than the expiration of the period for correction of Work, state the duration.)

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If Professional Liability insurance is required as part of the Contract, the Contractor shall maintain coverage for one year beyond the date of Substantial Completion.

§ A.3.3.2 The Contractor shall purchase and maintain the types and limits of insurance as defined in EXH-C Owner Insurance.

(Paragraphs deleted)

§ A.3.4 Performance Bond and Payment Bond

The Contractor shall provide surety bonds, from a company or companies lawfully authorized to issue surety bonds in the jurisdiction where the Project is located, as follows:
(Specify type and penal sum of bonds.)

Type	Penal Sum ($0.00)
Payment Bond	$385,900
Performance Bond	$358,900

Payment and Performance Bonds shall be AIA Document A312™, Payment Bond and Performance Bond, or contain provisions identical to AIA Document A312™, current as of the date of this Agreement.

ARTICLE A.4 SPECIAL TERMS AND CONDITIONS

Special terms and conditions that modify this Insurance and Bonds Exhibit, if any, are as follows:

None

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Additions and Deletions Report for
AIA® Document A132® – 2019 Exhibit A

This Additions and Deletions Report, as defined on page 1 of the associated document, reproduces below all text the author has added to the standard form AIA document in order to complete it, as well as any text the author may have added to or deleted from the original AIA text. Added text is shown underlined. Deleted text is indicated with a horizontal line through the original AIA text.

Note: This Additions and Deletions Report is provided for information purposes only and is not incorporated into or constitute any part of the associated AIA document. This Additions and Deletions Report and its associated document were generated simultaneously by AIA software at 11:43:21 CT on 02/03/2025.

PAGE 1

This Insurance and Bonds Exhibit is part of the Agreement, between the Owner and the Contractor, dated the _first_ day of _February_____ in the year _2025

...

North High School Phase 4 Work Scope 08-F Glass and Glazing
1500 James Avenue, Minneapolis, MN 55411

...

Minneapolis Public Schools Special School District #1
1250 West Broadway Avenue
Minneapolis, MN 55411

...

Ford Metro, Inc
3121 40th Avenue NW
Rochester, MN 55411

PAGE 2

§ A.2.3.1 Unless this obligation is placed on the Contractor pursuant to Section A.3.3.2.1, the Owner shall purchase and maintain, from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located, property insurance ~~written on a builder's risk "all-risks" completed value or equivalent~~ policy form and sufficient to cover the total value of the entire Project on a replacement cost basis. The Owner's property insurance coverage shall be no less than the amount of the initial Contract Sum, plus the value of subsequent Modifications and labor performed and materials or equipment supplied by others. The property insurance shall be maintained until Substantial Completion and thereafter as provided in Section A.2.3.1.3, unless otherwise provided in the Contract Documents or otherwise agreed in writing by the parties to this Agreement. This insurance shall include the interests of the Owner, Contractor, Subcontractors, and Sub-subcontractors in the Project as insureds. This insurance shall include the interests of mortgagees as loss payees.

PAGE 4

§ A.3.2.1 The Contractor shall purchase and maintain the ~~following~~ types and limits of insurance as defined in EXH-C Owner Insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The Contractor shall maintain the required insurance until the expiration of the period for correction of Work as set forth in Section 12.2.2 of the General Conditions, unless a different duration is stated below:

...

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§ A.3.2.2.1 Commercial General Liability insurance for the Project written on an occurrence form with policy limits ~~of not less than ($) each occurrence, ($) general aggregate, and ($) aggregate for products-completed operations hazard,~~ as defined in EXH-C Owner Insurance providing coverage for claims including

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§ A.3.2.3 Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Contractor, with policy limits ~~of not less than ($) per accident, for bodily injury, death of any person, and property damage arising out of the ownership, maintenance and use of those motor vehicles along with any other statutorily required automobile coverage.~~as defined in EXH-C Owner Insurance.

§ A.3.2.4 The Contractor may achieve the required limits and coverage for Commercial General Liability and Automobile Liability through a combination of primary and excess or umbrella liability insurance, provided such primary and excess or umbrella insurance policies result in the same or greater coverage as the coverages required under Section A.3.2.2 and A.3.2.3, and in no event shall any excess or umbrella liability insurance provide narrower coverage than the primary policy. The excess policy shall not require the exhaustion of the underlying limits only through the actual payment by the underlying insurers. Umbrella coverage as defined in EXH-C Owner Insurance.

§ A.3.2.5 Workers' Compensation at statutory ~~limits.~~limits for Coverage A as defined in EXH-C Owner Insurance.

§ A.3.2.6 Employers' Liability ~~with policy limits not less than ($) each accident, ($) each employee, and ($) policy limit.~~Coverage B as defined in EXH-C Owner Insurance.

§ A.3.2.7 ~~Jones Act, and the Longshore & Harbor Workers' Compensation Act, as required, if the Work involves hazards arising from work on or near navigable waterways, including vessels and docks~~ If the Contractor is required to furnish professional services as part of the Work, the Contractor shall procure Professional Liability insurance covering performance of the professional services, with policy limits as defined in EXH-C Owner Insurance.

§ A.3.2.8 ~~If the Contractor is required to furnish professional services as part of the Work, the Contractor shall procure Professional Liability insurance covering performance of the professional services, with policy limits of not less than ($) per claim and ($) in the aggregate.~~Insurance for the use or operation of manned or unmanned aircraft, if the Work requires such activities, with policy limits as defined in EXH-C Owner Insurance.

~~**§ A.3.2.9** If the Work involves the transport, dissemination, use, or release of pollutants, the Contractor shall procure Pollution Liability insurance, with policy limits of not less than ($) per claim and ($) in the aggregate.~~

~~**§ A.3.2.10** Coverage under Sections A.3.2.8 and A.3.2.9 may be procured through a Combined Professional Liability and Pollution Liability insurance policy, with combined policy limits of not less than ($) per claim and ($) in the aggregate.~~

~~**§ A.3.2.11** Insurance for maritime liability risks associated with the operation of a vessel, if the Work requires such activities, with policy limits of not less than ($) per claim and ($) in the aggregate.~~

~~**§ A.3.2.12** Insurance for the use or operation of manned or unmanned aircraft, if the Work requires such activities, with policy limits of not less than ($) per claim and ($) in the aggregate.~~

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If Professional Liability insurance is required as part of the Contract, the Contractor shall maintain coverage for one year beyond the date of Substantial Completion.

§ A.3.3.2 The Contractor shall purchase and maintain the ~~following~~ types and limits of insurance ~~in accordance with Section A.3.3.1.~~as defined in EXH-C Owner Insurance.

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~~*(Select the types of insurance the Contractor is required to purchase and maintain by placing an X in the box(es) next to the description(s) of selected insurance. Where policy limits are provided, include the policy limit in the appropriate fill point.)*~~

~~[ ]~~ ~~§ A.3.3.2.1~~ ~~If there is only one Contractor performing the Work on the Project, property insurance of the same type and scope satisfying the requirements identified in Section A.2.3, which, if selected in this section A.3.3.2.1, relieves the Owner of the responsibility to purchase and maintain such insurance except insurance required by Section A.2.3.1.3 and Section A.2.3.3. The Contractor shall comply with all obligations of the Owner under Section A.2.3 except to the extent provided below. The Contractor shall disclose to the Owner the amount of any deductible, and the Owner shall be responsible for losses within the deductible. Upon request, the Contractor shall provide the Owner with a copy of the property insurance policy or policies required. The Owner shall adjust and settle the loss with the insurer and be the trustee of the proceeds of the property insurance in accordance with Article 11 of the General Conditions unless otherwise set forth below:~~
~~*(Where the Contractor's obligation to provide property insurance differs from the Owner's obligations as described under Section A.2.3, indicate such differences in the space below. Additionally, if a party other than the Owner will be responsible for adjusting and settling a loss with the insurer and acting as the trustee of the proceeds of property insurance in accordance with Article 11 of the General Conditions, indicate the responsible party below.)*~~

~~[ ]~~ ~~§ A.3.3.2.2 Railroad Protective Liability Insurance~~, ~~with policy limits of not less than ($) per claim and ($) in the aggregate, for Work within fifty (50) feet of railroad property.~~

~~[ ]~~ ~~§ A.3.3.2.3 Asbestos Abatement Liability Insurance~~, ~~with policy limits of not less than ($) per claim and ($) in the aggregate, for liability arising from the encapsulation, removal, handling, storage, transportation, and disposal of asbestos-containing materials.~~

~~[ ]~~ ~~§ A.3.3.2.4~~ ~~Insurance for physical damage to property while it is in storage and in transit to the construction site on an "all-risks" completed value form.~~

~~[ ]~~ ~~§ A.3.3.2.5~~ ~~Property insurance on an "all-risks" completed value form, covering property owned by the Contractor and used on the Project, including scaffolding and other equipment.~~

~~[ ]~~ ~~§ A.3.3.2.6 Other Insurance~~
~~*(List below any other insurance coverage to be provided by the Contractor and any applicable limits.)*~~

~~Coverage~~	~~Limits~~

§ A.3.4 Performance Bond and Payment Bond

...

Payment Bond	$385,900
Performance Bond	$358,900

...

None

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AIA® Document A232® – 2019

General Conditions of the Contract for Construction, Construction Manager as Adviser Edition

for the following PROJECT:
(Name, and location or address)

North High School Phase 4 Work Scope 08-F Glass and Glazing
1500 James Avenue, Minneapolis, MN 55411

THE CONSTRUCTION MANAGER:
(Name, legal status, and address)

Kraus-Anderson Construction Company
501 South 8th Street, Minneapolis, MN 55404

THE OWNER:
(Name, legal status, and address)

Minneapolis Public Schools Special School District #1
1250 West Broadway Avenue
Minneapolis, MN 55411

THE ARCHITECT:
(Name, legal status, and address)

LSE Architects 1401 Glenwood Avenue
Minneapolis, MN 55405

ADDITIONS AND DELETIONS:
The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

This document is intended to be used in conjunction with AIA Documents A132™–2019, Standard Form of Agreement Between Owner and Contractor, Construction Manager as Adviser Edition; B132™–2019, Standard Form of Agreement Between Owner and Architect, Construction Manager as Adviser Edition; and C132™–2019, Standard Form of Agreement Between Owner and Construction Manager as Adviser.

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ARTICLE 1 GENERAL PROVISIONS

§ 1.1 Basic Definitions

§ 1.1.1 The Contract Documents. The Contract Documents are enumerated in the Agreement between the Owner and Contractor (hereinafter the Agreement) and consist of the Agreement, Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, Addenda issued prior to execution of the Contract, other documents listed in the Agreement, and Modifications issued after execution of the Contract. A Modification is (1) a written amendment to the Contract signed by both parties, (2) a Change Order, (3) a Construction Change Directive, or (4) a written order for a minor change in the Work issued by the Architect. Unless specifically enumerated in the Agreement, the Contract Documents do not include the advertisement or invitation to bid, Instructions to Bidders, sample forms, other information furnished by the Owner in anticipation of receiving bids or proposals, the Contractor's bid or proposal, or portions of addenda relating to bidding or proposal requirements.

§ 1.1.1.1 Notwithstanding the foregoing, it is understood and agreed that the Owner is an intended third-party beneficiary of all contracts between the Contractor and Subcontractors or suppliers who provide labor and/or materials for the Work.

§ 1.1.2 The Contract. The Contract Documents form the Contract for Construction. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations, or agreements, either written or oral. The Contract may be amended or modified only by a Modification. The Contract Documents shall not be construed to create a contractual relationship of any kind (1) between the Contractor and the Architect or the Architect's consultants, (2) between the Owner and the Construction Manager or the Construction Manager's consultants, (3) between the Owner and the Architect or the Architect's consultants, (4) between the Contractor and the Construction Manager or the Construction Manager's consultants, (5) between the Owner and a Subcontractor or Sub-subcontractor (6) between the Construction Manager and the Architect, or (7) between any persons or entities other than the Owner and Contractor. The Construction Manager and Architect shall, however, be entitled to performance and enforcement of obligations under the Contract intended to facilitate performance of their duties.

§ 1.1.3 The Work. The term "Work" means the construction and services required by the Contract Documents, whether completed or partially completed, and includes all other labor, materials, equipment, and services provided or to be provided by the Contractor to fulfill the Contractor's obligations. The Work may constitute the whole or a part of the Project.

§ 1.1.4 The Project. The Project is the total construction of which the Work performed under the Contract Documents may be the whole or a part and which may include construction by other Contractors, and by the Owner's own forces and Separate Contractors.

§ 1.1.5 Contractors. Contractors are persons or entities, other than the Contractor or Separate Contractors, who perform Work under contracts with the Owner that are administered by the Architect and Construction Manager.

§ 1.1.6 Separate Contractors. Separate Contractors are persons or entities who perform construction under separate contracts with the Owner not administered by the Architect and Construction Manager.

§ 1.1.7 The Drawings. The Drawings are the graphic and pictorial portions of the Contract Documents showing the design, location and dimensions of the Work, generally including plans, elevations, sections, details, schedules, and diagrams.

§ 1.1.8 The Specifications. The Specifications are that portion of the Contract Documents consisting of the written requirements for materials, equipment, systems, standards and workmanship for the Work, and performance of related services.

§ 1.1.9 Instruments of Service. Instruments of Service are representations, in any medium of expression now known or later developed, of the tangible and intangible creative work performed by the Architect and the Architect's consultants under their respective professional services agreements. Instruments of Service may include, without limitation, studies, surveys, models, sketches, drawings, specifications, and other similar materials.

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§ 1.1.10 Initial Decision Maker. The Initial Decision Maker is the person identified in the Agreement to render initial decisions on Claims in accordance with Section 15.2. The Architect will serve as the Initial Decision Maker pursuant to Section 15.2 of AIA Document A232–2019.

§ 1.2 Correlation and Intent of the Contract Documents

§ 1.2.1 The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work by the Contractor. The Contract Documents are complementary, and what is required by one shall be as binding as if required by all; performance by the Contractor shall be required only to the extent consistent with the Contract Documents and reasonably inferable from them as being necessary to produce the intended results.

§ 1.2.1.1 The invalidity of any provision of the Contract Documents shall not invalidate the Contract or its remaining provisions. In such case the Contract Documents shall be construed, to the fullest extent permitted by law, to give effect to the parties' intentions and purposes in executing the Contract.

§ 1.2.2 Organization of the Specifications into divisions, sections and articles, and arrangement of Drawings shall not control the Contractor in dividing the Work among Subcontractors or in establishing the extent of Work to be performed by any trade.

§ 1.2.3 Unless otherwise stated in the Contract Documents, words that have well-known technical or construction industry meanings are used in the Contract Documents in accordance with such recognized meanings.

§ 1.3 Capitalization

Terms capitalized in these General Conditions include those that are (1) specifically defined, (2) the titles of numbered articles, or (3) the titles of other documents published by the American Institute of Architects.

§ 1.4 Interpretation

In the interest of brevity the Contract Documents frequently omit modifying words such as "all" and "any" and articles such as "the" and "an," but the fact that a modifier or an article is absent from one statement and appears in another is not intended to affect the interpretation of either statement.

§ 1.4.1 In the case of inconsistency between Drawings and Specifications or within Contract Documents not clarified by Addenda, the better quality or greater quantity of Work shall be provided in accordance with the Architect's interpretation.

§ 1.5 Ownership and Use of Drawings, Specifications, and Other Instruments of Service

§ 1.5.1 The Architect and the Architect's consultants shall be deemed the authors and owners of their respective Instruments of Service, including the Drawings and Specifications, and retain all common law, statutory, and other reserved rights in their Instruments of Service, including copyrights. The Contractor, Subcontractors, sub-subcontractors, and suppliers shall not own or claim a copyright in the Instruments of Service. Submittal or distribution to meet official regulatory requirements or for other purposes in connection with the Project is not to be construed as publication in derogation of the Architect's or Architect's consultants' reserved rights. The Owner retains rights to the Instruments of Service pursuant to Article 7 of AIA Document B101-2017.

§ 1.5.2 The Contractor, Subcontractors, Sub-subcontractors, and suppliers are authorized to use and reproduce the Instruments of Service provided to them, subject to any protocols established pursuant to Sections 1.7 and 1.8, solely and exclusively for execution of the Work. All copies made under this authorization shall bear the copyright notice, if any, shown on the Instruments of Service. The Contractor, Subcontractors, Sub-subcontractors, and suppliers may not use the Instruments of Service on other projects or for additions to the Project outside the scope of the Work without the specific written consent of the Owner, Architect, and the Architect's consultants.

§ 1.5.3 The Architect shall furnish to the Contractor a version of the Instruments of Service in electronic form for the sole purpose of the construction of the Project for which the Instruments of Service were created.

§ 1.6 Notice

§ 1.6.1 Except as otherwise provided in Section 1.6.2, where the Contract Documents require one party to notify or give notice to the other party, such notice shall be provided in writing to the designated representative of the party to

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whom the notice is addressed and shall be deemed to have been duly served if delivered in person, by mail, by courier, or by electronic transmission if a method for electronic transmission is set forth in the Agreement.

§ 1.6.2 Notice of Claims as provided in Section 15.1.3 shall be provided in writing and shall be deemed to have been duly served only if delivered to the designated representative of the party to whom the notice is addressed by certified or registered mail, or by courier providing proof of delivery.

§ 1.7 Digital Data Use and Transmission

The parties shall agree upon protocols governing the transmission and use of Instruments of Service or any other information or documentation in digital form. The parties may use AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit or other form, to establish the protocols for the development, use, transmission, and exchange of digital data.

§ 1.8 Building Information Models Use and Reliance

Any use of, or reliance on, all or a portion of a building information model without agreement to protocols governing the use of, and reliance on, the information contained in the model and without having those protocols set forth in AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, and the requisite AIA Document G202™–2013, Project Building Information Modeling Protocol Form or other form, shall be at the using or relying party's sole risk and without liability to the other party and its contractors or consultants, the authors of, or contributors to, the building information model, and each of their agents and employees.

ARTICLE 2 OWNER

§ 2.1 General

§ 2.1.1 The Owner is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The Owner shall designate in writing a representative who shall have express authority to bind the Owner with respect to all matters requiring the Owner's approval or authorization in accordance with Owner's Delegation of Authority Policy, a copy of which will be provided at Contractor's request. Except as otherwise provided in Section 4.2.1, the Construction Manager and the Architect do not have such authority. The term "Owner" means the Owner or the Owner's authorized representative.

(Paragraph deleted)

§ 2.2 Evidence of the Owner's Financial Arrangements

§ 2.2.1 Prior to commencement of the Work, and upon written request by the Contractor, the Owner shall furnish to the Contractor reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Contract. The Contractor shall have no obligation to commence the Work until the Owner provides such evidence. If commencement of the Work is delayed under this Section 2.2.1, the Contract Time shall be extended appropriately.

§ 2.2.2 Following commencement of the Work and upon written request by the Contractor, the Owner shall furnish to the Contractor reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Contract only if (1) the Owner fails to make payments to the Contractor as the Contract Documents require; (2) the Contractor identifies in writing a reasonable concern regarding the Owner's ability to make payment when due; or (3) a change in the Work materially changes the Contract Sum. If the Owner fails to provide such evidence, as required, within fourteen days of the Contractor's request, the Contractor may immediately stop the Work and, in that event, shall notify the Owner that the Work has stopped. However, if the request is made because a change in the Work materially changes the Contract Sum under (3) above, the Contractor may immediately stop only that portion of the Work affected by the change until reasonable evidence is provided. If the Work is stopped under this Section 2.2.2, the Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable costs of shutdown, delay and start-up, plus interest as provided in the Contract Documents.

§ 2.2.3 After the Owner furnishes evidence of financial arrangements under this Section 2.2, the Owner shall not materially vary such financial arrangements without prior notice to the Contractor.

§ 2.2.4 Where the Owner has designated information furnished under this Section 2.2 as "confidential," the Contractor shall keep the information confidential and shall not disclose it to any other person. However, the Contractor may disclose "confidential" information, after seven (7) days' notice to the Owner, where disclosure is required by law, including a subpoena or other form of compulsory legal process issued by a court or governmental entity, or by court

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or arbitrator(s) order. The Contractor may also disclose "confidential" information to its employees, consultants, sureties, Subcontractors and their employees, Sub-subcontractors, and others who need to know the content of such information solely and exclusively for the Project and who agree to maintain the confidentiality of such information.

§ 2.3 Information and Services Required of the Owner

§ 2.3.1 Except for permits and fees that are the responsibility of the Contractor under the Contract Documents, including those required under Section 3.7.1, the Owner shall secure and pay for necessary approvals, easements, assessments and charges required for construction, use or occupancy of permanent structures or for permanent changes in existing facilities. Unless otherwise provided under the Contract Documents, the Owner, assisted by the Construction Manager, shall secure and pay for the building permit.

§ 2.3.2 The Owner shall retain an architect lawfully licensed to practice architecture, or an entity lawfully practicing architecture, in the jurisdiction where the Project is located. That person or entity is identified as the Architect in the Agreement and is referred to throughout the Contract Documents as if singular in number.

§ 2.3.3 The Owner shall retain a construction manager adviser lawfully practicing construction management in the jurisdiction where the Project is located. That person or entity is identified as the Construction Manager in the Agreement and is referred to throughout the Contract Documents as if singular in number.

§ 2.3.4 If the employment of the Construction Manager or Architect terminates, the Owner shall employ a successor construction manager or architect to whom the Contractor has no reasonable objection and whose status under the Contract Documents shall be that of the Construction Manager or Architect, respectively.

§ 2.3.5 If requested by the Contractor and reasonably required for the Project, the Owner shall furnish surveys describing physical characteristics, legal limitations and utility locations for the site of the Project, and a written legal description of the site. The Contractor shall exercise proper precautions relating to the safe performance of the Work.

§ 2.3.6 The Owner shall furnish information or services required of the Owner by the Contract Documents with reasonable promptness. The Owner shall also furnish any other information or services under the Owner's control and relevant to the Contractor's performance of the Work with reasonable promptness after receiving the Contractor's written request for such information or services. The Contractor is responsible for the timeliness of, or interference caused by, Subcontractors, Sub-subcontractors (of any tier), and others directly or indirectly under contract to the Contractor.

§ 2.3.7 Unless otherwise provided in the Contract Documents, the Owner shall furnish to the Contractor one copy of the Contract Documents for purposes of making reproductions pursuant to Section 1.5.2.

§ 2.3.8 The Owner shall forward all communications to the Contractor through the Construction Manager. Other communication shall be made as set forth in Section 4.2.6.

§ 2.4 Owner's Right to Stop the Work

If the Contractor fails to correct Work that is not in accordance with the requirements of the Contract Documents as required by Section 12.2 or repeatedly fails to carry out Work in accordance with the Contract Documents, the Owner may issue a written order to the Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, the right of the Owner to stop the Work shall not give rise to a duty on the part of the Owner to exercise this right for the benefit of the Contractor or any other person or entity, except to the extent required by Section 6.1.3.

§ 2.5 Owner's Right to Carry Out the Work

If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within a three-business-day (3) period after receipt of notice from the Owner to commence and continue correction of such default or neglect with diligence and promptness, the Owner may, without prejudice to other remedies the Owner may have, correct such default or neglect. Such action by the Owner and amounts charged to the Contractor are both subject to review by the Construction Manager and prior approval of the Architect, and the Construction Manager or Architect may, pursuant to Section 9.5.1, withhold or nullify a Certificate for Payment in whole or in part, to the extent reasonably necessary to reimburse the Owner for the reasonable cost of correcting such deficiencies, including Owner's expenses and compensation for the Construction Manager's and Architect's and their respective consultants'

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additional services and expenses made necessary by such default, neglect, or failure. If current and future payments are not sufficient to cover such amounts, the Contractor shall pay the difference to the Owner within ten (10) days following written request for payment delivered by the Owner to the Contractor. If the Contractor disagrees with the actions of the Owner or the Architect, or the amounts claimed as costs to the Owner, the Contractor may file a Claim pursuant to Article 15.

ARTICLE 3 CONTRACTOR

§ 3.1 General

§ 3.1.1 The Contractor is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The Contractor shall be lawfully licensed, if required in the jurisdiction where the Project is located. The Contractor shall designate in writing a representative who shall have express authority to bind the Contractor with respect to all matters under this Contract. The term "Contractor" means the Contractor or the Contractor's authorized representative.

§ 3.1.2 The Contractor shall perform the Work in accordance with the Contract Documents.

§ 3.1.3 The Contractor shall hire a professional utilities locator to investigate and verify all private utility locations prior to excavation and cutting into of existing Work. The Contractor is responsible for locating, terminating, and reinstallation of all private utilities. Private site utilities may not be in the Drawings and Project Manual and as such, verification of private utilities is the sole responsibility of the Contractor. Costs associated with moving and repairing of unknown and undocumented utilities will be by appropriate Change Order. The Contractor shall comply with Gopher State One Call, or other public utility service locator to locate all public utilities prior to any work on the site. This shall not relieve Contractor from obligations under Article 3.

§ 3.1.4 The Contractor shall not be relieved of its obligations to perform the Work in accordance with the Contract Documents either by activities or duties of the Construction Manager or Architect in their administration of the Contract, or by tests, inspections or approvals required or performed by persons or entities other than the Contractor.

§ 3.2 Review of Contract Documents and Field Conditions by Contractor

§ 3.2.1 The Contractor shall carefully study and compare the Contract Documents with each other and with information furnished by the Owner pursuant to Section 2.2.3, and shall immediately report to the Architect and Construction Manager errors, inconsistencies, or omissions discovered. The Contractor shall not be liable to the Owner or Architect for damage resulting from errors, inconsistencies, or omissions in the Contract Document unless the Contractor recognized such error, inconsistency, or omission and knowingly failed to report it to the Architect. If the Contractor performs any construction activity knowing or believing it involves a recognized error, inconsistency, or omission in the Contract Documents without such notice to the Architect, the Contractor shall assume full responsibility for such performance and shall bear the attributable costs for correction and shall bear responsibility for any additional costs, delays, and damages resulting from such failure to immediately report any such errors, inconsistencies, or omissions which the Contractor may discover. By executing the Contract, the Contractor represents that the Contractor has reviewed and understands the Contract Documents, has visited the Site and is familiar with local conditions under which the Work is to be performed, has correlated personal observations with the requirements of the Contract Documents, and has notified the Architect of and obtained clarification of any discrepancies which have become apparent during the bidding or proposal period.

§ 3.2.1.1 The Contractor shall take field measurements and verify field conditions and shall carefully compare such field measurements and conditions and other information known to the Contractor with the Contract Documents before commencing activities. Errors, inconsistencies, or omissions discovered shall be reported to the Architect immediately in writing.

§ 3.2.1.2 The Contractor shall carefully study and compare the Contract Documents with existing conditions at the job site and shall immediately report in writing to the Architect any error, inconsistency, or omission which the Contractor may discover or any materials, systems, procedures, or methods of construction, either shown on the Drawings or specified, which the Contractor has reason to believe are incorrect, inadequate, obsolete, unsuitable for the purpose intended or which the Contractor has reason to believe would constitute or result in a violation of the Contractor's warranty under Section 3.5 or applicable law. The Contractor shall not proceed with any work in such areas until written instructions are received from the Architect.

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§ 3.2.2 The Contractor shall perform the Work in accordance with the Contract Documents and submittals accepted pursuant to Section 3.12.

§ 3.2.3 The Owner shall be entitled to deduct from the Contract Sum amounts paid to the Architect for the Architect to evaluate and respond to the Contractor's requests for interpretation or information where such information was available to the Contractor from a careful study and comparison of the Contract Documents, Filed Conditions, Owner Provided Information, Contractor Prepared Coordination Drawings, or prior Project Correspondence or Documentation.

§ 3.2.4 If the Contractor believes that any portions of the Contract Documents do not comply with applicable laws, statutes, ordinances, building codes, and rules and regulations, or any orders by code enforcement officials or the Owner or its designees acting in the capacity of building code inspectors or Referenced Standards, the Contractor must promptly notify the Owner and the Architect of the non-compliance as provided in Section 3.2.6 and request direction before proceeding with the affected Work.

§ 3.2.5 The Contractor must promptly notify the Owner and the Architect in writing of any apparent errors, inconsistencies, omissions, ambiguities, construction impracticalities or code violations discovered as a result of the Contractor's review of the Contract Documents including any differences between actual and indicated dimensions, locations and descriptions, and must give the Owner and the Architect timely notice in writing of same and of any corrections, clarifications, additional Drawings or Specifications, or other information required to define the Work in greater detail or to permit the proper progress of the Work. The Contractor must provide similar notice with respect to any variance between its review of the Site and physical data and Site conditions observed.

§ 3.2.6 If the Contractor performs any Work involving an apparent error, inconsistency, ambiguity, construction impracticality, omission or code violation in the Contract Documents of which the Contractor is aware, or which could reasonably have been discovered by the review required by Section 3.2, without prompt written notice to the Owner and the Architect and request for correction, clarification or additional information, as appropriate, the Contractor does so at its own risk and expense and all Claims relating thereafter are specifically waived.

§ 3.3 Supervision and Construction Procedures

§ 3.3.1 The Contractor shall supervise and direct the Work, using the Contractor's best skill and attention. The Contractor shall be solely responsible for, and have control over, construction means, methods, techniques, sequences, and procedures, and for coordinating all portions of the Work under the Contract. If the Contract Documents give specific instructions concerning construction means, methods, techniques, sequences, or procedures, the Contractor shall evaluate the jobsite safety thereof and shall be solely responsible for the jobsite safety of such means, methods, techniques, sequences, or procedures. If the Contractor determines that such means, methods, techniques, sequences or procedures may not be safe, the Contractor shall give timely notice to the Owner, the Construction Manager, and the Architect, and shall propose alternative means, methods, techniques, sequences, or procedures. The Architect shall evaluate the proposed alternative solely for conformance with the design intent for the completed construction. The Construction Manager shall review the proposed alternative for sequencing, constructability, and coordination impacts on the other Contractors. Unless the Architect or the Construction Manager objects to the Contractor's proposed alternative, the Contractor shall perform the Work using its alternative means, methods, techniques, sequences, or procedures.

§ 3.3.2 The Contractor shall be responsible to the Owner for acts and omissions of the Contractor's employees, Subcontractors and their agents and employees, and other persons or entities performing portions of the Work for, or on behalf of, the Contractor or any of its Subcontractors.

§ 3.3.3 The Contractor shall be responsible for inspection of portions of the Project already performed to determine that such portions are in proper condition to receive subsequent Work.

§ 3.3.4 The Contractor shall at all times staff the Project adequately to allow the Project to be managed and completed in a timely and professional manner. The Contractor shall have competent supervision on the job during work hours and readily available at all times upon call.

§ 3.3.5 The Contractor shall at all times make reasonable provisions to protect any Work performed by any separate contractors, adjacent property, and the existing building (if any) from damage due to the Work or due to the weather.

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§ 3.3.6 The Owner or its approved representative (heretofore referred to as Owner's Representative) shall have access to the Work site and all Work. No supervision or inspection by the Owner or the Owner's Representative, nor the authority to act, nor any other actions taken by the Owner's Representative shall relieve the Contractor of any of its obligations under the Contract Documents or give rise to any duty on the part of the Owner.

§ 3.3.7 The Contract shall take appropriate precautions to ensure that the Work does not materially disrupt any ongoing operation by the Owner at the Project (if any) except to the extent any such disruption is a necessary result of performing a particular portion of the Work, in which case the Contractor shall provide the Owner with reasonable advanced written notice and shall take all commercially reasonable measures to minimize the impact on the Owner and the Owner's operations.

§ 3.4 Labor and Materials

§ 3.4.1 Unless otherwise provided in the Contract Documents, the Contractor shall provide and pay for labor, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation, and other facilities and services necessary for proper execution and completion of the Work, whether temporary or permanent and whether or not incorporated or to be incorporated in the Work. Should the Contract Documents require Work to be performed after regular working hours or should the Contractor elect to perform Work after regular working hours, the additional cost of such Work shall be borne by the Contractor.

§ 3.4.2 Except in the case of minor changes in the Work approved by the Architect in accordance with Section 3.12.8 or ordered by the Architect in accordance with Section 7.4, the Contractor may make substitutions only with the consent of the Owner, after evaluation by the Architect, in consultation with the Construction Manager, and in accordance with a Change Order or Construction Change Directive.

§ 3.4.3 The Contractor shall enforce strict discipline and good order among the Contractor's employees and other persons carrying out the Work. The Contractor shall not permit employment of unfit persons or persons not properly skilled in tasks assigned to them.

§ 3.4.4 The Contractor shall be responsible for all additional costs incurred to incorporate into the Project substitute materials, products, or equipment approved by Owner during the bidding period.

§ 3.4.5 In the event of a Change related to substitute or additional materials, and which shall comply with Article 7, the Contractor shall exercise reasonable efforts, consistent with the provisions of the Contract Documents to obtain the maximum available case discounts on all materials, provided that, in doing so, the Contractor shall not accept or use materials for incorporation into the Project which are of a type or quality not reasonably contemplated under the terms of the Contract Documents.

§ 3.4.6 After award of the Contract, a request for substitution of a material, product, or piece of equipment at no change in the Contract Sum will not be approved by the Owner or the Architect, unless the specified item is no longer manufactured, the specified item is unavailable as a result of an act of government such as a declaration of a national emergency, or delivery of the specified items is substantially delayed as a result of labor disputes affecting the manufacturer, unusual delay in transportation, or any other cause beyond control of the Contractor or a Subcontractor or material supplier which the Architect determines justified the delay. Requests will not be approved where the delay in delivery results from failure to promptly place subcontracts and material orders. Requests for substitution shall be submitted in writing to the Architect and shall clearly describe the proposed substitution, state the reason for the unavailability of a specified item and be accompanied by such additional data and information as may be necessary in the discretion of the Owner and the Architect to establish the acceptability of the proposed substitute.

§ 3.4.7 The Owner shall be entitled to deduct from the Contract Sum amounts paid to the Architect to evaluate the Contractor's proposed Substitutions and for changes made to the Contract Documents as a result of Owner's acceptance of such Substitutions.

§ 3.5 Warranty

§ 3.5.1 The Contractor warrants to the Owner, Construction Manager, and Architect that materials and equipment furnished under the Contract will be of good quality and new unless the Contract Documents require or permit otherwise. The Contractor further warrants that the Work will conform to the requirements of the Contract Documents

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and will be free from defects, except for those inherent in the quality of the Work the Contract Documents require or permit. Work, materials, or equipment not conforming to these requirements may be considered defective. The Contractor's warranty excludes remedy for damage or defect caused by abuse, alterations to the Work not executed by the Contractor, improper or insufficient maintenance, improper operation, or normal wear and tear and normal usage. If required by the Construction Manager or Architect, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment.

§ 3.5.2 All material, equipment, or other special warranties required by the Contract Documents shall be issued in the name of the Owner, or shall be transferable to the Owner, and shall commence in accordance with Section 9.8.4. The Contractor shall arrange for the Owner to have the benefit of and right to enforce all warranties by Subcontractors, Sub-subcontractors, suppliers, and manufacturers.

§ 3.5.3 Manufacturers' warranties and warranties by other shall not relieve the Contractor of any of its responsibilities.

§ 3.5.4 The Contractor's general warranty and any additional or special warranties are not limited by the Contractor's obligations to specifically correct defective or nonconforming Work as provided in Article 12, nor are they limited by any other remedies provided in the Contract Documents. The Contractor shall also be liable for any damage to property or persons (including death) including consequential and direct damages relating to any breach of the Contractor's general warranty or any additional or special warranties required by the Contract Documents.

§ 3.5.5 The Contractor must furnish all special warranties required by the Contract Documents to the Owner no later than Substantial Completion. The Owner may require additional special warranties in connection with the approval of "Or-Equals" or Substitutions, Allowance items, Work that is defective or nonconforming, or the acceptance of nonconforming Work pursuant to Article 12.

§ 3.6 Taxes

The Contractor shall pay sales, consumer, use and similar taxes for the Work or portions thereof provided by the Contractor that are legally enacted when bids are received or negotiations concluded, whether or not yet effective or merely scheduled to go into effect.

§ 3.7 Permits, Fees, Notices, and Compliance with Laws

§ 3.7.1 Unless otherwise provided in the Contract Documents, the Owner, assisted by the Construction Manager, shall secure and pay for the building permit. The Contractor shall secure and pay for other permits, fees, licenses, and inspections by government agencies necessary for proper execution and completion of the Work that are customarily secured after execution of the Contract and legally required at the time bids are received or negotiations concluded. The Contractor shall be responsible for the Sewer Access (SAC) and Water Access (WAC) fees for the Project. The Contractor shall pay the SAC/WAC costs to the authorities having jurisdiction from the Allowance in the Base Bid for such charges as defined in the Construction Documents.

§ 3.7.2 The Contractor shall comply with and give notices required by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities applicable to performance of the Work.

§ 3.7.3 If the Contractor performs Work knowing or believing it to be contrary to applicable laws, statutes, ordinances, building codes, rules and regulations, or lawful orders of public authorities, without such notice to the Architect and Owner, the Contractor shall assume full responsibility for such Work and shall bear the attributable costs, delays, and damages resulting from such failure to immediately notify the Architect and Owner of any such violation..

§ 3.7.4 Concealed or Unknown Conditions. If the Contractor encounters conditions at the site that are (1) subsurface or otherwise concealed physical conditions that differ materially from those indicated in the Contract Documents or (2) unknown physical conditions of an unusual nature that differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents, the Contractor shall promptly provide notice to the Owner, Construction Manager, and the Architect before conditions are disturbed and in no event later than ten (10) days after first observance of the conditions. The Architect and Construction Manager will promptly investigate such conditions and, if the Architect, in consultation with the Construction Manager, determines that they differ materially and cause an increase or decrease in the Contractor's cost of, or time required for, performance of any part of the Work, will recommend that an equitable adjustment be made in the Contract Sum or Contract Time, or both. If the Architect, in consultation with the Construction Manager,

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determines that the conditions at the site are not materially different from those indicated in the Contract Documents and that no change in the terms of the Contract is justified, the Architect shall promptly notify the Owner, Construction Manager, and Contractor, stating the reasons. If the Owner or Contractor disputes the Architect's determination or recommendation, either party may submit a Claim as provided in Article 15.

§ 3.7.5 If, in the course of the Work, the Contractor encounters human remains or recognizes the existence of burial markers, archaeological sites or wetlands not indicated in the Contract Documents, the Contractor shall immediately suspend any operations that would affect them and shall notify the Owner, Construction Manager, and Architect. Upon receipt of such notice, the Owner shall promptly take any action necessary to obtain governmental authorization required to resume the operations. The Contractor shall continue to suspend such operations until otherwise instructed by the Owner but shall continue with all other operations that do not affect those remains or features. Requests for adjustments in the Contract Sum and Contract Time arising from the existence of such remains or features may be made as provided in Article 15.

§ 3.8 Allowances

§ 3.8.1 The Contractor shall include in the Contract Sum all allowances stated in the Contract Documents. Items covered by allowances shall be supplied for such amounts and by such persons or entities as the Owner may direct, but the Contractor shall not be required to employ persons or entities to whom the Contractor has reasonable objection.

§ 3.8.2 Unless otherwise provided in the Contract Documents:

.1 allowances shall cover the cost to the Contractor of materials and equipment delivered at the site and all required taxes, less applicable trade discounts;

.2 Contractor's costs for unloading and handling at the site, labor, installation costs, overhead, profit, and other expenses contemplated for stated allowance amounts shall be included in the Contract Sum but not in the allowances; and

.3 whenever costs are more than or less than allowances, the Contract Sum shall be adjusted accordingly by Change Order. The amount of the Change Order shall reflect (1) the difference between actual costs and the allowances under Section 3.8.2.1 and (2) changes in Contractor's costs under Section 3.8.2.2.

§ 3.8.3 Materials and equipment under an allowance shall be selected by the Owner with reasonable promptness.

§ 3.9 Superintendent

§ 3.9.1 The Contractor shall employ a competent superintendent and necessary assistants who shall be in attendance at the Project site during performance of the Work, including that performed by all Subcontractors. The superintendent shall represent the Contractor, and communications given to the superintendent shall be as binding as if given to the Contractor. Important communications including and not limited to communications regarding design changes, alterations, substitutions, clarifications, cost changes, etc. shall be confirmed in writing by the Contractor. Other communications shall be similarly confirmed on written request in each case.

§ 3.9.2 The Contractor, as soon as practicable after award of the Contract, shall notify the Owner and Architect, through the Construction Manager, of the name and qualifications of a proposed superintendent. Within 14 days of receipt of the information, the Construction Manager may notify the Contractor, stating whether the Owner, the Construction Manager, or the Architect (1) has reasonable objection to the proposed superintendent or (2) require additional time for review. Failure of the Construction Manager to provide notice within the 14-day period shall constitute notice of no reasonable objection.

§ 3.9.3 The Contractor shall not employ a proposed superintendent or any other management personnel to whom the Owner, Construction Manager, or Architect has made reasonable and timely objection. The Contractor shall not change the superintendent without the Owner's consent, which shall not unreasonably be withheld or delayed.

§ 3.9.4 If requested by the Owner, the Contractor shall replace the superintendent at no additional cost to the Owner. No other change in this position shall be made without notice to and written consent of the Owner.

§ 3.10 Contractor's Construction and Submittal Schedules

§ 3.10.1 The Contractor, promptly after being awarded the Contract, shall submit for the Owner's and Architect's information, and the Construction Manager's use in developing the Project schedule, a Contractor's construction schedule for the Work. The schedule shall contain detail appropriate for the Project, including (1) the date of

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commencement of the Work, interim schedule milestone dates, critical path schedule milestones, major construction milestones, including and not limited to Civil, Demolition, Structural, Mechanical, Electrical, and Plumbing, and the date of Substantial Completion; (2) an apportionment of the Work by construction activity; and (3) the time required for completion of each portion of the Work. The schedule shall provide for the orderly progression of the Work to completion and shall not exceed time limits current under the Contract Documents. The schedule shall be revised at appropriate intervals as required by the conditions of the Work and Project. The Contractor shall cooperate with the Construction Manager in scheduling and performing the Contractor's Work to avoid conflict with, and as to cause no delay in, the work or activities of other Contractors, or the construction or operations of the Owner's own forces or Separate Contractors.

§ 3.10.2 The Contractor, promptly after being awarded the Contract and thereafter as necessary to maintain a current submittal schedule, shall submit a submittal schedule for the Construction Manager's and Architect's approval. The Architect and Construction Manager's approval shall not be unreasonably delayed or withheld. The submittal schedule shall (1) be coordinated with the Contractor's construction schedule, and (2) allow the Construction Manager and Architect reasonable time to review submittals. If the Contractor fails to submit a submittal schedule, or fails to provide submittals in accordance with the approved submittal schedule, the Contractor shall not be entitled to any increase in Contract Sum or extension of Contract Time based on the time required for review of submittals.

§ 3.10.3 The Contractor shall participate with other Contractors, the Construction Manager, and the Owner in reviewing and coordinating all schedules for incorporation into the Project schedule that is prepared by the Construction Manager. The Contractor shall make revisions to the construction schedule and submittal schedule as deemed necessary by the Construction Manager to conform to the Project schedule.

§ 3.10.4 The Contractor shall perform the Work in general accordance with the most recent schedules submitted to and accepted in writing by the Owner, Construction Manager, and Architect, and incorporated into the approved Project schedule.

§ 3.11 Documents and Samples at the Site

§ 3.11.1 The Contractor shall make available, at the Project site, one record copy of the Contract Documents, including Change Orders, Construction Change Directives, and other Modifications, in good order and updated daily to indicate field changes and selections made during construction, and in addition accepted and approved Shop Drawings, Product Data, Samples, and similar required submittals. These shall be in electronic form or paper copy, available to the Construction Manager, Architect, and Owner as required to complete routine inspections by Architect, Construction Manager and Owner prior to any approval of payments to the Contractor, and delivered to the Construction Manager for submittal to the Owner upon completion of the Work. The Architect and Contractor must verify that all "as-built" Drawings, Specifications, Addenda, Change Orders, and other Modifications are up-to-date before Contractor's Application for Payment is acceptable and before the Owner incurs any duty to pay Contractor in accordance with the Contract. The record documents shall be a separate set of documents labeled "Record Documents" and used only for record purposes and kept clean and undamaged.

§ 3.11.2 No review or receipt of such records by the Architect or Owner shall be considered a waiver of any deviation from the Contract Documents or approved shop drawings, or any way relieve the Contractor from its responsibility to perform the Work in accordance with the Contract Documents.

§ 3.12 Shop Drawings, Product Data, and Samples

§ 3.12.1 Shop Drawings are drawings, diagrams, schedules, and other data specially prepared for the Work by the Contractor or a Subcontractor, Sub-subcontractor, manufacturer, supplier, or distributor to illustrate some portion of the Work.

§ 3.12.2 Product Data are illustrations, standard schedules, performance charts, instructions, brochures, diagrams, and other information furnished by the Contractor to illustrate materials or equipment for some portion of the Work.

§ 3.12.3 Samples are physical examples that illustrate materials, equipment, or workmanship, and establish standards by which the Work will be judged.

§ 3.12.4 Shop Drawings, Product Data, Samples, and similar submittals are not Contract Documents. Their purpose is to demonstrate how the Contractor proposes to conform to the information given and the design concept expressed in the Contract Documents for those portions of the Work for which the Contract Documents require submittals. Review

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by the Architect and Construction Manager is subject to the limitations of Sections 4.2.10 through 4.2.12. Informational submittals upon which the Construction Manager and Architect are not expected to take responsive action may be so identified in the Contract Documents. Submittals that are not required by the Contract Documents may be returned by the Construction Manager or Architect without action.

§ 3.12.5 The Contractor shall review for compliance with the Contract Documents, approve, and submit to the Construction Manager, Shop Drawings, Product Data, Samples, and similar submittals required by the Contract Documents, in accordance with the Project submittal schedule approved by the Construction Manager and Architect or, in the absence of an approved Project submittal schedule, with reasonable promptness and in such sequence as to cause no delay in the Work or in the activities of other Contractors, Separate Contractors, or the Owner's own forces. The Contractor shall cooperate with the Construction Manager in the coordination of the Contractor's Shop Drawings, Product Data, Samples, and similar submittals with related documents submitted by other Contractors. The Contractor must provide the Owner and the Architect with copies of all submittals made to regulatory agencies.

§ 3.12.6 By submitting Shop Drawings, Product Data, Samples, and similar submittals, the Contractor represents to the Owner, Construction Manager, and Architect, that the Contractor has (1) reviewed and approved them, (2) determined and verified materials, field measurements and field construction criteria related thereto, or will do so, and (3) checked and coordinated the information contained within such submittals with the requirements of the Work and of the Contract Documents.

§ 3.12.7 The Contractor shall perform no portion of the Work for which the Contract Documents require submittal and review of Shop Drawings, Product Data, Samples, or similar submittals, until the respective submittal has been reviewed and accepted by the Architect. The Contractor must correct at its cost, and without any adjustment in Contract Time, any Work the correction of which is required due to the Contractor's failure to obtain approval of a submittal required to have been obtained prior to proceeding with the Work, including, but not limited to, correction of any conflicts in the Work resulting from such failure.

§ 3.12.8 The Work shall be in accordance with accepted submittals except that the Contractor shall not be relieved of responsibility for deviations from the requirements of the Contract Documents by the Architect's acceptance of Shop Drawings, Product Data, Samples, or similar submittals, unless the Contractor has specifically notified the Construction Manager and Architect of such deviation at the time of submittal and (1) the Architect has given written acceptance to the specific deviation as a minor change in the Work, or (2) a Change Order or Construction Change Directive has been issued authorizing the deviation. The Contractor shall not be relieved of responsibility for errors or omissions in Shop Drawings, Product Data, Samples, or similar submittals, by the Architect's acceptance thereof.

§ 3.12.9 The Contractor shall direct specific attention, in writing or on resubmitted Shop Drawings, Product Data, Samples, or similar submittals, to revisions other than those requested by the Construction Manager and Architect on previous submittals. In the absence of such notice, the Architect's acceptance of a resubmission shall not apply to such revisions.

§ 3.12.10 The Contractor shall not be required to provide professional services that constitute the practice of architecture or engineering unless such services are specifically required by the Contract Documents for a portion of the Work or unless the Contractor needs to provide such services in order to carry out the Contractor's responsibilities for construction means, methods, techniques, sequences, and procedures. The Contractor shall not be required to provide professional services in violation of applicable law.

§ 3.12.10.1 If professional design services or certifications by a design professional related to systems, materials, or equipment are specifically required of the Contractor by the Contract Documents, the Owner and the Architect will specify all performance and design criteria that such services must satisfy. The Contractor shall be entitled to rely upon the adequacy and accuracy of the performance and design criteria provided in the Contract Documents. The Contractor shall cause such services or certifications to be provided by an appropriately licensed design professional, whose signature and seal shall appear on all drawings, calculations, specifications, certifications, Shop Drawings, and other submittals prepared by such professional. Shop Drawings, and other submittals related to the Work, designed or certified by such professional, if prepared by others, shall bear such professional's written approval when submitted to the Architect. The Owner, the Architect, and the Construction Manager shall be entitled to rely upon the adequacy and accuracy of the services, certifications, and approvals performed or provided by such design professionals, provided the Owner and Architect have specified to the Contractor the performance and design criteria that such services must

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satisfy. Pursuant to this Section 3.12.10, the Architect will review and approve or take other appropriate action on submittals only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Construction Manager shall review submittals for sequencing, constructability, and coordination impacts on other Contractors.

§ 3.12.10.2 If the Contract Documents require the Contractor's design professional to certify that the Work has been performed in accordance with the design criteria, the Contractor shall furnish such certifications to the Construction Manager and Architect at the time and in the form specified by the Architect.

§ 3.13 Use of Site

§ 3.13.1 The Contractor shall confine operations at the site to areas permitted by applicable laws, statutes, ordinances, codes, rules and regulations, lawful orders of public authorities, and the Contract Documents and shall not unreasonably encumber the site with materials or equipment.

§ 3.13.2 The Contractor shall coordinate the Contractor's operations with, and secure the approval of, the Construction Manager before using any portion of the site.

§ 3.13.3 Except as may be specifically provided in the Contract Documents, the Contractor shall provide all necessary temporary facilities, including power, water, sanitation, scaffolding, storage, and security. If Owner makes any such facilities available to Contractor, it is without representation or warranty as to their adequacy for Contractor's use, and Contractor shall indemnify, defend, and hold Owner harmless from and against any claims arising out of Contractor's use of such facilities.

§ 3.14 Cutting and Patching

§ 3.14.1 The Contractor shall be responsible for cutting, fitting, or patching required to complete the Work or to make its parts fit together properly. All areas requiring cutting, fitting, or patching shall be restored to the condition existing prior to the cutting, fitting, or patching, unless otherwise required by the Contract Documents.

§ 3.14.2 The Contractor shall not damage or endanger a portion of the Work or fully or partially completed construction of the Owner, Separate Contractors, or of other Contractors by cutting, patching, or otherwise altering such construction, or by excavation. The Contractor shall not cut or otherwise alter construction by the Owner, Separate Contractors, or by other Contractors except with written consent of the Construction Manager, Owner, and such other Contractors or Separate Contractors. Consent shall not be unreasonably withheld. The Contractor shall hire a professional utilities locator to verify locations of all public and private utilities prior to initiating any cutting work. The Contractor shall not unreasonably withhold, from the Separate Contractors, other Contractors, or the Owner, its consent to cutting or otherwise altering the Work.

§ 3.15 Cleaning Up

§ 3.15.1 The Contractor shall keep the premises and surrounding area continuously free from accumulation of waste materials and rubbish caused by operations under the Contract. At completion of the Work, the Contractor shall remove from and about the Project waste materials, rubbish, Contractor-generated waste materials, the Contractor's generated hazardous waste materials, the Contractor's tools, construction equipment, machinery, and surplus materials from and about the Project.

§ 3.15.2 If the Contractor fails to clean up as provided in the Contract Documents, the Owner, or Construction Manager with the Owner's approval, may do so and the Owner shall be entitled to reimbursement from the Contractor.

§ 3.16 Access to Work

The Contractor shall provide the Owner, Construction Manager, and Architect with access to the Work in preparation and progress wherever located.

§ 3.17 Royalties, Patents and Copyrights

The Contractor shall pay all royalties and license fees. The Contractor shall defend suits or claims for infringement of copyrights and patent rights and shall hold the Owner, Construction Manager, and Architect harmless from loss on account thereof, but shall not be responsible for defense or loss when a particular design, process, or product of a particular manufacturer or manufacturers is required by the Contract Documents, or where the copyright violations are contained in Drawings, Specifications, or other documents prepared by the Owner, Architect, or Construction

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Manager. However, if an infringement of a copyright or patent is discovered by, or made known to, the Contractor, the Contractor shall be responsible for the loss unless the information is promptly furnished to the Architect through the Construction Manager.

§ 3.18 Indemnification

§ 3.18.1 To the fullest extent permitted by law, the Contractor shall indemnify, defend and hold harmless the Owner, Construction Manager, Architect, Construction Manager's and Architect's consultants, and agents and employees of any of them from and against claims, damages, losses, and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), but only to the extent caused by the negligent acts or omissions of the Contractor, a Subcontractor, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss, or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity which would otherwise exist as to a party or person described in this Section 3.18. The Contractor, furthermore, agrees to obtain, maintain, and pay for such general liability coverage and endorsements (including product and completed operations coverage) as will ensure the provisions of this Section 3.18.1. The Contractor agrees to reimburse the Owner, its agents and employees for all costs and disbursements, including attorneys' fees, paid or incurred to enforce the provisions of this Section 3.18.1.

§ 3.18.2 In claims against any person or entity indemnified under this Section 3.18 by an employee of the Contractor, a Subcontractor, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, the indemnification obligation under Section 3.18.1 shall not be limited by a limitation on amount or type of damages, compensation, or benefits payable by or for the Contractor or a Subcontractor under workers' compensation acts, disability benefit acts, or other employee benefit acts.

§ 3.18.3 To the fullest extent permitted by law and without limiting any other indemnification obligations of the Contractor, except to the extent caused by the uncured failure of the Owner to make payment when due and owing, the Contractor shall indemnify and defend the Owner, its officers, directors, assigns, lenders, agents, and employees from any liens, charges (including attorneys' fees) or encumbrances (including but not limited to mechanic's and materialmen's liens or bond claims) arising out of or in connection with the performance of the Work by Contractor, its Subcontractors, or its material suppliers. Upon request of the Owner, the Contractor shall within sixty (60) days remove any liens filed against the Owner or its property. If the Contractor fails to do so, the Owner is authorized by the Contractor to remove or satisfy any such liens, and the Contractor shall pay to the Owner all costs and damages incurred by the Owner to do so, including attorneys' fees.

ARTICLE 4 ARCHITECT AND CONSTRUCTION MANAGER

§ 4.1 General

§ 4.1.1 The Architect is the person or entity retained by the Owner pursuant to Section 2.3.2 and identified as such in the Agreement.

§ 4.1.2 The Construction Manager is the person or entity retained by the Owner pursuant to Section 2.3.3 and identified as such in the Agreement.

§ 4.1.3 Duties, responsibilities, and limitations of authority of the Construction Manager and Architect as set forth in the Contract Documents shall not be restricted, modified, or extended without written consent of the Owner, Construction Manager, Architect, and Contractor. Consent shall not be unreasonably withheld.

§ 4.2 Administration of the Contract

§ 4.2.1 The Construction Manager and Architect will provide administration of the Contract as described in the Contract Documents and will be the Owner's consultants (1) during construction; (2) until final payment is due; and (3) with the Owner's concurrence, from time to time during the correction period described in Section 12.2. The Architect and Construction Manager will advise and consult with the Owner. The Construction Manager and Architect will have authority to act on behalf of the Owner only to the extent provided in the Contract Documents, unless otherwise modified in writing in accordance with other provisions of the Contract.

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§ 4.2.2 The Architect will visit the site at intervals appropriate to the stage of construction, or as otherwise agreed with the Owner, to become generally familiar with the progress and quality of the Work completed, to endeavor to guard the Owner against defects and deficiencies in the Work, and to determine in general if the Work is being performed in a manner indicating that the Work, when completed, will be in accordance with the Contract Documents. However, the Architect will not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. On the basis of the site visits, the Architect will keep the Owner and the Construction Manager reasonably informed about the progress and quality of the portion of the Work completed, and promptly report to the Owner and Construction Manager known deviations from the Contract Documents and defects and deficiencies observed in the Work.

§ 4.2.2.2 The Contractor shall reimburse the Owner for compensation paid to the Architect for additional site visits made necessary by fault, neglect, or request of the Contractor.

§ 4.2.3 The Construction Manager shall provide one or more representatives who shall be in attendance at the Project site whenever the Work is being performed. The Construction Manager will determine in general if the Work observed is being performed in accordance with the Contract Documents, will keep the Owner and Architect reasonably informed of the progress of the Work, and will promptly report to the Owner and Architect known deviations from the Contract Documents and the most recent Project schedule, and defects and deficiencies observed in the Work.

§ 4.2.4 The Construction Manager will schedule and coordinate the activities of the Contractor and other Contractors in accordance with the latest approved Project schedule.

§ 4.2.5 The Construction Manager, except to the extent required by Section 4.2.4, and Architect will not have control over, charge of, or responsibility for, the construction means, methods, techniques, sequences or procedures, or for the safety precautions and programs in connection with the Work, since these are solely the Contractor's rights and responsibilities under the Contract Documents, and neither will be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. Neither the Construction Manager nor the Architect will have control over or charge of, or be responsible for acts or omissions of, the Contractor, Subcontractors, or their agents or employees, or of any other persons or entities performing portions of the Work.

§ 4.2.6 Communications. The Owner shall communicate with the Contractor and the Construction Manager's consultants through the Construction Manager about matters arising out of or relating to the Contract Documents. The Owner and Construction Manager shall include the Architect in all communications that relate to or affect the Architect's services or professional responsibilities. The Owner shall promptly notify the Architect of the substance of any direct communications between the Owner and the Construction Manager otherwise relating to the Project. Communications by and with the Architect's consultants shall be through the Architect. Communications by and with Subcontractors and suppliers shall be through the Contractor. Communications by and with other Contractors shall be through the Construction Manager. Communications by and with the Owner's own forces and Separate Contractors shall be through the Owner unless otherwise provided. The Contract Documents may specify other communication protocols. The Owner may require the Architect, Construction Manager and the Contractor to comply with Owner requirements in regards to public communications and site signage.

§ 4.2.7 The Construction Manager and Architect will review and certify all Applications for Payment by the Contractor, in accordance with the provisions of Article 9.

§ 4.2.8 The Architect and Construction Manager have authority to reject Work that does not conform to the Contract Documents, and will notify each other about the rejection. Whenever the Construction Manager considers it necessary or advisable for implementation of the intent of the Contract Documents, the Construction Manager will have authority to require additional inspection or testing of the Work in accordance with Sections 13.4.2 and 13.4.3, upon written authorization of the Owner, whether or not the Work is fabricated, installed or completed. The foregoing authority of the Construction Manager will be subject to the provisions of Sections 4.2.18 through 4.2.20 inclusive, with respect to interpretations and decisions of the Architect. However, neither the Architect's nor the Construction Manager's authority to act under this Section 4.2.8 nor a decision made by either of them in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect or the Construction Manager to the Contractor, Subcontractors, suppliers, their agents or employees, or other persons performing any of the Work.

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§ 4.2.9 Utilizing the submittal schedule provided by the Contractor, the Construction Manager shall prepare, and revise as necessary, a Project submittal schedule incorporating information from other Contractors, the Owner, Owner's consultants, Owner's Separate Contractors and vendors, governmental agencies, and participants in the Project under the management of the Construction Manager. The Project submittal schedule and any revisions shall be submitted to the Architect for approval.

§ 4.2.10 The Construction Manager will receive and promptly review for conformance with the submittal requirements of the Contract Documents, all submittals from the Contractor such as Shop Drawings, Product Data, and Samples. Where there are other Contractors, the Construction Manager will also check and coordinate the information contained within each submittal received from the Contractor and other Contractors, and transmit to the Architect those recommended for approval. By submitting Shop Drawings, Product Data, Samples, and similar submittals, the Construction Manager represents to the Owner and Architect that the Construction Manager has reviewed and recommended them for approval. The Construction Manager's actions will be taken in accordance with the Project submittal schedule approved by the Architect or, in the absence of an approved Project submittal schedule, with reasonable promptness while allowing sufficient time to permit adequate review by the Architect.

§ 4.2.11 The Architect will, and the Owner may, review and approve, or take other appropriate action upon, the Contractor's submittals such as Shop Drawings, Product Data, and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Architect's or Owner's action will be taken with such reasonable promptness as to cause no delay in the Work or in the activities of the Owner, Contractor or separate contractors, while allowing sufficient time in the Architect's professional judgment to permit adequate review. Upon the Architect's or the Owner's completed review, the Architect shall transmit its submittal review to the Construction Manager.

§ 4.2.12 Review of the Contractor's submittals by the Construction Manager and Architect is not conducted for the purpose of determining the accuracy and completeness of other details such as dimensions and quantities, or for substantiating instructions for installation or performance of equipment or systems, all of which remain the responsibility of the Contractor as required by the Contract Documents. The Construction Manager and Architect's review of the Contractor's submittals shall not relieve the Contractor of the obligations under Sections 3.3, 3.5, and 3.12. The Construction Manager and Architect's review shall not constitute approval of safety precautions or of any construction means, methods, techniques, sequences, or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

§ 4.2.13 The Construction Manager will prepare Change Orders and Construction Change Directives.

§ 4.2.14 The Construction Manager and the Architect will take appropriate action on Change Orders or Construction Change Directives in accordance with Article 7, and the Architect will have authority to order minor changes in the Work as provided in Section 7.4. The Architect, in consultation with the Construction Manager, will investigate and make determinations and recommendations regarding concealed and unknown conditions as provided in Section 3.7.4.

§ 4.2.15 Utilizing the documents provided by the Contractor, the Construction Manager will maintain at the site for the Owner one copy of all Contract Documents, approved Shop Drawings, Product Data, Samples, and similar required submittals, in good order and marked currently to record all changes and selections made during construction. These will be available to the Architect and the Contractor, and will be delivered to the Owner upon completion of the Project.

§ 4.2.16 The Construction Manager will assist the Architect in conducting inspections to determine the date or dates of Substantial Completion and the date of final completion; issue Certificates of Substantial Completion in conjunction with the Architect pursuant to Section 9.8; and receive and forward to the Owner written warranties and related documents required by the Contract and assembled by the Contractor pursuant to Section 9.10. The Construction Manager will forward to the Architect a final Application and Certificate for Payment or final Project Application and Project Certificate for Payment upon the Contractor's compliance with the requirements of the Contract Documents.

§ 4.2.17 If the Owner and Architect agree, the Architect will provide one or more Project representatives to assist in carrying out the Architect's responsibilities at the site. The Owner shall notify the Construction Manager of any change in the duties, responsibilities and limitations of authority of the Project representatives.

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§ 4.2.18 The Architect will interpret and decide matters concerning performance under the requirements of, the Contract Documents on written request of the Construction Manager, Owner, or Contractor through the Construction Manager. The Architect's response to such requests will be made with reasonable promptness and within any time limits agreed upon. If no agreement is made concerning the time within which interpretations required of the Architect shall be furnished in compliance with this Section 4.2.18, then delay shall not be recognized on account of failure by the Architect to furnish such interpretations until fifteen (15) days after written request is made to them.

§ 4.2.19 Architect's decisions on matters relating to aesthetic effect will be final if consistent with the intent expressed in the Contract Documents.

§ 4.2.20 Architect will review and respond to requests for information about the Contract Documents. The Architect's response to such requests will be made in writing within any time limits agreed upon or otherwise with reasonable promptness. If appropriate, the Architect will prepare and issue supplemental Drawings and Specifications in response to the requests for information.

(Paragraph deleted)

ARTICLE 5 SUBCONTRACTORS

§ 5.1 Definitions

§ 5.1.1 A Subcontractor is a person or entity who has a direct contract with the Contractor to perform a portion of the Work at the site. The term "Subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Subcontractor or an authorized representative of the Subcontractor. The term "Subcontractor" does not include other Contractors or Separate Contractors or the subcontractors of other Contractors or Separate Contractors.

§ 5.1.2 A Sub-subcontractor is a person or entity who has a direct or indirect contract with a Subcontractor to perform a portion of the Work at the site. The term "Sub-subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Sub-subcontractor or an authorized representative of the Sub-subcontractor.

§ 5.2 Award of Subcontracts and Other Contracts for Portions of the Work

§ 5.2.1 Unless otherwise stated in the Contract Documents, the Contractor, as soon as practicable after award of the Contract, shall notify in writing the Construction Manager, for review by the Owner, Construction Manager and Architect, of the persons or entities proposed for each principal portion of the Work, including those who are to furnish materials or equipment fabricated to a special design. Within 14 days of receipt of the information, the Construction Manager may notify the Contractor whether the Owner, the Construction Manager or the Architect (1) has reasonable objection to any such proposed person or entity or, (2) requires additional time for review. Failure of the Construction Manager to provide notice within the 14-day period shall constitute notice of no reasonable objection. The Contractor shall not employ any Subcontractor or use any material to which the Architect, Construction Manager or Owner may object. Prior to the employment of any Subcontractor, the Contractor must obtain the Owner's approval of such Subcontractor for the designated portion of the Work.

§ 5.2.2 The Contractor shall not contract with a proposed person or entity to whom the Owner, Construction Manager or Architect has made reasonable and timely objection. The Contractor shall not be required to contract with anyone to whom the Contractor has made reasonable objection.

§ 5.2.3 If the Owner, Construction Manager or Architect has reasonable objection to a person or entity proposed by the Contractor, the Contractor shall propose another to whom the Owner, Construction Manager or Architect has no reasonable objection. The Contract Sum shall be increased or decreased by the difference in cost occasioned by such change, and an appropriate Change Order shall be issued. However, no increase in the Contract Sum or Contract Time shall be allowed for such change unless the Contractor has acted promptly and responsively in submitting names as required. Notwithstanding the foregoing, the Contractor shall have a continuing duty to the Owner, Construction Manager and Architect to find and propose such persons or entities as shall not result in material increase in the Contract Sum, or a material decrease in the quality of Work contemplated under the Contract Documents.

§ 5.2.4 The Contractor shall not substitute a Subcontractor, person, or entity for one previously selected if the Owner, Construction Manager or Architect makes reasonable objection to such substitution. Any proposed substitution of a Subcontractor, person, or entity for one previously selected shall be made in a separate writing to the Owner, Construction Manager and Architect. No substitution shall be deemed approved/accepted without written

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confirmation from the Owner, Construction Manager and Architect. Neither acceptance of, nor objection to a Subcontractor or Sub-subcontractor, material supplier, or other person or organization by the Owner, Construction Manager and Architect shall limit the responsibility of the Contractor to furnish materials, products, equipment, and services in conformance with the requirements of the Contract Documents.

§ 5.3 Subcontractual Relations

§ 5.3.1 By appropriate written agreement, the Contractor shall require each Subcontractor, to the extent of the Work to be performed by the Subcontractor, to be bound to the Contractor by terms of the Contract Documents, and to assume toward the Contractor all the obligations and responsibilities, including the responsibility for safety of the Subcontractor's Work, that the Contractor, by these Contract Documents, assumes toward the Owner, Construction Manager and Architect. Each subcontract agreement shall preserve and protect the rights of the Owner, Construction Manager and Architect under the Contract Documents with respect to the Work to be performed by the Subcontractor so that subcontracting thereof will not prejudice such rights, and shall allow to the Subcontractor, unless specifically provided otherwise in the subcontract agreement, the benefit of all rights, remedies, and redress against the Contractor that the Contractor, by the Contract Documents, has against the Owner. Where appropriate, the Contractor shall require each Subcontractor to enter into similar agreements with Sub-subcontractors. The Contractor shall make available to each proposed Subcontractor, prior to the execution of the subcontract agreement, copies of the Contract Documents to which the Subcontractor will be bound, and, upon written request of the Subcontractor, identify to the Subcontractor terms and conditions of the proposed subcontract agreement that may be at variance with the Contract Documents. Subcontractors shall similarly make copies of applicable portions of such documents available to their respective proposed Sub-subcontractors.

§ 5.3.2 The Contractor is responsible for the performance of, the actions of, the timeliness of, or interference caused by, Subcontractors, Sub-subcontractors (of any tier), and others directly or indirectly under contract to the Contractor.

§ 5.4 Contingent Assignment of Subcontracts

§ 5.4.1 Each subcontract agreement for a portion of the Work is assigned by the Contractor to the Owner, provided that

.1 assignment is effective only after termination of the Contract by the Owner for cause pursuant to Section 14.2 and only for those subcontract agreements that the Owner accepts by notifying the Subcontractor and Contractor; and

.2 assignment is subject to the prior rights of the surety, if any, obligated under bond relating to the Contract.

When the Owner accepts the assignment of a subcontract agreement, the Owner assumes the Contractor's rights and obligations under the subcontract.

§ 5.4.2 Upon such assignment, if the Work has been suspended for more than 30 days, the Subcontractor's compensation shall be equitably adjusted for increases in cost resulting from the suspension.

§ 5.4.3 Upon assignment to the Owner under this Section 5.4, the Owner may further assign the subcontract to a successor Contractor or other entity. If the Owner assigns the subcontract to a successor Contractor or other entity, the Owner shall nevertheless remain legally responsible for all of the successor Contractor's obligations under the subcontract.

ARTICLE 6 CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTORS

§ 6.1 Owner's Right to Perform Construction with Own Forces and to Award Other Contracts

§ 6.1.1 The Owner reserves the right to perform construction or operations related to the Project with the Owner's own forces, and with Separate Contractors retained under Conditions of the Contract substantially similar to those of this Contract, including those provisions of the Conditions of the Contract related to insurance and waiver of subrogation.

§ 6.1.2 When the Owner performs construction or operations with the Owner's own forces or Separate Contractors, the Owner shall provide for coordination of such forces and Separate Contractors with the Work of the Contractor, who shall cooperate with them.

§ 6.1.3 Unless otherwise provided in the Contract Documents, when the Owner performs construction or operations related to the Project with the Owner's own forces or with Separate Contractors, the Owner or its Separate Contractors

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shall have the same obligations and rights that the Contractor has under the Conditions of the Contract, including, without excluding others, those stated in Article 3, this Article 6, and Articles 10, 11, and 12.

§ 6.2 Mutual Responsibility

§ 6.2.1 The Contractor shall afford the Owner's own forces, Separate Contractors, Construction Manager and other Contractors reasonable opportunity for introduction and storage of their materials and equipment and performance of their activities, and shall connect and coordinate the Contractor's construction and operations with theirs as required by the Contract Documents.

§ 6.2.2 If part of the Contractor's Work depends for proper execution or results upon construction or operations by the Owner's own forces, Separate Contractors or other Contractors, the Contractor shall, prior to proceeding with that portion of the Work, promptly notify the Construction Manager and Architect of apparent discrepancies or defects in the construction or operations by the Owner or Separate Contractor or other Contractors that would render it unsuitable for proper execution and results of the Contractor's Work. Failure of the Contractor to notify the Construction Manager and the Architect of apparent discrepancies or defects prior to proceeding with the Work shall constitute an acknowledgment that the Owner's or Separate Contractor's or other Contractors' completed or partially completed construction is fit and proper to receive the Contractor's Work. The Contractor shall not be responsible for discrepancies or defects in the construction or operations by the Owner or Separate Contractors or other Contractors that are not reasonably discoverable.

§ 6.2.3 Costs caused by delays or by improperly timed activities or defective construction shall be borne by the party responsible therefor.

§ 6.2.4 The Contractor shall promptly remedy damage that the Contractor wrongfully causes to completed or partially completed construction, or to property of the Owner, Separate Contractors, or other Contractors as provided in Section 10.2.5.

§ 6.2.5 Claims and other disputes and matters in question between the Contractor and a separate contractor shall be subject to the provisions of Article 15 provided the separate contractor has reciprocal obligations.

§ 6.2.6 The Owner, Separate Contractors, and other Contractors shall have the same responsibilities for cutting and patching as are described for the Contractor in Section 3.14.

§ 6.3 Owner's Right to Clean Up

If a dispute arises among the Contractor, Separate Contractors, other Contractors, and the Owner as to the responsibility under their respective contracts for maintaining the premises and surrounding area free from waste materials and rubbish as described in Section 3.15, the Owner may clean up allocate the cost among those responsible as the Architect determines to be just..

ARTICLE 7 CHANGES IN THE WORK

§ 7.1 General

§ 7.1.1 Changes in the Work may be accomplished after execution of the Contract, and without invalidating the Contract, by Change Order, Construction Change Directive or order for a minor change in the Work, subject to the limitations stated in this Article 7 and elsewhere in the Contract Documents.

§ 7.1.2 A Change Order shall be based upon agreement among the Owner, Construction Manager, Architect and Contractor. A Construction Change Directive requires agreement by the Owner, Construction Manager and Architect and may or may not be agreed to by the Contractor.

§ 7.1.3 Changes in the Work shall be performed under applicable provisions of the Contract Documents. The Contractor shall proceed promptly with changes in the Work, unless otherwise provided in the Change Order, Construction Change Directive, or order for a minor change in the Work.

§ 7.1.4 The amount of credit to be allowed by the Contractor to the Owner for any deletion or change which results in a net decrease in the Contract Sum will be the amount of the actual net cost as confirmed by the Architect after consultation with the Owner and Construction Manager. When both additions and credits covering related Work or

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substitutions are involved in any one change, the allowance for both overhead and profit shall be figured on the basis of the net increase or decrease, if any, with respect to that change.

§ 7.1.5 In Section 7.3.6, the allowance for the combined overhead and profit included in the total cost to the Owner shall be based on the following schedule:

.1 For the Contractor, for Work performed by the Contractor's own forces, ten percent (10%) of the cost;

.2 For the Contractor, for Work performed by the Contractor's Subcontractor, five percent (5%) of the amount due the Subcontractor;

.3 For each Subcontractor or Sub-subcontractor involved for Work performed by the Subcontractor's or Sub-subcontractor's own forces, ten percent (10%) of the cost;

.4 For each Subcontractor for Work performed by the Subcontractor's Sub-subcontractor, five percent (5%) of the amount due the Subcontractor;

.5 Costs to which overhead and profit is to be applied shall be determined in accordance with Section 7.3.6;

.6 In order to facilitate checking of quotations for extras or credits, all proposals, expect those so minor that their propriety can be seen by inspection, shall be accompanied by a complete itemization of costs, including labor, materials and subcontracts. Labor and materials shall be itemized in the manner prescribed above. Where major cost items are subcontracts, they shall be itemized also. In no case will a change involving over $500 be approved without such itemization.

§ 7.2 Change Orders and Change Proposals

§ 7.2.1 A Change Order is a written instrument prepared by the Construction Manager and signed by the Owner, Construction Manager, Architect, and Contractor, stating their agreement upon all of the following:

.1 The change in the Work;

.2 The amount of the adjustment, if any, in the Contract Sum; and

.3 The extent of the adjustment, if any, in the Contract Time.

§ 7.2.2 Change Order shall be prepared on AIA Document G731.

§ 7.2.3 The Contractor must submit Change Proposals covering a contemplated Change Order within ten (10) days after request of the Owner, or the Architect or within ten (10) days of the event, or Contractor's discovery of a condition, whichever is earlier, giving rise to the Contractor's claim for a change in the Contract Sum or Contract Time. No increase in the Contract Sum or extension of the Contract Time will be allowed the Contractor for the cost or time involved in making Change Proposals. Change Proposals will define or confirm in detail the Work which is proposed to be added, deleted, or changed and must include any adjustment which the Contractor believes to be necessary in (i) the Contract Sum, or (ii) the Contract Time. Any proposed adjustment must include detailed documentation including, but not limited to: cost, properly itemized and supported by sufficient substantiating data to permit evaluation including cost of labor, materials, supplies and equipment, rental cost of machinery and equipment, additional bond cost, plus a fixed fee for profit and overhead (which includes office overhead and Site-specific overhead and general conditions) of ten percent (10%) if the Work is performed by the Contractor, or five percent (5%) if the Work is performed by a Subcontractor or Sub-subcontractor. The Subcontractor's or Sub-subcontractor's overhead and profit in turn must not exceed a total aggregate of ten percent (10%). Change Proposals will be binding upon the Contractor and may be accepted or rejected by the Owner in its discretion. The Owner may, at its option, instruct the Contractor through a Construction Change Directive to proceed with the Work involved in the Change Proposal in accordance with Section 7.3 without accepting the Change Proposal in its entirety.

§ 7.2.4 If the Owner determines that a Change Proposal is appropriate, the Architect will prepare and submit a request for a Change Order or Contract Amendment providing for an appropriate adjustment in the Contract Sum or Contract Time, or both, for further action by the Owner. No such change is effective until the Owner and Architect sign the Change Order.

§ 7.3 Construction Change Directives

§ 7.3.1 A Construction Change Directive is a written order prepared by the Construction Manager and signed by the Owner, Construction Manager and Architect, directing a change in the Work prior to agreement on adjustment, if any, in the Contract Sum or Contract Time, or both. The Owner may by Construction Change Directive, without

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invalidating the Contract, order changes in the Work within the general scope of the Contract consisting of additions, deletions, or other revisions, the Contract Sum and Contract Time being adjusted accordingly.

§ 7.3.2 A Construction Change Directive shall be used in the absence of total agreement on the terms of a Change Order.

§ 7.3.3 If the Construction Change Directive provides for an adjustment to the Contract Sum, the adjustment shall be based on one of the following methods:

.1 Mutual acceptance of a lump sum properly itemized and supported by sufficient substantiating data to permit evaluation;

.2 Unit prices stated in the Contract Documents or subsequently agreed upon;

.3 Cost to be determined in a manner agreed upon by the parties and a mutually acceptable fixed or percentage fee; or

.4 As provided in Section 7.3.4.

§ 7.3.4 If the Contractor does not respond promptly or disagrees with the method for adjustment in the Contract Sum, the Owner and the Construction Manager shall determine the adjustment on the basis of reasonable expenditures and savings of those performing the Work attributable to the change, including, in case of an increase in the Contract Sum, an amount for overhead and profit as set forth in the Agreement, or if no such amount is set forth in the Agreement, a reasonable amount. In such case, and also under Section 7.3.3.3, the Contractor shall keep and present, in such form as the Construction Manager may prescribe, an itemized accounting together with appropriate supporting data. Unless otherwise provided in the Contract Documents, costs for the purposes of this Section 7.3.4 shall be limited to the following:

.1 Costs of labor, including applicable payroll taxes, fringe benefits required by agreement or custom, workers' compensation insurance, and other employee costs approved by the Construction Manager and Architect;

.2 Costs of materials, supplies, and equipment, including cost of transportation, whether incorporated or consumed;

.3 Rental costs of machinery and equipment, exclusive of hand tools, whether rented from the Contractor or others (at rates approved by the Owner);

.4 Costs of premiums for all bonds and insurance, permit fees, and sales, use, or similar taxes, directly related to the change; and

.5 Costs of supervision and field office personnel directly attributable to the change.

§ 7.3.5 If the Contractor disagrees with the adjustment in the Contract Time, the Contractor may make a Claim in accordance with applicable provisions of Article 15.

§ 7.3.6 Upon receipt of a Construction Change Directive, the Contractor shall promptly proceed with the change in the Work involved and advise the Construction Manager of the Contractor's agreement or disagreement with the method, if any, provided in the Construction Change Directive for determining the proposed adjustment in the Contract Sum or Contract Time.

§ 7.3.7 A Construction Change Directive signed by the Contractor indicates the Contractor's agreement therewith, including adjustment in Contract Sum and Contract Time or the method for determining them. Such agreement shall be effective immediately.

§ 7.3.8 The amount of credit to be allowed by the Contractor to the Owner for a deletion or change that results in a net decrease in the Contract Sum shall be actual net cost as confirmed by the Construction Manager and Architect. When both additions and credits covering related Work or substitutions are involved in a change, the allowance for overhead and profit shall be figured on the basis of net increase, if any, with respect to that change.

§ 7.3.9 Pending final determination of the total cost of a Construction Change Directive to the Owner, the Contractor may request payment for Work completed under the Construction Change Directive in Applications for Payment up to and not exceeding $25,000. The Construction Manager and Architect will make an interim determination for purposes of monthly certification for payment for those costs and certify for payment the amount that the Construction Manager and Architect determine to be reasonably justified. The interim determination of cost shall adjust the Contract Sum on

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the same basis as a Change Order, subject to the right of either party to disagree and assert a Claim in accordance with Article 15.

§ 7.3.10 When the Owner and Contractor agree with a determination made by the Construction Manager and Architect concerning the adjustments in the Contract Sum and Contract Time, or otherwise reach agreement upon the adjustments, such agreement shall be effective immediately and the Construction Manager shall prepare a Change Order. Change Orders may be issued for all or any part of a Construction Change Directive.

§ 7.4 Minor Changes in the Work

The Architect may order minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. The Architect's order for minor changes shall be in writing and approved by the Owner. If the Contractor believes that the proposed minor change in the Work will affect the Contract Sum or Contract Time, the Contractor shall notify the Construction Manager and shall not proceed to implement the change in the Work. If the Contractor performs the Work set forth in the Architect's order for a minor change without prior notice to the Construction Manager that such change will affect the Contract Sum or Contract Time, the Contractor waives any adjustment to the Contract Sum or extension of the Contract Time.

ARTICLE 8 TIME

§ 8.1 Definitions

§ 8.1.1 Unless otherwise provided, Contract Time is the period of time, including authorized adjustments, allotted in the Contract Documents for Substantial Completion of the Work.

§ 8.1.2 The date of commencement of the Work is the date established in the Agreement. The date shall not be postponed by the failure to act of the Contractor or of persons or entities for whom the Contractor is responsible.

§ 8.1.3 The date of Substantial Completion is the date certified by the Architect in accordance with Section 9.8.

§ 8.1.4 The term "day" shall mean calendar day of 24 hours beginning at 12:00 midnight. Calendar days as stated in the Contract Documents, shall include all days of a seven (7) day week including Saturdays, Sundays, and holidays. The term "Milestone Date" is, in each instance, the date established in the Contract Documents for the Substantial completion of all or a designated portion of the Work.

§ 8.2 Progress and Completion

§ 8.2.1 Time limits stated in the Contract Documents are of the essence of the Contract. By executing the Agreement, the Contractor confirms that the Contract Time is a reasonable period for performing the Work.

§ 8.2.2 The Contractor shall not knowingly, except by agreement or instruction of the Owner in writing, commence the Work prior to the effective date of insurance required to be furnished by the Contractor and Owner.

§ 8.2.3 The Contractor shall proceed expeditiously with adequate forces and shall achieve Substantial Completion within the Contract Time and shall achieve specific contractual Milestone Dates (if any), Substantial Completion and final Completion within the time stated in the Contract Documents.

§ 8.2.4 Contractor understands and agrees that all Work must be performed in an orderly and closely coordinated sequence so that the dates for Substantial Completion, Final Completion, and Milestone Dates (if any) may be met by the Contractor.

§ 8.2.5 Timely final completion of the Project is of critical importance to the Owner. The Contractor agrees that it shall substantially complete all Work under the Contract documents within the time established herein and that it shall finally complete the Work in the detail required and in the time required by the Contract Documents.

§ 8.2.6 To the extent that the Contract Documents contain or provide for specific contractual Milestone Dates in addition to Final and Substantial Completion dates, such dates shall be adhered to and shall be the last acceptable dates for those milestones and completions, unless modified by the Owner.

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§ 8.2.7 Notwithstanding anything to the contrary contained in the Contract Documents, in the event that any Contractor fails, or appears likely, in the reasonable opinion of the Owner and Construction Manager, to fail to complete a critical portion of their Work on time or to complete any dates for Substantial Completion, Final Completion, or Milestone Dates as evidenced by the latest update of the CPM Schedule Report, the Owner shall have the right to select and require Contractor's performance under any or all of the following operations:

.1 Require the Contractor to substantiate their capability to get back on schedule within two (2) days;

.2 Require the Contractor, at no additional cost to the Owner, to increase their work force, work overtime and/or extra shifts and do whatever else is required by the Owner until the Contractor gets back on schedule as established by the CPM Schedule Report (including any updates thereto);

.3 Withhold progress payments or portions thereof until such time as the contractor returns to schedule, but only related to Substantial Completion or Final Completion;

.4 Contact or visit the factory, plant, or distribution center whose production or delivery schedule may be critical to the scheduled completion of a portion of the contract work and expedite such production delivery at Contractor's expense; or

.5 Require the Contractor to complete, in detail, and submit weekly a Short Interval Schedule (SIS) showing: (1) planning for the next two weeks; (2) work completed for the previous week; (3) sufficient detail to evaluate daily milestone (if any) and manpower/equipment loading, and shall identify/tie into the monthly updated CPM Schedule Report.

Any costs incurred by the Contractor in fulfilling the option(s) selected by the Owner shall be at the Contractor's expense.

§ 8.3 Delays and Extensions of Time

§ 8.3.1 If the Contractor is delayed at any time in the progress of the Work by (1) an act or neglect of the Owner, Architect, Construction Manager, or an employee of any of them, or of the Owner's own forces, Separate Contractors, or other Contractors; (2) by changes ordered in the Work; (3) by labor disputes, fire, unusual delay in deliveries, unavoidable casualties, adverse weather conditions documented in accordance with Section 15.1.6.2, or other causes beyond the Contractor's control; or (4) by other causes that the Contractor asserts and the Architect, based on the recommendation of the Construction Manager, determines justify delay, then subject to the conditions hereinafter set forth, the Contract Time shall be extended by Change Order for such reasonable time as the Architect may determine. Requests for extensions of time for causes enumerated above will be considered by the Architect subject to the following:

.1 Only those conditions enumerated above over which the Contractor has no control will be considered. The burden of proof to substantiate the claim for an extension shall rest with the Contractor, including evidence that the cause was beyond their control. It shall be deemed the Contractor has control over the supply of labor, materials, equipment, methods, techniques, and over their Subcontractors and suppliers;

.2 In the event of Changes in the Work, any consideration for a time extension will be made only at the time of authorizing the changes, and no later than when the Change Order is prepared, and only if the Change Order significantly affects the time and progress of the entire Work. For changes which do not affect the entire Work, time extension may be granted only for the area, phase, unit, or element affected by the change, if due to a valid reason for a time extension;

.3 Any unusual delay in deliveries will not be considered unless it is solely due to transportation issues wholly outside of Contractor's, Subcontractor's, Sub-subcontractor's or Supplier's control. An extension of time will not be granted for delays in deliveries where said delivery was not properly scheduled or when orders were not promptly and properly placed;

.4 With respect to a claim for an extension of time as a result of climatic conditions, the Contractor shall recognize the location of the site and the existence, as normal, or variations from "average" conditions. Foul weather in itself will not be a valid reason for a time extension. Requests for time extensions because of delay resulting from weather extremes will not be considered unless a substantial variation from usual weather conditions occurs for a significant period of time, during phases of the Work when operation necessarily were suspended to a significant degree when they would otherwise have been in progress. In considering the time extension, the weather conditions both before and after the period in which the delay is claimed will be evaluated with credit given to Owner for unseasonably favorable weather;

.5 Delays resulting from a labor dispute will not result in a time extension of a longer period than the dispute, plus a reasonable time for mobilization if justified and necessary as approved by the

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Architect, and may be less depending on the impact of the dispute, including what operations were suspended or curtailed;

.6 No time extension will be granted as a result of improper scheduling or for failure to have shop drawings or samples submitted in ample time for review under a reasonable and agreed upon schedule; or

.7 Delays by Subcontractors or suppliers will not be considered justification for a time extension, except for the same valid reasons and conditions enumerated under Section 8.3.1.

§ 8.3.2 Claims relating to time shall be made in accordance with applicable provisions of Article 15.

§ 8.3.3 This Section 8.3 does not preclude recovery of damages for delay by either party under other provisions of the Contract Documents.

§ 8.3.4 The Contractor shall be responsible for all Owner incurred costs associated with a Contractor related to delay in completion of the Project. These costs may include, but are not limited to, Owner staff overtime, Consultant additional fees, additional testing, and/or additional rental or storage costs. A Change Order or Construction Change Directive will be issued to cover these costs. If a Change Order is not agreed to by the Contractor, the Owner, after presenting documentation to the Contractor, may deduct these amounts without a Change Order from the Contract Sum.

ARTICLE 9 PAYMENTS AND COMPLETION

§ 9.1 Contract Sum

§ 9.1.1 The Contract Sum is stated in the Agreement and, including authorized adjustments, is the total amount payable by the Owner to the Contractor for performance of the Work under the Contract Documents.

§ 9.1.2 If unit prices are stated in the Contract Documents or subsequently agreed upon, and if quantities originally contemplated are materially changed so that application of such unit prices to the actual quantities causes substantial inequity to the Owner or Contractor, the applicable unit prices shall be equitably adjusted.

§ 9.2 Schedule of Values

Before the first Application for Payment, the Contractor shall submit to the Architect and Construction Manager a schedule of values allocated to various portions of the Work, prepared in the form, and supported by the data to substantiate its accuracy, required by the Construction Manager and the Architect. The schedule, unless objected to by the Construction Manager or Architect, shall be used as a basis for reviewing the Contractor's Applications for Payment. The Construction Manager shall forward to the Architect the Contractor's schedule of values. Any changes to the schedule of values shall be submitted to the Construction Manager and supported by such data to substantiate its accuracy as the Construction Manager and the Architect may require, and unless objected to by the Construction Manager or the Architect, shall be used as a basis for reviewing the Contractor's subsequent Applications for Payment. The Contractor, after receipt of Notice to Proceed, shall meet with the Owner, Construction Manager and the Architect for the purpose of reviewing the Project CPM Schedule and the Contract Schedule of Values. The Contractor shall develop a CPM Schedule for completing their portion of the Work, in conjunction with all other Contractors or Bid Packages, at the Pre-Construction Meeting(s). The Schedule of Values is to be broken down into specification sections and by labor and materials.

§ 9.3 Applications for Payment

§ 9.3.1 At least fifteen days before the date established for each progress payment, the Contractor shall submit to the Construction Manager an itemized Application for Payment for operations completed in accordance with the Schedule of Values. Such application shall be notarized and supported by all data substantiating the Contractor's right to payment that the Owner, Construction Manager or Architect require, such as copies of requisitions, and releases of waivers of lien from Subcontractors and material suppliers, and reflecting retainage if provided for elsewhere in the Contract Documents. The form of Application for Payment shall be a notarized AIA Document G732–2019, Application and Certificate for Payment, supported by AIA Document G703–1992, Continuation Sheet.

§ 9.3.1.1 As provided in Section 7.3.9, such applications may include requests for payment on account of changes in the Work that have been properly authorized by Construction Change Directives, or by interim determinations of the Construction Manager and Architect, but not yet included in Change Orders.

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§ 9.3.1.2 Such applications shall not include requests for payment of amounts the Contractor does not intend to pay a Subcontractor or supplier because of a dispute or other reason, unless such Work has been performed by others whom the Contractor intends to pay.

§ 9.3.1.3 Following certification of the Application for Payment by the Architect and Construction Manager, the Owner shall pay ninety-five percent (95%) of its value, retaining five percent (5%) until Final Completion.

§ 9.3.1.4 Contractor shall provide lien waivers for itself for the current payment application and for Subcontractors, Sub-subcontractors, and suppliers for the previous payment application before the Contractor has earned or has the right to receive payment for the specific items of work or materials covered by the lien waivers. All lien waivers shall be provided in the form required by the Owner. This Section 9.3.1.4 shall not limit other obligations of the Contractor contained elsewhere to provide lien waivers.

§ 9.3.2 Unless otherwise provided in the Contract Documents, payments shall be made on account of materials and equipment delivered and suitably stored at the site for subsequent incorporation in the Work. If approved in advance by the Owner, payment may similarly be made for materials and equipment suitably stored off the site at a location agreed upon in writing. Payment for materials and equipment stored on or off the site shall be conditioned upon compliance by the Contractor with procedures satisfactory to the Owner to establish the Owner's title to such materials and equipment or otherwise protect the Owner's interest, and shall include the costs of applicable insurance, storage, and transportation to the site, for such materials and equipment stored off the site.

§ 9.3.3 The Contractor warrants that title to all Work covered by an Application for Payment will pass to the Owner no later than the time of payment. The Contractor further warrants that upon submittal of an Application for Payment all Work for which Certificates for Payment have been previously issued and payments received from the Owner shall, to the best of the Contractor's knowledge, information, and belief, be free and clear of liens, claims, security interests, or encumbrances, in favor of the Contractor, Subcontractors, suppliers, or other persons or entities that provided labor, materials and equipment relating to the Work.

§ 9.3.4 In each Application for Payment, the Contractor shall certify as follows:

> "That there are no known mechanics' or materialmen's liens or stop notice claims outstanding by the application or any of its subcontractors of any tier, or any of the applicant's or subcontractor's material suppliers, or laborers at the date of this application, that all due and payable bills with respect to the Work have been paid or are included in the amount requested in current application, and that, except for such bills, not paid by Owner, but so included, there is no known basis for the filing of any mechanics' or materialmen's liens or stop notice claims on the Work, and that waivers from Contractor, its subcontractors of any tier, or any of the applicant's or subcontractor's material suppliers and laborers have been obtained in such form as to constitute an effective waiver of liens or stop notice claims, under the laws of the State of Minnesota to the extent of payments made by Owner to Contractor."

Notwithstanding the foregoing Section 9.3.4, Contractor acknowledges its obligation to provide a Payment Bond in accordance with the Contract Documents, and that Contractor's failure to pay any of its Subcontractors, Sub-subcontractors, suppliers, or laborers will be resolved through a claim under the Payment Bond.

§ 9.4 Certificates for Payment

§ 9.4.1 Where there is only one Contractor, the Construction Manager will, within seven days after the Construction Manager's receipt of the Contractor's Application for Payment, review the Application, certify the amount the Construction Manager determines is due the Contractor, and forward the Contractor's Application and Certificate for Payment to the Architect. Within seven days after the Architect receives the Contractor's Application for Payment from the Construction Manager, the Architect will either (1) issue to the Owner a Certificate for Payment, in the full amount of the Application for Payment, with a copy to the Construction Manager; or (2) issue to the Owner a Certificate for Payment for such amount as the Architect determines is properly due, and notify the Construction Manager and Owner of the Architect's reasons for withholding certification in part as provided in Section 9.5.1; or (3) withhold certification of the entire Application for Payment, and notify the Construction Manager and Owner of the Architect's reason for withholding certification in whole as provided in Section 9.5.1. The Construction Manager will promptly forward to the Contractor the Architect's notice of withholding certification.

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§ 9.4.2 Where there is more than one Contractor performing portions of the Project, the Construction Manager will, within seven days after the Construction Manager receives all of the Contractors' Applications for Payment: (1) review the Applications and certify the amount the Construction Manager determines is due each of the Contractors; (2) prepare a Summary of Contractors' Applications for Payment by combining information from each Contractor's application with information from similar applications for progress payments from the other Contractors; (3) prepare a Project Application and Certificate for Payment; (4) certify the amount the Construction Manager determines is due all Contractors; and (5) forward the Summary of Contractors' Applications for Payment and Project Application and Certificate for Payment to the Architect.

§ 9.4.2.1 Within seven days after the Architect receives the Project Application and Project Certificate for Payment and the Summary of Contractors' Applications for Payment from the Construction Manager, the Architect will either (1) issue to the Owner a Project Certificate for Payment, with a copy to the Construction Manager; or (2) issue to the Owner a Project Certificate for Payment for such amount as the Architect determines is properly due, and notify the Construction Manager and Owner of the Architect's reasons for withholding certification in part as provided in Section 9.5.1; or (3) withhold certification of the entire Project Application for Payment, and notify the Construction Manager and Owner of the Architect's reason for withholding certification in whole as provided in Section 9.5.1. The Construction Manager will promptly forward the Architect's notice of withholding certification to the Contractors.

§ 9.4.3 The Construction Manager's certification of an Application for Payment or, in the case of more than one Contractor, a Project Application and Certificate for Payment, shall be based upon the Construction Manager's evaluation of the Work and the data in the Application or Applications for Payment. The Construction Manager's certification will constitute a representation that, to the best of the Construction Manager's knowledge, information, and belief, the Work has progressed to the point indicated, the quality of the Work is in accordance with the Contract Documents, and that the Contractor is, or Contractors are, entitled to payment in the amount certified.

§ 9.4.4 The Architect's issuance of a Certificate for Payment or, in the case of more than one Contractor, Project Application and Certificate for Payment, shall be based upon the Architect's evaluation of the Work, the recommendation of the Construction Manager, and data in the Application for Payment or Project Application for Payment. The Architect's certification will constitute a representation that, to the best of the Architect's knowledge, information, and belief, the Work has progressed to the point indicated, the quality of the Work is in accordance with the Contract Documents, and that the Contractor is, or Contractors are, entitled to payment in the amount certified.

§ 9.4.5 The representations made pursuant to Sections 9.4.3 and 9.4.4 are subject to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, to results of subsequent tests and inspections, to correction of minor deviations from the Contract Documents prior to completion, and to specific qualifications expressed by the Construction Manager or Architect.

§ 9.4.6 The issuance of a Certificate for Payment or a Project Certificate for Payment will not be a representation that the Construction Manager or Architect has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work; (2) reviewed construction means, methods, techniques, sequences, or procedures; (3) reviewed copies of requisitions received from Subcontractors and suppliers and other data requested by the Owner to substantiate the Contractor's right to payment; or (4) made examination to ascertain how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

§ 9.5 Decisions to Withhold Certification

§ 9.5.1 The Construction Manager or Architect may withhold a Certificate for Payment or Project Certificate for Payment in whole or in part, to the extent reasonably necessary to protect the Owner, if in the Construction Manager's or Architect's opinion the representations to the Owner required by Section 9.4.3 and 9.4.4 cannot be made. If the Construction Manager or Architect is unable to certify payment in the amount of the Application, the Construction Manager will notify the Contractor and Owner as provided in Section 9.4.1 and 9.4.2. If the Contractor, Construction Manager and Architect cannot agree on a revised amount, the Architect will promptly issue a Certificate for Payment or a Project Certificate for Payment for the amount for which the Architect is able to make such representations to the Owner. The Construction Manager or Architect may also withhold a Certificate for Payment or, because of subsequently discovered evidence, may nullify the whole or a part of a Certificate for Payment or Project Certificate for Payment previously issued, to such extent as may be necessary in the Construction Manager's or Architect's opinion to protect the Owner from loss for which the Contractor is responsible, including loss resulting from the acts and omissions described in Section 3.3.2 because of

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.1 defective Work not remedied;
.2 third party claims filed or reasonable evidence indicating probable filing of such claims, unless security acceptable to the Owner is provided by the Contractor;
.3 failure of the Contractor to make payments properly to Subcontractors or suppliers for labor, materials or equipment;
.4 reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Sum;
.5 damage to the Owner or a Separate Contractor or other Contractor;
.6 reasonable evidence that the Work will not be completed within the Contract Time, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay; or
.7 repeated failure to carry out the Work in accordance with the Contract Documents.

§ 9.5.2 When either party disputes the Architect's decision regarding a Certificate for Payment under Section 9.5.1, in whole or in part, that party may submit a Claim in accordance with Article 15.

§ 9.5.3 When the reasons for withholding certification are removed, certification will be made for amounts previously withheld.

§ 9.5.4 If the Architect or Construction Manager withholds certification for payment under Section 9.5.1, the Owner may, at its sole option, issue joint checks to the Contractor and to any Subcontractor or supplier to whom the Contractor failed to make payment for Work properly performed or material or equipment suitably delivered. If the Owner makes payments by joint check, the Owner shall notify the Architect and the Construction Manager, and both will reflect such payment on the next Certificate for Payment.

§ 9.6 Progress Payments

§ 9.6.1 After the Architect has issued a Certificate for Payment or Project Certificate for Payment, the Owner shall make payment within thirty (30) days of receipt by Owner of Certificate of Payment in the manner and within the time provided in the Contract Documents, and shall so notify the Construction Manager and Architect.

§ 9.6.2 The Contractor shall pay each Subcontractor, no later than seven days after receipt of payment from the Owner, the amount to which the Subcontractor is entitled, reflecting percentages actually retained from payments to the Contractor on account of the Subcontractor's portion of the Work. The Contractor shall, by appropriate agreement with each Subcontractor, require each Subcontractor to make payments to Sub-subcontractors in a similar manner. Per Minnesota Statutes, Section 471.425, within ten (10) days of Contractor's receipt of payment from Owner, the Contractor must pay any Subcontractor for any undisputed services provided by the Subcontractor. The Contractor shall pay interest of one and one-half percent (1-1/2%) per month, or any part of a month, to the Subcontractor on any undisputed amount not paid on time to the subcontractor. The minimum monthly interest penalty payment for an unpaid balance of $100 or more is $10.00. For an unpaid balance of less than $100, the Contractor shall pay the actual interest penalty due to the Subcontractor. Contractor is advised that by reason of Minnesota Statutes, Section 471.425, subd. 4a, if a Subcontractor prevails in a civil action to collect interest penalties from a prime contractor, the Subcontractor must be awarded its costs and disbursements, including attorneys' fees incurred in bringing the action.

§ 9.6.3 The Construction Manager will, on request, furnish to a Subcontractor, if practicable, information regarding percentages of completion or amounts applied for by the Contractor and action taken thereon by the Owner, Construction Manager and Architect on account of portions of the Work done by such Subcontractor.

§ 9.6.4 The Owner has the right to request written evidence from the Contractor that the Contractor has properly paid Subcontractors and suppliers amounts paid by the Owner to the Contractor for subcontracted Work. If the Contractor fails to furnish such evidence within seven days, the Owner shall have the right to contact Subcontractors and suppliers to ascertain whether they have been properly paid. Neither the Owner, Construction Manager nor Architect shall have an obligation to pay, or to see to the payment of money to, a Subcontractor or supplier, except as may otherwise be required by law.

§ 9.6.5 The Contractor's payments to material and equipment suppliers shall be treated in a manner similar to that provided in Sections 9.6.2, 9.6.3 and 9.6.4.

§ 9.6.6 A Certificate for Payment, a progress payment, or partial or entire use or occupancy of the Project by the Owner shall not constitute acceptance of Work not in accordance with the Contract Documents.

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§ 9.6.7 Unless the Contractor provides the Owner with a payment bond in the full penal sum of the Contract Sum, payments received by the Contractor for Work properly performed by Subcontractors or provided by suppliers shall be held by the Contractor for those Subcontractors or suppliers who performed Work or furnished materials, or both, under contract with the Contractor for which payment was made by the Owner. Nothing contained herein shall require money to be placed in a separate account and not commingled with money of the Contractor, create any fiduciary liability or tort liability on the part of the Contractor for breach of trust, or entitle any person or entity to an award of punitive damages against the Contractor for breach of the requirements of this provision.

§ 9.6.8 Provided the Owner has fulfilled its payment obligations under the Contract Documents, the Contractor shall defend and indemnify the Owner from all loss, liability, damage or expense, including reasonable attorney's fees and litigation expenses, arising out of any lien claim or other claim for payment by any Subcontractor or supplier of any tier. Upon receipt of notice of a lien claim or other claim for payment, the Owner shall notify the Contractor. If approved by the applicable court, when required, the Contractor may substitute a surety bond for the property against which the lien or other claim for payment has been asserted.

§ 9.7 Failure of Payment

If the Construction Manager and Architect do not issue a Certificate for Payment or a Project Certificate for Payment, through no fault of the Contractor, within fourteen days after the Construction Manager's receipt of the Contractor's Application for Payment, or if the Owner does not pay the Contractor within thirty (30) days after the date established in the Contract Documents, the amount certified by the Construction Manager and Architect then the Contractor may, upon ten (10) additional days' notice to the Owner, Construction Manager and Architect, stop the Work until payment of the amount owing has been received. The Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable costs of shutdown, delay and start-up which shall be accomplished as provided in Article 7.

§ 9.8 Substantial Completion

§ 9.8.1 Substantial Completion is the stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Contract Documents so the Owner can occupy or utilize the Work for its intended use and when the Architect issues a Certificate of Substantial Completion.

§ 9.8.2 When the Contractor considers that the Work, or a portion thereof which the Owner agrees to accept separately, is substantially complete, the Contractor shall notify the Construction Manager, and the Contractor and Construction Manager shall jointly prepare and submit to the Architect a comprehensive list of items to be completed or corrected. The Contractor shall proceed promptly to complete and correct items on the list. Failure to include an item on such list does not alter the responsibility of the Contractor to complete all Work in accordance with the Contract Documents. Upon receipt of the Contractor's list, the Architect, assisted by the Construction Manager, will make an inspection to determine whether the Work or designated portion thereof is substantially complete. If the Architect's inspection discloses any item, whether or not included on the Contractor's list, which is not in accordance with the requirements of the Contract documents, the Contractor shall, before issuance of the Certificate of Substantial Completion, complete or correct such item, upon notification by the Architect. The Contractor shall then submit a request for another inspection by the Architect, assisted by the Construction Manager, to determine Substantial Completion. When the Work or designated portion thereof is substantially complete, the Architect will prepare a Certificate of Substantial Completion which shall establish the date of Substantial Completion, shall establish responsibilities of the Owner and Contractor for security, maintenance, heat, utilities, damage to the Work and insurance, and shall fix the time within which the Contractor shall finish all items on the list accompanying the Certificate. Warranties required by the Contract Document shall commence on the date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion.

§ 9.8.3 Upon receipt of the list, the Architect, assisted by the Construction Manager, will make an inspection to determine whether the Work or designated portion thereof is substantially complete. If the Architect's inspection discloses any item, whether or not included on the list, which is not sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work or designated portion thereof for its intended use, the Contractor shall, before issuance of the Certificate of Substantial Completion, complete or correct such item upon notification by the Architect. In such case, the Contractor shall then submit a request for another inspection by the Architect, assisted by the Construction Manager, to determine Substantial Completion.

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§ 9.8.4 When the Architect, assisted by the Construction Manager, determines that the Work of all of the Contractors, or designated portion thereof, is substantially complete, the Construction Manager will prepare, and the Construction Manager and Architect shall execute, a Certificate of Substantial Completion that shall establish the date of Substantial Completion; establish responsibilities of the Owner and Contractor for security, maintenance, heat, utilities, damage to the Work and insurance; and fix the time within which the Contractor shall finish all items on the list accompanying the Certificate. Warranties required by the Contract Documents shall commence on the date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion.

§ 9.8.5 The Certificate of Substantial Completion shall be submitted to the Owner and Contractor for their written acceptance of responsibilities assigned to them in the Certificate. Upon such acceptance, and consent of surety if any, the Owner shall make payment of retainage applying to the Work or designated portion thereof. Such payment shall be adjusted for Work that is incomplete or not in accordance with the requirements of the Contract Documents.

§ 9.8.6 Upon Substantial completion of the Work or designated portion thereof and upon application by the Contractor and certification by the Architect, the Owner shall make payment, reflecting adjustment in retainage, pursuant to Minnesota Statutes, Section 15.72, for such Work or portion thereof as provided in the Contract Documents.

§ 9.8.7 The Architect, assisted by the Construction Manager, shall make one (1) inspection for Substantial Completion and Final Completion in accordance with the AIA Document B101–2017 Owner Architect Agreement. If additional inspections are required due to the Contractor's failure to complete previously listed corrective or uncompleted work, the Architect's expense for conducting such re-inspections and related time in processing, reviewing, and revision of requirements shall be charged to the Contractor and such payment shall be accomplished by a deductive Change Order to the Contractor.

§ 9.9 Partial Occupancy or Use

§ 9.9.1 The Owner may occupy or use any completed or partially completed portion of the Work at any stage when such portion is designated by separate agreement with the Contractor, provided such occupancy or use is consented to by the insurer and authorized by public authorities having jurisdiction over the Project. Such partial occupancy or use may commence whether or not the portion is substantially complete, provided the Owner and Contractor have accepted in writing the responsibilities assigned to each of them for payments, retainage if any, security, maintenance, heat, utilities, damage to the Work and insurance, and have agreed in writing concerning the period for correction of the Work and commencement of warranties required by the Contract Documents. When the Contractor considers a portion substantially complete, the Contractor and Construction Manager shall jointly prepare and submit a list to the Architect as provided under Section 9.8.2. Consent of the Contractor to partial occupancy or use shall not be unreasonably withheld. The stage of the progress of the Work shall be determined by written agreement between the Owner and Contractor or, if no agreement is reached, by decision of the Architect after consultation with the Construction Manager.

§ 9.9.2 Immediately prior to such partial occupancy or use, the Owner, Construction Manager, Contractor, and Architect shall jointly inspect the area to be occupied or portion of the Work to be used in order to determine and record the condition of the Work.

§ 9.9.3 Unless otherwise agreed upon, partial occupancy or use of a portion or portions of the Work shall not constitute acceptance of Work not complying with the requirements of the Contract Documents.

§ 9.10 Final Completion and Final Payment

§ 9.10.1 Upon completion of the Work, the Contractor shall forward to the Construction Manager a notice that the Work is ready for final inspection and acceptance, and shall also forward to the Construction Manager a final Contractor's Application for Payment. Upon receipt, the Construction Manager shall perform an inspection to confirm the completion of Work of the Contractor. The Construction Manager shall make recommendations to the Architect when the Work of all of the Contractors is ready for final inspection, and shall then forward the Contractors' notices and Application for Payment or Project Application for Payment, to the Architect, who will promptly make such inspection. When the Architect finds the Work acceptable under the Contract Documents and the Contract fully performed, the Construction Manager and Architect will promptly issue a final Certificate for Payment or Project Certificate for Payment stating that to the best of their knowledge, information and belief, and on the basis of their observations, on-site visits and inspections, the Work has been completed in accordance with the Contract Documents

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and that the entire balance found to be due the Contractor and noted in the final Certificate is due and payable. The Construction Manager's and Architect's final Certificate for Payment or Project Certificate for Payment will constitute a further representation that conditions listed in Section 9.10.2 as precedent to the Contractor's being entitled to final payment have been fulfilled.

§ 9.10.2 Neither final payment nor any remaining retained percentage shall become due until the Contractor submits to the Architect through the Construction Manager (1) an affidavit that payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which the Owner or the Owner's property might be responsible or encumbered (less amounts withheld by Owner) have been paid or otherwise satisfied, (2) a certificate evidencing that insurance required by the Contract Documents to remain in force after final payment is currently in effect and will not be cancelled or allowed to expire until at least (60) days' prior written notice has been given to the Owner, (3) a written statement that the Contractor knows of no reason that the insurance will not be renewable to cover the period required by the Contract Documents, (4) consent of surety, if any, to final payment (5) documentation of any special warranties, such as manufacturers' warranties or specific Subcontractor warranties, including a summary listing all applicable warranties both standard and extended, itemized by specification section and included at the front of the Operation and Maintenance manuals, and (6) other data establishing payment or satisfaction of obligations, such as receipts and releases and waivers of liens, claims, security interests, or encumbrances arising out of the Contract, to the extent and in such form as may be designated by the Owner. If a Subcontractor refuses to furnish a release or waiver required by the Owner, the Contractor may furnish a bond satisfactory to the Owner to indemnify the Owner against such lien, claim, security interest, or encumbrance. If a lien, claim, security interest, or encumbrance remains unsatisfied after payments are made, the Contractor shall refund to the Owner all money that the Owner may be compelled to pay in discharging the lien, claim, security interest, or encumbrance, including all costs and reasonable attorneys' fees.

§ 9.10.3 If, after Substantial Completion of the Work, final completion thereof is materially delayed through no fault of the Contractor or by issuance of Change Orders affecting final completion, and the Construction Manager and Architect so confirm, the Owner shall, upon application by the Contractor and certification by the Construction Manager and Architect, and without terminating the Contract, make payment of the balance due for that portion of the Work fully completed, corrected, and accepted. If the remaining balance for Work not fully completed or corrected is less than retainage stipulated in the Contract Documents, and if bonds have been furnished, the written consent of the surety to payment of the balance due for that portion of the Work fully completed and accepted shall be submitted by the Contractor to the Architect through the Construction Manager prior to certification of such payment. Such payment shall be made under terms and conditions governing final payment, except that it shall not constitute a waiver of Claims.

§ 9.10.4 The making of final payment shall constitute a waiver of Claims by the Owner except those arising from

- **.1** liens, Claims, security interests, or encumbrances arising out of the Contract and unsettled;
- **.2** failure of the Work to comply with the requirements of the Contract Documents;
- **.3** terms of special warranties required by the Contract Documents; or
- **.4** audits performed by the Owner, if permitted by the Contract Documents, after final payment.

§ 9.10.5 Acceptance of final payment by the Contractor, a Subcontractor, or a supplier, shall constitute a waiver of claims by that payee except those previously made in writing and identified by that payee as unsettled at the time of final Application for Payment.

§ 9.11 Damages for Delay

§ 9.11.1 The Contractor shall be responsible for damages incurred by the Owner and any other separate contractors for delay resulting from the Contractor's failure to complete the Work within the contract Time or resulting from the progress of the Work failing to substantially conform to the Project Construction Schedule. These damages are not included in liquidated damages and represent additional direct costs incurred by the Owner for the delay. These damages may include Owner incurred costs for temporary classrooms, temporary facilities, moving of programs, etc.

ARTICLE 10 PROTECTION OF PERSONS AND PROPERTY

§ 10.1 Safety Precautions and Programs

§ 10.1.1 The Contractor shall be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the performance of the Contract. The Contractor shall submit the Contractor's safety program to the Construction Manager for review and coordination with the safety programs of other Contractors. The Construction Manager's responsibilities for review and coordination of safety programs shall not extend to direct control over or charge of the acts or omissions of the Contractors, Subcontractors, agents or employees of the

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Contractors or Subcontractors, or any other persons performing portions of the Work and not directly employed by the Construction Manager.

§ 10.1.2 The Contractor shall comply with all applicable laws and regulations. Notwithstanding any language to the contrary, the Owner shall not have any responsibility for job site inspections or safety recommendations. Any inspections or observations by the Owner, Construction Manager or the Architect are solely for the benefit of the Owner and shall not create any duties or obligations to anyone else.

§ 10.2 Safety of Persons and Property

§ 10.2.1 The Contractor shall take reasonable precautions for safety of, and shall provide reasonable protection to prevent damage, injury, or loss to

.1 employees on the Work and other persons who may be affected thereby;

.2 the Work and materials and equipment to be incorporated therein, whether in storage on or off the site, under care, custody, or control of the Contractor, a Subcontractor, or a Sub-subcontractor;

.3 other property at the site or adjacent thereto, such as trees, shrubs, lawns, walks, pavements, roadways, structures, and utilities not designated for removal, relocation, or replacement in the course of construction; and

.4 construction or operations by the Owner, Separate Contractors, or other Contractors.

§ 10.2.2 The Contractor shall comply with, and give notices required by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities, bearing on safety of persons or property or their protection from damage, injury, or loss.

§ 10.2.3 The Contractor shall implement, erect, and maintain, as required by existing conditions and performance of the Contract, reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards; promulgating safety regulations; and notifying the owners and users of adjacent sites and utilities of the safeguards.

§ 10.2.4 When use or storage of explosives or other hazardous materials or equipment or unusual methods are necessary for execution of the Work, the Contractor shall exercise utmost care and carry on such activities under supervision of properly qualified personnel.

§ 10.2.5 The Contractor shall promptly remedy damage and loss (other than damage or loss insured under property insurance required by the Contract Documents) to property referred to in Sections 10.2.1.2, 10.2.1.3 and 10.2.1.4 caused in whole or in part by the Contractor, a Subcontractor, a Sub-subcontractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable and for which the Contractor is responsible under Sections 10.2.1.2, 10.2.1.3 and 10.2.1.4. The Contractor may make a Claim for the cost to remedy the damage or loss to the extent such damage or loss is attributable to acts or omissions of the Owner, Construction Manager or Architect or anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable, and not attributable to the fault or negligence of the Contractor. The foregoing obligations of the Contractor are in addition to the Contractor's obligations under Section 3.18.

§ 10.2.6 The Contractor shall designate a responsible member of the Contractor's organization at the site whose duty shall be the prevention of accidents. This person shall be the Contractor's superintendent unless otherwise designated by the Contractor in writing to the Owner, Construction Manager and Architect.

§ 10.2.7 The Contractor shall not permit any part of the construction or site to be loaded so as to cause damage or create an unsafe condition.

§ 10.2.8 Injury or Damage to Person or Property

If either party suffers injury or damages to person or property because of an act or omission of the other party, of any of the other party's employees or agents, or of others for whose acts such party is legally responsible, notice of the injury or damage, whether or not insured, shall be given to the other party within a reasonable time not exceeding ten (10) days after first observance. The notice shall provide sufficient detail to enable the other party to investigate the matter. If a Claim for additional cost or time related to this Claim is to be asserted, it shall be filed as provided in Sections 15.1.4 and 15.1.5.

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§ 10.3 Hazardous Materials

§ 10.3.1 In the event the Contractor encounters on the site material reasonably believed to be asbestos or polychlorinated biphenyl (PCB) which has not been rendered harmless, the Contractor shall immediately stop Work in the area affected and report the condition to the Owner, Construction Manager and Architect in writing. The Work in the affected area shall not thereafter be resumed except by written agreement of the Owner and Contractor if in fact the material is asbestos or polychlorinated biphenyl (PCB) and has not been rendered harmless. The Work in the affected area shall be resumed in the absence of asbestos or polychlorinated biphenyl (PCB), or when it has been rendered harmless, by written agreement of the Owner and Contractor.

.1 Except where otherwise stated in the Contract Documents, no hazardous material work of any nature shall be performed by the Contractor pursuant to this Contract.

.2 The term "hazardous materials" includes, but is not limited to, asbestos, toxic chemicals, acids, alkalis, irritants, contaminants, or other pollutants, together with any other waste, material, substance, pollutants, or contaminant, all or a portion of which is or would be designated as hazardous waste or substance under applicable local, state, or federal laws, ordinances, codes, rules, or regulations.

§ 10.3.2 To the fullest extent permitted by law, the Owner shall indemnify and hold harmless the Contractor, Construction Manager, Architect, their consultants, and agents and employees of any of them from and against claims, damages, losses, and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work on Owner's property if in fact the material is asbestos or polychlorinated biphenyl (PCB) and has not been rendered harmless, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), including loss of use resulting therefrom, but only to the extent caused in whole or in part by negligent acts or omissions of the Owner, anyone directly or indirectly employed by the Owner, or anyone for whose acts the Owner may be liable, regardless of whether or not such claim, damage, loss, or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity which would otherwise exist as to a party or person described in this Subparagraph 10.3.2.

§ 10.3.3 If reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a material or substance encountered on the site by the contractor, the Contractor shall, upon recognizing the condition, immediately stop Work on Owner's property and report the condition to the Owner, Construction Manager and Architect in writing. The Owner, Construction Manager, Contractor, and Architect shall then proceed in the same manner described in Subparagraph 10.3.1.

(Paragraph deleted)

§ 10.3.5 The Contractor shall reimburse the Owner for the cost and expense the Owner incurs (1) for remediation of hazardous materials or substances the Contractor brings to the site and negligently handles, or (2) where the Contractor fails to perform its obligations under Section 10.3.1, except to the extent that the cost and expense are due to the Owner's fault or negligence. Owner shall be responsible for obtaining the services of a licensed laboratory to verify a presence or absence of the material or substance reported by the Contractor and, in the event such material or substance is found to be present, to verify that it has been rendered harmless.

§ 10.3.6 Regulations concerning the availability of information and employee training in the use and handling of "hazardous substances" and "harmful physical agents", as set forth in the Employee Right-to-Know Act of 1983, Minnesota Statutes, Sections 182.65 to 182.676 are incorporated herein by reference as if fully set forth herein.

§ 10.3.7 The Contractor shall furnish three Material Safety Data Sheets to the Owner for each material used in the Work that is classified by the Employee Right-to-Know Act of 1983 as a "hazardous substance" or a "harmful physical agent."

§ 10.3.8 The Contractor shall label, in generally accepted and/or standardized fashion, all containers on the work site containing "hazardous substances" or as "harmful physical agents." This shall include factory containers and all subsequent containers used in the Work.

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§ 10.4 Emergencies

In an emergency affecting safety of persons or property, the Contractor shall act to prevent threatened damage, injury, or loss. Additional compensation or extension of time claimed by the Contractor on account of an emergency shall be determined as provided in Article 15 and Article 7.

ARTICLE 11 INSURANCE AND BONDS

§ 11.1 Contractor's Insurance and Bonds

§ 11.1.1 The Contractor shall purchase and maintain insurance of the types and limits of liability, containing the endorsements, and subject to the terms and conditions, as described in the Agreement, in EXH-C Owner Insurance or elsewhere in the Contract Documents. The Contractor shall purchase and maintain the required insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located and which carry a Best's rating of A- or higher or are otherwise acceptable to the Owner. The Owner, Construction Manager and Construction Manager's consultants, and the Architect and Architect's consultants, shall be named as additional insureds under the Contractor's commercial general liability policy or as otherwise described in the Contract Documents.

§ 11.1.2 The Contractor shall provide surety bonds of the types, for such penal sums, and subject to such terms and conditions as required by the Contract Documents. The Contractor shall purchase and maintain the required bonds from a company or companies lawfully authorized to issue surety bonds in the jurisdiction where the Project is located.

§ 11.1.3 Upon the request of any person or entity appearing to be a potential beneficiary of bonds covering payment of obligations arising under the Contract, the Contractor shall promptly furnish a copy of the bonds or shall authorize a copy to be furnished. The Contractor shall furnish Certificates of Insurance acceptable to the Owner which shall specifically set forth evidence of all coverage required by Article 11 and EXH-C Owner Insurance and shall be filed with the Owner and Construction Manager prior to commencement of the Work and thereafter upon renewal or replacement of each required policy of insurance.

The Contractor shall not allow insurance required by this Agreement to lapse, be canceled, reduced in limits or coverage, non-renewed, or materially changed or have restrictive modifications added during the life of this Agreement, including the periods of required coverage. The Contractor shall furnish to the Owner and Construction Manager copies of any endorsements that are subsequently issued amending coverage and limits.

If any of the foregoing insurance coverages are required to remain in force after final payment and are reasonably available, all additional certificates evidencing continuation of such coverage shall be submitted with the final Application for Payment. Information concerning reduction of coverage shall be furnished by the Contractor with reasonable promptness in accordance with the Contractor's information and belief.

§ 11.1.3.1 Acceptable insurance certificates are AIA Document G705, CICC of Minnesota Form 701, and/or ACORD form of the American Insurance Institute.

Failure of the Owner to collect certificates does not void the requirements to obtain insurance.

The acceptance of any certificate of insurance by the Owner shall not relieve or decrease the liability of the Contractor hereunder. It is to be understood the Owner, Construction Manager and Architect do not in any way represent that the insurance specified in these articles are sufficient or adequate to protect the Contractor's interest or liabilities, but are merely minimum requirements.

The Contractor shall furnish to the Owner copies of any endorsements that are subsequently issued amending coverage and limits.

§ 11.1.4 In the event the Contractor fails to procure or maintain any insurance coverage required under this Agreement, the Owner may purchase such coverage and deduct the cost thereof from any monies due to the Contractor, or terminate this Agreement under Paragraph 14.2. The Contractor shall be liable to the Owner for providing all coverage, defense, and payments that would have been provided by any insurance that the Contractor failed to procure and maintain as required by the Contract Documents.

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§ 11.1.5 Compliance by the Contractor with the foregoing insurance requirements shall not relieve it from liability for amounts in excess of the limits of insurance.

§ 11.1.6 The Contractor and any of its Subcontractors, Sub-subcontractors, agents and employees, and any separate contractors described in Article 6, if any, and any of their subcontractors, sub-subcontractors, agents and employees shall waive any of their subrogation rights on their Workers Compensation Policy in favor of the Owner, Construction Manager and Architect. The policies shall provide such waivers of subrogation by endorsement or otherwise. A waiver of subrogation shall be effective as to a person or entity even though that person or entity would otherwise have a duty of indemnification, contractual, or otherwise, did not pay the insurance premium directly or indirectly, and whether or not the person or entity had an insurable interest.

§ 11.2 Owner's Insurance

§ 11.2.1 The Owner shall purchase and maintain insurance of the types and limits of liability, containing the endorsements, and subject to the terms and conditions, as described in the Agreement or elsewhere in the Contract Documents. The Owner shall purchase and maintain the required insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The Owner may self-insure and maintain the Owner's usual liability insurance. Optionally, the Owner may purchase and maintain other insurance for self-protection against claims which may arise from operations under the Contract. The Contractor shall not be responsible for purchasing and maintaining this optional Owner's liability insurance unless specifically required by the Contract Documents.

§ 11.2.2 Failure to Purchase Required Property Insurance. If the Owner fails to purchase and maintain the required property insurance, with all of the coverages and in the amounts described in the Agreement or elsewhere in the Contract Documents, the Owner shall inform both the Contractor and the Construction Manager, separately and in writing, prior to commencement of the Work. Upon receipt of notice from the Owner, the Contractor may delay commencement of the Work and may obtain insurance that will protect the interests of the Contractor, Subcontractors, and Sub-Subcontractors in the Work. When the failure to provide coverage has been cured or resolved, the Contract Sum and Contract Time shall be equitably adjusted. In the event the Owner fails to procure coverage, the Owner waives all rights against the Contractor, Subcontractors, and Sub-subcontractors to the extent the loss to the Owner would have been covered by the insurance to have been procured by the Owner. The cost of the insurance shall be charged to the Owner by a Change Order. If the Owner does not provide written notice, and the Contractor is damaged by the failure or neglect of the Owner to purchase or maintain the required insurance, the Owner shall reimburse the Contractor for all reasonable costs and damages attributable thereto.

§ 11.2.3 Notice of Cancellation or Expiration of Owner's Required Property Insurance. Within three (3) business days of the date the Owner becomes aware of an impending or actual cancellation or expiration of any property insurance required by the Contract Documents, the Owner shall provide notice directly to the Contractor, and separately to the Construction Manager, of such impending or actual cancellation or expiration. Unless the lapse in coverage arises from an act or omission of the Contractor: (1) the Contractor, upon receipt of notice from the Owner, shall have the right to stop the Work until the lapse in coverage has been cured by the procurement of replacement coverage by either the Owner or the Contractor; (2) the Contract Time and Contract Sum shall be equitably adjusted; and (3) the Owner waives all rights against the Contractor, Subcontractors, and Sub-subcontractors to the extent any loss to the Owner would have been covered by the insurance had it not expired or been cancelled. If the Contractor purchases replacement coverage, the cost of the insurance shall be charged to the Owner by an appropriate Change Order. The furnishing of notice by the Owner shall not relieve the Owner of any contractual obligation to provide required insurance.

§ 11.3 Waivers of Subrogation

§ 11.3.1 The Owner and Contractor waive all rights against (1) each other and any of their subcontractors, sub-subcontractors, agents, and employees, each of the other; (2) the Construction Manager and Construction Manager's consultants; (3) the Architect and Architect's consultants; (4) other Contractors and any of their subcontractors, sub-subcontractors, agents, and employees; and (5) Separate Contractors, if any, and any of their subcontractors, sub-subcontractors, agents, and employees, for damages caused by fire, or other causes of loss, to the extent those losses are covered by property insurance required by the Agreement or other property insurance applicable to the Project, except such rights as they have to proceeds of such insurance. The Owner or Contractor, as appropriate, shall require similar written waivers in favor of the individuals and entities identified above from the Construction Manager, Construction Manager's consultants, Architect, Architect's consultants, other Contractors,

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Separate Contractors, subcontractors, and sub-subcontractors. The policies of insurance purchased and maintained by each person or entity agreeing to waive claims pursuant to this Section 11.3.1 shall not prohibit this waiver of subrogation. This waiver of subrogation shall be effective as to a person or entity (1) even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, (2) even though that person or entity did not pay the insurance premium directly or indirectly, or (3) whether or not the person or entity had an insurable interest in the damaged property.

(Paragraph deleted)

§ 11.4 Loss of Use, Business Interruption, and Delay in Completion Insurance

The Owner, at the Owner's option, may purchase and maintain insurance that will protect the Owner against loss of use of the Owner's property, or the inability to conduct normal operations, due to fire or other causes of loss. The Owner waives all rights of action against the Contractor, Architect, and Construction Manager for loss of use of the Owner's property, due to fire or other hazards however caused.

§ 11.5 Adjustment and Settlement of Insured Loss

§ 11.5.1 A loss insured under the property insurance required by the Agreement shall be adjusted by the Owner as fiduciary and made payable to the Owner as fiduciary for the insureds, as their interests may appear, subject to requirements of any applicable mortgagee clause and of Section 11.5.2. The Owner shall pay the Construction Manager, Architect and Contractor their just shares of insurance proceeds received by the Owner, and by appropriate agreements the Construction Manager, Architect and Contractor shall make payments to their consultants and Subcontractors in similar manner.

§ 11.5.2 Prior to settlement of an insured loss, the Owner shall notify the Contractor of the terms of the proposed settlement as well as the proposed allocation of the insurance proceeds. The Contractor shall have 14 days from receipt of notice to object to the proposed settlement or allocation of the proceeds. If the Contractor does not object, the Owner shall settle the loss and the Contractor shall be bound by the settlement and allocation. Upon receipt, the Owner shall make the appropriate distributions. Thereafter, if no other agreement is made or the Owner does not terminate the Contract for convenience, the Owner and Contractor shall execute a Change Order for reconstruction of the damaged or destroyed Work in the amount allocated for that purpose. If the Contractor timely objects to either the terms of the proposed settlement or the allocation of the proceeds, the Owner may proceed to settle the insured loss, and any dispute between the Owner and Contractor arising out of the settlement or allocation of the proceeds shall be resolved pursuant to Article 15. Pending resolution of any dispute, the Owner may issue a Construction Change Directive for the reconstruction of the damaged or destroyed Work.

§ 11.6 Bonds

§ 11.6.1 Contractor shall furnish a Performance Bond and a Payment Bond to the Owner in the amount of one hundred percent (100%) of the Contract Sum and issued by a Surety Company authorized to do business in the State of Minnesota, rated "A" or better, and approved by the Owner. The Performance Bond shall be in accordance with Minnesota Statutory requirements, and shall be in the form included in the Project Manual. The Bonds shall allow for any additions or deductions to the Contract Sum.

§ 11.6.2 In order to be acceptable as a surety, Contractor's bonding company bust hold a "Certificate of Authority acceptable to the U.S. Treasury Department and be listed in the Department's current publication of "Bond Qualifiers" with underwriting limitations not less than ten percent (10%) above the Contract Sum.

§ 11.6.3 The surety of the Bonds shall be by a corporate surety company authorized to do business in the state in which Work is being performed under this Contract and acceptable to the Owner. The conditions of the bonds shall meet requirements of the statutes of the state where Work is being performed and all other applicable provisions of state law.

§ 11.6.4 The Contractor shall furnish two (2) originals of the Bonds to the Owner, with copies to the Architect and Construction Manager, within ten (10) days after notification of award and before execution of the Contract. Failure to do so shall constitute a violation of terms of the proposal and provide grounds for forfeiture of bid security.

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ARTICLE 12 UNCOVERING AND CORRECTION OF WORK

§ 12.1 Uncovering of Work

§ 12.1.1 If a portion of the Work is covered contrary to the Construction Manager's or Architect's request or to requirements specifically expressed in the Contract Documents, it must, if requested in writing by either, be uncovered for their examination and be replaced at the Contractor's expense without change in the Contract Time.

§ 12.1.2 If a portion of the Work has been covered that the Construction Manager or Architect has not specifically requested to examine prior to its being covered, the Construction Manager or Architect may request to see such Work and it shall be uncovered by the Contractor. If such Work is in accordance with the Contract Documents, the Contractor shall be entitled to an equitable adjustment to the Contract Sum and Contract Time as may be appropriate. If such Work is not in accordance with the Contract Documents, the costs of uncovering the Work, and the cost of correction, shall be at the Contractor's expense.

§ 12.2 Correction of Work

§ 12.2.1 Before Substantial Completion

The Contractor shall promptly correct Work rejected by the Construction Manager or Architect or failing to conform to the requirements of the Contract Documents, discovered before Substantial Completion, and whether or not fabricated, installed or completed. The Contractor shall bear costs of correcting such rejected Work, including additional testing and inspections, the cost of uncovering and replacement, and compensation for the Construction Manager's and Architect's services and expenses made necessary thereby.

§ 12.2.2 After Substantial Completion

(Paragraphs deleted)

§ 12.2.2.1 If within one year after the date of Substantial Completion of the Work or designated portion thereof, or after the date for commencement of warranties established under Section 9.9.1, or by terms of any applicable special warranty required by the Contract Documents, any of the Work is found to be not in accordance with the requirements of the Contract Documents, the Contractor shall correct it promptly (and any other property damaged or removed in effecting the correction) after receipt of notice from the Owner, Construction Manager or Architect to do so, unless the Owner has previously given the Contractor a written acceptance of such condition. The Owner, Construction Manager or Architect shall give such notice promptly after discovery of the condition. This period of one year shall be extended with respect to portions of Work first performed after Substantial completion by the period of time between Substantial completion and the actual performance of the Work. This obligation under this Subparagraph 12.2.2.1 shall survive acceptance of the Work under the contract and termination of the Contract. The Owner, Construction Manager or Architect shall give such notice promptly after discovery of the condition. The expiration of the above one year or any other specified time period, or any other period prescribed by the law, shall not relieve the Contractor of the obligation form the expense to correct any latent defect in the work or deficiencies which are not readily ascertained, including but not limited to, defective materials and quality of work performed, defects attributable to material substitutions for special materials, substandard performance or otherwise not in compliance with the Contract Documents. Such latent defects or deficiencies shall be corrected as provided in this Paragraph 12.2. Following the correction or replacement of any of the Work, as above specified, the Contractor shall correct any defects or deficiencies in the corrected or replaced materials and workmanship which is found within one year after the date of correction or replacement.

§ 12.2.3 The Contractor shall remove from the site portions of the Work that are not in accordance with the requirements of the Contract Documents and are neither corrected by the Contractor nor accepted by the Owner.

§ 12.2.4 If the Contractor fails to correct nonconforming Work within a reasonable time, the Owner may correct it in accordance with Paragraph 2.4. If the Contractor does not proceed with correction of such nonconforming Work within a reasonable time fixed by written notice from the Architect or Construction Manager, the Owner may correct or remove it and store the salvageable materials or equipment all at the Contractor's expense. If the Contractor does not pay costs of such removal and storage within ten (10) days after written notice, the Owner may upon ten (10) additional days' written notice sell such materials and equipment at auction or at private sale and shall account for the proceeds thereof, after deducting costs and damages that should have been borne by the Contractor, the Contract Sum shall be reduced by the deficiency. If payments then or thereafter due the Contractor are not sufficient to cover such amount, the Contractor shall pay the difference to the Owner.

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§ 12.2.5 The Contractor shall bear the cost of correcting destroyed or damaged construction whether completed or partially completed, of the Owner or separate contractors caused by the Contractor's correction or removal of Work which is not in accordance with the requirements of the Contract Documents.

§ 12.2.6 Nothing contained in this Section 12.2 shall be construed to establish a period of limitation with respect to other obligations the Contractor has under the Contract Documents. Establishment of the one-year period for correction of Work as described in Section 12.2.2 relates only to the specific obligation of the Contractor to correct the Work, and has no relationship to the time within which the obligation to comply with the Contract Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Contractor's liability with respect to the Contractor's obligations other than specifically to correct the Work.

§ 12.3 Acceptance of Nonconforming Work

If the Owner prefers to accept Work that is not in accordance with the requirements of the Contract Documents, the Owner may do so instead of requiring its removal and correction, in which case the Contract Sum will be reduced as appropriate and equitable. Such adjustment shall be effected whether or not final payment has been made.

ARTICLE 13 MISCELLANEOUS PROVISIONS

§ 13.1 Governing Law

The Contract shall be governed by the law of the place where the Project is located excluding that jurisdiction's choice of law rules. If the parties have selected arbitration as the method of binding dispute resolution, the Federal Arbitration Act shall govern Section 15.4.

§ 13.2 Successors and Assigns

§ 13.2.1 The Owner and Contractor respectively bind themselves, their partners, successors, assigns, and legal representatives to covenants, agreements, and obligations contained in the Contract Documents. Except as provided in Section 13.2.2, neither party to the Contract shall assign the Contract as a whole without written consent of the other. If either party attempts to make an assignment without such consent, that party shall nevertheless remain legally responsible for all obligations under the Contract.

§ 13.2.2 The Owner may, without consent of the Contractor, assign the Contract to a lender providing construction financing for the Project, if the lender assumes the Owner's rights and obligations under the Contract Documents. The Contractor shall execute all consents reasonably required to facilitate the assignment.

§ 13.3 Rights and Remedies

§ 13.3.1 Duties and obligations imposed by the Contract Documents and rights and remedies available thereunder shall be in addition to and not a limitation of duties, obligations, rights, and remedies otherwise imposed or available by law.

§ 13.3.2 No action or failure to act by the Owner, Construction Manager, Architect, or Contractor shall constitute a waiver of a right or duty afforded them under the Contract, nor shall such action or failure to act constitute approval of or acquiescence in a breach thereunder, except as may be specifically agreed upon in writing.

§ 13.4 Tests and Inspections

§ 13.4.1 Tests, inspections, and approvals of portions of the Work shall be made as required by the Contract Documents and by applicable laws, statutes, ordinances, codes, rules, and regulations or lawful orders of public authorities. The Owner, Construction Manager or Architect shall make arrangements for such tests, inspections, and approvals with an independent testing laboratory or entity acceptable to the Owner, or with the appropriate public authority. Timely notice shall be given to the Construction Manager and Architect of when and where tests and inspections are to be made so that the Construction Manager and Architect may observe such procedures. The Owner shall bear costs of tests, inspections, or approvals that do not become requirements until after bids are received or negotiations concluded. The Owner shall directly arrange and pay for tests, inspections, or approvals where building codes or applicable laws or regulations so require.

§ 13.4.2 If the Construction Manager, Architect, Owner, or public authorities having jurisdiction determine that portions of the Work require additional testing, inspection, or approval not included under Section 13.4.1, the Construction Manager and Architect will, upon written authorization from the Owner, instruct the Contractor to make arrangements for such additional testing, inspection, or approval, by an entity acceptable to the Owner, and the

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Contractor shall give a minimum of two (2) working days' notice to the Construction Manager and Architect of when and where tests and inspections are to be made so that the Construction Manager and Architect may observe procedures. The Owner shall bear such costs, except as provided in Section 13.4.3.

§ 13.4.3 If procedures for testing, inspection, or approval under Sections 13.4.1 and 13.4.2 reveal failure of the portions of the Work to comply with requirements established by the Contract Documents, all costs made necessary by such failure, including those of repeated procedures and compensation for the Construction Manager's and Architect's services and expenses, shall be at the Contractor's expense.

§ 13.4.4 Required certificates of testing, inspection, or approval shall, unless otherwise required by the Contract Documents, be secured by the Contractor and promptly delivered to the Construction Manager for transmittal to the Architect.

§ 13.4.5 If the Construction Manager or Architect is to observe tests, inspections, or approvals required by the Contract Documents, the Construction Manager or Architect will do so promptly and, where practicable, at the normal place of testing.

§ 13.4.6 Tests or inspections conducted pursuant to the Contract Documents shall be made promptly to avoid unreasonable delay in the Work.

§ 13.5 Interest

All payments to the Contractor shall be governed by the Prompt Payment of Local Government Bills, Minnesota Statutes, Section 471.125 ("Prompt Payment Act") and Article 5 of the A132–2019 Agreement on this Project.

§ 13.6 Non-Discrimination

§ 13.6.1 All contracts between the Owner and companies providing goods and services under the Contract Documents shall contain the following equal opportunity and civil right clause:

> "During the performance of this Agreement, the provider agrees to the following: No contractor, material supplier, vendor, or other person shall on the basis of sex, race, creed, color, religion, national origin, age, marital status, sexual orientation, or disability be excluded from full employment rights in, participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program, service, or activity under the provisions of any and all applicable Federal and State laws against discrimination, including the Minnesota Human Rights Act and the Civil Rights Act of 1964."

Upon request, the Contractor shall furnish all information and reports required by the Owner, or by the rules and regulations of investigation to ascertain compliance with all applicable rules and regulations. The Contractor shall also comply with any applicable licensing requirements of the Minnesota Department of Human Services in employment of personnel.

The Contractor acknowledges that the violation of the above-stated paragraph is a misdemeanor pursuant to Minnesota Statutes, Section 181.59.

This Agreement may be cancelled or terminated by the Owner or any other person authorized to grant the contracts for employment under this Agreement, and all money due, or to become due under this Agreement may be forfeited for a second or any subsequent violation of the non-discriminatory terms stated above.

§ 13.6.2 During the completion of the work and all other services required by the Contract Documents, the Contractor agrees that no contractor, material supplier, vendor, or other person shall, on the basis of sex, race, creed, color, religion, national origin, age, marital status, sexual orientation, or disability be excluded from full employment rights in participation in, be denied the benefits of, or be otherwise subjected to discrimination under the provisions of any and all applicable Federal and State laws against discrimination, including the Minnesota Human Rights Act and the Civil Rights Act of 1964. Upon request, the Architect, Construction Manager and Contractor shall furnish all information and reports required by the Owner, or by the rules and regulations of investigation to ascertain compliance with all applicable rules and regulations. The Contractor shall also comply with any applicable licensing requirements of the Minnesota Department of Human Services in employment of personnel.

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Contractor acknowledges that the violation of the above-states paragraph is a misdemeanor pursuant to Minnesota Statutes Section 181.59.

The Contract Documents may be cancelled or terminated by the Owner or any other person authorized to grant the contracts for employment under this Agreement, and all money due, or to become due under the Agreement may be forfeited for a second or any subsequent violation of the non-discriminatory terms stated above.

§ 13.7 No action or failure to act by the Owner shall constitute a waiver of a right or duty afforded the Owner under the Contract Documents, nor shall such action or failure to act constitute approval of or acquiescence of the Owner in a breach of the Contract Documents, except as may be specifically agreed in writing. None of the approval of any Application for Payment, the making of any payment, the giving of any approval or consent, the use or occupancy of the Work, or any part thereof, the making of final payment, or any other action or inaction on the part of the Owner, Construction Manager or Architect shall constitute a waiver of claims by or rights of the Owner or an acceptance of any Work that is not in accordance with the Contract Documents. The Contractor shall not be relieved from its obligations to perform the Work in accordance with the Contract Documents either by the activities or duties of the representations of the Owner, Construction Manager or Architect, or by inspections, tests, or approvals required or performed by the Owner, Construction Manager or Architect or anyone else.

ARTICLE 14 TERMINATION OR SUSPENSION OF THE CONTRACT

§ 14.1 Termination by the Contractor

§ 14.1.1 The Contractor may terminate the Contract if the Work is stopped for a period of 30 consecutive days through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, their agents or employees, or any other persons or entities performing portions of the Work, for any of the following reasons:

.1 Issuance of an order of a court or other public authority having jurisdiction that requires all Work to be stopped;

.2 An act of government, such as a declaration of national emergency, that requires all Work to be stopped;

.3 Because the Construction Manager has not certified or the Architect has not issued a Certificate for Payment and has not notified the Contractor of the reason for withholding certification as provided in Section 9.4, or because the Owner has not made payment on a Certificate for Payment within the time stated in the Contract Documents; or

.4 The Owner has failed to furnish to the Contractor reasonable evidence as required by Section 2.2.

§ 14.1.2 The Contractor may terminate the Contract if, through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, their agents or employees, or any other persons or entities performing portions of the Work, repeated suspensions, delays, or interruptions of the entire Work by the Owner as described in Section 14.3, constitute in the aggregate more than 100 percent of the total number of days scheduled for completion, or 120 days in any 365-day period, whichever is less.

§ 14.1.3 If one of the reasons described in Section 14.1.1 or 14.1.2 exists, the Contractor may, upon seven days' notice to the Owner, Construction Manager and Architect, terminate the Contract and recover from the Owner payment for Work executed, as well as reasonable overhead and profit on Work not executed, and costs incurred by reason of such termination.

§ 14.1.4 If the Work is stopped for a period of 60 consecutive days through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, or their agents or employees, or any other persons performing portions of the Work because the Owner has repeatedly failed to fulfill the Owner's obligations under the Contract Documents with respect to matters important to the progress of the Work, the Contractor may, upon seven additional days' notice to the Owner, Construction Manager and Architect, terminate the Contract and recover from the Owner as provided in Section 14.1.3.

§ 14.1.5 No Right to Stop Work for Non-Payment

The Contractor has no right to stop Work as a consequence of non-payment. In the event of any disagreement between the Contractor and Owner involving the Contractor's entitlement to payment, the Contractor's only remedy is to file a Claim in accordance with Article 15. The Contractor must diligently proceed with the Work pending resolution of the Claim. If, however, an Application for Payment has been approved for payment by the Owner, and the Owner fails to make payment within sixty (60) days of the approval for payment by the Owner, the Contractor may upon ten (10)

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days written notice to the Owner, stop work if payment is not made by the Owner within ten (10) days following the notice.

§ 14.2 Termination by the Owner for Cause

§ 14.2.1 The Owner may terminate the Contract if the Contractor

.1 repeatedly refuses or fails to supply enough properly skilled workers or proper materials;

.2 fails to make payment to Subcontractors or suppliers in accordance with the respective agreements between the Contractor and the Subcontractors or suppliers;

.3 repeatedly disregards applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of a public authority; or

.4 otherwise is guilty of substantial breach of a provision of the Contract Documents.

§ 14.2.2 When any of the reasons described in Section 14.2.1 exist, after consultation with the Construction Manager, and upon certification by the Architect that sufficient cause exists to justify such action, the Owner may, without prejudice to any other rights or remedies of the Owner and after giving the Contractor and the Contractor's surety, if any, seven days' notice, terminate employment of the Contractor and may, subject to any prior rights of the surety:

.1 Exclude the Contractor from the site and take possession of all materials, equipment, tools, and construction equipment and machinery thereon owned by the Contractor;

.2 Accept assignment of subcontracts pursuant to Section 5.4; and

.3 Finish the Work by whatever reasonable method the Owner may deem expedient. Upon written request of the Contractor, the Owner shall furnish to the Contractor a detailed accounting of the costs incurred by the Owner in finishing the Work.

§ 14.2.3 When the Owner terminates the Contract for one of the reasons stated in Section 14.2.1, the Contractor shall not be entitled to receive further payment until the Work is finished.

§ 14.2.4 If the unpaid balance of the Contract Sum exceeds costs of finishing the Work, including compensation for the Construction Manager's and Architect's services and expenses made necessary thereby, and other damages incurred by the Owner and not expressly waived, such excess shall be paid to the Contractor. If such costs and damages exceed the unpaid balance, the Contractor shall pay the difference to the Owner. The amount to be paid to the Contractor or Owner, as the case may be, shall, upon application, be certified by the Initial Decision Maker after consultation with the Construction Manager, and this obligation for payment shall survive termination of the Contract.

§ 14.3 Suspension by the Owner for Convenience

§ 14.3.1 The Owner may, without cause, order the Contractor in writing to suspend, delay or interrupt the Work, in whole or in part for such period of time as the Owner may determine.

§ 14.3.2 The Contract Sum and the Contract Time shall be adjusted for increases or decreases in the cost and time caused by suspension, delay, or interruption under Section 14.3.1. Adjustment of the Contract Sum shall include reasonable profit. No adjustment shall be made to the extent:

.1 that performance is, was, or would have been, so suspended, delayed, or interrupted, by another cause for which the Contractor is responsible; or

.2 that an equitable adjustment is made or denied under another provision of this Contract.

§ 14.4 Termination by the Owner for Convenience

§ 14.4.1 The Owner may, at any time, terminate the Contract for the Owner's convenience and without cause.

§ 14.4.2 Upon receipt of notice from the Owner of such termination for the Owner's convenience, the Contractor shall

.1 cease operations as directed by the Owner in the notice;

.2 take actions necessary, or that the Owner may direct, for the protection and preservation of the Work; and

.3 except for Work directed to be performed prior to the effective date of termination stated in the notice, terminate all existing subcontracts and purchase orders and enter into no further subcontracts and purchase orders.

(Paragraph deleted)

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ARTICLE 15 CLAIMS AND DISPUTES

§ 15.1 Claims

§ 15.1.1 Definition. A Claim is a demand or assertion by the Contractor seeking, as a matter of right, payment of money, a change in the Contract Time, or other relief with respect to the terms of the Contract. The responsibility to substantiate Claims shall rest with the Contractor. Nothing in this paragraph 15.1.1 is intended to apply to or in any way limit the Owner's right to make Claims related to or arising out of the Contract. This Section 15.1.1 does not require the Owner to file a Claim in order to impose liquidated damages in accordance with the Contract Documents.

§ 15.1.2 Time Limits on Claims

The Owner and Contractor shall commence all Claims and causes of action against the other and arising out of or related to the Contract, whether in contract, tort, breach of warranty or otherwise, in accordance with the requirements of the binding dispute resolution method selected in the Agreement and within the period specified by applicable law, but in any case not more than 10 years after the date of Substantial Completion of the Work. The Owner and Contractor waive all Claims and causes of action not commenced in accordance with this Section 15.1.2.

§ 15.1.3 Notice of Claims

§ 15.1.3.1 Claims by Contractor, where the condition giving rise to the Claim is first discovered prior to expiration of the period for correction of the Work set forth in Section 12.2.2, shall be initiated by written notice to the Owner and to the Initial Decision Maker with a copy sent to the Construction Manager and Architect, if the Architect is not serving as the Initial Decision Maker. Claims by the Contractor under this Section 15.1.3.1 shall be initiated within ten (10) days after occurrence of the event giving rise to such Claim or within ten (10) days after the Contractor first recognizes the condition giving rise to the Claim, whichever is later. Any additional Claim made after and relating to the initial Claim has been implemented by Change Order will not be considered unless submitted in a timely manner. As a condition to making a claim for additional costs, the Contractor shall maintain and produce accurate records to substantiate all additional costs actually incurred. If a Claim for actual costs is approved, the Owner shall pay the Contractor actual costs incurred, plus either (a) ten percent (10%) for overhead and profit for work performed by the Contractor, or (b) five percent (5%) overhead and profit for work performed by a Subcontractor, as applicable.

§ 15.1.3.2 Claims by either the Owner or Contractor, where the condition giving rise to the Claim is first discovered after expiration of the period for correction of the Work set forth in Section 12.2.2, shall be initiated by written notice to the other party. In such event, no decision by the Initial Decision Maker is required.

§ 15.1.4 Continuing Contract Performance

§ 15.1.4.1 Pending final resolution of a Claim, except as otherwise agreed in writing or as provided in Section 9.7 and Article 14, the Contractor shall proceed diligently with performance of the Contract and the Owner shall continue to make payments in accordance with the Contract Documents. Subject to Paragraph 15.1.5, no such continuing performance by the Contractor, nor payment by the Owner shall be deemed a waiver of, or to otherwise impair any such Claim.

§ 15.1.4.2 The Contract Sum and Contract Time shall be adjusted in accordance with the Initial Decision Maker's decision, subject to the right of either party to proceed in accordance with this Article 15. The Architect will issue Certificates for Payment in accordance with the decision of the Initial Decision Maker.

§ 15.1.5 Claims for Additional Cost. If the Contractor wishes to make a Claim for an increase in the Contract Sum, notice as provided in Section 15.1.3 shall be given before proceeding to execute the portion of the Work that is the subject of the Claim. Prior notice is not required for Claims relating to an emergency endangering life or property arising under Section 10.4.

§ 15.1.6 Claims for Additional Time

§ 15.1.6.1 If the Contractor wishes to make a Claim for any increase in the Contract Time, notice as provided in Section 15.1.3 shall be given. The Contractor's Claim shall include an estimate of cost and of probable effect of delay on progress of the Work. In the case of a continuing delay only one Claim is necessary.

§ 15.1.6.2 If adverse weather conditions are the basis for a Claim for additional time, such Claim shall be documented by data substantiating that weather conditions were abnormal for the period of time, could not have been reasonably anticipated and had an adverse effect on the scheduled construction.

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(Paragraphs deleted)

§ 15.2 Initial Decision

§ 15.2.1 Claims, excluding those where the condition giving rise to the Claim is first discovered after expiration of the period for correction of the Work set forth in Section 12.2.2 or arising under Sections 10.3, 10.4, and 11.5, shall be referred to the Initial Decision Maker for initial decision. The Architect will serve as the Initial Decision Maker, unless otherwise indicated in the Agreement. Except for those Claims excluded by this Section 15.2.1, an initial decision shall be required as a condition precedent to mediation of any Claim. If an initial decision has not been rendered within 30 days after the Claim has been referred to the Initial Decision Maker, the party asserting the Claim may demand mediation and binding dispute resolution without a decision having been rendered. Unless the Initial Decision Maker and all affected parties agree, the Initial Decision Maker will not decide disputes between the Contractor and persons or entities other than the Owner.

§ 15.2.2 The Initial Decision Maker will review Claims and within ten days of the receipt of a Claim take one or more of the following actions: (1) request additional supporting data from the claimant or a response with supporting data from the other party, (2) reject the Claim in whole or in part, (3) approve the Claim, (4) suggest a compromise, or (5) advise the parties that the Initial Decision Maker is unable to resolve the Claim if the Initial Decision Maker lacks sufficient information to evaluate the merits of the Claim or if the Initial Decision Maker concludes that, in the Initial Decision Maker's sole discretion, it would be inappropriate for the Initial Decision Maker to resolve the Claim.

§ 15.2.3 In evaluating Claims, the Initial Decision Maker may, but shall not be obligated to, consult with or seek information from either party or from persons with special knowledge or expertise who may assist the Initial Decision Maker in rendering a decision. The Initial Decision Maker may request the Owner to authorize retention of such persons at the Owner's expense.

§ 15.2.4 If the Initial Decision Maker requests a party to provide a response to a Claim or to furnish additional supporting data, such party shall respond, within ten days after receipt of the request, and shall either (1) provide a response on the requested supporting data, (2) advise the Initial Decision Maker when the response or supporting data will be furnished, or (3) advise the Initial Decision Maker that no supporting data will be furnished. Upon receipt of the response or supporting data, if any, the Initial Decision Maker will either reject or approve the Claim in whole or in part.

§ 15.2.5 The Initial Decision Maker will render an initial decision approving or rejecting the Claim, or indicating that the Initial Decision Maker is unable to resolve the Claim. This initial decision shall (1) be in writing; (2) state the reasons therefor; and (3) notify the parties, the Construction Manager, and the Architect, if the Architect is not serving as the Initial Decision Maker, of any change in the Contract Sum or Contract Time or both. The initial decision shall be final and binding on the parties but subject to mediation and, if the parties fail to resolve their dispute through mediation, to binding dispute resolution.

§ 15.2.6 In the event of a Claim against the Contractor, the Owner may, but is not obligated to notify the surety, if any, of the nature and amount of the Claim. If the Claim relates to a possibility of a Contractor's default, the Owner may, but is not obligated to notify the surety and initiate a Claim on the performance bond.

(Paragraphs deleted)

§ 15.3 Mediation

§ 15.3.1 Any claim, dispute or other matter in question or arising out of or related to the Contract shall be subject to mediation. Mediation is not a condition precedent to commencing litigation, but if litigation is commenced before mediation is held, the Parties agree to mediate before any dispositive motions or trial.

§ 15.3.2 The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located unless another location is mutually agreed upon. Agreements reached in mediation and ratified by the Owner's Council shall be enforceable as settlement agreements in any court having jurisdiction thereof.

(Paragraphs deleted)

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North High School Phase 4 Work Scope 08-F Glass and Glazing
1500 James Avenue, Minneapolis, MN 55411

...

Kraus-Anderson Construction Company
501 South 8th Street, Minneapolis, MN 55404

...

Minneapolis Public Schools Special School District #1
1250 West Broadway Avenue
Minneapolis, MN 55411

...

LSE Architects 1401 Glenwood Avenue
Minneapolis, MN 55405

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§ 1.1.1.1 Notwithstanding the foregoing, it is understood and agreed that the Owner is an intended third-party beneficiary of all contracts between the Contractor and Subcontractors or suppliers who provide labor and/or materials for the Work.

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§ 1.1.10 Initial Decision Maker. The Initial Decision Maker is the person identified in the Agreement to render initial decisions on Claims in accordance with Section 15.2. The ~~Initial Decision Maker shall not show partiality to the Owner or Contractor and shall not be liable for results of interpretations or decisions rendered in good faith.~~ Architect will serve as the Initial Decision Maker pursuant to Section 15.2 of AIA Document A232–2019.

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§ 1.2.1 The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work by the Contractor. The Contract Documents are complementary, and what is required by one shall be as binding as if required by all; performance by the Contractor shall be required only to the extent consistent with the Contract Documents and reasonably inferable from them as being necessary to produce the ~~indicated~~ intended results.

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§ 1.2.1.1 The invalidity of any provision of the Contract Documents shall not invalidate the Contract or its remaining provisions. ~~If it is determined that any provision of the Contract Documents violates any law, or is otherwise invalid or unenforceable, then that provision shall be revised to the extent necessary to make that provision legal and enforceable.~~ In such case the Contract Documents shall be construed, to the fullest extent permitted by law, to give effect to the parties' intentions and purposes in executing the Contract.

...

§ 1.4.1 In the case of inconsistency between Drawings and Specifications or within Contract Documents not clarified by Addenda, the better quality or greater quantity of Work shall be provided in accordance with the Architect's interpretation.

§ 1.5.1 The Architect and the Architect's consultants shall be deemed the authors and owners of their respective Instruments of Service, including the Drawings and Specifications, and retain all common law, statutory, and other reserved rights in their Instruments of Service, including copyrights. The Contractor, Subcontractors, sub-subcontractors, and suppliers shall not own or claim a copyright in the Instruments of Service. Submittal or distribution to meet official regulatory requirements or for other purposes in connection with the Project is not to be construed as publication in derogation of the Architect's or Architect's consultants' reserved rights. The Owner retains rights to the Instruments of Service pursuant to Article 7 of AIA Document B101-2017.

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§ 1.5.3 The Architect shall furnish to the Contractor a version of the Instruments of Service in electronic form for the sole purpose of the construction of the Project for which the Instruments of Service were created.

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The parties shall agree upon ~~written~~ protocols governing the transmission and use ~~of, and reliance on,~~ of Instruments of Service or any other information or documentation in digital form. The parties may use AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit or other form, to establish the protocols for the development, use, transmission, and exchange of digital data.

...

Any use of, or reliance on, all or a portion of a building information model without agreement to ~~written~~ protocols governing the use of, and reliance on, the information contained in the model and without having those protocols set forth in AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, and the requisite AIA Document G202™–2013, Project Building Information Modeling Protocol Form or other form, shall be at the using or relying party's sole risk and without liability to the other party and its contractors or consultants, the authors of, or contributors to, the building information model, and each of their agents and employees.

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§ 2.1.1 The Owner is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The Owner shall designate in writing a representative who shall have express authority to bind the Owner with respect to all matters requiring the Owner's approval or ~~authorization.~~ authorization in accordance with Owner's Delegation of Authority Policy, a copy of which will be provided at Contractor's request. Except as otherwise provided in Section 4.2.1, the Construction Manager and the Architect do not have such authority. The term "Owner" means the Owner or the Owner's authorized representative.

~~§ 2.1.2 The Owner shall furnish to the Contractor, within fifteen days after receipt of a written request, information necessary and relevant for the Contractor to evaluate, give notice of, or enforce mechanic's lien rights. Such information shall include a correct statement of the record legal title to the property on which the Project is located, usually referred to as the site, and the Owner's interest therein.~~

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§ 2.3.5 ~~The~~ If requested by the Contractor and reasonably required for the Project, the Owner shall furnish surveys describing physical characteristics, legal limitations and utility locations for the site of the Project, and a written legal description of the site. The Contractor ~~shall be entitled to rely on the accuracy of information furnished by the Owner but~~ shall exercise proper precautions relating to the safe performance of the Work.

§ 2.3.6 The Owner shall furnish information or services required of the Owner by the Contract Documents with reasonable promptness. The Owner shall also furnish any other information or services under the Owner's control and relevant to the Contractor's performance of the Work with reasonable promptness after receiving the Contractor's written request for such information or services. The Contractor is responsible for the timeliness of, or interference caused by, Subcontractors, Sub-subcontractors (of any tier), and others directly or indirectly under contract to the Contractor.

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If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within a ~~ten-day~~ three-business-day (3) period after receipt of notice from the Owner to commence and continue correction of such default or neglect with diligence and promptness, the Owner may, without prejudice to other remedies the Owner may have, correct such default or neglect. Such action by the Owner and amounts charged to the Contractor are both subject to review by the Construction Manager and prior approval of the Architect, and the Construction Manager or Architect may, pursuant to Section 9.5.1, withhold or nullify a Certificate for Payment in whole or in part, to the extent reasonably necessary to reimburse the Owner for the reasonable cost of correcting such deficiencies, including Owner's expenses and compensation for the Construction Manager's and Architect's and their respective consultants' additional services and expenses made necessary by such default, neglect, or failure. If current and future payments are not sufficient to cover such amounts, the Contractor shall pay the difference to the ~~Owner.~~ Owner within ten (10) days following written request for payment delivered by the Owner to the Contractor. If the Contractor disagrees with the actions of the Owner or the Architect, or the amounts claimed as costs to the Owner, the Contractor may file a Claim pursuant to Article 15.

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§ 3.1.3 The Contractor shall ~~not be relieved of its obligations to perform the Work in accordance with the Contract Documents either by activities or duties of the Construction Manager or Architect in their administration of the Contract, or by tests, inspections or approvals required or performed by persons or entities other than the Contractor.~~hire a professional utilities locator to investigate and verify all private utility locations prior to excavation and cutting into of existing Work. The Contractor is responsible for locating, terminating, and reinstallation of all private utilities. Private site utilities may not be in the Drawings and Project Manual and as such, verification of private utilities is the sole responsibility of the Contractor. Costs associated with moving and repairing of unknown and undocumented utilities will be by appropriate Change Order. The Contractor shall comply with Gopher State One Call, or other public utility service locator to locate all public utilities prior to any work on the site. This shall not relieve Contractor from obligations under Article 3.

§ 3.1.4 The Contractor shall not be relieved of its obligations to perform the Work in accordance with the Contract Documents either by activities or duties of the Construction Manager or Architect in their administration of the Contract, or by tests, inspections or approvals required or performed by persons or entities other than the Contractor.

...

§ 3.2.1 ~~Execution of the Contract by the Contractor is a representation that the Contractor has visited the site, become generally~~ The Contractor shall carefully study and compare the Contract Documents with each other and with information furnished by the Owner pursuant to Section 2.2.3, and shall immediately report to the Architect and Construction Manager errors, inconsistencies, or omissions discovered. The Contractor shall not be liable to the Owner or Architect for damage resulting from errors, inconsistencies, or omissions in the Contract Document unless the Contractor recognized such error, inconsistency, or omission and knowingly failed to report it to the Architect. If the Contractor performs any construction activity knowing or believing it involves a recognized error, inconsistency, or omission in the Contract Documents without such notice to the Architect, the Contractor shall assume full responsibility for such performance and shall bear the attributable costs for correction and shall bear responsibility for any additional costs, delays, and damages resulting from such failure to immediately report any such errors,

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inconsistencies, or omissions which the Contractor may discover. By executing the Contract, the Contractor represents that the Contractor has reviewed and understands the Contract Documents, has visited the Site and is familiar with local conditions under which the Work is to be performed, ~~and correlated personal observations with requirements of the Contract Documents.~~has correlated personal observations with the requirements of the Contract Documents, and has notified the Architect of and obtained clarification of any discrepancies which have become apparent during the bidding or proposal period.

§ 3.2.1.1 The Contractor shall take field measurements and verify field conditions and shall carefully compare such field measurements and conditions and other information known to the Contractor with the Contract Documents before commencing activities. Errors, inconsistencies, or omissions discovered shall be reported to the Architect immediately in writing.

§ 3.2.1.2 The Contractor shall carefully study and compare the Contract Documents with existing conditions at the job site and shall immediately report in writing to the Architect any error, inconsistency, or omission which the Contractor may discover or any materials, systems, procedures, or methods of construction, either shown on the Drawings or specified, which the Contractor has reason to believe are incorrect, inadequate, obsolete, unsuitable for the purpose intended or which the Contractor has reason to believe would constitute or result in a violation of the Contractor's warranty under Section 3.5 or applicable law. The Contractor shall not proceed with any work in such areas until written instructions are received from the Architect.

§ 3.2.2 ~~Because the Contract Documents are complementary, the Contractor shall, before starting each portion of the Work, carefully study and compare the various Contract Documents relative to that portion of the Work, as well as the information furnished by the Owner pursuant to Section 2.3.5, shall take field measurements of any existing conditions related to that portion of the Work, and shall observe any conditions at the site affecting it. These obligations are for the purpose of facilitating coordination and construction by the Contractor and are not for the purpose of discovering errors, omissions, or inconsistencies in the Contract Documents; however, the Contractor shall promptly report to the Construction Manager and Architect any errors, inconsistencies or omissions discovered by or made known to the Contractor as a request for information submitted to the Construction Manager in such form as the Construction Manager and Architect may require. It is recognized that the Contractor's review is made in the Contractor's capacity as a contractor and not as a licensed design professional, unless otherwise specifically provided in the Contract Documents.~~The Contractor shall perform the Work in accordance with the Contract Documents and submittals accepted pursuant to Section 3.12.

§ 3.2.3 The ~~Contractor is not required to ascertain that the Contract Documents are in accordance with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, but the Contractor shall promptly report to the Construction Manager and Architect any nonconformity discovered by or made known to the Contractor as a request for information submitted to Construction Manager in such form as the Construction Manager and Architect may require.~~Owner shall be entitled to deduct from the Contract Sum amounts paid to the Architect for the Architect to evaluate and respond to the Contractor's requests for interpretation or information where such information was available to the Contractor from a careful study and comparison of the Contract Documents, Filed Conditions, Owner Provided Information, Contractor Prepared Coordination Drawings, or prior Project Correspondence or Documentation.

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§ 3.2.4 If the Contractor believes that ~~additional cost or time is involved because of clarifications or instructions the Architect issues in response to the Contractor's notices or requests for information pursuant to Sections 3.2.2 or 3.2.3, the Contractor shall submit Claims as provided in Article 15. If the Contractor fails to perform the obligations of Sections 3.2.2 or 3.2.3, the Contractor shall pay such costs and damages to the Owner, subject to section 15.1.7, as would have been avoided if the Contractor had performed such obligations. If the Contractor performs those obligations, the Contractor shall not be liable to the Owner or Architect for damages resulting from errors, inconsistencies or omissions in the Contract Documents, for differences between field measurements or conditions and the Contract Documents, or for nonconformities of the Contract Documents to applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities.~~any portions of the Contract Documents do not comply with applicable laws, statutes, ordinances, building codes, and rules and regulations, or any orders by code enforcement officials or the Owner or its designees acting in the capacity of building code inspectors or Referenced Standards, the Contractor must promptly notify the Owner and the Architect of the non-compliance as provided in Section 3.2.6 and request direction before proceeding with the affected Work.

§ 3.2.5 The Contractor must promptly notify the Owner and the Architect in writing of any apparent errors, inconsistencies, omissions, ambiguities, construction impracticalities or code violations discovered as a result of the Contractor's review of the Contract Documents including any differences between actual and indicated dimensions, locations and descriptions, and must give the Owner and the Architect timely notice in writing of same and of any corrections, clarifications, additional Drawings or Specifications, or other information required to define the Work in greater detail or to permit the proper progress of the Work. The Contractor must provide similar notice with respect to any variance between its review of the Site and physical data and Site conditions observed.

§ 3.2.6 If the Contractor performs any Work involving an apparent error, inconsistency, ambiguity, construction impracticality, omission or code violation in the Contract Documents of which the Contractor is aware, or which could reasonably have been discovered by the review required by Section 3.2, without prompt written notice to the Owner and the Architect and request for correction, clarification or additional information, as appropriate, the Contractor does so at its own risk and expense and all Claims relating thereafter are specifically waived.
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§ 3.3.4 The Contractor shall at all times staff the Project adequately to allow the Project to be managed and completed in a timely and professional manner. The Contractor shall have competent supervision on the job during work hours and readily available at all times upon call.

§ 3.3.5 The Contractor shall at all times make reasonable provisions to protect any Work performed by any separate contractors, adjacent property, and the existing building (if any) from damage due to the Work or due to the weather.

§ 3.3.6 The Owner or its approved representative (heretofore referred to as Owner's Representative) shall have access to the Work site and all Work. No supervision or inspection by the Owner or the Owner's Representative, nor the authority to act, nor any other actions taken by the Owner's Representative shall relieve the Contractor of any of its obligations under the Contract Documents or give rise to any duty on the part of the Owner.

§ 3.3.7 The Contract shall take appropriate precautions to ensure that the Work does not materially disrupt any ongoing operation by the Owner at the Project (if any) except to the extent any such disruption is a necessary result of performing a particular portion of the Work, in which case the Contractor shall provide the Owner with reasonable advanced written notice and shall take all commercially reasonable measures to minimize the impact on the Owner and the Owner's operations.

§ 3.4.1 Unless otherwise provided in the Contract Documents, the Contractor shall provide and pay for labor, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation, and other facilities and services necessary for proper execution and completion of the Work, whether temporary or permanent and whether or not incorporated or to be incorporated in the Work. Should the Contract Documents require Work to be performed after regular working hours or should the Contractor elect to perform Work after regular working hours, the additional cost of such Work shall be borne by the Contractor.
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§ 3.4.4 The Contractor shall be responsible for all additional costs incurred to incorporate into the Project substitute materials, products, or equipment approved by Owner during the bidding period.

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§ 3.4.5 In the event of a Change related to substitute or additional materials, and which shall comply with Article 7, the Contractor shall exercise reasonable efforts, consistent with the provisions of the Contract Documents to obtain the maximum available case discounts on all materials, provided that, in doing so, the Contractor shall not accept or use materials for incorporation into the Project which are of a type or quality not reasonably contemplated under the terms of the Contract Documents.

§ 3.4.6 After award of the Contract, a request for substitution of a material, product, or piece of equipment at no change in the Contract Sum will not be approved by the Owner or the Architect, unless the specified item is no longer manufactured, the specified item is unavailable as a result of an act of government such as a declaration of a national emergency, or delivery of the specified items is substantially delayed as a result of labor disputes affecting the manufacturer, unusual delay in transportation, or any other cause beyond control of the Contractor or a Subcontractor or material supplier which the Architect determines justified the delay. Requests will not be approved where the delay in delivery results from failure to promptly place subcontracts and material orders. Requests for substitution shall be submitted in writing to the Architect and shall clearly describe the proposed substitution, state the reason for the unavailability of a specified item and be accompanied by such additional data and information as may be necessary in the discretion of the Owner and the Architect to establish the acceptability of the proposed substitute.

§ 3.4.7 The Owner shall be entitled to deduct from the Contract Sum amounts paid to the Architect to evaluate the Contractor's proposed Substitutions and for changes made to the Contract Documents as a result of Owner's acceptance of such Substitutions.

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§ 3.5.2 All material, equipment, or other special warranties required by the Contract Documents shall be issued in the name of the Owner, or shall be transferable to the Owner, and shall commence in accordance with Section 9.8.4. The Contractor shall arrange for the Owner to have the benefit of and right to enforce all warranties by Subcontractors, Sub-subcontractors, suppliers, and manufacturers.

§ 3.5.3 Manufacturers' warranties and warranties by other shall not relieve the Contractor of any of its responsibilities.

§ 3.5.4 The Contractor's general warranty and any additional or special warranties are not limited by the Contractor's obligations to specifically correct defective or nonconforming Work as provided in Article 12, nor are they limited by any other remedies provided in the Contract Documents. The Contractor shall also be liable for any damage to property or persons (including death) including consequential and direct damages relating to any breach of the Contractor's general warranty or any additional or special warranties required by the Contract Documents.

§ 3.5.5 The Contractor must furnish all special warranties required by the Contract Documents to the Owner no later than Substantial Completion. The Owner may require additional special warranties in connection with the approval of "Or-Equals" or Substitutions, Allowance items, Work that is defective or nonconforming, or the acceptance of nonconforming Work pursuant to Article 12.

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§ 3.7.1 Unless otherwise provided in the Contract Documents, the Owner, assisted by the Construction Manager, shall secure and pay for the building permit. The Contractor shall secure and pay for other permits, fees, licenses, and inspections by government agencies necessary for proper execution and completion of the Work that are customarily secured after execution of the Contract and legally required at the time bids are received or negotiations concluded. The Contractor shall be responsible for the Sewer Access (SAC) and Water Access (WAC) fees for the Project. The Contractor shall pay the SAC/WAC costs to the authorities having jurisdiction from the Allowance in the Base Bid for such charges as defined in the Construction Documents.

...

§ 3.7.3 If the Contractor performs Work knowing or believing it to be contrary to applicable laws, statutes, ordinances, building codes, rules and regulations, or lawful orders of public authorities, without such notice to the Architect and Owner, the Contractor shall assume ~~appropriate~~ full responsibility for such Work and shall bear the ~~costs attributable~~

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~~to correction.~~attributable costs, delays, and damages resulting from such failure to immediately notify the Architect and Owner of any such violation..

§ 3.7.4 Concealed or Unknown Conditions. If the Contractor encounters conditions at the site that are (1) subsurface or otherwise concealed physical conditions that differ materially from those indicated in the Contract Documents or (2) unknown physical conditions of an unusual nature that differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents, the Contractor shall promptly provide notice to the Owner, Construction Manager, and the Architect before conditions are disturbed and in no event later than ~~14~~ ten (10) days after first observance of the conditions. The Architect and Construction Manager will promptly investigate such conditions and, if the Architect, in consultation with the Construction Manager, determines that they differ materially and cause an increase or decrease in the Contractor's cost of, or time required for, performance of any part of the Work, will recommend that an equitable adjustment be made in the Contract Sum or Contract Time, or both. If the Architect, in consultation with the Construction Manager, determines that the conditions at the site are not materially different from those indicated in the Contract Documents and that no change in the terms of the Contract is justified, the Architect shall promptly notify the Owner, Construction Manager, and Contractor, stating the reasons. If the Owner or Contractor disputes the Architect's determination or recommendation, either party may submit a Claim as provided in Article 15.
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§ 3.9.1 The Contractor shall employ a competent superintendent and necessary assistants who shall be in attendance at the Project site during performance of the ~~Work.~~ Work, including that performed by all Subcontractors. The superintendent shall represent the Contractor, and communications given to the superintendent shall be as binding as if given to the Contractor. Important communications including and not limited to communications regarding design changes, alterations, substitutions, clarifications, cost changes, etc. shall be confirmed in writing by the Contractor. Other communications shall be similarly confirmed on written request in each case.

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§ 3.9.3 The Contractor shall not employ a proposed superintendent or any other management personnel to whom the Owner, Construction Manager, or Architect has made reasonable and timely objection. The Contractor shall not change the superintendent without the Owner's consent, which shall not unreasonably be withheld or delayed.

§ 3.9.4 If requested by the Owner, the Contractor shall replace the superintendent at no additional cost to the Owner. No other change in this position shall be made without notice to and written consent of the Owner.

...

§ 3.10.1 The Contractor, promptly after being awarded the Contract, shall submit for the Owner's and Architect's information, and the Construction Manager's use in developing the Project schedule, a Contractor's construction schedule for the Work. The schedule shall contain detail appropriate for the Project, including (1) the date of commencement of the Work, interim schedule milestone dates, critical path schedule milestones, major construction milestones, including and not limited to Civil, Demolition, Structural, Mechanical, Electrical, and Plumbing, and the date of Substantial Completion; (2) an apportionment of the Work by construction activity; and (3) the time required for completion of each portion of the Work. The schedule shall provide for the orderly progression of the Work to completion and shall not exceed time limits current under the Contract Documents. The schedule shall be revised at appropriate intervals as required by the conditions of the Work and Project. The Contractor shall cooperate with the Construction Manager in scheduling and performing the Contractor's Work to avoid conflict with, and as to cause no delay in, the work or activities of other Contractors, or the construction or operations of the Owner's own forces or Separate Contractors.
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§ 3.10.4 The Contractor shall perform the Work in general accordance with the most recent schedules submitted to and accepted in writing by the Owner, Construction Manager, and Architect, and incorporated into the approved Project schedule.

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~~The Contractor shall make available, at the Project site, the Contract Documents, including Change Orders, Construction Change Directives, and other Modifications, in good order and marked currently to indicate field changes and selections made during construction, and the approved Shop Drawings, Product Data, Samples, and similar required submittals. These shall be in electronic form or paper copy, available to the Construction Manager, Architect, and Owner, and delivered to the Construction Manager for submittal to the Owner upon completion of the Work as a record of the Work as constructed.~~ § 3.11.1 The Contractor shall make available, at the Project site, one record copy of the Contract Documents, including Change Orders, Construction Change Directives, and other Modifications, in good order and updated daily to indicate field changes and selections made during construction, and in addition accepted and approved Shop Drawings, Product Data, Samples, and similar required submittals. These shall be in electronic form or paper copy, available to the Construction Manager, Architect, and Owner as required to complete routine inspections by Architect, Construction Manager and Owner prior to any approval of payments to the Contractor, and delivered to the Construction Manager for submittal to the Owner upon completion of the Work. The Architect and Contractor must verify that all "as-built" Drawings, Specifications, Addenda, Change Orders, and other Modifications are up-to-date before Contractor's Application for Payment is acceptable and before the Owner incurs any duty to pay Contractor in accordance with the Contract. The record documents shall be a separate set of documents labeled "Record Documents" and used only for record purposes and kept clean and undamaged.
§ 3.11.2 No review or receipt of such records by the Architect or Owner shall be considered a waiver of any deviation from the Contract Documents or approved shop drawings, or any way relieve the Contractor from its responsibility to perform the Work in accordance with the Contract Documents.
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§ 3.12.5 The Contractor shall review for compliance with the Contract Documents, approve, and submit to the Construction Manager, Shop Drawings, Product Data, Samples, and similar submittals required by the Contract Documents, in accordance with the Project submittal schedule approved by the Construction Manager and Architect or, in the absence of an approved Project submittal schedule, with reasonable promptness and in such sequence as to cause no delay in the Work or in the activities of other Contractors, Separate Contractors, or the Owner's own forces. The Contractor shall cooperate with the Construction Manager in the coordination of the Contractor's Shop Drawings, Product Data, Samples, and similar submittals with related documents submitted by other Contractors. The Contractor must provide the Owner and the Architect with copies of all submittals made to regulatory agencies.

...

§ 3.12.7 The Contractor shall perform no portion of the Work for which the Contract Documents require submittal and review of Shop Drawings, Product Data, Samples, or similar submittals, until the respective submittal has been reviewed and ~~approved by the Architect.~~accepted by the Architect. The Contractor must correct at its cost, and without any adjustment in Contract Time, any Work the correction of which is required due to the Contractor's failure to obtain approval of a submittal required to have been obtained prior to proceeding with the Work, including, but not limited to, correction of any conflicts in the Work resulting from such failure.

§ 3.12.8 The Work shall be in accordance with ~~approved~~ accepted submittals except that the Contractor shall not be relieved of responsibility for deviations from the requirements of the Contract Documents by the Architect's ~~approval~~ acceptance of Shop Drawings, Product Data, Samples, or similar submittals, unless the Contractor has specifically notified the Construction Manager and Architect of such deviation at the time of submittal and (1) the Architect has given written ~~approval~~ acceptance to the specific deviation as a minor change in the Work, or (2) a Change Order or Construction Change Directive has been issued authorizing the deviation. The Contractor shall not be relieved of responsibility for errors or omissions in Shop Drawings, Product Data, Samples, or similar submittals, by the Architect's ~~approval~~ acceptance thereof.

§ 3.12.9 The Contractor shall direct specific attention, in writing or on resubmitted Shop Drawings, Product Data, Samples, or similar submittals, to revisions other than those requested by the Construction Manager and Architect on previous submittals. In the absence of such notice, the Architect's ~~approval~~ acceptance of a resubmission shall not apply to such revisions.
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§ 3.13.3 Except as may be specifically provided in the Contract Documents, the Contractor shall provide all necessary temporary facilities, including power, water, sanitation, scaffolding, storage, and security. If Owner makes any such

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facilities available to Contractor, it is without representation or warranty as to their adequacy for Contractor's use, and Contractor shall indemnify, defend, and hold Owner harmless from and against any claims arising out of Contractor's use of such facilities.

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§ 3.14.2 The Contractor shall not damage or endanger a portion of the Work or fully or partially completed construction of the Owner, Separate Contractors, or of other Contractors by cutting, patching, or otherwise altering such construction, or by excavation. The Contractor shall not cut or otherwise alter construction by the Owner, Separate Contractors, or by other Contractors except with written consent of the Construction Manager, Owner, and such other Contractors or Separate Contractors. Consent shall not be unreasonably withheld. The Contractor shall hire a professional utilities locator to verify locations of all public and private utilities prior to initiating any cutting work. The Contractor shall not unreasonably withhold, from the Separate Contractors, other Contractors, or the Owner, its consent to cutting or otherwise altering the Work.

...

§ 3.15.1 The Contractor shall keep the premises and surrounding area continuously free from accumulation of waste materials and rubbish caused by operations under the Contract. At completion of the Work, the Contractor shall remove from and about the Project waste materials, rubbish, Contractor-generated waste materials, the Contractor's generated hazardous waste materials, the Contractor's tools, construction equipment, machinery, and surplus materials from and about the Project.

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§ 3.18.1 To the fullest extent permitted by law, the Contractor shall ~~indemnify~~ indemnify, defend and hold harmless the Owner, Construction Manager, Architect, Construction Manager's and Architect's consultants, and agents and employees of any of them from and against claims, damages, losses, and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), but only to the extent caused by the negligent acts or omissions of the Contractor, a Subcontractor, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss, or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity ~~that~~ which would otherwise exist as to a party or person described in this Section 3.18. The Contractor, furthermore, agrees to obtain, maintain, and pay for such general liability coverage and endorsements (including product and completed operations coverage) as will ensure the provisions of this Section 3.18.1. The Contractor agrees to reimburse the Owner, its agents and employees for all costs and disbursements, including attorneys' fees, paid or incurred to enforce the provisions of this Section 3.18.1.

...

§ 3.18.3 To the fullest extent permitted by law and without limiting any other indemnification obligations of the Contractor, except to the extent caused by the uncured failure of the Owner to make payment when due and owing, the Contractor shall indemnify and defend the Owner, its officers, directors, assigns, lenders, agents, and employees from any liens, charges (including attorneys' fees) or encumbrances (including but not limited to mechanic's and materialmen's liens or bond claims) arising out of or in connection with the performance of the Work by Contractor, its Subcontractors, or its material suppliers. Upon request of the Owner, the Contractor shall within sixty (60) days remove any liens filed against the Owner or its property. If the Contractor fails to do so, the Owner is authorized by the Contractor to remove or satisfy any such liens, and the Contractor shall pay to the Owner all costs and damages incurred by the Owner to do so, including attorneys' fees.

...

§ 4.2.1 The Construction Manager and Architect will provide administration of the Contract as described in the Contract Documents and will be the Owner's ~~representatives during construction until the date the Architect issues the final Certificate for Payment.~~ consultants (1) during construction; (2) until final payment is due; and (3) with the

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Owner's concurrence, from time to time during the correction period described in Section 12.2. The Architect and Construction Manager will advise and consult with the Owner. The Construction Manager and Architect will have authority to act on behalf of the Owner only to the extent provided in the Contract ~~Documents.~~Documents, unless otherwise modified in writing in accordance with other provisions of the Contract.

§ 4.2.2 The Architect will visit the site at intervals appropriate to the stage of construction, or as otherwise agreed with the Owner, to become generally familiar with the progress and quality of the ~~portion of the Work completed,~~ Work completed, to endeavor to guard the Owner against defects and deficiencies in the Work, and to determine in general if the Work ~~observed~~ is being performed in a manner indicating that the Work, when ~~fully~~ completed, will be in accordance with the Contract Documents. However, the Architect will not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. On the basis of the site visits, the Architect will keep the Owner and the Construction Manager reasonably informed about the progress and quality of the portion of the Work completed, and promptly report to the Owner and Construction Manager known deviations from the Contract Documents and defects and deficiencies observed in the Work.

§ 4.2.2.2 The Contractor shall reimburse the Owner for compensation paid to the Architect for additional site visits made necessary by fault, neglect, or request of the Contractor.
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§ 4.2.6 Communications. The Owner shall communicate with the Contractor and the Construction Manager's consultants through the Construction Manager about matters arising out of or relating to the Contract Documents. The Owner and Construction Manager shall include the Architect in all communications that relate to or affect the Architect's services or professional responsibilities. The Owner shall promptly notify the Architect of the substance of any direct communications between the Owner and the Construction Manager otherwise relating to the Project. Communications by and with the Architect's consultants shall be through the Architect. Communications by and with Subcontractors and suppliers shall be through the Contractor. Communications by and with other Contractors shall be through the Construction Manager. Communications by and with the Owner's own forces and Separate Contractors shall be through the ~~Owner.~~ Owner unless otherwise provided. The Contract Documents may specify other communication protocols. The Owner may require the Architect, Construction Manager and the Contractor to comply with Owner requirements in regards to public communications and site signage.

...

§ 4.2.8 The Architect and Construction Manager have authority to reject Work that does not conform to the Contract Documents, and will notify each other about the rejection. Whenever the Construction Manager considers it necessary or ~~advisable,~~ advisable for implementation of the intent of the Contract Documents, the Construction Manager will have authority to require additional inspection or testing of the Work in accordance with Sections 13.4.2 and 13.4.3, upon written authorization of the Owner, whether or not the Work is fabricated, installed or completed. The foregoing authority of the Construction Manager will be subject to the provisions of Sections 4.2.18 through 4.2.20 inclusive, with respect to interpretations and decisions of the Architect. However, neither the Architect's nor the Construction Manager's authority to act under this Section 4.2.8 nor a decision made by either of them in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect or the Construction Manager to the Contractor, Subcontractors, suppliers, their agents or employees, or other persons performing any of the Work.
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§ 4.2.11 The Architect ~~will~~ will, and the Owner may, review and approve, or take other appropriate action upon, the Contractor's submittals such as Shop Drawings, Product Data, and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Architect's ~~action will be taken in accordance with the submittal schedule approved by the Architect or, in the absence of an approved submittal schedule, with reasonable promptness~~ or Owner's action will be taken with such reasonable promptness as to cause no delay in the Work or in the activities of the Owner, Contractor or separate contractors, while allowing sufficient time in the Architect's professional judgment to permit adequate review. Upon the Architect's or the Owner's completed review, the Architect shall transmit its submittal review to the Construction Manager.
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§ 4.2.18 The Architect will interpret and decide matters concerning performance ~~under, and~~ under the requirements of, the Contract Documents on written request of the Construction Manager, Owner, or Contractor through the Construction Manager. The Architect's response to such requests will be made ~~in writing within any time limits agreed upon or otherwise with reasonable promptness.~~ with reasonable promptness and within any time limits agreed upon. If no agreement is made concerning the time within which interpretations required of the Architect shall be furnished in compliance with this Section 4.2.18, then delay shall not be recognized on account of failure by the Architect to furnish such interpretations until fifteen (15) days after written request is made to them.

§ 4.2.19 ~~Interpretations and decisions of the Architect will be consistent with the intent of, and reasonably inferable from, the Contract Documents and will be in writing or in the form of drawings. When making such interpretations and decisions, the Architect will endeavor to secure faithful performance by both Owner and Contractor, will not show partiality to either, and will not be liable for results of interpretations or decisions so rendered in good faith.~~Architect's decisions on matters relating to aesthetic effect will be final if consistent with the intent expressed in the Contract Documents.

§ 4.2.20 ~~The Architect's decisions on matters relating to aesthetic effect will be final if consistent with the intent expressed in the Contract Documents.~~Architect will review and respond to requests for information about the Contract Documents. The Architect's response to such requests will be made in writing within any time limits agreed upon or otherwise with reasonable promptness. If appropriate, the Architect will prepare and issue supplemental Drawings and Specifications in response to the requests for information.

~~**§ 4.2.21** The Construction Manager will receive and review requests for information from the Contractor, and forward each request for information to the Architect, with the Construction Manager's recommendation. The Architect will review and respond in writing, through the Construction Manager, to requests for information about the Contract Documents. The Construction Manager's recommendation and the Architect's response to each request will be made in writing within any time limits agreed upon or otherwise with reasonable promptness. If appropriate, the Architect will prepare and issue supplemental Drawings and Specifications in response to the requests for information.~~

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§ 5.2.1 Unless otherwise stated in the Contract Documents, the Contractor, as soon as practicable after award of the Contract, shall notify in writing the Construction Manager, for review by the Owner, Construction Manager and Architect, of the persons or entities proposed for each principal portion of the Work, including those who are to furnish materials or equipment fabricated to a special design. Within 14 days of receipt of the information, the Construction Manager may notify the Contractor whether the Owner, the Construction Manager or the Architect (1) has reasonable objection to any such proposed person or entity or, (2) requires additional time for review. Failure of the Construction Manager to provide notice within the 14-day period shall constitute notice of no reasonable objection. The Contractor shall not employ any Subcontractor or use any material to which the Architect, Construction Manager or Owner may object. Prior to the employment of any Subcontractor, the Contractor must obtain the Owner's approval of such Subcontractor for the designated portion of the Work.

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§ 5.2.3 If the Owner, Construction Manager or Architect has reasonable objection to a person or entity proposed by the Contractor, the Contractor shall propose another to whom the Owner, Construction Manager or Architect has no reasonable objection. ~~If the proposed but rejected Subcontractor was reasonably capable of performing the Work, the Contract Sum and Contract Time~~ The Contract Sum shall be increased or decreased by the ~~difference, if any,~~ difference in cost occasioned by such change, and an appropriate Change Order shall be ~~issued before commencement of the substitute Subcontractor's Work.~~ issued. However, no increase in the Contract Sum or Contract Time shall be allowed for such change unless the Contractor has acted promptly and responsively in submitting names as required. Notwithstanding the foregoing, the Contractor shall have a continuing duty to the Owner, Construction Manager and Architect to find and propose such persons or entities as shall not result in material increase in the Contract Sum, or a material decrease in the quality of Work contemplated under the Contract Documents.

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§ 5.2.4 The Contractor shall not substitute a Subcontractor, person, or entity for one previously selected if the Owner, Construction Manager or Architect makes reasonable objection to such substitution. Any proposed substitution of a Subcontractor, person, or entity for one previously selected shall be made in a separate writing to the Owner, Construction Manager and Architect. No substitution shall be deemed approved/accepted without written confirmation from the Owner, Construction Manager and Architect. Neither acceptance of, nor objection to a Subcontractor or Sub-subcontractor, material supplier, or other person or organization by the Owner, Construction Manager and Architect shall limit the responsibility of the Contractor to furnish materials, products, equipment, and services in conformance with the requirements of the Contract Documents.
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~~By appropriate written agreement, the Contractor shall require each Subcontractor, to the extent of the Work to be performed by the Subcontractor, to be bound to the Contractor by terms of the Contract Documents, and to assume toward the Contractor all the obligations and responsibilities, including the responsibility for safety of the Subcontractor's Work, that the Contractor, by these Contract Documents, assumes toward the Owner, Construction Manager and Architect. Each subcontract agreement shall preserve and protect the rights of the Owner, Construction Manager and Architect under the Contract Documents with respect to the Work to be performed by the Subcontractor so that subcontracting thereof will not prejudice such rights, and shall allow to the Subcontractor, unless specifically provided otherwise in the subcontract agreement, the benefit of all rights, remedies, and redress against the Contractor that the Contractor, by the Contract Documents, has against the Owner. Where appropriate, the Contractor shall require each Subcontractor to enter into similar agreements with Sub-subcontractors. The Contractor shall make available to each proposed Subcontractor, prior to the execution of the subcontract agreement, copies of the Contract Documents to which the Subcontractor will be bound, and, upon written request of the Subcontractor, identify to the Subcontractor terms and conditions of the proposed subcontract agreement that may be at variance with the Contract Documents. Subcontractors will similarly make copies of applicable portions of such documents available to their respective proposed Sub-subcontractors.~~§ 5.3.1 By appropriate written agreement, the Contractor shall require each Subcontractor, to the extent of the Work to be performed by the Subcontractor, to be bound to the Contractor by terms of the Contract Documents, and to assume toward the Contractor all the obligations and responsibilities, including the responsibility for safety of the Subcontractor's Work, that the Contractor, by these Contract Documents, assumes toward the Owner, Construction Manager and Architect. Each subcontract agreement shall preserve and protect the rights of the Owner, Construction Manager and Architect under the Contract Documents with respect to the Work to be performed by the Subcontractor so that subcontracting thereof will not prejudice such rights, and shall allow to the Subcontractor, unless specifically provided otherwise in the subcontract agreement, the benefit of all rights, remedies, and redress against the Contractor that the Contractor, by the Contract Documents, has against the Owner. Where appropriate, the Contractor shall require each Subcontractor to enter into similar agreements with Sub-subcontractors. The Contractor shall make available to each proposed Subcontractor, prior to the execution of the subcontract agreement, copies of the Contract Documents to which the Subcontractor will be bound, and, upon written request of the Subcontractor, identify to the Subcontractor terms and conditions of the proposed subcontract agreement that may be at variance with the Contract Documents. Subcontractors shall similarly make copies of applicable portions of such documents available to their respective proposed Sub-subcontractors.

§ 5.3.2 The Contractor is responsible for the performance of, the actions of, the timeliness of, or interference caused by, Subcontractors, Sub-subcontractors (of any tier), and others directly or indirectly under contract to the Contractor.
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§ 6.2.2 If part of the Contractor's Work depends for proper execution or results upon construction or operations by the Owner's own forces, Separate Contractors or other Contractors, the Contractor shall, prior to proceeding with that portion of the Work, promptly notify the Construction Manager and Architect of apparent discrepancies or defects in the construction or operations by the Owner or Separate Contractor or other Contractors that would render it unsuitable for proper execution and results of the Contractor's Work. Failure of the Contractor to notify the Construction Manager and the Architect of apparent discrepancies or defects prior to proceeding with the Work shall constitute an acknowledgment that the Owner's or Separate Contractor's or other Contractors' completed or partially completed construction is fit and proper to receive the Contractor's Work. The Contractor shall not be responsible for discrepancies or defects in the construction or operations by the Owner or Separate Contractors or other Contractors that are not ~~apparent.~~reasonably discoverable.

§ 6.2.3 ~~The Contractor shall reimburse the Owner for costs the Owner incurs, including costs that are payable to a Separate Contractors or to other Contractors, because of the Contractor's delays, improperly timed activities or~~

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~~defective construction. The Owner shall be responsible to the Contractor for costs the Contractor incurs because of delays, improperly timed activities, damage to the Work or defective construction by the Owner's own forces, Separate Contractors, or other Contractors.~~Costs caused by delays or by improperly timed activities or defective construction shall be borne by the party responsible therefor.

...

§ 6.2.5 ~~The Owner, Separate Contractors, and other Contractors shall have the same responsibilities for cutting and patching as are described for the Contractor in Section 3.14.~~Claims and other disputes and matters in question between the Contractor and a separate contractor shall be subject to the provisions of Article 15 provided the separate contractor has reciprocal obligations.

§ 6.2.6 The Owner, Separate Contractors, and other Contractors shall have the same responsibilities for cutting and patching as are described for the Contractor in Section 3.14.

...

If a dispute arises among the Contractor, Separate Contractors, other Contractors, and the Owner as to the responsibility under their respective contracts for maintaining the premises and surrounding area free from waste materials and ~~rubbish, the Owner may clean up and the Construction Manager, with notice to the Architect, will allocate the cost among those responsible.~~rubbish as described in Section 3.15, the Owner may clean up allocate the cost among those responsible as the Architect determines to be just..

...

§ 7.1.2 A Change Order shall be based upon agreement among the Owner, Construction Manager, Architect and Contractor. A Construction Change Directive requires agreement by the Owner, Construction Manager and Architect and may or may not be agreed to by the Contractor. ~~An order for a minor change in the Work may be issued by the Architect alone.~~

...

§ 7.1.4 The amount of credit to be allowed by the Contractor to the Owner for any deletion or change which results in a net decrease in the Contract Sum will be the amount of the actual net cost as confirmed by the Architect after consultation with the Owner and Construction Manager. When both additions and credits covering related Work or substitutions are involved in any one change, the allowance for both overhead and profit shall be figured on the basis of the net increase or decrease, if any, with respect to that change.

§ 7.1.5 In Section 7.3.6, the allowance for the combined overhead and profit included in the total cost to the Owner shall be based on the following schedule:

.1 For the Contractor, for Work performed by the Contractor's own forces, ten percent (10%) of the cost;

.2 For the Contractor, for Work performed by the Contractor's Subcontractor, five percent (5%) of the amount due the Subcontractor;

.3 For each Subcontractor or Sub-subcontractor involved for Work performed by the Subcontractor's or Sub-subcontractor's own forces, ten percent (10%) of the cost;

.4 For each Subcontractor for Work performed by the Subcontractor's Sub-subcontractor, five percent (5%) of the amount due the Subcontractor;

.5 Costs to which overhead and profit is to be applied shall be determined in accordance with Section 7.3.6;

.6 In order to facilitate checking of quotations for extras or credits, all proposals, expect those so minor that their propriety can be seen by inspection, shall be accompanied by a complete itemization of costs, including labor, materials and subcontracts. Labor and materials shall be itemized in the manner prescribed above. Where major cost items are subcontracts, they shall be itemized also. In no case will a change involving over $500 be approved without such itemization.

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§ 7.2 Change Orders and Change Proposals

~~A Change Order is a written instrument prepared by the Construction Manager and signed by the Owner, Construction Manager, Architect, and Contractor, stating their agreement upon all of the following:~~§ 7.2.1 A Change Order is a written instrument prepared by the Construction Manager and signed by the Owner, Construction Manager, Architect, and Contractor, stating their agreement upon all of the following:

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.3 The extent of the adjustment, if any, in the Contract Time.

§ 7.2.2 Change Order shall be prepared on AIA Document G731.

§ 7.2.3 The Contractor must submit Change Proposals covering a contemplated Change Order within ten (10) days after request of the Owner, or the Architect or within ten (10) days of the event, or Contractor's discovery of a condition, whichever is earlier, giving rise to the Contractor's claim for a change in the Contract Sum or Contract Time. No increase in the Contract Sum or extension of the Contract Time will be allowed the Contractor for the cost or time involved in making Change Proposals. Change Proposals will define or confirm in detail the Work which is proposed to be added, deleted, or changed and must include any adjustment which the Contractor believes to be necessary in (i) the Contract Sum, or (ii) the Contract Time. Any proposed adjustment must include detailed documentation including, but not limited to: cost, properly itemized and supported by sufficient substantiating data to permit evaluation including cost of labor, materials, supplies and equipment, rental cost of machinery and equipment, additional bond cost, plus a fixed fee for profit and overhead (which includes office overhead and Site-specific overhead and general conditions) of ten percent (10%) if the Work is performed by the Contractor, or five percent (5%) if the Work is performed by a Subcontractor or Sub-subcontractor. The Subcontractor's or Sub-subcontractor's overhead and profit in turn must not exceed a total aggregate of ten percent (10%). Change Proposals will be binding upon the Contractor and may be accepted or rejected by the Owner in its discretion. The Owner may, at its option, instruct the Contractor through a Construction Change Directive to proceed with the Work involved in the Change Proposal in accordance with Section 7.3 without accepting the Change Proposal in its entirety.

§ 7.2.4 If the Owner determines that a Change Proposal is appropriate, the Architect will prepare and submit a request for a Change Order or Contract Amendment providing for an appropriate adjustment in the Contract Sum or Contract Time, or both, for further action by the Owner. No such change is effective until the Owner and Architect sign the Change Order.

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§ 7.3.4 If the Contractor does not respond promptly or disagrees with the method for adjustment in the Contract Sum, the Owner and the Construction Manager shall determine the adjustment on the basis of reasonable expenditures and savings of those performing the Work attributable to the change, including, in case of an increase in the Contract Sum, an amount for overhead and profit as set forth in the Agreement, or if no such amount is set forth in the Agreement, a reasonable amount. In such case, and also under Section 7.3.3.3, the Contractor shall keep and present, in such form as the Construction Manager may prescribe, an itemized accounting together with appropriate supporting data. Unless otherwise provided in the Contract Documents, costs for the purposes of this Section 7.3.4 shall be limited to the following:

...

.3 Rental costs of machinery and equipment, exclusive of hand tools, whether rented from the Contractor or ~~others;~~others (at rates approved by the Owner);

...

§ 7.3.7 A Construction Change Directive signed by the Contractor indicates the Contractor's agreement therewith, including adjustment in Contract Sum and Contract Time or the method for determining them. Such agreement shall be effective ~~immediately and shall be recorded as a Change Order.~~immediately.

...

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§ 7.3.9 Pending final determination of the total cost of a Construction Change Directive to the Owner, the Contractor may request payment for Work completed under the Construction Change Directive in Applications for ~~Payment.~~ Payment up to and not exceeding $25,000. The Construction Manager and Architect will make an interim determination for purposes of monthly certification for payment for those costs and certify for payment the amount that the Construction Manager and Architect determine to be reasonably justified. The interim determination of cost shall adjust the Contract Sum on the same basis as a Change Order, subject to the right of either party to disagree and assert a Claim in accordance with Article 15.
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The Architect may order minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. The Architect's order for minor changes shall be in ~~writing.~~ writing and approved by the Owner. If the Contractor believes that the proposed minor change in the Work will affect the Contract Sum or Contract Time, the Contractor shall notify the Construction Manager and shall not proceed to implement the change in the Work. If the Contractor performs the Work set forth in the Architect's order for a minor change without prior notice to the Construction Manager that such change will affect the Contract Sum or Contract Time, the Contractor waives any adjustment to the Contract Sum or extension of the Contract Time.

...

§ 8.1.2 The date of commencement of the Work is the date established in the Agreement. The date shall not be postponed by the failure to act of the Contractor or of persons or entities for whom the Contractor is responsible.

...

§ 8.1.4 The term "day" ~~as used in the Contract Documents shall mean calendar day unless otherwise specifically defined.~~shall mean calendar day of 24 hours beginning at 12:00 midnight. Calendar days as stated in the Contract Documents, shall include all days of a seven (7) day week including Saturdays, Sundays, and holidays. The term "Milestone Date" is, in each instance, the date established in the Contract Documents for the Substantial completion of all or a designated portion of the Work.

...

§ 8.2.3 The Contractor shall proceed expeditiously with adequate forces and shall achieve Substantial Completion within the Contract ~~Time.~~Time and shall achieve specific contractual Milestone Dates (if any), Substantial Completion and final Completion within the time stated in the Contract Documents.

§ 8.2.4 Contractor understands and agrees that all Work must be performed in an orderly and closely coordinated sequence so that the dates for Substantial Completion, Final Completion, and Milestone Dates (if any) may be met by the Contractor.

§ 8.2.5 Timely final completion of the Project is of critical importance to the Owner. The Contractor agrees that it shall substantially complete all Work under the Contract documents within the time established herein and that it shall finally complete the Work in the detail required and in the time required by the Contract Documents.

§ 8.2.6 To the extent that the Contract Documents contain or provide for specific contractual Milestone Dates in addition to Final and Substantial Completion dates, such dates shall be adhered to and shall be the last acceptable dates for those milestones and completions, unless modified by the Owner.

§ 8.2.7 Notwithstanding anything to the contrary contained in the Contract Documents, in the event that any Contractor fails, or appears likely, in the reasonable opinion of the Owner and Construction Manager, to fail to complete a critical portion of their Work on time or to complete any dates for Substantial Completion, Final Completion, or Milestone Dates as evidenced by the latest update of the CPM Schedule Report, the Owner shall have the right to select and require Contractor's performance under any or all of the following operations:

.1 Require the Contractor to substantiate their capability to get back on schedule within two (2) days;

.2 Require the Contractor, at no additional cost to the Owner, to increase their work force, work overtime and/or extra shifts and do whatever else is required by the Owner until the Contractor gets

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back on schedule as established by the CPM Schedule Report (including any updates thereto);

.3 Withhold progress payments or portions thereof until such time as the contractor returns to schedule, but only related to Substantial Completion or Final Completion;

.4 Contact or visit the factory, plant, or distribution center whose production or delivery schedule may be critical to the scheduled completion of a portion of the contract work and expedite such production delivery at Contractor's expense; or

.5 Require the Contractor to complete, in detail, and submit weekly a Short Interval Schedule (SIS) showing: (1) planning for the next two weeks; (2) work completed for the previous week; (3) sufficient detail to evaluate daily milestone (if any) and manpower/equipment loading, and shall identify/tie into the monthly updated CPM Schedule Report.

Any costs incurred by the Contractor in fulfilling the option(s) selected by the Owner shall be at the Contractor's expense.

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§ 8.3.1 If the Contractor is delayed at any time in the ~~commencement or~~ progress of the Work by (1) an act or neglect of the Owner, Architect, Construction Manager, or an employee of any of them, or of the Owner's own forces, Separate Contractors, or other Contractors; (2) by changes ordered in the Work; (3) by labor disputes, fire, unusual delay in deliveries, unavoidable casualties, adverse weather conditions documented in accordance with Section 15.1.6.2, or other causes beyond the Contractor's control; ~~(4) by delay authorized by the Owner pending mediation and binding dispute resolution; or (5)~~ or (4) by other causes that the Contractor asserts and the Architect, based on the recommendation of the Construction Manager, determines justify delay, then subject to the conditions hereinafter set forth, the Contract Time shall be extended by Change Order for such reasonable time as the Architect may determine. Requests for extensions of time for causes enumerated above will be considered by the Architect subject to the following:

.1 Only those conditions enumerated above over which the Contractor has no control will be considered. The burden of proof to substantiate the claim for an extension shall rest with the Contractor, including evidence that the cause was beyond their control. It shall be deemed the Contractor has control over the supply of labor, materials, equipment, methods, techniques, and over their Subcontractors and suppliers;

.2 In the event of Changes in the Work, any consideration for a time extension will be made only at the time of authorizing the changes, and no later than when the Change Order is prepared, and only if the Change Order significantly affects the time and progress of the entire Work. For changes which do not affect the entire Work, time extension may be granted only for the area, phase, unit, or element affected by the change, if due to a valid reason for a time extension;

.3 Any unusual delay in deliveries will not be considered unless it is solely due to transportation issues wholly outside of Contractor's, Subcontractor's, Sub-subcontractor's or Supplier's control. An extension of time will not be granted for delays in deliveries where said delivery was not properly scheduled or when orders were not promptly and properly placed;

.4 With respect to a claim for an extension of time as a result of climatic conditions, the Contractor shall recognize the location of the site and the existence, as normal, or variations from "average" conditions. Foul weather in itself will not be a valid reason for a time extension. Requests for time extensions because of delay resulting from weather extremes will not be considered unless a substantial variation from usual weather conditions occurs for a significant period of time, during phases of the Work when operation necessarily were suspended to a significant degree when they would otherwise have been in progress. In considering the time extension, the weather conditions both before and after the period in which the delay is claimed will be evaluated with credit given to Owner for unseasonably favorable weather;

.5 Delays resulting from a labor dispute will not result in a time extension of a longer period than the dispute, plus a reasonable time for mobilization if justified and necessary as approved by the Architect, and may be less depending on the impact of the dispute, including what operations were suspended or curtailed;

.6 No time extension will be granted as a result of improper scheduling or for failure to have shop drawings or samples submitted in ample time for review under a reasonable and agreed upon schedule; or

.7 Delays by Subcontractors or suppliers will not be considered justification for a time extension, except for the same valid reasons and conditions enumerated under Section 8.3.1.

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§ 8.3.4 The Contractor shall be responsible for all Owner incurred costs associated with a Contractor related to delay in completion of the Project. These costs may include, but are not limited to, Owner staff overtime, Consultant additional fees, additional testing, and/or additional rental or storage costs. A Change Order or Construction Change Directive will be issued to cover these costs. If a Change Order is not agreed to by the Contractor, the Owner, after presenting documentation to the Contractor, may deduct these amounts without a Change Order from the Contract Sum.

...

~~Where the Contract is based on a stipulated sum or Guaranteed Maximum Price, the Contractor shall submit a schedule of values to the Construction Manager, before the first Application for Payment, allocating the entire Contract Sum to the various portions of the Work. The schedule of values shall be~~ Before the first Application for Payment, the Contractor shall submit to the Architect and Construction Manager a schedule of values allocated to various portions of the Work, prepared in the form, and supported by the data to substantiate its accuracy, required by the Construction Manager and the Architect. ~~This~~ The schedule, unless objected to by the Construction Manager or Architect, shall be used as a basis for reviewing the Contractor's Applications for Payment. The Construction Manager shall forward to the Architect the Contractor's schedule of values. Any changes to the schedule of values shall be submitted to the Construction Manager and supported by such data to substantiate its accuracy as the Construction Manager and the Architect may require, and unless objected to by the Construction Manager or the Architect, shall be used as a basis for reviewing the Contractor's subsequent Applications for Payment. The Contractor, after receipt of Notice to Proceed, shall meet with the Owner, Construction Manager and the Architect for the purpose of reviewing the Project CPM Schedule and the Contract Schedule of Values. The Contractor shall develop a CPM Schedule for completing their portion of the Work, in conjunction with all other Contractors or Bid Packages, at the Pre-Construction Meeting(s). The Schedule of Values is to be broken down into specification sections and by labor and materials.

...

§ 9.3.1 At least fifteen days before the date established for each progress payment, the Contractor shall submit to the Construction Manager an itemized Application for Payment ~~prepared in accordance with the schedule of values, if required under Section 9.2, for completed portions of the Work. The application shall be notarized, if required,~~ for operations completed in accordance with the Schedule of Values. Such application shall be notarized and supported by all data substantiating the Contractor's right to payment that the Owner, Construction Manager or Architect require, such as copies of requisitions, and releases of waivers of lien from Subcontractors and ~~suppliers, and shall reflect retainage if provided for in the Contract Documents.~~material suppliers, and reflecting retainage if provided for elsewhere in the Contract Documents. The form of Application for Payment shall be a notarized AIA Document G732–2019, Application and Certificate for Payment, supported by AIA Document G703–1992, Continuation Sheet.

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§ 9.3.1.2 ~~Applications for Payment~~ Such applications shall not include requests for payment ~~for portions of the Work for which the~~ of amounts the Contractor does not intend to pay a Subcontractor ~~or supplier,~~ or supplier because of a dispute or other reason, unless such Work has been performed by others whom the Contractor intends to pay.

§ 9.3.1.3 Following certification of the Application for Payment by the Architect and Construction Manager, the Owner shall pay ninety-five percent (95%) of its value, retaining five percent (5%) until Final Completion.

§ 9.3.1.4 Contractor shall provide lien waivers for itself for the current payment application and for Subcontractors, Sub-subcontractors, and suppliers for the previous payment application before the Contractor has earned or has the right to receive payment for the specific items of work or materials covered by the lien waivers. All lien waivers shall be provided in the form required by the Owner. This Section 9.3.1.4 shall not limit other obligations of the Contractor contained elsewhere to provide lien waivers.

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§ 9.3.4 In each Application for Payment, the Contractor shall certify as follows:

"That there are no known mechanics' or materialmen's liens or stop notice claims outstanding by the application or any of its subcontractors of any tier, or any of the applicant's or subcontractor's material suppliers, or laborers at the date of this application, that all due and payable bills with respect to the Work have been paid or are included in the amount requested in current application, and that, except for such bills, not paid by Owner, but so included, there is no known basis for the filing of any mechanics' or materialmen's liens or stop notice claims on the Work, and that waivers from Contractor, its subcontractors of any tier, or any of the applicant's or subcontractor's material suppliers and laborers have been obtained in such form as to constitute an effective waiver of liens or stop notice claims, under the laws of the State of Minnesota to the extent of payments made by Owner to Contractor."

Notwithstanding the foregoing Section 9.3.4, Contractor acknowledges its obligation to provide a Payment Bond in accordance with the Contract Documents, and that Contractor's failure to pay any of its Subcontractors, Sub-subcontractors, suppliers, or laborers will be resolved through a claim under the Payment Bond.

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§ 9.6.1 After the Architect has issued a Certificate for Payment or Project Certificate for Payment, the Owner shall make payment within thirty (30) days of receipt by Owner of Certificate of Payment in the manner and within the time provided in the Contract Documents, and shall so notify the Construction Manager and Architect.

§ 9.6.2 The Contractor shall pay each Subcontractor, no later than seven days after receipt of payment from the Owner, the amount to which the Subcontractor is entitled, reflecting percentages actually retained from payments to the Contractor on account of the Subcontractor's portion of the Work. The Contractor shall, by appropriate agreement with each Subcontractor, require each Subcontractor to make payments to Sub-subcontractors in a similar manner. Per Minnesota Statutes, Section 471.425, within ten (10) days of Contractor's receipt of payment from Owner, the Contractor must pay any Subcontractor for any undisputed services provided by the Subcontractor. The Contractor shall pay interest of one and one-half percent (1-1/2%) per month, or any part of a month, to the Subcontractor on any undisputed amount not paid on time to the subcontractor. The minimum monthly interest penalty payment for an unpaid balance of $100 or more is $10.00. For an unpaid balance of less than $100, the Contractor shall pay the actual interest penalty due to the Subcontractor. Contractor is advised that by reason of Minnesota Statutes, Section 471.425, subd. 4a, if a Subcontractor prevails in a civil action to collect interest penalties from a prime contractor, the Subcontractor must be awarded its costs and disbursements, including attorneys' fees incurred in bringing the action.

...

§ 9.6.5 The Contractor's payments to material and equipment suppliers shall be treated in a manner similar to that provided in Sections 9.6.2, 9.6.3 and 9.6.4.

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If the Construction Manager and Architect do not issue a Certificate for Payment or a Project Certificate for Payment, through no fault of the Contractor, within fourteen days after the Construction Manager's receipt of the Contractor's Application for Payment, or if the Owner does not pay the Contractor within ~~seven~~ thirty (30) days after the date established in the Contract Documents, the amount certified by the Construction Manager and Architect ~~or awarded by binding dispute resolution,~~ then the Contractor may, upon ~~seven~~ ten (10) additional days' notice to the Owner, Construction Manager and Architect, stop the Work until payment of the amount owing has been received. The Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable costs of shutdown, delay and ~~start-up, plus interest as provided for in the Contract Documents.~~start-up which shall be accomplished as provided in Article 7.

...

§ 9.8.1 Substantial Completion is the stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Contract Documents so the Owner can occupy or utilize the Work for its intended ~~use.~~use and when the Architect issues a Certificate of Substantial Completion.

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§ 9.8.2 When the Contractor considers that the Work, or a portion thereof which the Owner agrees to accept separately, is substantially complete, the Contractor shall notify the Construction Manager, and the Contractor and Construction Manager shall jointly prepare and submit to the Architect a comprehensive list of items to be completed or ~~corrected prior to final payment.~~ corrected. The Contractor shall proceed promptly to complete and correct items on the list. Failure to include an item on such list does not alter the responsibility of the Contractor to complete all Work in accordance with the Contract Documents. Upon receipt of the Contractor's list, the Architect, assisted by the Construction Manager, will make an inspection to determine whether the Work or designated portion thereof is substantially complete. If the Architect's inspection discloses any item, whether or not included on the Contractor's list, which is not in accordance with the requirements of the Contract documents, the Contractor shall, before issuance of the Certificate of Substantial Completion, complete or correct such item, upon notification by the Architect. The Contractor shall then submit a request for another inspection by the Architect, assisted by the Construction Manager, to determine Substantial Completion. When the Work or designated portion thereof is substantially complete, the Architect will prepare a Certificate of Substantial Completion which shall establish the date of Substantial Completion, shall establish responsibilities of the Owner and Contractor for security, maintenance, heat, utilities, damage to the Work and insurance, and shall fix the time within which the Contractor shall finish all items on the list accompanying the Certificate. Warranties required by the Contract Document shall commence on the date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion.

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§ 9.8.6 Upon Substantial completion of the Work or designated portion thereof and upon application by the Contractor and certification by the Architect, the Owner shall make payment, reflecting adjustment in retainage, pursuant to Minnesota Statutes, Section 15.72, for such Work or portion thereof as provided in the Contract Documents.

§ 9.8.7 The Architect, assisted by the Construction Manager, shall make one (1) inspection for Substantial Completion and Final Completion in accordance with the AIA Document B101–2017 Owner Architect Agreement. If additional inspections are required due to the Contractor's failure to complete previously listed corrective or uncompleted work, the Architect's expense for conducting such re-inspections and related time in processing, reviewing, and revision of requirements shall be charged to the Contractor and such payment shall be accomplished by a deductive Change Order to the Contractor.

...

§ 9.10.1 Upon completion of the Work, the Contractor shall forward to the Construction Manager a notice that the Work is ready for final inspection and acceptance, and shall also forward to the Construction Manager a final Contractor's Application for Payment. Upon receipt, the Construction Manager shall perform an inspection to confirm the completion of Work of the Contractor. The Construction Manager shall make recommendations to the Architect when the Work of all of the Contractors is ready for final inspection, and shall then forward the Contractors' notices and Application for Payment or Project Application for Payment, to the Architect, who will promptly make such inspection. When the Architect finds the Work acceptable under the Contract Documents and the Contract fully performed, the Construction Manager and Architect will promptly issue a final Certificate for Payment or Project Certificate for Payment stating that to the best of their knowledge, information and belief, and on the basis of their observations, on-site visits and inspections, the Work has been completed in accordance with the Contract Documents and that the entire balance found to be due the Contractor and noted in the final Certificate is due and payable. The Construction Manager's and Architect's final Certificate for Payment or Project Certificate for Payment will constitute a further representation that conditions listed in Section 9.10.2 as precedent to the Contractor's being entitled to final payment have been fulfilled.

§ 9.10.2 Neither final payment nor any remaining retained percentage shall become due until the Contractor submits to the Architect through the Construction Manager (1) an affidavit that payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which the Owner or the Owner's property might be responsible or encumbered (less amounts withheld by Owner) have been paid or otherwise satisfied, (2) a certificate evidencing that insurance required by the Contract Documents to remain in force after final payment is currently in ~~effect,~~ effect and will not be cancelled or allowed to expire until at least (60) days' prior written notice has been given to the Owner, (3) a written statement that the Contractor knows of no reason that the insurance will not be renewable to cover the period required by the Contract Documents, (4) consent of surety, if any, to final payment (5) documentation of any special

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warranties, such as manufacturers' warranties or specific Subcontractor warranties, ~~and (6), if required by the Owner,~~ including a summary listing all applicable warranties both standard and extended, itemized by specification section and included at the front of the Operation and Maintenance manuals, and (6) other data establishing payment or satisfaction of obligations, such as receipts and releases and waivers of liens, claims, security interests, or encumbrances arising out of the Contract, to the extent and in such form as may be designated by the Owner. If a Subcontractor refuses to furnish a release or waiver required by the Owner, the Contractor may furnish a bond satisfactory to the Owner to indemnify the Owner against such lien, claim, security interest, or encumbrance. If a lien, claim, security interest, or encumbrance remains unsatisfied after payments are made, the Contractor shall refund to the Owner all money that the Owner may be compelled to pay in discharging the lien, claim, security interest, or encumbrance, including all costs and reasonable attorneys' fees.

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§ 9.11 Damages for Delay

§ 9.11.1 The Contractor shall be responsible for damages incurred by the Owner and any other separate contractors for delay resulting from the Contractor's failure to complete the Work within the contract Time or resulting from the progress of the Work failing to substantially conform to the Project Construction Schedule. These damages are not included in liquidated damages and represent additional direct costs incurred by the Owner for the delay. These damages may include Owner incurred costs for temporary classrooms, temporary facilities, moving of programs, etc.

...

~~The Contractor shall be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the performance of the Contract. The Contractor shall submit the Contractor's safety program to the Construction Manager for review and coordination with the safety programs of other Contractors. The Construction Manager's responsibilities for review and coordination of safety programs shall not extend to direct control over or charge of the acts or omissions of the Contractors, Subcontractors, agents or employees of the Contractors or Subcontractors, or any other persons performing portions of the Work and not directly employed by the Construction Manager.~~**§ 10.1.1** The Contractor shall be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the performance of the Contract. The Contractor shall submit the Contractor's safety program to the Construction Manager for review and coordination with the safety programs of other Contractors. The Construction Manager's responsibilities for review and coordination of safety programs shall not extend to direct control over or charge of the acts or omissions of the Contractors, Subcontractors, agents or employees of the Contractors or Subcontractors, or any other persons performing portions of the Work and not directly employed by the Construction Manager.

§ 10.1.2 The Contractor shall comply with all applicable laws and regulations. Notwithstanding any language to the contrary, the Owner shall not have any responsibility for job site inspections or safety recommendations. Any inspections or observations by the Owner, Construction Manager or the Architect are solely for the benefit of the Owner and shall not create any duties or obligations to anyone else.

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If either party suffers injury or ~~damage~~ damages to person or property because of an act or omission of the other party, of any of the other party's employees or agents, or of others for whose acts such party is legally responsible, notice of the injury or damage, whether or not insured, shall be given to the other party within a reasonable time not exceeding ~~21~~ ten (10) days after ~~discovery.~~ first observance. The notice shall provide sufficient detail to enable the other party to investigate the matter. If a Claim for additional cost or time related to this Claim is to be asserted, it shall be filed as provided in Sections 15.1.4 and 15.1.5.

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§ 10.3.1 ~~The Contractor is responsible for compliance with any requirements included in the Contract Documents regarding hazardous materials or substances. If the Contractor encounters a hazardous material or substance not addressed in the Contract Documents and if reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a material or substance, including but not limited to asbestos or polychlorinated biphenyl (PCB), encountered on the site by the Contractor, the Contractor shall, upon recognizing the condition, immediately stop Work in the affected area and notify~~ In the event the Contractor encounters on the site material reasonably believed to be asbestos or polychlorinated biphenyl (PCB) which has not been rendered harmless,

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the Contractor shall immediately stop Work in the area affected and report the condition to the Owner, Construction Manager and Architect ~~of the condition.~~in writing. The Work in the affected area shall not thereafter be resumed except by written agreement of the Owner and Contractor if in fact the material is asbestos or polychlorinated biphenyl (PCB) and has not been rendered harmless. The Work in the affected area shall be resumed in the absence of asbestos or polychlorinated biphenyl (PCB), or when it has been rendered harmless, by written agreement of the Owner and Contractor.

.1 Except where otherwise stated in the Contract Documents, no hazardous material work of any nature shall be performed by the Contractor pursuant to this Contract.

.2 The term "hazardous materials" includes, but is not limited to, asbestos, toxic chemicals, acids, alkalis, irritants, contaminants, or other pollutants, together with any other waste, material, substance, pollutants, or contaminant, all or a portion of which is or would be designated as hazardous waste or substance under applicable local, state, or federal laws, ordinances, codes, rules, or regulations.

§ 10.3.2 ~~Upon receipt of the Contractor's notice, the Owner shall obtain the services of a licensed laboratory to verify the presence or absence of the material or substance reported by the Contractor and, in the event such material or substance is found to be present, to cause it to be rendered harmless. Unless otherwise required by the Contract Documents, the Owner shall furnish in writing to the Contractor, Construction Manager and Architect the names and qualifications of persons or entities who are to perform tests verifying the presence or absence of the material or substance or who are to perform the task of removal or safe containment of the material or substance. The Contractor, the Construction Manager and the Architect will promptly reply to the Owner in writing stating whether or not any of them has reasonable objection to the persons or entities proposed by the Owner. If the Contractor, Construction Manager or Architect has an objection to a person or entity proposed by the Owner, the Owner shall propose another to whom the Contractor, the Construction Manager and the Architect have no reasonable objection. When the material or substance has been rendered harmless, Work in the affected area shall resume upon written agreement of the Owner and Contractor. By Change Order, the Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable additional costs of shutdown, delay, and start-up.~~To the fullest extent permitted by law, the Owner shall indemnify and hold harmless the Contractor, Construction Manager, Architect, their consultants, and agents and employees of any of them from and against claims, damages, losses, and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work on Owner's property if in fact the material is asbestos or polychlorinated biphenyl (PCB) and has not been rendered harmless, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), including loss of use resulting therefrom, but only to the extent caused in whole or in part by negligent acts or omissions of the Owner, anyone directly or indirectly employed by the Owner, or anyone for whose acts the Owner may be liable, regardless of whether or not such claim, damage, loss, or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity which would otherwise exist as to a party or person described in this Subparagraph 10.3.2.

§ 10.3.3 ~~To the fullest extent permitted by law, the Owner shall indemnify and hold harmless the Contractor, Subcontractors, Construction Manager, Architect, their consultants, and agents and employees of any of them from and against claims, damages, losses, and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work in the affected area if in fact the material or substance presents the risk of bodily injury or death as described in Section 10.3.1 and has not been rendered harmless, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), except to the extent that such damage, loss, or expense is due to the fault or negligence of the party seeking indemnity.~~If reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a material or substance encountered on the site by the contractor, the Contractor shall, upon recognizing the condition, immediately stop Work on Owner's property and report the condition to the Owner, Construction Manager and Architect in writing. The Owner, Construction Manager, Contractor, and Architect shall then proceed in the same manner described in Subparagraph 10.3.1.

~~**§ 10.3.4** The Owner shall not be responsible under this Section 10.3 for hazardous materials or substances the Contractor brings to the site unless such materials or substances are required by the Contract Documents. The Owner shall be responsible for hazardous materials or substances required by the Contract Documents, except to the extent of the Contractor's fault or negligence in the use and handling of such materials or substances.~~

§ 10.3.5 The Contractor shall reimburse the Owner for the cost and expense the Owner incurs (1) for remediation of hazardous materials or substances the Contractor brings to the site and negligently handles, or (2) where the

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Contractor fails to perform its obligations under Section 10.3.1, except to the extent that the cost and expense are due to the Owner's fault or negligence. Owner shall be responsible for obtaining the services of a licensed laboratory to verify a presence or absence of the material or substance reported by the Contractor and, in the event such material or substance is found to be present, to verify that it has been rendered harmless.

§ 10.3.6 ~~If, without negligence on the part of the Contractor, the Contractor is held liable by a government agency for the cost of remediation of a hazardous material or substance solely by reason of performing Work as required by the Contract Documents, the Owner shall reimburse the Contractor for all cost and expense thereby incurred.~~Regulations concerning the availability of information and employee training in the use and handling of "hazardous substances" and "harmful physical agents", as set forth in the Employee Right-to-Know Act of 1983, Minnesota Statutes, Sections 182.65 to 182.676 are incorporated herein by reference as if fully set forth herein.

§ 10.3.7 The Contractor shall furnish three Material Safety Data Sheets to the Owner for each material used in the Work that is classified by the Employee Right-to-Know Act of 1983 as a "hazardous substance" or a "harmful physical agent."

§ 10.3.8 The Contractor shall label, in generally accepted and/or standardized fashion, all containers on the work site containing "hazardous substances" or as "harmful physical agents." This shall include factory containers and all subsequent containers used in the Work.

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In an emergency affecting safety of persons or property, the Contractor shall ~~act, at the Contractor's discretion,~~ act to prevent threatened damage, injury, or loss. Additional compensation or extension of time claimed by the Contractor on account of an emergency shall be determined as provided in Article 15 and Article 7.

...

§ 11.1.1 The Contractor shall purchase and maintain insurance of the types and limits of liability, containing the endorsements, and subject to the terms and conditions, as described in the ~~Agreement~~ Agreement, in EXH-C Owner Insurance or elsewhere in the Contract Documents. The Contractor shall purchase and maintain the required insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is ~~located.~~ located and which carry a Best's rating of A- or higher or are otherwise acceptable to the Owner. The Owner, Construction Manager and Construction Manager's consultants, and the Architect and Architect's consultants, shall be named as additional insureds under the Contractor's commercial general liability policy or as otherwise described in the Contract Documents.

...

§ 11.1.3 Upon the request of any person or entity appearing to be a potential beneficiary of bonds covering payment of obligations arising under the Contract, the Contractor shall promptly furnish a copy of the bonds or shall authorize a copy to be furnished. The Contractor shall furnish Certificates of Insurance acceptable to the Owner which shall specifically set forth evidence of all coverage required by Article 11 and EXH-C Owner Insurance and shall be filed with the Owner and Construction Manager prior to commencement of the Work and thereafter upon renewal or replacement of each required policy of insurance.

The Contractor shall not allow insurance required by this Agreement to lapse, be canceled, reduced in limits or coverage, non-renewed, or materially changed or have restrictive modifications added during the life of this Agreement, including the periods of required coverage. The Contractor shall furnish to the Owner and Construction Manager copies of any endorsements that are subsequently issued amending coverage and limits.

If any of the foregoing insurance coverages are required to remain in force after final payment and are reasonably available, all additional certificates evidencing continuation of such coverage shall be submitted with the final Application for Payment. Information concerning reduction of coverage shall be furnished by the Contractor with reasonable promptness in accordance with the Contractor's information and belief.

§ 11.1.3.1 Acceptable insurance certificates are AIA Document G705, CICC of Minnesota Form 701, and/or ACORD form of the American Insurance Institute.

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Failure of the Owner to collect certificates does not void the requirements to obtain insurance.

The acceptance of any certificate of insurance by the Owner shall not relieve or decrease the liability of the Contractor hereunder. It is to be understood the Owner, Construction Manager and Architect do not in any way represent that the insurance specified in these articles are sufficient or adequate to protect the Contractor's interest or liabilities, but are merely minimum requirements.

The Contractor shall furnish to the Owner copies of any endorsements that are subsequently issued amending coverage and limits.

§ 11.1.4 ~~Notice of Cancellation or Expiration of Contractor's Required Insurance.~~ ~~Within three (3) business days of the date the Contractor becomes aware of an impending or actual cancellation or expiration of any insurance required by the Contract Documents, the Contractor shall provide notice directly to the Owner, and separately to the Construction Manager, of such impending or actual cancellation or expiration. Upon receipt of notice from the Contractor, the Owner shall, unless the lapse in coverage arises from an act or omission of the Owner, have the right to stop the Work until the lapse in coverage has been cured by the procurement of replacement coverage by the Contractor. The furnishing of notice by the Contractor shall not relieve the Contractor of any contractual obligation to provide any required coverage.~~In the event the Contractor fails to procure or maintain any insurance coverage required under this Agreement, the Owner may purchase such coverage and deduct the cost thereof from any monies due to the Contractor, or terminate this Agreement under Paragraph 14.2. The Contractor shall be liable to the Owner for providing all coverage, defense, and payments that would have been provided by any insurance that the Contractor failed to procure and maintain as required by the Contract Documents.

§ 11.1.5 Compliance by the Contractor with the foregoing insurance requirements shall not relieve it from liability for amounts in excess of the limits of insurance.

§ 11.1.6 The Contractor and any of its Subcontractors, Sub-subcontractors, agents and employees, and any separate contractors described in Article 6, if any, and any of their subcontractors, sub-subcontractors, agents and employees shall waive any of their subrogation rights on their Workers Compensation Policy in favor of the Owner, Construction Manager and Architect. The policies shall provide such waivers of subrogation by endorsement or otherwise. A waiver of subrogation shall be effective as to a person or entity even though that person or entity would otherwise have a duty of indemnification, contractual, or otherwise, did not pay the insurance premium directly or indirectly, and whether or not the person or entity had an insurable interest.

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§ 11.2.1 The Owner shall purchase and maintain insurance of the types and limits of liability, containing the endorsements, and subject to the terms and conditions, as described in the Agreement or elsewhere in the Contract Documents. The Owner shall purchase and maintain the required insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The Owner may self-insure and maintain the Owner's usual liability insurance. Optionally, the Owner may purchase and maintain other insurance for self-protection against claims which may arise from operations under the Contract. The Contractor shall not be responsible for purchasing and maintaining this optional Owner's liability insurance unless specifically required by the Contract Documents.

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~~§ 11.3.2~~ ~~If during the Project construction period the Owner insures properties, real or personal or both, at or adjacent to the site by property insurance under policies separate from those insuring the Project, or if after final payment property insurance is to be provided on the completed Project through a policy or policies other than those insuring the Project during the construction period, to the extent permissible by such policies, the Owner waives all rights in accordance with the terms of Section 11.3.1 for damages caused by fire or other causes of loss covered by this separate property insurance.~~

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§ 11.5.2 Prior to settlement of an insured loss, the Owner shall notify the Contractor of the terms of the proposed settlement as well as the proposed allocation of the insurance proceeds. The Contractor shall have 14 days from receipt of notice to object to the proposed settlement or allocation of the proceeds. If the Contractor does not object, the Owner shall settle the loss and the Contractor shall be bound by the settlement and allocation. Upon receipt, the Owner shall ~~deposit the insurance proceeds in a separate account and~~ make the appropriate distributions. Thereafter, if no other agreement is made or the Owner does not terminate the Contract for convenience, the Owner and Contractor shall execute a Change Order for reconstruction of the damaged or destroyed Work in the amount allocated for that purpose. If the Contractor timely objects to either the terms of the proposed settlement or the allocation of the proceeds, the Owner may proceed to settle the insured loss, and any dispute between the Owner and Contractor arising out of the settlement or allocation of the proceeds shall be resolved pursuant to Article 15. Pending resolution of any dispute, the Owner may issue a Construction Change Directive for the reconstruction of the damaged or destroyed Work.

§ 11.6 Bonds

§ 11.6.1 Contractor shall furnish a Performance Bond and a Payment Bond to the Owner in the amount of one hundred percent (100%) of the Contract Sum and issued by a Surety Company authorized to do business in the State of Minnesota, rated "A" or better, and approved by the Owner. The Performance Bond shall be in accordance with Minnesota Statutory requirements, and shall be in the form included in the Project Manual. The Bonds shall allow for any additions or deductions to the Contract Sum.

§ 11.6.2 In order to be acceptable as a surety, Contractor's bonding company bust hold a "Certificate of Authority acceptable to the U.S. Treasury Department and be listed in the Department's current publication of "Bond Qualifiers" with underwriting limitations not less than ten percent (10%) above the Contract Sum.

§ 11.6.3 The surety of the Bonds shall be by a corporate surety company authorized to do business in the state in which Work is being performed under this Contract and acceptable to the Owner. The conditions of the bonds shall meet requirements of the statutes of the state where Work is being performed and all other applicable provisions of state law.

§ 11.6.4 The Contractor shall furnish two (2) originals of the Bonds to the Owner, with copies to the Architect and Construction Manager, within ten (10) days after notification of award and before execution of the Contract. Failure to do so shall constitute a violation of terms of the proposal and provide grounds for forfeiture of bid security.

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The Contractor shall promptly correct Work rejected by the Construction Manager or Architect or failing to conform to the requirements of the Contract Documents, discovered before Substantial Completion, and whether or not fabricated, installed or completed. ~~Costs~~ The Contractor shall bear costs of correcting such rejected Work, including additional testing and inspections, the cost of uncovering and replacement, and compensation for the Construction Manager's and Architect's services and expenses made necessary ~~thereby, shall be at the Contractor's expense.~~thereby.

...

~~**§ 12.2.2.1** In addition to the Contractor's obligations under Section 3.5, if, within one year after the date of Substantial Completion of the Work or designated portion thereof, or after the date for commencement of warranties established under Section 9.9.1, or by terms of any applicable special warranty required by the Contract Documents, any of the Work is found to be not in accordance with the requirements of the Contract Documents, the Contractor shall correct it promptly after receipt of notice from the Owner to do so, unless the Owner has previously given the Contractor a written acceptance of such condition. The Owner shall give such notice promptly after discovery of the condition. During the one-year period for correction of Work, if the Owner fails to notify the Contractor and give the Contractor an opportunity to make the correction, the Owner waives the rights to require correction by the Contractor and to make a claim for breach of warranty. If the Contractor fails to correct nonconforming Work within a reasonable time during that period after receipt of notice from the Owner, Construction Manager or Architect, the Owner may correct it in accordance with Section 2.5.~~

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~~§ 12.2.2.2 The one-year period for correction of Work shall be extended with respect to portions of Work first performed after Substantial Completion by the period of time between Substantial Completion and the actual completion of that portion of the Work.~~

~~§ 12.2.2.3 The one-year period for correction of Work shall not be extended by corrective Work performed by the Contractor pursuant to this Section 12.2.~~

§ 12.2.2.1 If within one year after the date of Substantial Completion of the Work or designated portion thereof, or after the date for commencement of warranties established under Section 9.9.1, or by terms of any applicable special warranty required by the Contract Documents, any of the Work is found to be not in accordance with the requirements of the Contract Documents, the Contractor shall correct it promptly (and any other property damaged or removed in effecting the correction) after receipt of notice from the Owner, Construction Manager or Architect to do so, unless the Owner has previously given the Contractor a written acceptance of such condition. The Owner, Construction Manager or Architect shall give such notice promptly after discovery of the condition. This period of one year shall be extended with respect to portions of Work first performed after Substantial completion by the period of time between Substantial completion and the actual performance of the Work. This obligation under this Subparagraph 12.2.2.1 shall survive acceptance of the Work under the contract and termination of the Contract. The Owner, Construction Manager or Architect shall give such notice promptly after discovery of the condition. The expiration of the above one year or any other specified time period, or any other period prescribed by the law, shall not relieve the Contractor of the obligation form the expense to correct any latent defect in the work or deficiencies which are not readily ascertained, including but not limited to, defective materials and quality of work performed, defects attributable to material substitutions for special materials, substandard performance or otherwise not in compliance with the Contract Documents. Such latent defects or deficiencies shall be corrected as provided in this Paragraph 12.2. Following the correction or replacement of any of the Work, as above specified, the Contractor shall correct any defects or deficiencies in the corrected or replaced materials and workmanship which is found within one year after the date of correction or replacement.

§ 12.2.4 ~~The Contractor shall bear the cost of correcting destroyed or damaged construction of the Owner, Separate Contractors, or other Contractors, whether completed or partially completed, caused by the Contractor's correction or removal of Work that is not in accordance with the requirements of the Contract Documents.~~ If the Contractor fails to correct nonconforming Work within a reasonable time, the Owner may correct it in accordance with Paragraph 2.4. If the Contractor does not proceed with correction of such nonconforming Work within a reasonable time fixed by written notice from the Architect or Construction Manager, the Owner may correct or remove it and store the salvageable materials or equipment all at the Contractor's expense. If the Contractor does not pay costs of such removal and storage within ten (10) days after written notice, the Owner may upon ten (10) additional days' written notice sell such materials and equipment at auction or at private sale and shall account for the proceeds thereof, after deducting costs and damages that should have been borne by the Contractor, the Contract Sum shall be reduced by the deficiency. If payments then or thereafter due the Contractor are not sufficient to cover such amount, the Contractor shall pay the difference to the Owner.

§ 12.2.5 ~~Nothing contained in this Section 12.2 shall be construed to establish a period of limitation with respect to other obligations the Contractor has under the Contract Documents. Establishment of the one-year period for correction of Work as described in Section 12.2.2 relates only to the specific obligation of the Contractor to correct the Work, and has no relationship to the time within which the obligation to comply with the Contract Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Contractor's liability with respect to the Contractor's obligations other than specifically to correct the Work.~~ The Contractor shall bear the cost of correcting destroyed or damaged construction whether completed or partially completed, of the Owner or separate contractors caused by the Contractor's correction or removal of Work which is not in accordance with the requirements of the Contract Documents.

§ 12.2.6 Nothing contained in this Section 12.2 shall be construed to establish a period of limitation with respect to other obligations the Contractor has under the Contract Documents. Establishment of the one-year period for correction of Work as described in Section 12.2.2 relates only to the specific obligation of the Contractor to correct the Work, and has no relationship to the time within which the obligation to comply with the Contract Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Contractor's liability with respect to the Contractor's obligations other than specifically to correct the Work.

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§ 13.4.1 Tests, inspections, and approvals of portions of the Work shall be made as required by the Contract Documents and by applicable laws, statutes, ordinances, codes, rules, and regulations or lawful orders of public authorities. ~~Unless otherwise provided, the Contractor~~ The Owner, Construction Manager or Architect shall make arrangements for such tests, inspections, and approvals with an independent testing laboratory or entity acceptable to the Owner, or with the appropriate public ~~authority, and shall bear all related costs of tests, inspections, and approvals. The Contractor shall give the Construction Manager and Architect timely notice~~ authority. Timely notice shall be given to the Construction Manager and Architect of when and where tests and inspections are to be made so that the Construction Manager and Architect may ~~be present for~~ observe such procedures. The Owner shall bear costs of tests, inspections, or approvals that do not become requirements until after bids are received or negotiations concluded. The Owner shall directly arrange and pay for tests, inspections, or approvals where building codes or applicable laws or regulations so require.

§ 13.4.2 If the Construction Manager, Architect, Owner, or public authorities having jurisdiction determine that portions of the Work require additional testing, inspection, or approval not included under Section 13.4.1, the Construction Manager and Architect will, upon written authorization from the Owner, instruct the Contractor to make arrangements for such additional testing, inspection, or approval, by an entity acceptable to the Owner, and the Contractor shall give ~~timely~~ a minimum of two (2) working days' notice to the Construction Manager and Architect of when and where tests and inspections are to be made so that the Construction Manager and Architect may ~~be present for such procedures. Such~~ observe procedures. The Owner shall bear such costs, except as provided in Section ~~13.4.3, shall be at the Owner's expense.~~13.4.3.

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~~Payments due and unpaid under the Contract Documents shall bear interest from the date payment is due at the rate the parties agree upon in writing or, in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located.~~All payments to the Contractor shall be governed by the Prompt Payment of Local Government Bills, Minnesota Statutes, Section 471.125 ("Prompt Payment Act") and Article 5 of the A132–2019 Agreement on this Project.

§ 13.6 Non-Discrimination

§ 13.6.1 All contracts between the Owner and companies providing goods and services under the Contract Documents shall contain the following equal opportunity and civil right clause:

> "During the performance of this Agreement, the provider agrees to the following: No contractor, material supplier, vendor, or other person shall on the basis of sex, race, creed, color, religion, national origin, age, marital status, sexual orientation, or disability be excluded from full employment rights in, participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program, service, or activity under the provisions of any and all applicable Federal and State laws against discrimination, including the Minnesota Human Rights Act and the Civil Rights Act of 1964."

Upon request, the Contractor shall furnish all information and reports required by the Owner, or by the rules and regulations of investigation to ascertain compliance with all applicable rules and regulations. The Contractor shall also comply with any applicable licensing requirements of the Minnesota Department of Human Services in employment of personnel.

The Contractor acknowledges that the violation of the above-stated paragraph is a misdemeanor pursuant to Minnesota Statutes, Section 181.59.

This Agreement may be cancelled or terminated by the Owner or any other person authorized to grant the contracts for employment under this Agreement, and all money due, or to become due under this Agreement may be forfeited for a second or any subsequent violation of the non-discriminatory terms stated above.

§ 13.6.2 During the completion of the work and all other services required by the Contract Documents, the Contractor agrees that no contractor, material supplier, vendor, or other person shall, on the basis of sex, race, creed, color, religion, national origin, age, marital status, sexual orientation, or disability be excluded from full employment rights in participation in, be denied the benefits of, or be otherwise subjected to discrimination under the provisions of any and all applicable Federal and State laws against discrimination, including the Minnesota Human Rights Act and the

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Civil Rights Act of 1964. Upon request, the Architect, Construction Manager and Contractor shall furnish all information and reports required by the Owner, or by the rules and regulations of investigation to ascertain compliance with all applicable rules and regulations. The Contractor shall also comply with any applicable licensing requirements of the Minnesota Department of Human Services in employment of personnel.

Contractor acknowledges that the violation of the above-states paragraph is a misdemeanor pursuant to Minnesota Statutes Section 181.59.

The Contract Documents may be cancelled or terminated by the Owner or any other person authorized to grant the contracts for employment under this Agreement, and all money due, or to become due under the Agreement may be forfeited for a second or any subsequent violation of the non-discriminatory terms stated above.

§ 13.7 No action or failure to act by the Owner shall constitute a waiver of a right or duty afforded the Owner under the Contract Documents, nor shall such action or failure to act constitute approval of or acquiescence of the Owner in a breach of the Contract Documents, except as may be specifically agreed in writing. None of the approval of any Application for Payment, the making of any payment, the giving of any approval or consent, the use or occupancy of the Work, or any part thereof, the making of final payment, or any other action or inaction on the part of the Owner, Construction Manager or Architect shall constitute a waiver of claims by or rights of the Owner or an acceptance of any Work that is not in accordance with the Contract Documents. The Contractor shall not be relieved from its obligations to perform the Work in accordance with the Contract Documents either by the activities or duties of the representations of the Owner, Construction Manager or Architect, or by inspections, tests, or approvals required or performed by the Owner, Construction Manager or Architect or anyone else.

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§ 14.1.5 No Right to Stop Work for Non-Payment

The Contractor has no right to stop Work as a consequence of non-payment. In the event of any disagreement between the Contractor and Owner involving the Contractor's entitlement to payment, the Contractor's only remedy is to file a Claim in accordance with Article 15. The Contractor must diligently proceed with the Work pending resolution of the Claim. If, however, an Application for Payment has been approved for payment by the Owner, and the Owner fails to make payment within sixty (60) days of the approval for payment by the Owner, the Contractor may upon ten (10) days written notice to the Owner, stop work if payment is not made by the Owner within ten (10) days following the notice.

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§ 14.3.2 The Contract Sum and the Contract Time shall be adjusted for increases or decreases in the cost and time caused by suspension, delay, or interruption under Section 14.3.1. Adjustment of the Contract Sum shall include reasonable profit. No adjustment shall be made to the extent:

...

~~**§ 14.4.3** In case of such termination for the Owner's convenience, the Owner shall pay the Contractor for Work properly executed; costs incurred by reason of the termination, including costs attributable to termination of Subcontracts; and the termination fee, if any, set forth in the Agreement.~~

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§ 15.1.1 Definition. A Claim is a demand or assertion by ~~one of the parties~~ the Contractor seeking, as a matter of right, payment of money, a change in the Contract Time, or other relief with respect to the terms ~~of the Contract. The term "Claim" also includes other disputes and matters in question between the Owner and Contractor arising out of~~ or ~~relating to~~ the Contract. The responsibility to substantiate Claims shall rest with ~~the party making the Claim.~~ the Contractor. Nothing in this paragraph 15.1.1 is intended to apply to or in any way limit the Owner's right to make Claims related to or arising out of the Contract. This Section 15.1.1 does not require the Owner to file a Claim in order to impose liquidated damages in accordance with the Contract Documents.

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§ 15.1.3.1 Claims by ~~either the Owner or~~ Contractor, where the condition giving rise to the Claim is first discovered prior to expiration of the period for correction of the Work set forth in Section 12.2.2, shall be initiated by written notice to the ~~other party~~ Owner and to the Initial Decision Maker with a copy sent to the Construction Manager and Architect, if the Architect is not serving as the Initial Decision Maker. Claims by ~~either party~~ the Contractor under this Section 15.1.3.1 shall be initiated within ~~21~~ ten (10) days after occurrence of the event giving rise to such Claim or within ~~21~~ ten (10) days after the ~~claimant~~ Contractor first recognizes the condition giving rise to the Claim, whichever is later. Any additional Claim made after and relating to the initial Claim has been implemented by Change Order will not be considered unless submitted in a timely manner. As a condition to making a claim for additional costs, the Contractor shall maintain and produce accurate records to substantiate all additional costs actually incurred. If a Claim for actual costs is approved, the Owner shall pay the Contractor actual costs incurred, plus either (a) ten percent (10%) for overhead and profit for work performed by the Contractor, or (b) five percent (5%) overhead and profit for work performed by a Subcontractor, as applicable.

§ 15.1.3.2 Claims by either the Owner or Contractor, where the condition giving rise to the Claim is first discovered after expiration of the period for correction of the Work set forth in Section 12.2.2, shall be initiated by written notice to the other party. In such event, no decision by the Initial Decision Maker is required.

...

§ 15.1.4.1 Pending final resolution of a Claim, except as otherwise agreed in writing or as provided in Section 9.7 and Article 14, the Contractor shall proceed diligently with performance of the Contract and the Owner shall continue to make payments in accordance with the Contract Documents. Subject to Paragraph 15.1.5, no such continuing performance by the Contractor, nor payment by the Owner shall be deemed a waiver of, or to otherwise impair any such Claim.

...

§ 15.1.6.1 If the Contractor wishes to make a Claim for ~~an~~ any increase in the Contract Time, notice as provided in Section 15.1.3 shall be given. The Contractor's Claim shall include an estimate of cost and of probable effect of delay on progress of the Work. In the case of a continuing delay only one Claim is necessary.
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~~**§ 15.1.7 Waiver of Claims for Consequential Damages.** The Contractor and Owner waive Claims against each other for consequential damages arising out of or relating to this Contract. This mutual waiver includes~~

~~.1 damages incurred by the Owner for rental expenses, for losses of use, income, profit, financing, business and reputation, and for loss of management or employee productivity or of the services of such persons; and~~

~~.2 damages incurred by the Contractor for principal office expenses including the compensation of personnel stationed there, for losses of financing, business and reputation, and for loss of profit except anticipated profit arising directly from the Work.~~

~~This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination in accordance with Article 14. Nothing contained in this Section 15.1.7 shall be deemed to preclude assessment of liquidated damages, when applicable, in accordance with the requirements of the Contract Documents.~~

...

§ 15.2.6 ~~Either party may file for mediation of an initial decision at any time, subject to the terms of Section 15.2.6.1.~~ In the event of a Claim against the Contractor, the Owner may, but is not obligated to notify the surety, if any, of the nature and amount of the Claim. If the Claim relates to a possibility of a Contractor's default, the Owner may, but is not obligated to notify the surety and initiate a Claim on the performance bond.

~~**§ 15.2.6.1** Either party may, within 30 days from the date of receipt of an initial decision, demand in writing that the other party file for mediation. If such a demand is made and the party receiving the demand fails to file for mediation~~

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~~within 30 days of receipt thereof, then both parties waive their rights to mediate or pursue binding dispute resolution proceedings with respect to the initial decision.~~

~~§ 15.2.7 In the event of a Claim against the Contractor, the Owner may, but is not obligated to, notify the surety, if any, of the nature and amount of the Claim. If the Claim relates to a possibility of a Contractor's default, the Owner may, but is not obligated to, notify the surety and request the surety's assistance in resolving the controversy.~~

~~§ 15.2.8 If a Claim relates to or is the subject of a mechanic's lien, the party asserting such Claim may proceed in accordance with applicable law to comply with the lien notice or filing deadlines.~~

§ 15.3.1 ~~Claims, disputes, or other matters in controversy~~ Any claim, dispute or other matter in question or arising out of or related to the ~~Contract, except those waived as provided for in Sections 9.10.4, 9.10.5, and 15.1.7, shall be subject to mediation as a condition precedent to binding dispute resolution.~~Contract shall be subject to mediation. Mediation is not a condition precedent to commencing litigation, but if litigation is commenced before mediation is held, the Parties agree to mediate before any dispositive motions or trial.

§ 15.3.2 The parties shall ~~endeavor to resolve their Claims by mediation which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Mediation Procedures in effect on the date of the Agreement. A request for mediation shall be made in writing, delivered to the other party to the Contract, and filed with the person or entity administering the mediation. The request may be made concurrently with the filing of binding dispute resolution proceedings but, in such event, mediation shall proceed in advance of binding dispute resolution proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order. If an arbitration is stayed pursuant to this Section 15.3.2, the parties may nonetheless proceed to the selection of the arbitrator(s) and agree upon a schedule for later proceedings.~~share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located unless another location is mutually agreed upon. Agreements reached in mediation and ratified by the Owner's Council shall be enforceable as settlement agreements in any court having jurisdiction thereof.

~~§ 15.3.3 Either party may, within 30 days from the date that mediation has been concluded without resolution of the dispute or 60 days after mediation has been demanded without resolution of the dispute, demand in writing that the other party file for binding dispute resolution. If such a demand is made and the party receiving the demand fails to file for binding dispute resolution within 60 days after receipt thereof, then both parties waive their rights to binding dispute resolution proceedings with respect to the initial decision.~~

~~§ 15.3.4 The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.~~

~~§ 15.4 Arbitration~~

~~§ 15.4.1 If the parties have selected arbitration as the method for binding dispute resolution in the Agreement, any Claim subject to, but not resolved by, mediation shall be subject to arbitration which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Arbitration Rules in effect on the date of the Agreement. The Arbitration shall be conducted in the place where the Project is located, unless another location is mutually agreed upon. A demand for arbitration shall be made in writing, delivered to the other party to the Contract, and filed with the person or entity administering the arbitration. The party filing a notice of demand for arbitration must assert in the demand all Claims then known to that party on which arbitration is permitted to be demanded.~~

~~§ 15.4.1.1 A demand for arbitration shall be made no earlier than concurrently with the filing of a request for mediation, but in no event shall it be made after the date when the institution of legal or equitable proceedings based on the Claim would be barred by the applicable statute of limitations. For statute of limitations purposes, receipt of a written demand for arbitration by the person or entity administering the arbitration shall constitute the institution of legal or equitable proceedings based on the Claim.~~

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~~§ 15.4.2 The award rendered by the arbitrator or arbitrators shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.~~

~~§ 15.4.3 The foregoing agreement to arbitrate and other agreements to arbitrate with an additional person or entity duly consented to by parties to the Agreement, shall be specifically enforceable under applicable law in any court having jurisdiction thereof.~~

~~**§ 15.4.4 Consolidation or Joinder**~~

~~§ 15.4.4.1 Subject to the rules of the American Arbitration Association or other applicable arbitration rules, either party may consolidate an arbitration conducted under this Agreement with any other arbitration to which it is a party provided that (1) the arbitration agreement governing the other arbitration permits consolidation, (2) the arbitrations to be consolidated substantially involve common questions of law or fact, and (3) the arbitrations employ materially similar procedural rules and methods for selecting arbitrator(s).~~

~~§ 15.4.4.2 Subject to the rules of the American Arbitration Association or other applicable arbitration rules, either party may include by joinder persons or entities substantially involved in a common question of law or fact whose presence is required if complete relief is to be accorded in arbitration, provided that the party sought to be joined consents in writing to such joinder. Consent to arbitration involving an additional person or entity shall not constitute consent to arbitration of any claim, dispute or other matter in question not described in the written consent.~~

~~§ 15.4.4.3 The Owner and Contractor grant to any person or entity made a party to an arbitration conducted under this Section 15.4, whether by joinder or consolidation, the same rights of joinder and consolidation as those of the Owner and Contractor under this Agreement.~~

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Certification of Document's Authenticity

AIA® Document D401™ – 2003

I, , hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with its associated Additions and Deletions Report and this certification at 11:44:04 CT on 02/03/2025 under Order No. 4104251278 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document A232™ – 2019, General Conditions of the Contract for Construction, Construction Manager as Adviser Edition, other than those additions and deletions shown in the associated Additions and Deletions Report.



(Signed)

Curtis Hartog, Executive Director

(Title)

2/3/2025

(Dated)

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Exhibit B – Project Charter

FY21 North High School Renovations-Bid Pack 4

Work Scope 08-F Glass and Glazing

Description

Perform glass and glazing in accordance with Work Scope 08-F for the North High School Phase 4 renovations

Contract Sum

The Contract Sum shall be $358,900

Alternates

Item	Price	Status
Alt #1: Health Office	$4,360	rejected
Alt #2: Athletic and Counseling Offices	$54,590	rejected
Alt #3: Electrical panel replacements	$0	accepted
Alt #4: AHU-41 replacement	$0	accepted
Alt #5: Direct digital controls	$0	accepted

EXHIBIT C Owner Insurance

Insurance Requirements

1. CONSULTANT'S INSURANCE – to be used with AIA B101-2017, AIA C103-2015, or similar non-contractor consultants:
   The Consultant shall at its own expense maintain in effect at all times during the performance of the Work under the Agreement at least the following coverage and limits of insurance:

   a. Worker's Compensation and Employer's Liability Insurance

      i. Coverage A is statutory.

      ii. Coverage B
      $500,000 Each Accident
      $500,000 Each Employee
      $500,000 Policy Limit (Disease)

   b. Comprehensive General Liability Insurance *

General Aggregate	$1,000,000
Products/Completed Operations Aggregate	$1,000,000
Per Occurrence	$1,000,000
Medical Payments	$10,000

   * The Owner should be named as an additional insured for Comprehensive General Liability Insurance.

   c. Automobile Insurance

Per Occurrence	$1,000,000
PIP	Basic
Underinsured Motorist	$1,000,000
Uninsured Motorist	$1,000,000

   d. Professional Liability Insurance

      i. Per Claim $2,000,000

ii. For projects with an estimated construction Contract Sum of over $10,000,000 or major structural work an aggregate is required as follows:
Aggregate $4,000,000

e. Umbrella Liability Insurance

i. Per Occurrence $2,000,000

ii. For projects with an estimated construction Contract Sum of over $10,000,000 or major structural work an aggregate is required as follows:
Aggregate $2,000,000

f. Manned or Unmanned Aircraft Coverage (if used)

i. Per Claim $1,000,000

ii. Aggregate $1,000,000

For specialty consultants used for commissioning activities, studies, asbestos surveys and security, items A, B, C and F shall apply.

Special Asbestos Abatement Liability Insurance is required for Asbestos Abatement Contractors. The limits are $1,500,000 per claim, for liability arising from the encapsulation, removal, handling, storage, transportation, and disposal of asbestos-containing materials.

2. CONSULTANT'S OBLIGATIONS

Consultant shall not violate or knowingly permit any violation of any conditions or terms of the policies of insurance required to be carried under the terms hereof and shall endeavor to satisfy the requirements of the insurance companies issuing them. In the event Consultant neglects, refuses or fails to provide or maintain any of the insurance required to be carried under the Agreement, or if such insurance is canceled for any reason, the Owner or the Owner's lender(s) shall have the right, but not the duty, to procure or maintain the same.

In the event the Owner or the Owner's lender(s) do procure or maintain such insurance, the Owner or the Owner's lender(s) shall have, in additional to any and all other available remedies, the right to recover from the Consultant (including the right of set-off against sums otherwise due the Consultant) all of the costs associated with procuring or maintaining such insurance.

3. PROFESSIONAL LIABILITY INSURANCE

   a. Professional Liability Coverage of $2,000,000 shall be maintained for one (1) year from the date of Substantial Completion. If the Consultant discontinues its business and if directed by Owner in writing, Consultant shall purchase such insurance in such amount for an extended discovery period beyond the one (1) year after the date of Substantial Completion, with the premium cost to be a reimbursable expense paid by the Owner. The limit of liability for such policy may not be reduced below $2,000,000 without the Owner giving its prior, written consent. All policies of insurance that Consultant is required under the terms of this Exhibit C Owner's Insurance to secure and maintain shall bear the endorsement "Not to be canceled until sixty (60) calendar days after Owner has received a written notice from insurer as evidence by a return receipt of registered or certified mail."

   b. The Owner shall not be responsible for obtaining or paying premiums or other expenses in connection with insurance required to be carried under the Agreement or normally carried by the Consultant's consultants, and the obligation to obtain such insurance and to pay such premiums and other expenses shall be solely that of the Consultant.

   c. The Consultant shall bear all the costs of any and all deductible amounts under any insurance policies required to be carried under the Agreement and shall remain solely and fully liable for the full amount of any claim or item not compensated by insurance (to the extent that any amount resulted from damages that arose out of the Consultant's sole negligence.)

4. COVERAGE
   The coverage's referred to above are set forth in full in the respective policy forms, and the foregoing descriptions of such policies are not intended to be complete.

5. GENERALLY

   a. The Consultant thereby represents and warrants to the Owner that, as of the date of the execution of the Agreement, the Consultant is not aware of any claims or potential claims which have been made, filed or threatened against any of the insurance or for damages covered by any of the insurance required to be carried under the Agreement that would affect the Consultant's ability to provide the insurance coverage required by this agreement.

b. It is understood that the provisions in the Agreement requiring the Consultant to carry insurance shall not be construed as in any manner waiving or restricting the liability of the Consultant as to any obligations imposed under the Agreement, including, but not limited to, obligations imposed under the provisions of Article 11 of the AIA A201-2017 General Conditions.

Insurance requirements for Contractors

1. CONTRACTOR'S INSURANCE – to be used with AIA A101-2017
   The Contractor shall at its own expense maintain in effect at all times during the performance of the Work under the Agreement at least the following coverage and limits of insurance:

   a. Commercial General Liability

      i. General Aggregate $1,500,000

      ii. Products/Completed Operations Aggregate $1,500,000

      iii. Per Occurrence $1,500,000

      The Owner shall be named as additional insured for Commercial General Liability Insurance

   b. Automobile Insurance

      i. Per Occurrence $1,000,000

      ii. PIP Basic

      iii. Underinsured Motorist $1,000,000

      iv. Uninsured Motorist $1,000,000

   c. Workers Compensation

      i. Coverage A is statutory.

      ii. Coverage B $500,000 Each Accident

      iii. $500,000 Each Employee

d. Professional Liability (if the Contractor is hiring professionals)

   i. Per Claim $2,000,000

   For Projects with an estimated construction cost of over $10,000,000 or major structural work, additional Aggregate coverage of $4,000,000 is required.

e. Manned or Unmanned Aircraft Coverage (if used)

   i. Per Claim $1,000,000

   ii. Aggregate $1,000,000

f. Property Insurance

   i. Per Claim $1,000,000

   ii. Aggregate $1,000,000

   This insurance is only required for materials stored offsite and not incorporated into the project at delivery. For material stored on site, no additional insurance is required.

g. Builders “all risk” Insurance

   i. Per Claim $2,000,000

   ii. Aggregate $4,000,000

   This insurance is only required for additions exceeding $10,000,000. Renovations to existing schools are not required to have builders all risk insurance.

h. Umbrella Liability

   i. Aggregate limit $5,000,000

   This insurance is required only for projects larger than $10,000,000 in total construction costs.

Exhibit D – Project Schedule

FY21 North High School Renovations-Bid Pack 4 Work Scope 08-F Glass and Glazing

OP#:25-2512

Description

Perform glass and glazing in accordance with Work Scope 08-F for the North High School Phase 4 renovations.

Schedule

Start Construction: On or about March 2025 but within 5 days of notice to proceed as directed by the Construction Manager. Please refer to schedule provided in Specifications.

To be completed in 2025-June 2025 to August 2025

Base Bid Level 1 Area E

Base Bid Level 2 Area F, Area G, Area E

Area D Bathrooms March 2025 – May 2025 and September 2025 to December 2025.

Base Bid Level 2 Area E classrooms March 2025-May 2025

Base Bid Area Level 1 Area C – June 2026-August 2026

Base Bid Level 2 Area G – June 2026-August 2026

Bae Bid Level2 Area D – January 2026-August 2026

Alternate #3 – March 2025 through August 2026

Alternate #4 – June 2025-August 2025

Alternate #5 – June 2025-August 2026

Substantial Completion: August 21, 2026.

Major School Days

Recordkeeping Day – March 28, 2025

Spring Break – March 31 – April 4, 2025

Memorial Day – May 26, 2025

Last Day of School – June 6, 2025

Juneteenth – June 19, 2025

Independence Day – July 4, 2025

Last day for Staff – June 30, 2025

Labor Day – September 1, 2025

First Day of School – September 2, 2025

Rosh Hashanah – September 23, 2025
Yom Kippur – October 2, 2025
MEA – October 16-17, 2025
Recordkeeping Day – November 4, 2025
Thanksgiving – November 26-28, 2025
Winter Break – December 22, 2025 to January 2, 2026
Martin Luther King Day – January 19, 2026
Recordkeeping Day – January 23, 2026
Presidents Day – February 16, 2026
Professional Development – February 17, 2026
Eid al-Fitr – March 20, 2026
Recordkeeping Day – March 27, 2026
Memorial Day – May 25, 2026
Professional Development – May 26, 2026
Eid al Adha – May 27, 2026
Juneteenth – June 19, 2026
Independence Day – July 4, 2026
Labor Day – September 7, 2026
First day of School – September 8, 2026

Substantial Completion

The Work will be substantially complete on or before August 21, 2026

FY25 Ella Baker Cafeteria Improvements

Contract Sum: $152,757.00

Contractor: Gardner Builders Minneapolis, LLC

Project Name and Number

Ella Baker Global Studies and Humanities School
1200 W. 26th St.
Minneapolis, MN 55405
Minneapolis Public Schools Project Number: OP 25-2508
FY25BAKE001
RFP 20-41

Description

Floor finishes and painting, per the project bid documents prepared by Bloom Hay Dobbs.

Contract Sum details

Item	Price	Status
Base Bid	$111,157.00	accepted
Alt #1:	$7,989.00	accepted
Alt #2:	$3,381.00	accepted
Alt #3:	$8,205.00	accepted
Alt #4:	$3,575.00	accepted
Allowance for moisture mitigation: unit price $2.05/sq. ft. for area of 9,000 sq. ft.	$18,450.00	accepted

Contract Documents

AIA Document A101-2017
AIA Document A101 Exhibit A-2017
Exhibit B – Project Charter
Exhibit C – Owner Insurance
Exhibit D – Project Schedule
AIA Document A201-2017
AIA Document E402-2022 (optional BIM models)

AIA® Document A101® – 2017

Standard Form of Agreement Between Owner and Contractor where the basis of payment is a Stipulated Sum

AGREEMENT made as of the Fourth day of February in the year Two Thousand Twenty-Five
(In words, indicate day, month and year.)

BETWEEN the Owner:
(Name, legal status, address and other information)

Minneapolis Public Schools Special School District #1
1250 West Broadway Avenue
Minneapolis, MN 55411

and the Contractor:
(Name, legal status, address and other information)

Gardner Builders Minneapolis, LLC
730 2nd Ave. S
Suite 1233
Minneapolis, MN 55402

for the following Project:
(Name, location and detailed description)

Ella Baker Cafeteria Improvements
Ella Baker Global Studies and Humanities School
1200 W. 26th St.
Minneapolis, MN 55405

The Architect:
(Name, legal status, address and other information)

Bloom Hay Dobbs
2324 University Ave.
Suite 200
Saint Paul, MN 55104

The Owner and Contractor agree as follows.

ADDITIONS AND DELETIONS:
The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

The parties should complete A101®–2017, Exhibit A, Insurance and Bonds, contemporaneously with this Agreement. AIA Document A201®–2017, General Conditions of the Contract for Construction, is adopted in this document by reference. Do not use with other general conditions unless this document is modified.

Init.
/
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TABLE OF ARTICLES

1 THE CONTRACT DOCUMENTS

2 THE WORK OF THIS CONTRACT

3 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

4 CONTRACT SUM

5 PAYMENTS

6 DISPUTE RESOLUTION

7 TERMINATION OR SUSPENSION

8 MISCELLANEOUS PROVISIONS

9 ENUMERATION OF CONTRACT DOCUMENTS

EXHIBIT A INSURANCE AND BONDS

ARTICLE 1 THE CONTRACT DOCUMENTS

The Contract Documents consist of this Agreement, Conditions of the Contract (General, Supplementary, and other Conditions), Drawings, Specifications, Addenda issued prior to execution of this Agreement, other documents listed in this Agreement, and Modifications issued after execution of this Agreement, all of which form the Contract, and are as fully a part of the Contract as if attached to this Agreement or repeated herein. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations, or agreements, either written or oral. An enumeration of the Contract Documents, other than a Modification, appears in Article 9.

ARTICLE 2 THE WORK OF THIS CONTRACT

The Contractor shall fully execute the Work described in the Contract Documents, except as specifically indicated in the Contract Documents to be the responsibility of others.

ARTICLE 3 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

§ 3.1 The date of commencement of the Work shall be:
(Check one of the following boxes.)

[ ] The date of this Agreement.

[X] A date set forth in a notice to proceed issued by the Owner.

[ ] Established as follows:
(Insert a date or a means to determine the date of commencement of the Work.)

If a date of commencement of the Work is not selected, then the date of commencement shall be the date of this Agreement.

§ 3.2 The Contract Time shall be measured from the date of commencement of the Work.

§ 3.3 Substantial Completion

§ 3.3.1 The Contractor shall achieve Substantial Completion of the entire Work:
(Check one of the following boxes and complete the necessary information.)

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[ ] Not later than ( ) calendar days from the date of commencement of the Work.

[X] By the following date: Defined in EXH-D Project Schedule

§ 3.3.2 Subject to adjustments of the Contract Time as provided in the Contract Documents, if portions of the Work are to be completed prior to Substantial Completion of the entire Work, the Contractor shall achieve Substantial Completion of such portions by the following dates are defined in EXH-D Project Schedule. Such portions of the work not completed as defined in EXH-D Project Schedule shall be subject to liquidated damages as set forth in Article 4.5.

(Table Deleted)

§ 3.3.3 If the Contractor fails to achieve Substantial Completion as provided in this Section 3.3, liquidated damages, if any, shall be assessed as set forth in Section 4.5.

ARTICLE 4 CONTRACT SUM

§ 4.1 The Owner shall pay the Contractor the Contract Sum in current funds for the Contractor's performance of the Contract as defined in EXH-B Project Charter, subject to additions and deductions as provided in the Contract Documents.

§ 4.2 Alternates

§ 4.2.1 Alternates, if any, included in the Contract Sum are defined in EXH-B Project Charter.

(Table Deleted)

§ 4.2.2 Subject to the conditions noted in EXH-B Project Charter, alternates may be accepted by the Owner following execution of this Agreement. Upon acceptance, the Owner shall issue a Modification to this Agreement.

(Paragraph Deleted)

(Table Deleted)

§ 4.3 Allowances, if any, included in the Contract Sum are defined in EXH-B Project Charter.

(Paragraph Deleted)

(Table Deleted)

§ 4.4 Unit prices, if any are defined in EXH-B Project Charter.

(Paragraph Deleted)

(Table Deleted)

§ 4.5 Liquidated damages

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Contractor and Owner recognized that time is of the essence for the Project and the Owner will suffer financial loss if the Work is not completed in the time specified in the Contract Documents. The parties also recognized the delays, expenses, and difficulties involved in proving in a legal or arbitration proceeding the actual loss suffered by the Owner if the Work is not completed on time. Accordingly, instead of requiring such proof, the Owner and Contractor agree that as liquidated
damages for delay (but not as penalty), Contractor shall pay Owner $1,000.00 per calendar day for each day that expires after the time specified for Substantial Completion in EXH-D Project Schedule until such time the Work is determined to be substantially complete by the
Owner.

(Paragraph Deleted)

After Substantial Completion, if Contractor shall neglect, refuse, or fail to complete the remaining work within the Contract time specified in the Contract Documents, the contractor shall pay the Owner $1,000.00 per day that expires after the time specified in the Contract Documents for Final Completion and readiness for Final Payment until the Work is completed.

ARTICLE 5 PAYMENTS

§ 5.1 Progress Payments

§ 5.1.1 Based upon Applications for Payment submitted to the Architect by the Contractor and Certificates for Payment issued by the Architect, the Owner shall make progress payments on account of the Contract Sum to the Contractor as provided below and elsewhere in the Contract Documents.

§ 5.1.2 The period covered by each Application for Payment shall be one calendar month ending on the last day of the
month.

§ 5.1.3 When an Application for Payment is received by the Architect, payment of the amount certified shall be made by the Owner not later than 45 (forty-five) days after the Architect receives the Application for Payment.

(Paragraph Deleted)

§ 5.1.4 Each Application for Payment shall be based on the most recent schedule of values submitted by the Contractor on AIA G702 Application and Certificate for Payment in accordance with the Contract Documents. The schedule of values shall allocate the entire Contract Sum among the various portions of the Work. The schedule of values shall be prepared in such form, and supported by such data to substantiate its accuracy, as the Architect may require. This schedule of values shall be used as a basis for reviewing the Contractor's Applications for Payment.

§ 5.1.5 Applications for Payment shall show the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment.

§ 5.1.6 In accordance with AIA Document A201™–2017, General Conditions of the Contract for Construction, and subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

§ 5.1.6.1 The amount of each progress payment shall first include:

- **.1** That portion of the Contract Sum properly allocable to completed Work;
- **.2** That portion of the Contract Sum properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction, or, if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing; and
- **.3** That portion of Construction Change Directives that the Architect determines, in the Architect's professional judgment, to be reasonably justified.

§ 5.1.6.2 The amount of each progress payment shall then be reduced by:

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.1 The aggregate of any amounts previously paid by the Owner;
.2 The amount, if any, for Work that remains uncorrected and for which the Architect has previously withheld a Certificate for Payment as provided in Article 9 of AIA Document A201–2017;
.3 Any amount for which the Contractor does not intend to pay a Subcontractor or material supplier, unless the Work has been performed by others the Contractor intends to pay;
.4 For Work performed or defects discovered since the last payment application, any amount for which the Architect may withhold payment, or nullify a Certificate of Payment in whole or in part, as provided in Article 9 of AIA Document A201–2017; and
.5 Retainage withheld pursuant to Section 5.1.7.

§ 5.1.7 Retainage

§ 5.1.7.1 For each progress payment made prior to Substantial Completion of the Work, the Owner may withhold the following amount, as retainage, from the payment otherwise due:

(Paragraph Deleted)

5% (five percent)

§ 5.1.7.1.1 The following items are not subject to retainage:
(Insert any items not subject to the withholding of retainage, such as general conditions, insurance, etc.)

For major items installed into the Work, the Contractor may request full payment for the items to ensure prompt delivery and fabrication. Such items shall be recommended by the Architect and approved by the Owner as not requiring retainage. Prompt payment for the items shall be documented by the Contractor to the Owner in the subsequent payment application by submitting a full lien release for the items. Major items may include mechanical units with long lead times, structural systems with long lead times, critical path systems or items, etc. Major items will be discussed and defined by Owner, Architect, and Contractor.

§ 5.1.7.2 Reduction or limitation of retainage, if any, shall be as follows:
Prior to Substantial Completion and at the discretion of the Owner, retainage may be reduced. If the Work has been 50% completed as
determined by the Architect and is satisfactory to the Owner, then 90% of the retained amount may be released to the Contractor for completed work (with 10% of the total retained by the Owner.) Upon Substantial Completion, additional retainage may be returned to the Contractor as recommended by the Architect and approved by the Owner to an amount sufficient to satisfactorily complete the Work. Retainage release will comply with Minnesota Statute 15.72 after Substantial Completion and punch list acceptance by the Owner.

(Paragraph Deleted)

§ 5.1.8 If final completion of the Work is materially delayed through no fault of the Contractor, the Owner shall pay the Contractor any additional amounts in accordance with Article 9 of AIA Document A201–2017.

§ 5.1.9 Except with the Owner's prior approval, the Contractor shall not make advance payments to suppliers for materials or equipment which have not been delivered and stored at the site or otherwise stored offsite with adequate Owner approved insurance provided to the Owner.

§ 5.2 Final Payment

§ 5.2.1 Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Contractor when

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.1 the Contractor has fully performed the Contract except for the Contractor's responsibility to correct Work as provided in Article 12 of AIA Document A201–2017, and to satisfy other requirements, if any, which extend beyond final payment; and

.2 a final Certificate for Payment has been issued by the Architect.

.3 all lien waivers and IC134 forms have been delivered to the Owner.

§ 5.2.2 The Owner's final payment to the Contractor shall be made no later than 45 days after the issuance of the Architect's final Certificate for
Payment.

§ 5.3 Interest

Payments due and unpaid under the Contract shall bear interest from the date payment is due at the rate stated below, or in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located. Owner will pay the Contractor 0% interest for Payments not due made within forty five (45) days.
(Paragraph Deleted)

§ 5.4 Prompt Payment to Subcontractors

This Contract requires the Contractor and all Subcontractors and Sub-subcontractors (of any tier) to promptly pay any subcontractor or material supplier contract within ten (10) days of receipt of payment by Owner for undisputed services provided by the party requesting payment. The party responsible for payment (other than the Owner) shall pay interest of one and one half (1-1/2) percent per month to the party requesting payment on any undisputed amount not paid on time. The minimum monthly interest penalty payment for an unpaid balance of $100 or more is $10. For an unpaid balance of less than $100, the party responsible for payment shall pay the actual penalty due to the party requesting payment.

ARTICLE 6 DISPUTE RESOLUTION

§ 6.1 Initial Decision Maker

The Architect will serve as the Initial Decision Maker pursuant to Article 15 of AIA Document A201–2017.

§ 6.1.1 Mediation

Either the Owner or the Contractor may request mediation of any Claim submitted to the Architect for decision before such decision becomes final and binding. The mediation will be governed by the Construction Industry Mediation Rules of the American Arbitration Association in effect at the date of this contract. The request for mediation shall be made in writing to the American Arbitration Association and to the other party of this contract.

Owner and Contractor shall participate in the mediation process in good faith. The process shall be concluded within sixty (60) days of the date of filing the request.

If the Claim is not resolved by mediation, the Architect's action shall become final and binding thirty (30) days after termination of the mediation proceedings. Within the time period, the Owner and Contractor mayrequest Binding Dispute Resolution.

The Work must continue, at the Owner's discretion, in accordance with paragraph 15.1.4.1 of AIA Document A201-2017.

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§ 6.2 Binding Dispute Resolution
For any Claim subject to, but not resolved by, mediation pursuant to Article 15 of AIA Document A201–2017, the method of binding dispute resolution shall be as follows:
(Check the appropriate box.)

[ ] Arbitration pursuant to Section 15.4 of AIA Document A201–2017

[X] Litigation in a court of competent jurisdiction

[ ] Other *(Specify)*

If the Owner and Contractor do not select a method of binding dispute resolution, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, Claims will be resolved by litigation in a court of competent jurisdiction.

ARTICLE 7 TERMINATION OR SUSPENSION
§ 7.1 The Contract may be terminated by the Owner or the Contractor as provided in Article 14 of AIA Document A201–2017.

§ 7.1.1 If the Contract is terminated for the Owner's convenience in accordance with Article 14 of AIA Document A201–2017, then the Owner shall pay the Contractor a termination fee as follows:
(Insert the amount of, or method for determining, the fee, if any, payable to the Contractor following a termination for the Owner's convenience.)

Termination fee will be based on the percentage of work completed and any materials purchased or in production at the time of termination. Said fee and justification shall be provided to the Owner by the Contractor within ten (10) days of the notice of termination.

§ 7.2 The Work may be suspended by the Owner as provided in Article 14 of AIA Document A201–2017.

ARTICLE 8 MISCELLANEOUS PROVISIONS
§ 8.1 Where reference is made in this Agreement to a provision of AIA Document A201–2017 or another Contract Document, the reference refers to that provision as amended or supplemented by other provisions of the Contract Documents.

§ 8.2 The Owner's representative:
(Name, address, email address, and other information)

Don Bielinski
1250 West Broadway Avenue
Minneapolis, MN 55411

§ 8.3 The Contractor's representative:
(Name, address, email address, and other information)

Bert Westerman
COO
Gardner Builders Minneapolis, LLC
730 2nd Ave. S
Suite 1233
Minneapolis, MN 55402

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§ 8.4 Neither the Owner's nor the Contractor's representative shall be changed without ten days' prior notice to the other party.

§ 8.5 Insurance and Bonds

§ 8.5.1 The Owner and the Contractor shall purchase and maintain insurance as set forth in AIA Document A101™–2017, Standard Form of Agreement Between Owner and Contractor where the basis of payment is a Stipulated Sum, Exhibit A, Insurance and Bonds, and elsewhere in the Contract Documents.

§ 8.5.2 The Contractor shall provide bonds as set forth in AIA Document A101™–2017 Exhibit A, and elsewhere in the Contract Documents.

§ 8.6 Notice in electronic format, pursuant to Article 1 of AIA Document A201–2017, may be given in accordance with AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, if completed, or as otherwise set forth below:
(If other than in accordance with AIA Document E203–2013, insert requirements for delivering notice in electronic format such as name, title, and email address of the recipient and whether and how the system will be required to generate a read receipt for the transmission.)

§ 8.7 Other provisions:

Owner prohibits Contractor from using the Work in any marketing material or business developement practice. Contractor is prohibited from communication with any news outlet or public without Owner's written approval.

Floor plans, designs, wiring, safety and security measures shall be kept confidential by the Contractor, the Subcontractors, the Sub-subcontractors (of any tier) during and after completion of the Work.

ARTICLE 9 ENUMERATION OF CONTRACT DOCUMENTS

§ 9.1 This Agreement is comprised of the following documents:

.1 AIA Document A101™–2017, Standard Form of Agreement Between Owner and Contractor

.2 AIA Document A101™–2017, Exhibit A, Insurance and Bonds

.3 AIA Document A201™–2017, General Conditions of the Contract for Construction

.4 AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, dated as indicated below:
(Insert the date of the E203-2013 incorporated into this Agreement.)

January 31, 2020

.5 Drawings

Number	Title	Date

.6 Specifications

Section	Title	Date	Pages

.7 Addenda, if any:

Number	Date	Pages

Portions of Addenda relating to bidding or proposal requirements are not part of the Contract Documents unless the bidding or proposal requirements are also enumerated in this Article 9.

.8 Other Exhibits:

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(Paragraphs Deleted)

EXH-B Project Charter
(Paragraph Deleted)

EXH-C Owner Insurance
EXH-D Project Schedule

(Paragraph Deleted)

(Table Deleted)

[ ] Supplementary and other Conditions of the Contract:

Document	Title	Date	Pages

.9 Other documents, if any, listed below:
(List here any additional documents that are intended to form part of the Contract Documents. AIA Document A201™–2017 provides that the advertisement or invitation to bid, Instructions to Bidders, sample forms, the Contractor's bid or proposal, portions of Addenda relating to bidding or proposal requirements, and other information furnished by the Owner in anticipation of receiving bids or proposals, are not part of the Contract Documents unless enumerated in this Agreement. Any such documents should be listed here only if intended to be part of the Contract Documents.)

This Agreement entered into as of the day and year first written above.

OWNER *(Signature)*	**CONTRACTOR** *(Signature)*
	Bert Westerman - COO
(Printed name and title)	*(Printed name and title)*

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Additions and Deletions Report for
AIA® Document A101® – 2017

This Additions and Deletions Report, as defined on page 1 of the associated document, reproduces below all text the author has added to the standard form AIA document in order to complete it, as well as any text the author may have added to or deleted from the original AIA text. Added text is shown underlined. Deleted text is indicated with a horizontal line through the original AIA text.

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PAGE 1

AGREEMENT made as of the Fourth day of February in the year Two Thousand Twenty-Five

...

Minneapolis Public Schools Special School District #1
1250 West Broadway Avenue
Minneapolis, MN 55411

...

Gardner Builders Minneapolis, LLC
730 2nd Ave. S
Suite 1233
Minneapolis, MN 55402

...

Ella Baker Cafeteria Improvements
Ella Baker Global Studies and Humanities School
1200 W. 26th St.
Minneapolis, MN 55405

...

Bloom Hay Dobbs
2324 University Ave.
Suite 200
Saint Paul, MN 55104

PAGE 2

[X] A date set forth in a notice to proceed issued by the Owner.

...

§ 3.3.1 ~~Subject to adjustments of the Contract Time as provided in the Contract Documents, the~~ The Contractor shall achieve Substantial Completion of the entire Work:

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[X] By the following date: Defined in EXH-D Project Schedule

...

§ 3.3.2 Subject to adjustments of the Contract Time as provided in the Contract Documents, if portions of the Work are to be completed prior to Substantial Completion of the entire Work, the Contractor shall achieve Substantial Completion of such portions by the following ~~dates:~~dates are defined in EXH-D Project Schedule. Such portions of the work not completed as defined in EXH-D Project Schedule shall be subject to liquidated damages as set forth in Article 4.5.

...

~~**Portion of Work** **Substantial Completion Date**~~

...

§ 4.1 The Owner shall pay the Contractor the Contract Sum in current funds for the Contractor's performance of the ~~Contract. The Contract Sum shall be ($),~~ Contract as defined in EXH-B Project Charter, subject to additions and deductions as provided in the Contract Documents.

...

§ 4.2.1 Alternates, if any, included in the Contract ~~Sum:~~Sum are defined in EXH-B Project Charter.

...

~~**Item** **Price**~~

...

§ 4.2.2 Subject to the conditions noted ~~below, the following~~ in EXH-B Project Charter, alternates may be accepted by the Owner following execution of this Agreement. Upon acceptance, the Owner shall issue a Modification to this Agreement.

...

~~*(Insert below each alternate and the conditions that must be met for the Owner to accept the alternate.)*~~

...

~~**Item** **Price** **Conditions for Acceptance**~~

...

§ 4.3 Allowances, if any, included in the Contract ~~Sum:~~Sum are defined in EXH-B Project Charter.

...

~~*(Identify each allowance.)*~~

...

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~~Item~~ ~~Price~~

...

§ 4.4 Unit prices, if ~~any:~~any are defined in EXH-B Project Charter.

...

~~*(Identify the item and state the unit price and quantity limitations, if any, to which the unit price will be applicable.)*~~

...

~~Item~~ ~~Units and Limitations~~ ~~Price per Unit ($0.00)~~

...

§ 4.5 Liquidated ~~damages, if any:~~damages

PAGE 4

~~*(Insert terms and conditions for liquidateddamages, if any.)*~~*Contractor and Owner recognized that time is of the essence for the Project and the Owner will suffer financial loss if the Work is not completed in the time specified in the Contract Documents. The parties also recognized the delays, expenses, and difficulties involved in proving in a legal or arbitration proceeding the actual loss suffered by the Owner if the Work is not completed on time. Accordingly, instead of requiring such proof, the Owner and Contractor agree that as liquidated*

...

damages for delay (but not as penalty), Contractor shall pay Owner $1,000.00 per calendar day for each day that expires after the time specified for Substantial Completion in EXH-D Project Schedule until such time the Work is determined to be substantially complete by the

...

Owner.

...

~~**§ 4.6** Other:~~

...

~~*(Insert provisions for bonus or other incentives, if any, that might result in a change to the Contract Sum.)*~~*After Substantial Completion, if Contractor shall neglect, refuse, or fail to complete the remaining work within the Contract time specified in the Contract Documents, the contractor shall pay the Owner $1,000.00 per day that expires after the time specified in the Contract Documents for Final Completion and readiness for Final Payment until the Work is completed.*

...

§ 5.1.2 The period covered by each Application for Payment shall be one calendar month ending on the last day of the ~~month, or as follows:~~

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...

month.

...

§ 5.1.3 ~~Provided that~~ When an Application for Payment is received by the Architect~~not later than the day of a month, the Owner shall make payment of the amount certified to the Contractor not later than the day of the month. If an Application for Payment is received by the Architect after the application date fixed above,~~ , payment of the amount certified shall be made by the Owner not later than 45 (forty-five) days after the Architect receives the Application for Payment.

...

~~*(Federal, state or local laws may require payment within a certain period of time.)*~~

...

§ 5.1.4 Each Application for Payment shall be based on the most recent schedule of values submitted by the Contractor on AIA G702 Application and Certificate for Payment in accordance with the Contract Documents. The schedule of values shall allocate the entire Contract Sum among the various portions of the Work. The schedule of values shall be prepared in such form, and supported by such data to substantiate its accuracy, as the Architect may require. This schedule of values shall be used as a basis for reviewing the Contractor's Applications for Payment.

PAGE 5

~~*(Insert a percentage or amount to be withheld as retainage from each Application for Payment. The amount of retainage may be limited by governing law.)*~~

...

5% (five percent)

...

For major items installed into the Work, the Contractor may request full payment for the items to ensure prompt delivery and fabrication. Such items shall be recommended by the Architect and approved by the Owner as not requiring retainage. Prompt payment for the items shall be documented by the Contractor to the Owner in the subsequent payment application by submitting a full lien release for the items. Major items may include mechanical units with long lead times, structural systems with long lead times, critical path systems or items, etc. Major items will be discussed and defined by Owner, Architect, and Contractor.

...

~~*(If the retainage established in Section 5.1.7.1 is to be modified prior to Substantial Completion of the entire Work, including modifications for Substantial Completion of portions of the Work asprovided in Section 3.3.2, insert provisions for such modifications.)*~~*Prior to Substantial Completion and at the discretion of the Owner, retainage may be reduced. If the Work has been 50% completed as*

...

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§ 5.1.7.3 ~~Except as set forth in this Section 5.1.7.3, upon Substantial Completion of the Work, the Contractor may submit an Application for Payment that includes the retainage withheld from prior Applications for Payment pursuant to this Section 5.1.7. The Application for Payment submitted at Substantial Completion shall not include retainage as follows:~~determined by the Architect and is satisfactory to the Owner, then 90% of the retained amount may be released to the Contractor for completed work (with 10% of the total retained by the Owner.) Upon Substantial Completion, additional retainage may be returned to the Contractor as recommended by the Architect and approved by the Owner to an amount sufficient to satisfactorily complete the Work. Retainage release will comply with Minnesota Statute 15.72 after Substantial Completion and punch list acceptance by the Owner.

...

~~*(Insert any other conditions for release of retainage upon Substantial Completion.)*~~

...

§ 5.1.9 Except with the Owner's prior approval, the Contractor shall not make advance payments to suppliers for materials or equipment which have not been delivered and stored at the ~~site.~~site or otherwise stored offsite with adequate Owner approved insurance provided to the Owner.

PAGE 6

.3 all lien waivers and IC134 forms have been delivered to the Owner.

...

§ 5.2.2 The Owner's final payment to the Contractor shall be made no later than ~~30~~ 45 days after the issuance of the Architect's final Certificate for ~~Payment, or as follows:~~

...

Payment.

...

Payments due and unpaid under the Contract shall bear interest from the date payment is due at the rate stated below, or in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located. Owner will pay the Contractor 0% interest for Payments not due made within forty five (45) days.

...

~~*(Insert rate*~~

...

§ 5.4 Prompt Payment to Subcontractors

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...

This Contract requires the Contractor and all Subcontractors and Sub-subcontractors (of any tier) to promptly pay any subcontractor or material supplier contract within ten (10) days of receipt of ~~interest agreed upon, if any.)~~payment by Owner for undisputed services provided by the party requesting payment. The party responsible for payment (other than the Owner) shall pay interest of one and one half (1-1/2) percent per month to the party requesting payment on any undisputed amount not paid on time. The minimum monthly interest penalty payment for an unpaid balance of $100 or more is $10. For an unpaid balance of less than $100, the party responsible for payment shall pay the actual penalty due to the party requesting payment.

...

The Architect will serve as the Initial Decision Maker pursuant to Article 15 of AIA Document ~~A201–2017, unless~~ A201–2017.

...

§ 6.1.1 Mediation

...

~~the parties appoint below another individual, not a party to this Agreement, to serve as the Initial Decision Maker.~~Either the Owner or the Contractor may request mediation of any Claim submitted to the Architect for decision before such decision becomes final and binding. The mediation will be governed by the Construction Industry Mediation Rules of the American Arbitration Association in effect at the date of this contract. The request for mediation shall be made in writing to the American Arbitration Association and to the other party of this contract.

...

Owner and Contractor shall participate in the mediation process in good faith. The process shall be concluded within sixty (60) days of the date of filing the request.

...

~~*(If the parties mutually agree, insert the name, address and other contact information of the Initial Decision Maker, if other than the Architect.)*~~*If the Claim is not resolved by mediation, the Architect's action shall become final and binding thirty (30) days after termination of the mediation proceedings. Within the time period, the Owner and Contractor mayrequest Binding Dispute Resolution.*

...

The Work must continue, at the Owner's discretion, in accordance with paragraph 15.1.4.1 of AIA Document A201-2017.

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[**X**] Litigation in a court of competent jurisdiction

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...

Termination fee will be based on the percentage of work completed and any materials purchased or in production at the time of termination. Said fee and justification shall be provided to the Owner by the Contractor within ten (10) days of the notice of termination.

...

Don Bielinski
1250 West Broadway Avenue
Minneapolis, MN 55411

...

Bert Westerman
COO
Gardner Builders Minneapolis, LLC
730 2nd Ave. S
Suite 1233
Minneapolis, MN 55402

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§ 8.6 Notice in electronic format, pursuant to Article 1 of AIA Document A201–2017, may be given in accordance with ~~a building information modeling exhibit,~~ AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, if completed, or as otherwise set forth below:

...

(If other than in accordance with ~~a building information modeling exhibit,~~ AIA Document E203–2013, insert requirements for delivering notice in electronic format such as name, title, and email address of the recipient and whether and how the system will be required to generate a read receipt for the transmission.)

...

Owner prohibits Contractor from using the Work in any marketing material or business developement practice. Contractor is prohibited from communication with any news outlet or public without Owner's written approval.

Floor plans, designs, wiring, safety and security measures shall be kept confidential by the Contractor, the Subcontractors, the Sub-subcontractors (of any tier) during and after completion of the Work.

...

.4 ~~Building information modeling exhibit,~~ AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, dated as indicated below:

...

(Insert the date of the ~~building information modeling exhibit~~ E203-2013 incorporated into this Agreement.)

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...

January 31, 2020

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~~*(Check all boxes that apply and include appropriate information identifying the exhibit where required.)*~~

...

~~[ ] AIA Document E204™–2017, Sustainable Projects Exhibit, dated as indicated below:~~

...

EXH-B Project Charter

...

~~(Insert the date of the E204-2017 incorporated into this Agreement.)~~

...

EXH-C Owner Insurance

...

EXH-D Project Schedule

...

~~[ ] The Sustainability Plan:~~

...

~~Title~~	~~Date~~	~~Pages~~

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Certification of Document's Authenticity

AIA® Document D401™ – 2003

I, , hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with its associated Additions and Deletions Report and this certification at 11:50:15 CT on 02/04/2025 under Order No. 4104251278 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document A101™ - 2017, Standard Form of Agreement Between Owner and Contractor where the basis of payment is a Stipulated Sum, other than those additions and deletions shown in the associated Additions and Deletions Report.



(Signed)

Curtis Hartog, Executive Director

(Title)

2/4/2025

(Dated)

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AIA® Document A101® – 2017 Exhibit A

Insurance and Bonds

This Insurance and Bonds Exhibit is part of the Agreement, between the Owner and the Contractor, dated the Fourth day of February in the year Two Thousand Twenty-Five
(In words, indicate day, month and year.)

for the following **PROJECT**:
(Name and location or address)

Ella Baker Cafeteria Improvements
Ella Baker Global Studies and Humanities School
1200 W. 26th St.
Minneapolis, MN 55405

THE OWNER:
(Name, legal status and address)

Minneapolis Public Schools Special School District No. 1
1250 West Broadway Ave.
Minneapolis, MN 55411

THE CONTRACTOR:
(Name, legal status and address)

Gardner Builders Minneapolis, LLC
730 2nd Ave. S
Suite 1233
Minneapolis, MN 55402

TABLE OF ARTICLES

A.1 GENERAL

A.2 OWNER'S INSURANCE

A.3 CONTRACTOR'S INSURANCE AND BONDS

A.4 SPECIAL TERMS AND CONDITIONS

ARTICLE A.1 GENERAL

The Owner and Contractor shall purchase and maintain insurance, and provide bonds, as set forth in this Exhibit. As used in this Exhibit, the term General Conditions refers to AIA Document A201™–2017, General Conditions of the Contract for Construction.

ARTICLE A.2 OWNER'S INSURANCE

§ A.2.1 General

Prior to commencement of the Work, the Owner shall secure the insurance, and provide evidence of the coverage, required under this Article A.2 and, upon the Contractor's request, provide a copy of the property insurance policy or policies required by Section A.2.3. The copy of the policy or policies provided shall contain all applicable conditions, definitions, exclusions, and endorsements.

ADDITIONS AND DELETIONS:
The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

This document is intended to be used in conjunction with AIA Document A201®–2017, General Conditions of the Contract for Construction. Article 11 of A201®–2017 contains additional insurance provisions.

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§ A.2.2 Liability Insurance
The Owner shall be responsible for purchasing and maintaining the Owner's usual general liability insurance.

§ A.2.3 Required Property Insurance
§ A.2.3.1 Unless this obligation is placed on the Contractor pursuant to Section A.3.3.2.1, the Owner shall purchase and maintain, from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located, property insurance written on a builder's risk "all-risks" completed value or equivalent policy form and sufficient to cover the total value of the entire Project on a replacement cost basis. The Owner's property insurance coverage shall be no less than the amount of the initial Contract Sum, plus the value of subsequent Modifications and labor performed and materials or equipment supplied by others. The property insurance shall be maintained until Substantial Completion and thereafter as provided in Section A.2.3.1.3, unless otherwise provided in the Contract Documents or otherwise agreed in writing by the parties to this Agreement. This insurance shall include the interests of the Owner, Contractor, Subcontractors, and Sub-subcontractors in the Project as insureds. This insurance shall include the interests of mortgagees as loss payees.

§ A.2.3.1.1 Causes of Loss. The insurance required by this Section A.2.3.1 shall provide coverage for direct physical loss or damage, and shall not exclude the risks of fire, explosion, theft, vandalism, malicious mischief, collapse, earthquake, flood, or windstorm. The insurance shall also provide coverage for ensuing loss or resulting damage from error, omission, or deficiency in construction methods, design, specifications, workmanship, or materials. Sub-limits, if any, are as follows:
(Indicate below the cause of loss and any applicable sub-limit.)

Causes of Loss	Sub-Limit

§ A.2.3.1.2 Specific Required Coverages. The insurance required by this Section A.2.3.1 shall provide coverage for loss or damage to falsework and other temporary structures, and to building systems from testing and startup. The insurance shall also cover debris removal, including demolition occasioned by enforcement of any applicable legal requirements, and reasonable compensation for the Architect's and Contractor's services and expenses required as a result of such insured loss, including claim preparation expenses. Sub-limits, if any, are as follows:
(Indicate below type of coverage and any applicable sub-limit for specific required coverages.)

Coverage	Sub-Limit

§ A.2.3.1.3 Unless the parties agree otherwise, upon Substantial Completion, the Owner shall continue the insurance required by Section A.2.3.1 or, if necessary, replace the insurance policy required under Section A.2.3.1 with property insurance written for the total value of the Project that shall remain in effect until expiration of the period for correction of the Work set forth in Section 12.2.2 of the General Conditions.

§ A.2.3.1.4 Deductibles and Self-Insured Retentions. If the insurance required by this Section A.2.3 is subject to deductibles or self-insured retentions, the Owner shall be responsible for all loss not covered because of such deductibles or retentions.

§ A.2.3.2 Occupancy or Use Prior to Substantial Completion. The Owner's occupancy or use of any completed or partially completed portion of the Work prior to Substantial Completion shall not commence until the insurance company or companies providing the insurance under Section A.2.3.1 have consented in writing to the continuance of coverage. The Owner and the Contractor shall take no action with respect to partial occupancy or use that would cause cancellation, lapse, or reduction of insurance, unless they agree otherwise in writing.

§ A.2.3.3 Insurance for Existing Structures
If the Work involves remodeling an existing structure or constructing an addition to an existing structure, the Owner shall purchase and maintain, until the expiration of the period for correction of Work as set forth in Section 12.2.2 of the General Conditions, "all-risks" property insurance, on a replacement cost basis, protecting the existing structure against direct physical loss or damage from the causes of loss identified in Section A.2.3.1, notwithstanding the undertaking of the Work. The Owner shall be responsible for all co-insurance penalties.

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§ A.2.4 Optional Extended Property Insurance.
The Owner shall purchase and maintain the insurance selected and described below.
(Select the types of insurance the Owner is required to purchase and maintain by placing an X in the box(es) next to the description(s) of selected insurance. For each type of insurance selected, indicate applicable limits of coverage or other conditions in the fill point below the selected item.)

[ ] **§ A.2.4.1 Loss of Use, Business Interruption, and Delay in Completion Insurance**, to reimburse the Owner for loss of use of the Owner's property, or the inability to conduct normal operations due to a covered cause of loss.

[ ] **§ A.2.4.2 Ordinance or Law Insurance**, for the reasonable and necessary costs to satisfy the minimum requirements of the enforcement of any law or ordinance regulating the demolition, construction, repair, replacement or use of the Project.

[ ] **§ A.2.4.3 Expediting Cost Insurance**, for the reasonable and necessary costs for the temporary repair of damage to insured property, and to expedite the permanent repair or replacement of the damaged property.

[ ] **§ A.2.4.4 Extra Expense Insurance**, to provide reimbursement of the reasonable and necessary excess costs incurred during the period of restoration or repair of the damaged property that are over and above the total costs that would normally have been incurred during the same period of time had no loss or damage occurred.

[ ] **§ A.2.4.5 Civil Authority Insurance**, for losses or costs arising from an order of a civil authority prohibiting access to the Project, provided such order is the direct result of physical damage covered under the required property insurance.

[ ] **§ A.2.4.6 Ingress/Egress Insurance**, for loss due to the necessary interruption of the insured's business due to physical prevention of ingress to, or egress from, the Project as a direct result of physical damage.

[ ] **§ A.2.4.7 Soft Costs Insurance**, to reimburse the Owner for costs due to the delay of completion of the Work, arising out of physical loss or damage covered by the required property insurance: including construction loan fees; leasing and marketing expenses; additional fees, including those of architects, engineers, consultants, attorneys and accountants, needed for the completion of the construction, repairs, or reconstruction; and carrying costs such as property taxes, building permits, additional interest on loans, realty taxes, and insurance premiums over and above normal expenses.

§ A.2.5 Other Optional Insurance.
The Owner shall purchase and maintain the insurance selected below.

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(Select the types of insurance the Owner is required to purchase and maintain by placing an X in the box(es) next to the description(s) of selected insurance.)

[ ] **§ A.2.5.1 Cyber Security Insurance** for loss to the Owner due to data security and privacy breach, including costs of investigating a potential or actual breach of confidential or private information. *(Indicate applicable limits of coverage or other conditions in the fill point below.)*

[ ] **§ A.2.5.2 Other Insurance**
(List below any other insurance coverage to be provided by the Owner and any applicable limits.)

Coverage	Limits

ARTICLE A.3 CONTRACTOR'S INSURANCE AND BONDS

§ A.3.1 General

§ A.3.1.1 Certificates of Insurance. The Contractor shall provide certificates of insurance acceptable to the Owner evidencing compliance with the requirements in this Article A.3 at the following times: (1) prior to commencement of the Work; (2) upon renewal or replacement of each required policy of insurance; and (3) upon the Owner's written request. An additional certificate evidencing continuation of commercial liability coverage, including coverage for completed operations, shall be submitted with the final Application for Payment and thereafter upon renewal or replacement of such coverage until the expiration of the periods required by Section A.3.2.1 and Section A.3.3.1. The certificates will show the Owner as an additional insured on the Contractor's Commercial General Liability and excess or umbrella liability policy or policies.

§ A.3.1.2 Deductibles and Self-Insured Retentions. The Contractor shall disclose to the Owner any deductible or self-insured retentions applicable to any insurance required to be provided by the Contractor.

§ A.3.1.3 Additional Insured Obligations. To the fullest extent permitted by law, the Contractor shall cause the commercial general liability coverage to include (1) the Owner, the Architect, and the Architect's consultants as additional insureds for claims caused in whole or in part by the Contractor's negligent acts or omissions during the Contractor's operations; and (2) the Owner as an additional insured for claims caused in whole or in part by the Contractor's negligent acts or omissions for which loss occurs during completed operations. The additional insured coverage shall be primary and non-contributory to any of the Owner's general liability insurance policies and shall apply to both ongoing and completed operations. To the extent commercially available, the additional insured coverage shall be no less than that provided by Insurance Services Office, Inc. (ISO) forms CG 20 10 07 04, CG 20 37 07 04, and, with respect to the Architect and the Architect's consultants, CG 20 32 07 04.

§ A.3.2 Contractor's Required Insurance Coverage

§ A.3.2.1 The Contractor shall purchase and maintain the following types and limits of insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The Contractor shall maintain the required insurance until the expiration of the period for correction of Work as set forth in Section 12.2.2 of the General Conditions, unless a different duration is stated below:
(If the Contractor is required to maintain insurance for a duration other than the expiration of the period for correction of Work, state the duration.)

§ A.3.2.2 Commercial General Liability

§ A.3.2.2.1 Commercial General Liability insurance for the Project written on an occurrence form with policy limits as defined is ECH-C Owner Insurance, providing coverage for claims including

.1 damages because of bodily injury, sickness or disease, including occupational sickness or disease, and death of any person;

.2 personal injury and advertising injury;

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.3 damages because of physical damage to or destruction of tangible property, including the loss of use of such property;
.4 bodily injury or property damage arising out of completed operations; and
.5 the Contractor's indemnity obligations under Section 3.18 of the General Conditions.

§ A.3.2.2.2 The Contractor's Commercial General Liability policy under this Section A.3.2.2 shall not contain an exclusion or restriction of coverage for the following:

.1 Claims by one insured against another insured, if the exclusion or restriction is based solely on the fact that the claimant is an insured, and there would otherwise be coverage for the claim.
.2 Claims for property damage to the Contractor's Work arising out of the products-completed operations hazard where the damaged Work or the Work out of which the damage arises was performed by a Subcontractor.
.3 Claims for bodily injury other than to employees of the insured.
.4 Claims for indemnity under Section 3.18 of the General Conditions arising out of injury to employees of the insured.
.5 Claims or loss excluded under a prior work endorsement or other similar exclusionary language.
.6 Claims or loss due to physical damage under a prior injury endorsement or similar exclusionary language.
.7 Claims related to residential, multi-family, or other habitational projects, if the Work is to be performed on such a project.
.8 Claims related to roofing, if the Work involves roofing.
.9 Claims related to exterior insulation finish systems (EIFS), synthetic stucco or similar exterior coatings or surfaces, if the Work involves such coatings or surfaces.
.10 Claims related to earth subsidence or movement, where the Work involves such hazards.
.11 Claims related to explosion, collapse and underground hazards, where the Work involves such hazards.

§ A.3.2.3 Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Contractor, with policy limits as defined in EXH-C Owner Insurance .

§ A.3.2.4 The Contractor may achieve the required limits and coverage for Commercial General Liability and Automobile Liability through a combination of primary and excess or umbrella liability insurance, provided such primary and excess or umbrella insurance policies result in the same or greater coverage as the coverages required under Section A.3.2.2 and A.3.2.3, and in no event shall any excess or umbrella liability insurance provide narrower coverage than the primary policy. The excess policy shall not require the exhaustion of the underlying limits only through the actual payment by the underlying insurers. Umbrella coverage as defined in EXH-C Owner Insurance

§ A.3.2.5 Workers' Compensation at statutory limits for Coverage A as defined in EXH-C Owner Insurance.

§ A.3.2.6 Employers' Liability Coverage B as defined in EXH-C Owner Insurance .

(Paragraph deleted)

§ A.3.2.8 If the Contractor is required to furnish professional services as part of the Work, the Contractor shall procure Professional Liability insurance covering performance of the professional services, with policy limits as defined in EXH-C Owner Insurance .

.

(Paragraphs deleted)

§ A.3.2.12 Insurance for the use or operation of manned or unmanned aircraft, if the Work requires such activities, with policy limits as defined in EXH-C Owner Insurance.

§ A.3.3 Contractor's Other Insurance Coverage

§ A.3.3.1 Insurance selected and described in this Section A.3.3 shall be purchased from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The

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Contractor shall maintain the required insurance until the expiration of the period for correction of Work as set forth in Section 12.2.2 of the General Conditions, unless a different duration is stated below:
(If the Contractor is required to maintain any of the types of insurance selected below for a duration other than the expiration of the period for correction of Work, state the duration.)

If Professional Liability Insurance is required as part of this contract or becomes required during the course of the project coverage shall be in accordance with A.3.2.8, the insurance coverage shall be maintained for one calendar year after the date of Substantial Completion

§ A.3.3.2 The Contractor shall purchase and maintain the following types and limits of insurance in accordance with Section A.3.3.1 as defined in EXH-C Owner Insurance.

(Paragraphs deleted)

§ A.3.4 Performance Bond and Payment Bond

The Contractor shall provide surety bonds, from a company or companies lawfully authorized to issue surety bonds in the jurisdiction where the Project is located, as follows:
(Specify type and penal sum of bonds.)

Type	Penal Sum ($0.00)
Payment Bond	Full contract value
Performance Bond	Full contract value

Payment and Performance Bonds shall be AIA Document A312™, Payment Bond and Performance Bond, or contain provisions identical to AIA Document A312™, current as of the date of this Agreement.

ARTICLE A.4 SPECIAL TERMS AND CONDITIONS

Special terms and conditions that modify this Insurance and Bonds Exhibit, if any, are as follows:

None

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Additions and Deletions Report for

AIA® Document A101® – 2017 Exhibit A

This Additions and Deletions Report, as defined on page 1 of the associated document, reproduces below all text the author has added to the standard form AIA document in order to complete it, as well as any text the author may have added to or deleted from the original AIA text. Added text is shown underlined. Deleted text is indicated with a horizontal line through the original AIA text.

Note: This Additions and Deletions Report is provided for information purposes only and is not incorporated into or constitute any part of the associated AIA document. This Additions and Deletions Report and its associated document were generated simultaneously by AIA software at 11:51:40 CT on 02/04/2025.

PAGE 1

This Insurance and Bonds Exhibit is part of the Agreement, between the Owner and the Contractor, dated the Fourth day of February in the year Two Thousand Twenty-Five

...

(Name and location or address)

Ella Baker Cafeteria Improvements
Ella Baker Global Studies and Humanities School
1200 W. 26th St.
Minneapolis, MN 55405

...

Minneapolis Public Schools Special School District No. 1
1250 West Broadway Ave.
Minneapolis, MN 55411

...

Gardner Builders Minneapolis, LLC
730 2nd Ave. S
Suite 1233
Minneapolis, MN 55402

PAGE 4

§ A.3.2.2.1 Commercial General Liability insurance for the Project written on an occurrence form with policy limits ~~of not less than ($) each occurrence, ($) general aggregate, and ($) aggregate for products-completed operations hazard,~~ as defined is ECH-C Owner Insurance, providing coverage for claims including

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§ A.3.2.3 Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Contractor, with policy limits ~~of not less than ($) per accident, for bodily injury, death of any person, and property damage arising out of the ownership, maintenance and use of those motor vehicles along with any other statutorily required automobile coverage.~~as defined in EXH-C Owner Insurance .

§ A.3.2.4 The Contractor may achieve the required limits and coverage for Commercial General Liability and Automobile Liability through a combination of primary and excess or umbrella liability insurance, provided such primary and excess or umbrella insurance policies result in the same or greater coverage as the coverages required under Section A.3.2.2 and A.3.2.3, and in no event shall any excess or umbrella liability insurance provide narrower

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coverage than the primary policy. The excess policy shall not require the exhaustion of the underlying limits only through the actual payment by the underlying insurers. Umbrella coverage as defined in EXH-C Owner Insurance

§ A.3.2.5 Workers' Compensation at statutory ~~limits.~~limits for Coverage A as defined in EXH-C Owner Insurance.

§ A.3.2.6 Employers' Liability ~~with policy limits not less than ( ) each accident, ( ) each employee, and ( ) policy limit.~~Coverage B as defined in EXH-C Owner Insurance .

~~**§ A.3.2.7** Jones Act, and the Longshore & Harbor Workers' Compensation Act, as required, if the Work involves hazards arising from work on or near navigable waterways, including vessels and docks~~

§ A.3.2.8 If the Contractor is required to furnish professional services as part of the Work, the Contractor shall procure Professional Liability insurance covering performance of the professional services, with policy limits ~~of not less than ( ) per claim and ( ) in the aggregate.~~as defined in EXH-C Owner Insurance .

.

~~**§ A.3.2.9** If the Work involves the transport, dissemination, use, or release of pollutants, the Contractor shall procure Pollution Liability insurance, with policy limits of not less than ( ) per claim and ( ) in the aggregate.~~

~~**§ A.3.2.10** Coverage under Sections A.3.2.8 and A.3.2.9 may be procured through a Combined Professional Liability and Pollution Liability insurance policy, with combined policy limits of not less than ( ) per claim and ( ) in the aggregate.~~

~~**§ A.3.2.11** Insurance for maritime liability risks associated with the operation of a vessel, if the Work requires such activities, with policy limits of not less than ( ) per claim and ( ) in the aggregate.~~

§ A.3.2.12 Insurance for the use or operation of manned or unmanned aircraft, if the Work requires such activities, with policy limits ~~of not less than ( ) per claim and ( ) in the aggregate.~~as defined in EXH-C Owner Insurance.
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If Professional Liability Insurance is required as part of this contract or becomes required during the course of the project coverage shall be in accordance with A.3.2.8, the insurance coverage shall be maintained for one calendar year after the date of Substantial Completion

§ A.3.3.2 The Contractor shall purchase and maintain the following types and limits of insurance in accordance with Section ~~A.3.3.1.~~
~~*(Select the types of insurance the Contractor is required to purchase and maintain by placing an X in the box(es) next to the description(s) of selected insurance. Where policy limits are provided, include the policy limit in the appropriate fill point.)*~~A.3.3.1 as defined in EXH-C Owner Insurance.

~~[ ] **§ A.3.3.2.1** Property insurance of the same type and scope satisfying the requirements identified in Section A.2.3, which, if selected in this section A.3.3.2.1, relieves the Owner of the responsibility to purchase and maintain such insurance except insurance required by Section A.2.3.1.3 and Section A.2.3.3. The Contractor shall comply with all obligations of the Owner under Section A.2.3 except to the extent provided below. The Contractor shall disclose to the Owner the amount of any deductible, and the Owner shall be responsible for losses within the deductible. Upon request, the Contractor shall provide the Owner with a copy of the property insurance policy or policies required. The Owner shall adjust and settle the loss with the insurer and be the trustee of the proceeds of the property insurance in accordance with Article 11 of the General Conditions unless otherwise set forth below:
(Where the Contractor's obligation to provide property insurance differs from the Owner's obligations as described under Section A.2.3, indicate such differences in the space below. Additionally, if a party other than the Owner will be responsible for adjusting and settling a loss with the insurer and acting as the trustee of the proceeds of property insurance in accordance with Article 11 of the General Conditions, indicate the responsible party below.)~~

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[–] **§ A.3.3.2.2 Railroad Protective Liability Insurance**, with policy limits of not less than ($) per claim and ($) in the aggregate, for Work within fifty (50) feet of railroad property.

[–] **§ A.3.3.2.3 Asbestos Abatement Liability Insurance**, with policy limits of not less than ($) per claim and ($) in the aggregate, for liability arising from the encapsulation, removal, handling, storage, transportation, and disposal of asbestos-containing materials.

[–] **§ A.3.3.2.4** Insurance for physical damage to property while it is in storage and in transit to the construction site on an "all-risks" completed value form.

[–] **§ A.3.3.2.5** Property insurance on an "all-risks" completed value form, covering property owned by the Contractor and used on the Project, including scaffolding and other equipment.

[–] **§ A.3.3.2.6 Other Insurance**
(List below any other insurance coverage to be provided by the Contractor and any applicable limits.)

Coverage **Limits**

§ A.3.4 Performance Bond and Payment Bond

...

Payment Bond	Full contract value
Performance Bond	Full contract value

...

None

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General Conditions of the Contract for Construction

for the following PROJECT:
(Name and location or address)

Ella Baker Cafeteria Improvements
Ella Baker Global Studies and Humanities School
1200 W. 26th St.
Minneapolis, MN 55405

THE OWNER:
(Name, legal status and address)

Minneapolis Public Schools Special School District 1
1250 West Broadway Avenue
Minneapolis, MN 55411

THE ARCHITECT:
(Name, legal status and address)

Bloom Hay Dobbs
2324 University Ave.
Suite 200
Saint Paul, MN 55104

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12 UNCOVERING AND CORRECTION OF WORK

13 MISCELLANEOUS PROVISIONS

ADDITIONS AND DELETIONS:
The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

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For guidance in modifying this document to include supplementary conditions, see AIA Document A503™, Guide for Supplementary Conditions.

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14 TERMINATION OR SUSPENSION OF THE CONTRACT

15 CLAIMS AND DISPUTES

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ARTICLE 1 GENERAL PROVISIONS

§ 1.1 Basic Definitions

§ 1.1.1 The Contract Documents

The Contract Documents are enumerated in the Agreement between the Owner and Contractor (hereinafter the Agreement) and consist of the Agreement, Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, Addenda issued prior to execution of the Contract, other documents listed in the Agreement, and Modifications issued after execution of the Contract. A Modification is (1) a written amendment to the Contract signed by both parties, (2) a Change Order, (3) a Construction Change Directive, or (4) a written order for a minor change in the Work issued by the Architect. Unless specifically enumerated in the Agreement, the Contract Documents do not include the advertisement or invitation to bid, Instructions to Bidders, sample forms, other information furnished by the Owner in anticipation of receiving bids or proposals, the Contractor's bid or proposal, or portions of Addenda relating to bidding or proposal requirements.

§ 1.1.2 The Contract

The Contract Documents form the Contract for Construction. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations, or agreements, either written or oral. The Contract may be amended or modified only by a Modification. The Contract Documents shall not be construed to create a contractual relationship of any kind (1) between the Contractor and the Architect or the Architect's consultants, (2) between the Owner and a Subcontractor or a Sub-subcontractor, (3) between the Owner and the Architect or the Architect's consultants, or (4) between any persons or entities other than the Owner and the Contractor. The Architect shall, however, be entitled to performance and enforcement of obligations under the Contract intended to facilitate performance of the Architect's duties.

§ 1.1.3 The Work

The term "Work" means the construction and services required by the Contract Documents, whether completed or partially completed, and includes all other labor, materials, equipment, and services provided or to be provided by the Contractor to fulfill the Contractor's obligations. The Work may constitute the whole or a part of the Project.

§ 1.1.4 The Project

The Project is the total construction of which the Work performed under the Contract Documents may be the whole or a part and which may include construction by the Owner and by Separate Contractors.

§ 1.1.5 The Drawings

The Drawings are the graphic and pictorial portions of the Contract Documents showing the design, location and dimensions of the Work, generally including plans, elevations, sections, details, schedules, and diagrams.

§ 1.1.6 The Specifications

The Specifications are that portion of the Contract Documents consisting of the written requirements for materials, equipment, systems, standards and workmanship for the Work, and performance of related services.

§ 1.1.7 Instruments of Service

Instruments of Service are representations, in any medium of expression now known or later developed, of the tangible and intangible creative work performed by the Architect and the Architect's consultants under their respective professional services agreements. Instruments of Service may include, without limitation, studies, surveys, models, sketches, drawings, specifications, and other similar materials.

§ 1.1.8 Initial Decision Maker

The Initial Decision Maker is the person identified in the Agreement to render initial decisions on Claims in accordance with Section 15.2. The Initial Decision Maker shall not show partiality to the Owner or Contractor and shall not be liable for results of interpretations or decisions rendered in good faith.

§ 1.2 Correlation and Intent of the Contract Documents

§ 1.2.1 The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work by the Contractor. The Contract Documents are complementary, and what is required by one shall be as binding as if required by all; performance by the Contractor shall be required only to the extent consistent with the Contract Documents and reasonably inferable from them as being necessary to produce the indicated results.

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§ 1.2.1.1 The invalidity of any provision of the Contract Documents shall not invalidate the Contract or its remaining provisions. If it is determined that any provision of the Contract Documents violates any law, or is otherwise invalid or unenforceable, then that provision shall be revised to the extent necessary to make that provision legal and enforceable. In such case the Contract Documents shall be construed, to the fullest extent permitted by law, to give effect to the parties' intentions and purposes in executing the Contract.

§ 1.2.2 Organization of the Specifications into divisions, sections and articles, and arrangement of Drawings shall not control the Contractor in dividing the Work among Subcontractors or in establishing the extent of Work to be performed by any trade.

§ 1.2.3 Unless otherwise stated in the Contract Documents, words that have well-known technical or construction industry meanings are used in the Contract Documents in accordance with such recognized meanings.

§ 1.3 Capitalization

Terms capitalized in these General Conditions include those that are (1) specifically defined, (2) the titles of numbered articles, or (3) the titles of other documents published by the American Institute of Architects.

§ 1.4 Interpretation

In the interest of brevity the Contract Documents frequently omit modifying words such as "all" and "any" and articles such as "the" and "an," but the fact that a modifier or an article is absent from one statement and appears in another is not intended to affect the interpretation of either statement.

§ 1.5 Ownership and Use of Drawings, Specifications, and Other Instruments of Service

§ 1.5.1 The Architect and the Architect's consultants shall be deemed the authors and owners of their respective Instruments of Service, including the Drawings and Specifications, and retain all common law, statutory, and other reserved rights in their Instruments of Service, including copyrights. The Contractor, Subcontractors, Sub-subcontractors, and suppliers shall not own or claim a copyright in the Instruments of Service. Submittal or distribution to meet official regulatory requirements or for other purposes in connection with the Project is not to be construed as publication in derogation of the Architect's or Architect's consultants' reserved rights.

§ 1.5.2 The Contractor, Subcontractors, Sub-subcontractors, and suppliers are authorized to use and reproduce the Instruments of Service provided to them, subject to any protocols established pursuant to Sections 1.7 and 1.8, solely and exclusively for execution of the Work. All copies made under this authorization shall bear the copyright notice, if any, shown on the Instruments of Service. The Contractor, Subcontractors, Sub-subcontractors, and suppliers may not use the Instruments of Service on other projects or for additions to the Project outside the scope of the Work without the specific written consent of the Owner, Architect, and the Architect's consultants.

§ 1.6 Notice

§ 1.6.1 Except as otherwise provided in Section 1.6.2, where the Contract Documents require one party to notify or give notice to the other party, such notice shall be provided in writing to the designated representative of the party to whom the notice is addressed and shall be deemed to have been duly served if delivered in person, by mail, by courier, or by electronic transmission if a method for electronic transmission is set forth in the Agreement.

§ 1.6.2 Notice of Claims as provided in Section 15.1.3 shall be provided in writing and shall be deemed to have been duly served only if delivered to the designated representative of the party to whom the notice is addressed by certified or registered mail, or by courier providing proof of delivery.

§ 1.7 Digital Data Use and Transmission

The parties shall agree upon protocols governing the transmission and use of Instruments of Service or any other information or documentation in digital form. The parties will use AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, to establish the protocols for the development, use, transmission, and exchange of digital data.

§ 1.8 Building Information Models Use and Reliance

Any use of, or reliance on, all or a portion of a building information model without agreement to protocols governing the use of, and reliance on, the information contained in the model and without having those protocols set forth in AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, and the requisite AIA Document

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G202™–2013, Project Building Information Modeling Protocol Form, shall be at the using or relying party's sole risk and without liability to the other party and its contractors or consultants, the authors of, or contributors to, the building information model, and each of their agents and employees.

ARTICLE 2 OWNER

§ 2.1 General

§ 2.1.1 The Owner is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The Owner shall designate in writing a representative who shall have express authority to bind the Owner with respect to all matters requiring the Owner's approval or authorization. Except as otherwise provided in Section 4.2.1, the Architect does not have such authority. The term "Owner" means the Owner or the Owner's authorized representative.

§ 2.1.2 The Owner shall furnish to the Contractor, within fifteen days after receipt of a written request, information necessary and relevant for the Contractor to evaluate, give notice of, or enforce mechanic's lien rights. Such information shall include a correct statement of the record legal title to the property on which the Project is located, usually referred to as the site, and the Owner's interest therein.

§ 2.2 Evidence of the Owner's Financial Arrangements

§ 2.2.1 Prior to commencement of the Work and upon written request by the Contractor, the Owner shall furnish to the Contractor reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Contract. The Contractor shall have no obligation to commence the Work until the Owner provides such evidence. If commencement of the Work is delayed under this Section 2.2.1, the Contract Time shall be extended appropriately.

§ 2.2.2 Following commencement of the Work and upon written request by the Contractor, the Owner shall furnish to the Contractor reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Contract only if (1) the Owner fails to make payments to the Contractor as the Contract Documents require; (2) the Contractor identifies in writing a reasonable concern regarding the Owner's ability to make payment when due; or (3) a change in the Work materially changes the Contract Sum. If the Owner fails to provide such evidence, as required, within fourteen days of the Contractor's request, the Contractor may immediately stop the Work and, in that event, shall notify the Owner that the Work has stopped. However, if the request is made because a change in the Work materially changes the Contract Sum under (3) above, the Contractor may immediately stop only that portion of the Work affected by the change until reasonable evidence is provided. If the Work is stopped under this Section 2.2.2, the Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable costs of shutdown, delay and start-up, plus interest as provided in the Contract Documents.

§ 2.2.3 After the Owner furnishes evidence of financial arrangements under this Section 2.2, the Owner shall not materially vary such financial arrangements without prior notice to the Contractor.

§ 2.2.4 Where the Owner has designated information furnished under this Section 2.2 as "confidential," the Contractor shall keep the information confidential and shall not disclose it to any other person. However, the Contractor may disclose "confidential" information, after seven (7) days' notice to the Owner, where disclosure is required by law, including a subpoena or other form of compulsory legal process issued by a court or governmental entity, or by court or arbitrator(s) order. The Contractor may also disclose "confidential" information to its employees, consultants, sureties, Subcontractors and their employees, Sub-subcontractors, and others who need to know the content of such information solely and exclusively for the Project and who agree to maintain the confidentiality of such information.

§ 2.3 Information and Services Required of the Owner

§ 2.3.1 Except for permits and fees that are the responsibility of the Contractor under the Contract Documents, including those required under Section 3.7.1, the Owner shall secure and pay for necessary approvals, easements, assessments and charges required for construction, use or occupancy of permanent structures or for permanent changes in existing facilities.

§ 2.3.2 The Owner shall retain an architect lawfully licensed to practice architecture, or an entity lawfully practicing architecture, in the jurisdiction where the Project is located. That person or entity is identified as the Architect in the Agreement and is referred to throughout the Contract Documents as if singular in number.

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§ 2.3.3 If the employment of the Architect terminates, the Owner shall employ a successor to whom the Contractor has no reasonable objection and whose status under the Contract Documents shall be that of the Architect.

§ 2.3.4 The Owner shall furnish surveys describing physical characteristics, legal limitations and utility locations for the site of the Project, and a legal description of the site. The Contractor shall be entitled to rely on the accuracy of information furnished by the Owner but shall exercise proper precautions relating to the safe performance of the Work.

§ 2.3.5 The Owner shall furnish information or services required of the Owner by the Contract Documents with reasonable promptness. The Owner shall also furnish any other information or services under the Owner's control and relevant to the Contractor's performance of the Work with reasonable promptness after receiving the Contractor's written request for such information or services.

§ 2.3.6 Unless otherwise provided in the Contract Documents, the Owner shall furnish to the Contractor one copy of the Contract Documents for purposes of making reproductions pursuant to Section 1.5.2.

§ 2.4 Owner's Right to Stop the Work

If the Contractor fails to correct Work that is not in accordance with the requirements of the Contract Documents as required by Section 12.2 or repeatedly fails to carry out Work in accordance with the Contract Documents, the Owner may issue a written order to the Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, the right of the Owner to stop the Work shall not give rise to a duty on the part of the Owner to exercise this right for the benefit of the Contractor or any other person or entity, except to the extent required by Section 6.1.3.

§ 2.5 Owner's Right to Carry Out the Work

If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within a ten-day period after receipt of notice from the Owner to commence and continue correction of such default or neglect with diligence and promptness, the Owner may, without prejudice to other remedies the Owner may have, correct such default or neglect. Such action by the Owner and amounts charged to the Contractor are both subject to prior approval of the Architect and the Architect may, pursuant to Section 9.5.1, withhold or nullify a Certificate for Payment in whole or in part, to the extent reasonably necessary to reimburse the Owner for the reasonable cost of correcting such deficiencies, including Owner's expenses and compensation for the Architect's additional services made necessary by such default, neglect, or failure. If current and future payments are not sufficient to cover such amounts, the Contractor shall pay the difference to the Owner. If the Contractor disagrees with the actions of the Owner or the Architect, or the amounts claimed as costs to the Owner, the Contractor may file a Claim pursuant to Article 15.

ARTICLE 3 CONTRACTOR

§ 3.1 General

§ 3.1.1 The Contractor is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The Contractor shall be lawfully licensed, if required in the jurisdiction where the Project is located. The Contractor shall designate in writing a representative who shall have express authority to bind the Contractor with respect to all matters under this Contract. The term "Contractor" means the Contractor or the Contractor's authorized representative.

§ 3.1.2 The Contractor shall perform the Work in accordance with the Contract Documents.

§ 3.1.3 The Contractor shall not be relieved of its obligations to perform the Work in accordance with the Contract Documents either by activities or duties of the Architect in the Architect's administration of the Contract, or by tests, inspections or approvals required or performed by persons or entities other than the Contractor.

§ 3.2 Review of Contract Documents and Field Conditions by Contractor

§ 3.2.1 Execution of the Contract by the Contractor is a representation that the Contractor has visited the site, become generally familiar with local conditions under which the Work is to be performed, and correlated personal observations with requirements of the Contract Documents.

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§ 3.2.2 Because the Contract Documents are complementary, the Contractor shall, before starting each portion of the Work, carefully study and compare the various Contract Documents relative to that portion of the Work, as well as the information furnished by the Owner pursuant to Section 2.3.4, shall take field measurements of any existing conditions related to that portion of the Work, and shall observe any conditions at the site affecting it. These obligations are for the purpose of facilitating coordination and construction by the Contractor and are not for the purpose of discovering errors, omissions, or inconsistencies in the Contract Documents; however, the Contractor shall promptly report to the Architect any errors, inconsistencies or omissions discovered by or made known to the Contractor as a request for information in such form as the Architect may require. It is recognized that the Contractor's review is made in the Contractor's capacity as a contractor and not as a licensed design professional, unless otherwise specifically provided in the Contract Documents.

§ 3.2.3 The Contractor is not required to ascertain that the Contract Documents are in accordance with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, but the Contractor shall promptly report to the Architect any nonconformity discovered by or made known to the Contractor as a request for information in such form as the Architect may require.

§ 3.2.4 If the Contractor believes that additional cost or time is involved because of clarifications or instructions the Architect issues in response to the Contractor's notices or requests for information pursuant to Sections 3.2.2 or 3.2.3, the Contractor shall submit Claims as provided in Article 15. If the Contractor fails to perform the obligations of Sections 3.2.2 or 3.2.3, the Contractor shall pay such costs and damages to the Owner, subject to Section 15.1.7, as would have been avoided if the Contractor had performed such obligations. If the Contractor performs those obligations, the Contractor shall not be liable to the Owner or Architect for damages resulting from errors, inconsistencies or omissions in the Contract Documents, for differences between field measurements or conditions and the Contract Documents, or for nonconformities of the Contract Documents to applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities.

§ 3.3 Supervision and Construction Procedures

§ 3.3.1 The Contractor shall supervise and direct the Work, using the Contractor's best skill and attention. The Contractor shall be solely responsible for, and have control over, construction means, methods, techniques, sequences, and procedures, and for coordinating all portions of the Work under the Contract. If the Contract Documents give specific instructions concerning construction means, methods, techniques, sequences, or procedures, the Contractor shall evaluate the jobsite safety thereof and shall be solely responsible for the jobsite safety of such means, methods, techniques, sequences, or procedures. If the Contractor determines that such means, methods, techniques, sequences or procedures may not be safe, the Contractor shall give timely notice to the Owner and Architect, and shall propose alternative means, methods, techniques, sequences, or procedures. The Architect shall evaluate the proposed alternative solely for conformance with the design intent for the completed construction. Unless the Architect objects to the Contractor's proposed alternative, the Contractor shall perform the Work using its alternative means, methods, techniques, sequences, or procedures.

§ 3.3.2 The Contractor shall be responsible to the Owner for acts and omissions of the Contractor's employees, Subcontractors and their agents and employees, and other persons or entities performing portions of the Work for, or on behalf of, the Contractor or any of its Subcontractors.

§ 3.3.3 The Contractor shall be responsible for inspection of portions of Work already performed to determine that such portions are in proper condition to receive subsequent Work.

§ 3.4 Labor and Materials

§ 3.4.1 Unless otherwise provided in the Contract Documents, the Contractor shall provide and pay for labor, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation, and other facilities and services necessary for proper execution and completion of the Work, whether temporary or permanent and whether or not incorporated or to be incorporated in the Work.

§ 3.4.2 Except in the case of minor changes in the Work approved by the Architect in accordance with Section 3.12.8 or ordered by the Architect in accordance with Section 7.4, the Contractor may make substitutions only with the consent of the Owner, after evaluation by the Architect and in accordance with a Change Order or Construction Change Directive.

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§ 3.4.3 The Contractor shall enforce strict discipline and good order among the Contractor's employees and other persons carrying out the Work. The Contractor shall not permit employment of unfit persons or persons not properly skilled in tasks assigned to them.

§ 3.5 Warranty

§ 3.5.1 The Contractor warrants to the Owner and Architect that materials and equipment furnished under the Contract will be of good quality and new unless the Contract Documents require or permit otherwise. The Contractor further warrants that the Work will conform to the requirements of the Contract Documents and will be free from defects, except for those inherent in the quality of the Work the Contract Documents require or permit. Work, materials, or equipment not conforming to these requirements may be considered defective. The Contractor's warranty excludes remedy for damage or defect caused by abuse, alterations to the Work not executed by the Contractor, improper or insufficient maintenance, improper operation, or normal wear and tear and normal usage. If required by the Architect, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment.

§ 3.5.2 All material, equipment, or other special warranties required by the Contract Documents shall be issued in the name of the Owner, or shall be transferable to the Owner, and shall commence in accordance with Section 9.8.4.

§ 3.6 Taxes

The Contractor shall pay sales, consumer, use and similar taxes for the Work provided by the Contractor that are legally enacted when bids are received or negotiations concluded, whether or not yet effective or merely scheduled to go into effect.

§ 3.7 Permits, Fees, Notices and Compliance with Laws

§ 3.7.1 Unless otherwise provided in the Contract Documents, the Contractor shall secure and pay for the building permit as well as for other permits, fees, licenses, and inspections by government agencies necessary for proper execution and completion of the Work that are customarily secured after execution of the Contract and legally required at the time bids are received or negotiations concluded.

§ 3.7.2 The Contractor shall comply with and give notices required by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities applicable to performance of the Work.

§ 3.7.3 If the Contractor performs Work knowing it to be contrary to applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, the Contractor shall assume appropriate responsibility for such Work and shall bear the costs attributable to correction.

§ 3.7.4 Concealed or Unknown Conditions

If the Contractor encounters conditions at the site that are (1) subsurface or otherwise concealed physical conditions that differ materially from those indicated in the Contract Documents or (2) unknown physical conditions of an unusual nature that differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents, the Contractor shall promptly provide notice to the Owner and the Architect before conditions are disturbed and in no event later than 14 days after first observance of the conditions. The Architect will promptly investigate such conditions and, if the Architect determines that they differ materially and cause an increase or decrease in the Contractor's cost of, or time required for, performance of any part of the Work, will recommend that an equitable adjustment be made in the Contract Sum or Contract Time, or both. If the Architect determines that the conditions at the site are not materially different from those indicated in the Contract Documents and that no change in the terms of the Contract is justified, the Architect shall promptly notify the Owner and Contractor, stating the reasons. If either party disputes the Architect's determination or recommendation, that party may submit a Claim as provided in Article 15.

§ 3.7.5 If, in the course of the Work, the Contractor encounters human remains or recognizes the existence of burial markers, archaeological sites or wetlands not indicated in the Contract Documents, the Contractor shall immediately suspend any operations that would affect them and shall notify the Owner and Architect. Upon receipt of such notice, the Owner shall promptly take any action necessary to obtain governmental authorization required to resume the operations. The Contractor shall continue to suspend such operations until otherwise instructed by the Owner but shall continue with all other operations that do not affect those remains or features. Requests for adjustments in the Contract Sum and Contract Time arising from the existence of such remains or features may be made as provided in Article 15.

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§ 3.8 Allowances

§ 3.8.1 The Contractor shall include in the Contract Sum all allowances stated in the Contract Documents. Items covered by allowances shall be supplied for such amounts and by such persons or entities as the Owner may direct, but the Contractor shall not be required to employ persons or entities to whom the Contractor has reasonable objection.

§ 3.8.2 Unless otherwise provided in the Contract Documents,

- **.1** allowances shall cover the cost to the Contractor of materials and equipment delivered at the site and all required taxes, less applicable trade discounts;
- **.2** Contractor's costs for unloading and handling at the site, labor, installation costs, overhead, profit, and other expenses contemplated for stated allowance amounts shall be included in the Contract Sum but not in the allowances; and
- **.3** whenever costs are more than or less than allowances, the Contract Sum shall be adjusted accordingly by Change Order. The amount of the Change Order shall reflect (1) the difference between actual costs and the allowances under Section 3.8.2.1 and (2) changes in Contractor's costs under Section 3.8.2.2.

§ 3.8.3 Materials and equipment under an allowance shall be selected by the Owner with reasonable promptness.

§ 3.9 Superintendent

§ 3.9.1 The Contractor shall employ a competent superintendent and necessary assistants who shall be in attendance at the Project site during performance of the Work. The superintendent shall represent the Contractor, and communications given to the superintendent shall be as binding as if given to the Contractor.

§ 3.9.2 The Contractor, as soon as practicable after award of the Contract, shall notify the Owner and Architect of the name and qualifications of a proposed superintendent. Within 14 days of receipt of the information, the Architect may notify the Contractor, stating whether the Owner or the Architect (1) has reasonable objection to the proposed superintendent or (2) requires additional time for review. Failure of the Architect to provide notice within the 14-day period shall constitute notice of no reasonable objection.

§ 3.9.3 The Contractor shall not employ a proposed superintendent to whom the Owner or Architect has made reasonable and timely objection. The Contractor shall not change the superintendent without the Owner's consent, which shall not unreasonably be withheld or delayed.

§ 3.10 Contractor's Construction and Submittal Schedules

§ 3.10.1 The Contractor, promptly after being awarded the Contract, shall submit for the Owner's and Architect's information a Contractor's construction schedule for the Work. The schedule shall contain detail appropriate for the Project, including (1) the date of commencement of the Work, interim schedule milestone dates, and the date of Substantial Completion; (2) an apportionment of the Work by construction activity; and (3) the time required for completion of each portion of the Work. The schedule shall provide for the orderly progression of the Work to completion and shall not exceed time limits current under the Contract Documents. The schedule shall be revised at appropriate intervals as required by the conditions of the Work and Project.

§ 3.10.2 The Contractor, promptly after being awarded the Contract and thereafter as necessary to maintain a current submittal schedule, shall submit a submittal schedule for the Architect's approval. The Architect's approval shall not be unreasonably delayed or withheld. The submittal schedule shall (1) be coordinated with the Contractor's construction schedule, and (2) allow the Architect reasonable time to review submittals. If the Contractor fails to submit a submittal schedule, or fails to provide submittals in accordance with the approved submittal schedule, the Contractor shall not be entitled to any increase in Contract Sum or extension of Contract Time based on the time required for review of submittals.

§ 3.10.3 The Contractor shall perform the Work in general accordance with the most recent schedules submitted to the Owner and Architect.

§ 3.11 Documents and Samples at the Site

The Contractor shall make available, at the Project site, the Contract Documents, including Change Orders, Construction Change Directives, and other Modifications, in good order and marked currently to indicate field changes and selections made during construction, and the approved Shop Drawings, Product Data, Samples, and similar required submittals. These shall be in electronic form or paper copy, available to the Architect and Owner, and

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delivered to the Architect for submittal to the Owner upon completion of the Work as a record of the Work as constructed.

§ 3.12 Shop Drawings, Product Data and Samples

§ 3.12.1 Shop Drawings are drawings, diagrams, schedules, and other data specially prepared for the Work by the Contractor or a Subcontractor, Sub-subcontractor, manufacturer, supplier, or distributor to illustrate some portion of the Work.

§ 3.12.2 Product Data are illustrations, standard schedules, performance charts, instructions, brochures, diagrams, and other information furnished by the Contractor to illustrate materials or equipment for some portion of the Work.

§ 3.12.3 Samples are physical examples that illustrate materials, equipment, or workmanship, and establish standards by which the Work will be judged.

§ 3.12.4 Shop Drawings, Product Data, Samples, and similar submittals are not Contract Documents. Their purpose is to demonstrate how the Contractor proposes to conform to the information given and the design concept expressed in the Contract Documents for those portions of the Work for which the Contract Documents require submittals. Review by the Architect is subject to the limitations of Section 4.2.7. Informational submittals upon which the Architect is not expected to take responsive action may be so identified in the Contract Documents. Submittals that are not required by the Contract Documents may be returned by the Architect without action.

§ 3.12.5 The Contractor shall review for compliance with the Contract Documents, approve, and submit to the Architect, Shop Drawings, Product Data, Samples, and similar submittals required by the Contract Documents, in accordance with the submittal schedule approved by the Architect or, in the absence of an approved submittal schedule, with reasonable promptness and in such sequence as to cause no delay in the Work or in the activities of the Owner or of Separate Contractors.

§ 3.12.6 By submitting Shop Drawings, Product Data, Samples, and similar submittals, the Contractor represents to the Owner and Architect that the Contractor has (1) reviewed and approved them, (2) determined and verified materials, field measurements and field construction criteria related thereto, or will do so, and (3) checked and coordinated the information contained within such submittals with the requirements of the Work and of the Contract Documents.

§ 3.12.7 The Contractor shall perform no portion of the Work for which the Contract Documents require submittal and review of Shop Drawings, Product Data, Samples, or similar submittals, until the respective submittal has been approved by the Architect.

§ 3.12.8 The Work shall be in accordance with approved submittals except that the Contractor shall not be relieved of responsibility for deviations from the requirements of the Contract Documents by the Architect's approval of Shop Drawings, Product Data, Samples, or similar submittals, unless the Contractor has specifically notified the Architect of such deviation at the time of submittal and (1) the Architect has given written approval to the specific deviation as a minor change in the Work, or (2) a Change Order or Construction Change Directive has been issued authorizing the deviation. The Contractor shall not be relieved of responsibility for errors or omissions in Shop Drawings, Product Data, Samples, or similar submittals, by the Architect's approval thereof.

§ 3.12.9 The Contractor shall direct specific attention, in writing or on resubmitted Shop Drawings, Product Data, Samples, or similar submittals, to revisions other than those requested by the Architect on previous submittals. In the absence of such notice, the Architect's approval of a resubmission shall not apply to such revisions.

§ 3.12.10 The Contractor shall not be required to provide professional services that constitute the practice of architecture or engineering unless such services are specifically required by the Contract Documents for a portion of the Work or unless the Contractor needs to provide such services in order to carry out the Contractor's responsibilities for construction means, methods, techniques, sequences, and procedures. The Contractor shall not be required to provide professional services in violation of applicable law.

§ 3.12.10.1 If professional design services or certifications by a design professional related to systems, materials, or equipment are specifically required of the Contractor by the Contract Documents, the Owner and the Architect will

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specify all performance and design criteria that such services must satisfy. The Contractor shall be entitled to rely upon the adequacy and accuracy of the performance and design criteria provided in the Contract Documents. The Contractor shall cause such services or certifications to be provided by an appropriately licensed design professional, whose signature and seal shall appear on all drawings, calculations, specifications, certifications, Shop Drawings, and other submittals prepared by such professional. Shop Drawings, and other submittals related to the Work, designed or certified by such professional, if prepared by others, shall bear such professional's written approval when submitted to the Architect. The Owner and the Architect shall be entitled to rely upon the adequacy and accuracy of the services, certifications, and approvals performed or provided by such design professionals, provided the Owner and Architect have specified to the Contractor the performance and design criteria that such services must satisfy. Pursuant to this Section 3.12.10, the Architect will review and approve or take other appropriate action on submittals only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents.

§ 3.12.10.2 If the Contract Documents require the Contractor's design professional to certify that the Work has been performed in accordance with the design criteria, the Contractor shall furnish such certifications to the Architect at the time and in the form specified by the Architect.

§ 3.13 Use of Site

The Contractor shall confine operations at the site to areas permitted by applicable laws, statutes, ordinances, codes, rules and regulations, lawful orders of public authorities, and the Contract Documents and shall not unreasonably encumber the site with materials or equipment.

§ 3.14 Cutting and Patching

§ 3.14.1 The Contractor shall be responsible for cutting, fitting, or patching required to complete the Work or to make its parts fit together properly. All areas requiring cutting, fitting, or patching shall be restored to the condition existing prior to the cutting, fitting, or patching, unless otherwise required by the Contract Documents.

§ 3.14.2 The Contractor shall not damage or endanger a portion of the Work or fully or partially completed construction of the Owner or Separate Contractors by cutting, patching, or otherwise altering such construction, or by excavation. The Contractor shall not cut or otherwise alter construction by the Owner or a Separate Contractor except with written consent of the Owner and of the Separate Contractor. Consent shall not be unreasonably withheld. The Contractor shall not unreasonably withhold, from the Owner or a Separate Contractor, its consent to cutting or otherwise altering the Work.

§ 3.15 Cleaning Up

§ 3.15.1 The Contractor shall keep the premises and surrounding area free from accumulation of waste materials and rubbish caused by operations under the Contract. At completion of the Work, the Contractor shall remove waste materials, rubbish, the Contractor's tools, construction equipment, machinery, and surplus materials from and about the Project.

§ 3.15.2 If the Contractor fails to clean up as provided in the Contract Documents, the Owner may do so and the Owner shall be entitled to reimbursement from the Contractor.

§ 3.16 Access to Work

The Contractor shall provide the Owner and Architect with access to the Work in preparation and progress wherever located.

§ 3.17 Royalties, Patents and Copyrights

The Contractor shall pay all royalties and license fees. The Contractor shall defend suits or claims for infringement of copyrights and patent rights and shall hold the Owner and Architect harmless from loss on account thereof, but shall not be responsible for defense or loss when a particular design, process, or product of a particular manufacturer or manufacturers is required by the Contract Documents, or where the copyright violations are contained in Drawings, Specifications, or other documents prepared by the Owner or Architect. However, if an infringement of a copyright or patent is discovered by, or made known to, the Contractor, the Contractor shall be responsible for the loss unless the information is promptly furnished to the Architect.

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§ 3.18 Indemnification

§ 3.18.1 To the fullest extent permitted by law, the Contractor shall indemnify and hold harmless the Owner, Architect, Architect's consultants, and agents and employees of any of them from and against claims, damages, losses, and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), but only to the extent caused by the negligent acts or omissions of the Contractor, a Subcontractor, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss, or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity that would otherwise exist as to a party or person described in this Section 3.18.

§ 3.18.2 In claims against any person or entity indemnified under this Section 3.18 by an employee of the Contractor, a Subcontractor, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, the indemnification obligation under Section 3.18.1 shall not be limited by a limitation on amount or type of damages, compensation, or benefits payable by or for the Contractor or a Subcontractor under workers' compensation acts, disability benefit acts, or other employee benefit acts.

ARTICLE 4 ARCHITECT

§ 4.1 General

§ 4.1.1 The Architect is the person or entity retained by the Owner pursuant to Section 2.3.2 and identified as such in the Agreement.

§ 4.1.2 Duties, responsibilities, and limitations of authority of the Architect as set forth in the Contract Documents shall not be restricted, modified, or extended without written consent of the Owner, Contractor, and Architect. Consent shall not be unreasonably withheld.

§ 4.2 Administration of the Contract

§ 4.2.1 The Architect will provide administration of the Contract as described in the Contract Documents and will be an Owner's representative during construction until the date the Architect issues the final Certificate for Payment. The Architect will have authority to act on behalf of the Owner only to the extent provided in the Contract Documents.

§ 4.2.2 The Architect will visit the site at intervals appropriate to the stage of construction, or as otherwise agreed with the Owner, to become generally familiar with the progress and quality of the portion of the Work completed, and to determine in general if the Work observed is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the Architect will not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. The Architect will not have control over, charge of, or responsibility for the construction means, methods, techniques, sequences or procedures, or for the safety precautions and programs in connection with the Work, since these are solely the Contractor's rights and responsibilities under the Contract Documents.

§ 4.2.3 On the basis of the site visits, the Architect will keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, and promptly report to the Owner (1) known deviations from the Contract Documents, (2) known deviations from the most recent construction schedule submitted by the Contractor, and (3) defects and deficiencies observed in the Work. The Architect will not be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The Architect will not have control over or charge of, and will not be responsible for acts or omissions of, the Contractor, Subcontractors, or their agents or employees, or any other persons or entities performing portions of the Work.

§ 4.2.4 Communications

The Owner and Contractor shall include the Architect in all communications that relate to or affect the Architect's services or professional responsibilities. The Owner shall promptly notify the Architect of the substance of any direct communications between the Owner and the Contractor otherwise relating to the Project. Communications by and with the Architect's consultants shall be through the Architect. Communications by and with Subcontractors and suppliers shall be through the Contractor. Communications by and with Separate Contractors shall be through the Owner. The Contract Documents may specify other communication protocols.

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§ 4.2.5 Based on the Architect's evaluations of the Contractor's Applications for Payment, the Architect will review and certify the amounts due the Contractor and will issue Certificates for Payment in such amounts.

§ 4.2.6 The Architect has authority to reject Work that does not conform to the Contract Documents. Whenever the Architect considers it necessary or advisable, the Architect will have authority to require inspection or testing of the Work in accordance with Sections 13.4.2 and 13.4.3, whether or not the Work is fabricated, installed or completed. However, neither this authority of the Architect nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect to the Contractor, Subcontractors, suppliers, their agents or employees, or other persons or entities performing portions of the Work.

§ 4.2.7 The Architect will review and approve, or take other appropriate action upon, the Contractor's submittals such as Shop Drawings, Product Data, and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Architect's action will be taken in accordance with the submittal schedule approved by the Architect or, in the absence of an approved submittal schedule, with reasonable promptness while allowing sufficient time in the Architect's professional judgment to permit adequate review. Review of such submittals is not conducted for the purpose of determining the accuracy and completeness of other details such as dimensions and quantities, or for substantiating instructions for installation or performance of equipment or systems, all of which remain the responsibility of the Contractor as required by the Contract Documents. The Architect's review of the Contractor's submittals shall not relieve the Contractor of the obligations under Sections 3.3, 3.5, and 3.12. The Architect's review shall not constitute approval of safety precautions or of any construction means, methods, techniques, sequences, or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

§ 4.2.8 The Architect will prepare Change Orders and Construction Change Directives, and may order minor changes in the Work as provided in Section 7.4. The Architect will investigate and make determinations and recommendations regarding concealed and unknown conditions as provided in Section 3.7.4.

§ 4.2.9 The Architect will conduct inspections to determine the date or dates of Substantial Completion and the date of final completion; issue Certificates of Substantial Completion pursuant to Section 9.8; receive and forward to the Owner, for the Owner's review and records, written warranties and related documents required by the Contract and assembled by the Contractor pursuant to Section 9.10; and issue a final Certificate for Payment pursuant to Section 9.10.

§ 4.2.10 If the Owner and Architect agree, the Architect will provide one or more Project representatives to assist in carrying out the Architect's responsibilities at the site. The Owner shall notify the Contractor of any change in the duties, responsibilities and limitations of authority of the Project representatives.

§ 4.2.11 The Architect will interpret and decide matters concerning performance under, and requirements of, the Contract Documents on written request of either the Owner or Contractor. The Architect's response to such requests will be made in writing within any time limits agreed upon or otherwise with reasonable promptness.

§ 4.2.12 Interpretations and decisions of the Architect will be consistent with the intent of, and reasonably inferable from, the Contract Documents and will be in writing or in the form of drawings. When making such interpretations and decisions, the Architect will endeavor to secure faithful performance by both Owner and Contractor, will not show partiality to either, and will not be liable for results of interpretations or decisions rendered in good faith.

§ 4.2.13 The Architect's decisions on matters relating to aesthetic effect will be final if consistent with the intent expressed in the Contract Documents.

§ 4.2.14 The Architect will review and respond to requests for information about the Contract Documents. The Architect's response to such requests will be made in writing within any time limits agreed upon or otherwise with reasonable promptness. If appropriate, the Architect will prepare and issue supplemental Drawings and Specifications in response to the requests for information.

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ARTICLE 5 SUBCONTRACTORS

§ 5.1 Definitions

§ 5.1.1 A Subcontractor is a person or entity who has a direct contract with the Contractor to perform a portion of the Work at the site. The term "Subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Subcontractor or an authorized representative of the Subcontractor. The term "Subcontractor" does not include a Separate Contractor or the subcontractors of a Separate Contractor.

§ 5.1.2 A Sub-subcontractor is a person or entity who has a direct or indirect contract with a Subcontractor to perform a portion of the Work at the site. The term "Sub-subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Sub-subcontractor or an authorized representative of the Sub-subcontractor.

§ 5.2 Award of Subcontracts and Other Contracts for Portions of the Work

§ 5.2.1 Unless otherwise stated in the Contract Documents, the Contractor, as soon as practicable after award of the Contract, shall notify the Owner and Architect of the persons or entities proposed for each principal portion of the Work, including those who are to furnish materials or equipment fabricated to a special design. Within 14 days of receipt of the information, the Architect may notify the Contractor whether the Owner or the Architect (1) has reasonable objection to any such proposed person or entity or (2) requires additional time for review. Failure of the Architect to provide notice within the 14-day period shall constitute notice of no reasonable objection.

§ 5.2.2 The Contractor shall not contract with a proposed person or entity to whom the Owner or Architect has made reasonable and timely objection. The Contractor shall not be required to contract with anyone to whom the Contractor has made reasonable objection.

§ 5.2.3 If the Owner or Architect has reasonable objection to a person or entity proposed by the Contractor, the Contractor shall propose another to whom the Owner or Architect has no reasonable objection. If the proposed but rejected Subcontractor was reasonably capable of performing the Work, the Contract Sum and Contract Time shall be increased or decreased by the difference, if any, occasioned by such change, and an appropriate Change Order shall be issued before commencement of the substitute Subcontractor's Work. However, no increase in the Contract Sum or Contract Time shall be allowed for such change unless the Contractor has acted promptly and responsively in submitting names as required.

§ 5.2.4 The Contractor shall not substitute a Subcontractor, person, or entity for one previously selected if the Owner or Architect makes reasonable objection to such substitution.

§ 5.3 Subcontractual Relations

By appropriate written agreement, the Contractor shall require each Subcontractor, to the extent of the Work to be performed by the Subcontractor, to be bound to the Contractor by terms of the Contract Documents, and to assume toward the Contractor all the obligations and responsibilities, including the responsibility for safety of the Subcontractor's Work that the Contractor, by these Contract Documents, assumes toward the Owner and Architect. Each subcontract agreement shall preserve and protect the rights of the Owner and Architect under the Contract Documents with respect to the Work to be performed by the Subcontractor so that subcontracting thereof will not prejudice such rights, and shall allow to the Subcontractor, unless specifically provided otherwise in the subcontract agreement, the benefit of all rights, remedies, and redress against the Contractor that the Contractor, by the Contract Documents, has against the Owner. Where appropriate, the Contractor shall require each Subcontractor to enter into similar agreements with Sub-subcontractors. The Contractor shall make available to each proposed Subcontractor, prior to the execution of the subcontract agreement, copies of the Contract Documents to which the Subcontractor will be bound, and, upon written request of the Subcontractor, identify to the Subcontractor terms and conditions of the proposed subcontract agreement that may be at variance with the Contract Documents. Subcontractors will similarly make copies of applicable portions of such documents available to their respective proposed Sub-subcontractors.

§ 5.4 Contingent Assignment of Subcontracts

§ 5.4.1 Each subcontract agreement for a portion of the Work is assigned by the Contractor to the Owner, provided that

- **.1** assignment is effective only after termination of the Contract by the Owner for cause pursuant to Section 14.2 and only for those subcontract agreements that the Owner accepts by notifying the Subcontractor and Contractor; and
- **.2** assignment is subject to the prior rights of the surety, if any, obligated under bond relating to the Contract.

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When the Owner accepts the assignment of a subcontract agreement, the Owner assumes the Contractor's rights and obligations under the subcontract.

§ 5.4.2 Upon such assignment, if the Work has been suspended for more than 30 days, the Subcontractor's compensation shall be equitably adjusted for increases in cost resulting from the suspension.

§ 5.4.3 Upon assignment to the Owner under this Section 5.4, the Owner may further assign the subcontract to a successor contractor or other entity. If the Owner assigns the subcontract to a successor contractor or other entity, the Owner shall nevertheless remain legally responsible for all of the successor contractor's obligations under the subcontract.

ARTICLE 6 CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTORS

§ 6.1 Owner's Right to Perform Construction and to Award Separate Contracts

§ 6.1.1 The term "Separate Contractor(s)" shall mean other contractors retained by the Owner under separate agreements. The Owner reserves the right to perform construction or operations related to the Project with the Owner's own forces, and with Separate Contractors retained under Conditions of the Contract substantially similar to those of this Contract, including those provisions of the Conditions of the Contract related to insurance and waiver of subrogation.

§ 6.1.2 When separate contracts are awarded for different portions of the Project or other construction or operations on the site, the term "Contractor" in the Contract Documents in each case shall mean the Contractor who executes each separate Owner-Contractor Agreement.

§ 6.1.3 The Owner shall provide for coordination of the activities of the Owner's own forces and of each Separate Contractor with the Work of the Contractor, who shall cooperate with them. The Contractor shall participate with any Separate Contractors and the Owner in reviewing their construction schedules. The Contractor shall make any revisions to its construction schedule deemed necessary after a joint review and mutual agreement. The construction schedules shall then constitute the schedules to be used by the Contractor, Separate Contractors, and the Owner until subsequently revised.

§ 6.1.4 Unless otherwise provided in the Contract Documents, when the Owner performs construction or operations related to the Project with the Owner's own forces or with Separate Contractors, the Owner or its Separate Contractors shall have the same obligations and rights that the Contractor has under the Conditions of the Contract, including, without excluding others, those stated in Article 3, this Article 6, and Articles 10, 11, and 12.

§ 6.2 Mutual Responsibility

§ 6.2.1 The Contractor shall afford the Owner and Separate Contractors reasonable opportunity for introduction and storage of their materials and equipment and performance of their activities, and shall connect and coordinate the Contractor's construction and operations with theirs as required by the Contract Documents.

§ 6.2.2 If part of the Contractor's Work depends for proper execution or results upon construction or operations by the Owner or a Separate Contractor, the Contractor shall, prior to proceeding with that portion of the Work, promptly notify the Architect of apparent discrepancies or defects in the construction or operations by the Owner or Separate Contractor that would render it unsuitable for proper execution and results of the Contractor's Work. Failure of the Contractor to notify the Architect of apparent discrepancies or defects prior to proceeding with the Work shall constitute an acknowledgment that the Owner's or Separate Contractor's completed or partially completed construction is fit and proper to receive the Contractor's Work. The Contractor shall not be responsible for discrepancies or defects in the construction or operations by the Owner or Separate Contractor that are not apparent.

§ 6.2.3 The Contractor shall reimburse the Owner for costs the Owner incurs that are payable to a Separate Contractor because of the Contractor's delays, improperly timed activities or defective construction. The Owner shall be responsible to the Contractor for costs the Contractor incurs because of a Separate Contractor's delays, improperly timed activities, damage to the Work or defective construction.

§ 6.2.4 The Contractor shall promptly remedy damage that the Contractor wrongfully causes to completed or partially completed construction or to property of the Owner or Separate Contractor as provided in Section 10.2.5.

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§ 6.2.5 The Owner and each Separate Contractor shall have the same responsibilities for cutting and patching as are described for the Contractor in Section 3.14.

§ 6.3 Owner's Right to Clean Up

If a dispute arises among the Contractor, Separate Contractors, and the Owner as to the responsibility under their respective contracts for maintaining the premises and surrounding area free from waste materials and rubbish, the Owner may clean up and the Architect will allocate the cost among those responsible.

ARTICLE 7 CHANGES IN THE WORK

§ 7.1 General

§ 7.1.1 Changes in the Work may be accomplished after execution of the Contract, and without invalidating the Contract, by Change Order, Construction Change Directive or order for a minor change in the Work, subject to the limitations stated in this Article 7 and elsewhere in the Contract Documents.

§ 7.1.2 A Change Order shall be based upon agreement among the Owner, Contractor, and Architect. A Construction Change Directive requires agreement by the Owner and Architect and may or may not be agreed to by the Contractor. An order for a minor change in the Work may be issued by the Architect alone.

§ 7.1.3 Changes in the Work shall be performed under applicable provisions of the Contract Documents. The Contractor shall proceed promptly with changes in the Work, unless otherwise provided in the Change Order, Construction Change Directive, or order for a minor change in the Work.

§ 7.2 Change Orders

§ 7.2.1 A Change Order is a written instrument prepared by the Architect and signed by the Owner, Contractor, and Architect stating their agreement upon all of the following:

- **.1** The change in the Work;
- **.2** The amount of the adjustment, if any, in the Contract Sum; and
- **.3** The extent of the adjustment, if any, in the Contract Time.

§ 7.3 Construction Change Directives

§ 7.3.1 A Construction Change Directive is a written order prepared by the Architect and signed by the Owner and Architect, directing a change in the Work prior to agreement on adjustment, if any, in the Contract Sum or Contract Time, or both. The Owner may by Construction Change Directive, without invalidating the Contract, order changes in the Work within the general scope of the Contract consisting of additions, deletions, or other revisions, the Contract Sum and Contract Time being adjusted accordingly.

§ 7.3.2 A Construction Change Directive shall be used in the absence of total agreement on the terms of a Change Order.

§ 7.3.3 If the Construction Change Directive provides for an adjustment to the Contract Sum, the adjustment shall be based on one of the following methods:

- **.1** Mutual acceptance of a lump sum properly itemized and supported by sufficient substantiating data to permit evaluation;
- **.2** Unit prices stated in the Contract Documents or subsequently agreed upon;
- **.3** Cost to be determined in a manner agreed upon by the parties and a mutually acceptable fixed or percentage fee; or
- **.4** As provided in Section 7.3.4.

§ 7.3.4 If the Contractor does not respond promptly or disagrees with the method for adjustment in the Contract Sum, the Architect shall determine the adjustment on the basis of reasonable expenditures and savings of those performing the Work attributable to the change, including, in case of an increase in the Contract Sum, an amount for overhead and profit as set forth in the Agreement, or if no such amount is set forth in the Agreement, a reasonable amount. In such case, and also under Section 7.3.3.3, the Contractor shall keep and present, in such form as the Architect may prescribe, an itemized accounting together with appropriate supporting data. Unless otherwise provided in the Contract Documents, costs for the purposes of this Section 7.3.4 shall be limited to the following:

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.1 Costs of labor, including applicable payroll taxes, fringe benefits required by agreement or custom, workers' compensation insurance, and other employee costs approved by the Architect;

.2 Costs of materials, supplies, and equipment, including cost of transportation, whether incorporated or consumed;

.3 Rental costs of machinery and equipment, exclusive of hand tools, whether rented from the Contractor or others;

.4 Costs of premiums for all bonds and insurance, permit fees, and sales, use, or similar taxes, directly related to the change; and

.5 Costs of supervision and field office personnel directly attributable to the change.

§ 7.3.5 If the Contractor disagrees with the adjustment in the Contract Time, the Contractor may make a Claim in accordance with applicable provisions of Article 15.

§ 7.3.6 Upon receipt of a Construction Change Directive, the Contractor shall promptly proceed with the change in the Work involved and advise the Architect of the Contractor's agreement or disagreement with the method, if any, provided in the Construction Change Directive for determining the proposed adjustment in the Contract Sum or Contract Time.

§ 7.3.7 A Construction Change Directive signed by the Contractor indicates the Contractor's agreement therewith, including adjustment in Contract Sum and Contract Time or the method for determining them. Such agreement shall be effective immediately and shall be recorded as a Change Order.

§ 7.3.8 The amount of credit to be allowed by the Contractor to the Owner for a deletion or change that results in a net decrease in the Contract Sum shall be actual net cost as confirmed by the Architect. When both additions and credits covering related Work or substitutions are involved in a change, the allowance for overhead and profit shall be figured on the basis of net increase, if any, with respect to that change.

§ 7.3.9 Pending final determination of the total cost of a Construction Change Directive to the Owner, the Contractor may request payment for Work completed under the Construction Change Directive in Applications for Payment. The Architect will make an interim determination for purposes of monthly certification for payment for those costs and certify for payment the amount that the Architect determines, in the Architect's professional judgment, to be reasonably justified. The Architect's interim determination of cost shall adjust the Contract Sum on the same basis as a Change Order, subject to the right of either party to disagree and assert a Claim in accordance with Article 15.

§ 7.3.10 When the Owner and Contractor agree with a determination made by the Architect concerning the adjustments in the Contract Sum and Contract Time, or otherwise reach agreement upon the adjustments, such agreement shall be effective immediately and the Architect will prepare a Change Order. Change Orders may be issued for all or any part of a Construction Change Directive.

§ 7.4 Minor Changes in the Work

The Architect may order minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. The Architect's order for minor changes shall be in writing. If the Contractor believes that the proposed minor change in the Work will affect the Contract Sum or Contract Time, the Contractor shall notify the Architect and shall not proceed to implement the change in the Work. If the Contractor performs the Work set forth in the Architect's order for a minor change without prior notice to the Architect that such change will affect the Contract Sum or Contract Time, the Contractor waives any adjustment to the Contract Sum or extension of the Contract Time.

ARTICLE 8 TIME

§ 8.1 Definitions

§ 8.1.1 Unless otherwise provided, Contract Time is the period of time, including authorized adjustments, allotted in the Contract Documents for Substantial Completion of the Work.

§ 8.1.2 The date of commencement of the Work is the date established in the Agreement.

§ 8.1.3 The date of Substantial Completion is the date certified by the Architect in accordance with Section 9.8.

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§ 8.1.4 The term "day" as used in the Contract Documents shall mean calendar day unless otherwise specifically defined.

§ 8.2 Progress and Completion

§ 8.2.1 Time limits stated in the Contract Documents are of the essence of the Contract. By executing the Agreement, the Contractor confirms that the Contract Time is a reasonable period for performing the Work.

§ 8.2.2 The Contractor shall not knowingly, except by agreement or instruction of the Owner in writing, commence the Work prior to the effective date of insurance required to be furnished by the Contractor and Owner.

§ 8.2.3 The Contractor shall proceed expeditiously with adequate forces and shall achieve Substantial Completion within the Contract Time.

§ 8.3 Delays and Extensions of Time

§ 8.3.1 If the Contractor is delayed at any time in the commencement or progress of the Work by (1) an act or neglect of the Owner or Architect, of an employee of either, or of a Separate Contractor; (2) by changes ordered in the Work; (3) by labor disputes, fire, unusual delay in deliveries, unavoidable casualties, adverse weather conditions documented in accordance with Section 15.1.6.2, or other causes beyond the Contractor's control; (4) by delay authorized by the Owner pending mediation and binding dispute resolution; or (5) by other causes that the Contractor asserts, and the Architect determines, justify delay, then the Contract Time shall be extended for such reasonable time as the Architect may determine.

§ 8.3.2 Claims relating to time shall be made in accordance with applicable provisions of Article 15.

§ 8.3.3 This Section 8.3 does not preclude recovery of damages for delay by either party under other provisions of the Contract Documents.

ARTICLE 9 PAYMENTS AND COMPLETION

§ 9.1 Contract Sum

§ 9.1.1 The Contract Sum is stated in the Agreement and, including authorized adjustments, is the total amount payable by the Owner to the Contractor for performance of the Work under the Contract Documents.

§ 9.1.2 If unit prices are stated in the Contract Documents or subsequently agreed upon, and if quantities originally contemplated are materially changed so that application of such unit prices to the actual quantities causes substantial inequity to the Owner or Contractor, the applicable unit prices shall be equitably adjusted.

§ 9.2 Schedule of Values

Where the Contract is based on a stipulated sum or Guaranteed Maximum Price, the Contractor shall submit a schedule of values to the Architect before the first Application for Payment, allocating the entire Contract Sum to the various portions of the Work. The schedule of values shall be prepared in the form, and supported by the data to substantiate its accuracy, required by the Architect. This schedule, unless objected to by the Architect, shall be used as a basis for reviewing the Contractor's Applications for Payment. Any changes to the schedule of values shall be submitted to the Architect and supported by such data to substantiate its accuracy as the Architect may require, and unless objected to by the Architect, shall be used as a basis for reviewing the Contractor's subsequent Applications for Payment.

§ 9.3 Applications for Payment

§ 9.3.1 At least ten days before the date established for each progress payment, the Contractor shall submit to the Architect an itemized Application for Payment prepared in accordance with the schedule of values, if required under Section 9.2, for completed portions of the Work. The application shall be notarized, if required, and supported by all data substantiating the Contractor's right to payment that the Owner or Architect require, such as copies of requisitions, and releases and waivers of liens from Subcontractors and suppliers, and shall reflect retainage if provided for in the Contract Documents.

§ 9.3.1.1 As provided in Section 7.3.9, such applications may include requests for payment on account of changes in the Work that have been properly authorized by Construction Change Directives, or by interim determinations of the Architect, but not yet included in Change Orders.

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§ 9.3.1.2 Applications for Payment shall not include requests for payment for portions of the Work for which the Contractor does not intend to pay a Subcontractor or supplier, unless such Work has been performed by others whom the Contractor intends to pay.

§ 9.3.2 Unless otherwise provided in the Contract Documents, payments shall be made on account of materials and equipment delivered and suitably stored at the site for subsequent incorporation in the Work. If approved in advance by the Owner, payment may similarly be made for materials and equipment suitably stored off the site at a location agreed upon in writing. Payment for materials and equipment stored on or off the site shall be conditioned upon compliance by the Contractor with procedures satisfactory to the Owner to establish the Owner's title to such materials and equipment or otherwise protect the Owner's interest, and shall include the costs of applicable insurance, storage, and transportation to the site, for such materials and equipment stored off the site.

§ 9.3.3 The Contractor warrants that title to all Work covered by an Application for Payment will pass to the Owner no later than the time of payment. The Contractor further warrants that upon submittal of an Application for Payment all Work for which Certificates for Payment have been previously issued and payments received from the Owner shall, to the best of the Contractor's knowledge, information, and belief, be free and clear of liens, claims, security interests, or encumbrances, in favor of the Contractor, Subcontractors, suppliers, or other persons or entities that provided labor, materials, and equipment relating to the Work.

§ 9.4 Certificates for Payment

§ 9.4.1 The Architect will, within seven days after receipt of the Contractor's Application for Payment, either (1) issue to the Owner a Certificate for Payment in the full amount of the Application for Payment, with a copy to the Contractor; or (2) issue to the Owner a Certificate for Payment for such amount as the Architect determines is properly due, and notify the Contractor and Owner of the Architect's reasons for withholding certification in part as provided in Section 9.5.1; or (3) withhold certification of the entire Application for Payment, and notify the Contractor and Owner of the Architect's reason for withholding certification in whole as provided in Section 9.5.1.

§ 9.4.2 The issuance of a Certificate for Payment will constitute a representation by the Architect to the Owner, based on the Architect's evaluation of the Work and the data in the Application for Payment, that, to the best of the Architect's knowledge, information, and belief, the Work has progressed to the point indicated, the quality of the Work is in accordance with the Contract Documents, and that the Contractor is entitled to payment in the amount certified. The foregoing representations are subject to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, to results of subsequent tests and inspections, to correction of minor deviations from the Contract Documents prior to completion, and to specific qualifications expressed by the Architect. However, the issuance of a Certificate for Payment will not be a representation that the Architect has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work; (2) reviewed construction means, methods, techniques, sequences, or procedures; (3) reviewed copies of requisitions received from Subcontractors and suppliers and other data requested by the Owner to substantiate the Contractor's right to payment; or (4) made examination to ascertain how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

§ 9.5 Decisions to Withhold Certification

§ 9.5.1 The Architect may withhold a Certificate for Payment in whole or in part, to the extent reasonably necessary to protect the Owner, if in the Architect's opinion the representations to the Owner required by Section 9.4.2 cannot be made. If the Architect is unable to certify payment in the amount of the Application, the Architect will notify the Contractor and Owner as provided in Section 9.4.1. If the Contractor and Architect cannot agree on a revised amount, the Architect will promptly issue a Certificate for Payment for the amount for which the Architect is able to make such representations to the Owner. The Architect may also withhold a Certificate for Payment or, because of subsequently discovered evidence, may nullify the whole or a part of a Certificate for Payment previously issued, to such extent as may be necessary in the Architect's opinion to protect the Owner from loss for which the Contractor is responsible, including loss resulting from acts and omissions described in Section 3.3.2, because of

- **.1** defective Work not remedied;
- **.2** third party claims filed or reasonable evidence indicating probable filing of such claims, unless security acceptable to the Owner is provided by the Contractor;
- **.3** failure of the Contractor to make payments properly to Subcontractors or suppliers for labor, materials or equipment;

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.4 reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Sum;
.5 damage to the Owner or a Separate Contractor;
.6 reasonable evidence that the Work will not be completed within the Contract Time, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay; or
.7 repeated failure to carry out the Work in accordance with the Contract Documents.

§ 9.5.2 When either party disputes the Architect's decision regarding a Certificate for Payment under Section 9.5.1, in whole or in part, that party may submit a Claim in accordance with Article 15.

§ 9.5.3 When the reasons for withholding certification are removed, certification will be made for amounts previously withheld.

§ 9.5.4 If the Architect withholds certification for payment under Section 9.5.1.3, the Owner may, at its sole option, issue joint checks to the Contractor and to any Subcontractor or supplier to whom the Contractor failed to make payment for Work properly performed or material or equipment suitably delivered. If the Owner makes payments by joint check, the Owner shall notify the Architect and the Contractor shall reflect such payment on its next Application for Payment.

§ 9.6 Progress Payments

§ 9.6.1 After the Architect has issued a Certificate for Payment, the Owner shall make payment in the manner and within the time provided in the Contract Documents, and shall so notify the Architect.

§ 9.6.2 The Contractor shall pay each Subcontractor, no later than seven days after receipt of payment from the Owner, the amount to which the Subcontractor is entitled, reflecting percentages actually retained from payments to the Contractor on account of the Subcontractor's portion of the Work. The Contractor shall, by appropriate agreement with each Subcontractor, require each Subcontractor to make payments to Sub-subcontractors in a similar manner.

§ 9.6.3 The Architect will, on request, furnish to a Subcontractor, if practicable, information regarding percentages of completion or amounts applied for by the Contractor and action taken thereon by the Architect and Owner on account of portions of the Work done by such Subcontractor.

§ 9.6.4 The Owner has the right to request written evidence from the Contractor that the Contractor has properly paid Subcontractors and suppliers amounts paid by the Owner to the Contractor for subcontracted Work. If the Contractor fails to furnish such evidence within seven days, the Owner shall have the right to contact Subcontractors and suppliers to ascertain whether they have been properly paid. Neither the Owner nor Architect shall have an obligation to pay, or to see to the payment of money to, a Subcontractor or supplier, except as may otherwise be required by law.

§ 9.6.5 The Contractor's payments to suppliers shall be treated in a manner similar to that provided in Sections 9.6.2, 9.6.3 and 9.6.4.

§ 9.6.6 A Certificate for Payment, a progress payment, or partial or entire use or occupancy of the Project by the Owner shall not constitute acceptance of Work not in accordance with the Contract Documents.

§ 9.6.7 Unless the Contractor provides the Owner with a payment bond in the full penal sum of the Contract Sum, payments received by the Contractor for Work properly performed by Subcontractors or provided by suppliers shall be held by the Contractor for those Subcontractors or suppliers who performed Work or furnished materials, or both, under contract with the Contractor for which payment was made by the Owner. Nothing contained herein shall require money to be placed in a separate account and not commingled with money of the Contractor, create any fiduciary liability or tort liability on the part of the Contractor for breach of trust, or entitle any person or entity to an award of punitive damages against the Contractor for breach of the requirements of this provision.

§ 9.6.8 Provided the Owner has fulfilled its payment obligations under the Contract Documents, the Contractor shall defend and indemnify the Owner from all loss, liability, damage or expense, including reasonable attorney's fees and litigation expenses, arising out of any lien claim or other claim for payment by any Subcontractor or supplier of any tier. Upon receipt of notice of a lien claim or other claim for payment, the Owner shall notify the Contractor. If approved by the applicable court, when required, the Contractor may substitute a surety bond for the property against which the lien or other claim for payment has been asserted.

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§ 9.7 Failure of Payment

If the Architect does not issue a Certificate for Payment, through no fault of the Contractor, within seven days after receipt of the Contractor's Application for Payment, or if the Owner does not pay the Contractor within seven days after the date established in the Contract Documents, the amount certified by the Architect or awarded by binding dispute resolution, then the Contractor may, upon seven additional days' notice to the Owner and Architect, stop the Work until payment of the amount owing has been received. The Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable costs of shutdown, delay and start-up, plus interest as provided for in the Contract Documents.

§ 9.8 Substantial Completion

§ 9.8.1 Substantial Completion is the stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work for its intended use.

§ 9.8.2 When the Contractor considers that the Work, or a portion thereof which the Owner agrees to accept separately, is substantially complete, the Contractor shall prepare and submit to the Architect a comprehensive list of items to be completed or corrected prior to final payment. Failure to include an item on such list does not alter the responsibility of the Contractor to complete all Work in accordance with the Contract Documents.

§ 9.8.3 Upon receipt of the Contractor's list, the Architect will make an inspection to determine whether the Work or designated portion thereof is substantially complete. If the Architect's inspection discloses any item, whether or not included on the Contractor's list, which is not sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work or designated portion thereof for its intended use, the Contractor shall, before issuance of the Certificate of Substantial Completion, complete or correct such item upon notification by the Architect. In such case, the Contractor shall then submit a request for another inspection by the Architect to determine Substantial Completion.

§ 9.8.4 When the Work or designated portion thereof is substantially complete, the Architect will prepare a Certificate of Substantial Completion that shall establish the date of Substantial Completion; establish responsibilities of the Owner and Contractor for security, maintenance, heat, utilities, damage to the Work and insurance; and fix the time within which the Contractor shall finish all items on the list accompanying the Certificate. Warranties required by the Contract Documents shall commence on the date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion.

§ 9.8.5 The Certificate of Substantial Completion shall be submitted to the Owner and Contractor for their written acceptance of responsibilities assigned to them in the Certificate. Upon such acceptance, and consent of surety if any, the Owner shall make payment of retainage applying to the Work or designated portion thereof. Such payment shall be adjusted for Work that is incomplete or not in accordance with the requirements of the Contract Documents.

§ 9.9 Partial Occupancy or Use

§ 9.9.1 The Owner may occupy or use any completed or partially completed portion of the Work at any stage when such portion is designated by separate agreement with the Contractor, provided such occupancy or use is consented to by the insurer and authorized by public authorities having jurisdiction over the Project. Such partial occupancy or use may commence whether or not the portion is substantially complete, provided the Owner and Contractor have accepted in writing the responsibilities assigned to each of them for payments, retainage, if any, security, maintenance, heat, utilities, damage to the Work and insurance, and have agreed in writing concerning the period for correction of the Work and commencement of warranties required by the Contract Documents. When the Contractor considers a portion substantially complete, the Contractor shall prepare and submit a list to the Architect as provided under Section 9.8.2. Consent of the Contractor to partial occupancy or use shall not be unreasonably withheld. The stage of the progress of the Work shall be determined by written agreement between the Owner and Contractor or, if no agreement is reached, by decision of the Architect.

§ 9.9.2 Immediately prior to such partial occupancy or use, the Owner, Contractor, and Architect shall jointly inspect the area to be occupied or portion of the Work to be used in order to determine and record the condition of the Work.

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§ 9.9.3 Unless otherwise agreed upon, partial occupancy or use of a portion or portions of the Work shall not constitute acceptance of Work not complying with the requirements of the Contract Documents.

§ 9.10 Final Completion and Final Payment

§ 9.10.1 Upon receipt of the Contractor's notice that the Work is ready for final inspection and acceptance and upon receipt of a final Application for Payment, the Architect will promptly make such inspection. When the Architect finds the Work acceptable under the Contract Documents and the Contract fully performed, the Architect will promptly issue a final Certificate for Payment stating that to the best of the Architect's knowledge, information and belief, and on the basis of the Architect's on-site visits and inspections, the Work has been completed in accordance with the Contract Documents and that the entire balance found to be due the Contractor and noted in the final Certificate is due and payable. The Architect's final Certificate for Payment will constitute a further representation that conditions listed in Section 9.10.2 as precedent to the Contractor's being entitled to final payment have been fulfilled.

§ 9.10.2 Neither final payment nor any remaining retained percentage shall become due until the Contractor submits to the Architect (1) an affidavit that payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which the Owner or the Owner's property might be responsible or encumbered (less amounts withheld by Owner) have been paid or otherwise satisfied, (2) a certificate evidencing that insurance required by the Contract Documents to remain in force after final payment is currently in effect, (3) a written statement that the Contractor knows of no reason that the insurance will not be renewable to cover the period required by the Contract Documents, (4) consent of surety, if any, to final payment, (5) documentation of any special warranties, such as manufacturers' warranties or specific Subcontractor warranties, and (6) if required by the Owner, other data establishing payment or satisfaction of obligations, such as receipts and releases and waivers of liens, claims, security interests, or encumbrances arising out of the Contract, to the extent and in such form as may be designated by the Owner. If a Subcontractor refuses to furnish a release or waiver required by the Owner, the Contractor may furnish a bond satisfactory to the Owner to indemnify the Owner against such lien, claim, security interest, or encumbrance. If a lien, claim, security interest, or encumbrance remains unsatisfied after payments are made, the Contractor shall refund to the Owner all money that the Owner may be compelled to pay in discharging the lien, claim, security interest, or encumbrance, including all costs and reasonable attorneys' fees.

§ 9.10.3 If, after Substantial Completion of the Work, final completion thereof is materially delayed through no fault of the Contractor or by issuance of Change Orders affecting final completion, and the Architect so confirms, the Owner shall, upon application by the Contractor and certification by the Architect, and without terminating the Contract, make payment of the balance due for that portion of the Work fully completed, corrected, and accepted. If the remaining balance for Work not fully completed or corrected is less than retainage stipulated in the Contract Documents, and if bonds have been furnished, the written consent of the surety to payment of the balance due for that portion of the Work fully completed and accepted shall be submitted by the Contractor to the Architect prior to certification of such payment. Such payment shall be made under terms and conditions governing final payment, except that it shall not constitute a waiver of Claims.

§ 9.10.4 The making of final payment shall constitute a waiver of Claims by the Owner except those arising from

- **.1** liens, Claims, security interests, or encumbrances arising out of the Contract and unsettled;
- **.2** failure of the Work to comply with the requirements of the Contract Documents;
- **.3** terms of special warranties required by the Contract Documents; or
- **.4** audits performed by the Owner, if permitted by the Contract Documents, after final payment.

§ 9.10.5 Acceptance of final payment by the Contractor, a Subcontractor, or a supplier, shall constitute a waiver of claims by that payee except those previously made in writing and identified by that payee as unsettled at the time of final Application for Payment.

ARTICLE 10 PROTECTION OF PERSONS AND PROPERTY

§ 10.1 Safety Precautions and Programs

The Contractor shall be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the performance of the Contract.

§ 10.2 Safety of Persons and Property

§ 10.2.1 The Contractor shall take reasonable precautions for safety of, and shall provide reasonable protection to prevent damage, injury, or loss to

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.1 employees on the Work and other persons who may be affected thereby;
.2 the Work and materials and equipment to be incorporated therein, whether in storage on or off the site, under care, custody, or control of the Contractor, a Subcontractor, or a Sub-subcontractor; and
.3 other property at the site or adjacent thereto, such as trees, shrubs, lawns, walks, pavements, roadways, structures, and utilities not designated for removal, relocation, or replacement in the course of construction.

§ 10.2.2 The Contractor shall comply with, and give notices required by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities, bearing on safety of persons or property or their protection from damage, injury, or loss.

§ 10.2.3 The Contractor shall implement, erect, and maintain, as required by existing conditions and performance of the Contract, reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards; promulgating safety regulations; and notifying the owners and users of adjacent sites and utilities of the safeguards.

§ 10.2.4 When use or storage of explosives or other hazardous materials or equipment, or unusual methods are necessary for execution of the Work, the Contractor shall exercise utmost care and carry on such activities under supervision of properly qualified personnel.

§ 10.2.5 The Contractor shall promptly remedy damage and loss (other than damage or loss insured under property insurance required by the Contract Documents) to property referred to in Sections 10.2.1.2 and 10.2.1.3 caused in whole or in part by the Contractor, a Subcontractor, a Sub-subcontractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable and for which the Contractor is responsible under Sections 10.2.1.2 and 10.2.1.3. The Contractor may make a Claim for the cost to remedy the damage or loss to the extent such damage or loss is attributable to acts or omissions of the Owner or Architect or anyone directly or indirectly employed by either of them, or by anyone for whose acts either of them may be liable, and not attributable to the fault or negligence of the Contractor. The foregoing obligations of the Contractor are in addition to the Contractor's obligations under Section 3.18.

§ 10.2.6 The Contractor shall designate a responsible member of the Contractor's organization at the site whose duty shall be the prevention of accidents. This person shall be the Contractor's superintendent unless otherwise designated by the Contractor in writing to the Owner and Architect.

§ 10.2.7 The Contractor shall not permit any part of the construction or site to be loaded so as to cause damage or create an unsafe condition.

§ 10.2.8 Injury or Damage to Person or Property
If either party suffers injury or damage to person or property because of an act or omission of the other party, or of others for whose acts such party is legally responsible, notice of the injury or damage, whether or not insured, shall be given to the other party within a reasonable time not exceeding 21 days after discovery. The notice shall provide sufficient detail to enable the other party to investigate the matter.

§ 10.3 Hazardous Materials and Substances
§ 10.3.1 The Contractor is responsible for compliance with any requirements included in the Contract Documents regarding hazardous materials or substances. If the Contractor encounters a hazardous material or substance not addressed in the Contract Documents and if reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a material or substance, including but not limited to asbestos or polychlorinated biphenyl (PCB), encountered on the site by the Contractor, the Contractor shall, upon recognizing the condition, immediately stop Work in the affected area and notify the Owner and Architect of the condition.

§ 10.3.2 Upon receipt of the Contractor's notice, the Owner shall obtain the services of a licensed laboratory to verify the presence or absence of the material or substance reported by the Contractor and, in the event such material or substance is found to be present, to cause it to be rendered harmless. Unless otherwise required by the Contract Documents, the Owner shall furnish in writing to the Contractor and Architect the names and qualifications of persons or entities who are to perform tests verifying the presence or absence of the material or substance or who are to perform the task of removal or safe containment of the material or substance. The Contractor and the Architect will

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promptly reply to the Owner in writing stating whether or not either has reasonable objection to the persons or entities proposed by the Owner. If either the Contractor or Architect has an objection to a person or entity proposed by the Owner, the Owner shall propose another to whom the Contractor and the Architect have no reasonable objection. When the material or substance has been rendered harmless, Work in the affected area shall resume upon written agreement of the Owner and Contractor. By Change Order, the Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable additional costs of shutdown, delay, and start-up.

§ 10.3.3 To the fullest extent permitted by law, the Owner shall indemnify and hold harmless the Contractor, Subcontractors, Architect, Architect's consultants, and agents and employees of any of them from and against claims, damages, losses, and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work in the affected area if in fact the material or substance presents the risk of bodily injury or death as described in Section 10.3.1 and has not been rendered harmless, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), except to the extent that such damage, loss, or expense is due to the fault or negligence of the party seeking indemnity.

§ 10.3.4 The Owner shall not be responsible under this Section 10.3 for hazardous materials or substances the Contractor brings to the site unless such materials or substances are required by the Contract Documents. The Owner shall be responsible for hazardous materials or substances required by the Contract Documents, except to the extent of the Contractor's fault or negligence in the use and handling of such materials or substances.

§ 10.3.5 The Contractor shall reimburse the Owner for the cost and expense the Owner incurs (1) for remediation of hazardous materials or substances the Contractor brings to the site and negligently handles, or (2) where the Contractor fails to perform its obligations under Section 10.3.1, except to the extent that the cost and expense are due to the Owner's fault or negligence.

§ 10.3.6 If, without negligence on the part of the Contractor, the Contractor is held liable by a government agency for the cost of remediation of a hazardous material or substance solely by reason of performing Work as required by the Contract Documents, the Owner shall reimburse the Contractor for all cost and expense thereby incurred.

§ 10.4 Emergencies

In an emergency affecting safety of persons or property, the Contractor shall act, at the Contractor's discretion, to prevent threatened damage, injury, or loss. Additional compensation or extension of time claimed by the Contractor on account of an emergency shall be determined as provided in Article 15 and Article 7.

ARTICLE 11 INSURANCE AND BONDS

§ 11.1 Contractor's Insurance and Bonds

§ 11.1.1 The Contractor shall purchase and maintain insurance of the types and limits of liability, containing the endorsements, and subject to the terms and conditions, as described in the Agreement or elsewhere in the Contract Documents. The Contractor shall purchase and maintain the required insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The Owner, Architect, and Architect's consultants shall be named as additional insureds under the Contractor's commercial general liability policy or as otherwise described in the Contract Documents.

§ 11.1.2 The Contractor shall provide surety bonds of the types, for such penal sums, and subject to such terms and conditions as required by the Contract Documents. The Contractor shall purchase and maintain the required bonds from a company or companies lawfully authorized to issue surety bonds in the jurisdiction where the Project is located.

§ 11.1.3 Upon the request of any person or entity appearing to be a potential beneficiary of bonds covering payment of obligations arising under the Contract, the Contractor shall promptly furnish a copy of the bonds or shall authorize a copy to be furnished.

§ 11.1.4 Notice of Cancellation or Expiration of Contractor's Required Insurance. Within three (3) business days of the date the Contractor becomes aware of an impending or actual cancellation or expiration of any insurance required by the Contract Documents, the Contractor shall provide notice to the Owner of such impending or actual cancellation or expiration. Upon receipt of notice from the Contractor, the Owner shall, unless the lapse in coverage arises from an act

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or omission of the Owner, have the right to stop the Work until the lapse in coverage has been cured by the procurement of replacement coverage by the Contractor. The furnishing of notice by the Contractor shall not relieve the Contractor of any contractual obligation to provide any required coverage.

§ 11.2 Owner's Insurance

§ 11.2.1 The Owner shall purchase and maintain insurance of the types and limits of liability, containing the endorsements, and subject to the terms and conditions, as described in the Agreement or elsewhere in the Contract Documents. The Owner shall purchase and maintain the required insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located.

§ 11.2.2 Failure to Purchase Required Property Insurance. If the Owner fails to purchase and maintain the required property insurance, with all of the coverages and in the amounts described in the Agreement or elsewhere in the Contract Documents, the Owner shall inform the Contractor in writing prior to commencement of the Work. Upon receipt of notice from the Owner, the Contractor may delay commencement of the Work and may obtain insurance that will protect the interests of the Contractor, Subcontractors, and Sub-Subcontractors in the Work. When the failure to provide coverage has been cured or resolved, the Contract Sum and Contract Time shall be equitably adjusted. In the event the Owner fails to procure coverage, the Owner waives all rights against the Contractor, Subcontractors, and Sub-subcontractors to the extent the loss to the Owner would have been covered by the insurance to have been procured by the Owner. The cost of the insurance shall be charged to the Owner by a Change Order. If the Owner does not provide written notice, and the Contractor is damaged by the failure or neglect of the Owner to purchase or maintain the required insurance, the Owner shall reimburse the Contractor for all reasonable costs and damages attributable thereto.

§ 11.2.3 Notice of Cancellation or Expiration of Owner's Required Property Insurance. Within three (3) business days of the date the Owner becomes aware of an impending or actual cancellation or expiration of any property insurance required by the Contract Documents, the Owner shall provide notice to the Contractor of such impending or actual cancellation or expiration. Unless the lapse in coverage arises from an act or omission of the Contractor: (1) the Contractor, upon receipt of notice from the Owner, shall have the right to stop the Work until the lapse in coverage has been cured by the procurement of replacement coverage by either the Owner or the Contractor; (2) the Contract Time and Contract Sum shall be equitably adjusted; and (3) the Owner waives all rights against the Contractor, Subcontractors, and Sub-subcontractors to the extent any loss to the Owner would have been covered by the insurance had it not expired or been cancelled. If the Contractor purchases replacement coverage, the cost of the insurance shall be charged to the Owner by an appropriate Change Order. The furnishing of notice by the Owner shall not relieve the Owner of any contractual obligation to provide required insurance.

§ 11.3 Waivers of Subrogation

§ 11.3.1 The Owner and Contractor waive all rights against (1) each other and any of their subcontractors, sub-subcontractors, agents, and employees, each of the other; (2) the Architect and Architect's consultants; and (3) Separate Contractors, if any, and any of their subcontractors, sub-subcontractors, agents, and employees, for damages caused by fire, or other causes of loss, to the extent those losses are covered by property insurance required by the Agreement or other property insurance applicable to the Project, except such rights as they have to proceeds of such insurance. The Owner or Contractor, as appropriate, shall require similar written waivers in favor of the individuals and entities identified above from the Architect, Architect's consultants, Separate Contractors, subcontractors, and sub-subcontractors. The policies of insurance purchased and maintained by each person or entity agreeing to waive claims pursuant to this section 11.3.1 shall not prohibit this waiver of subrogation. This waiver of subrogation shall be effective as to a person or entity (1) even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, (2) even though that person or entity did not pay the insurance premium directly or indirectly, or (3) whether or not the person or entity had an insurable interest in the damaged property.

§ 11.3.2 If during the Project construction period the Owner insures properties, real or personal or both, at or adjacent to the site by property insurance under policies separate from those insuring the Project, or if after final payment property insurance is to be provided on the completed Project through a policy or policies other than those insuring the Project during the construction period, to the extent permissible by such policies, the Owner waives all rights in accordance with the terms of Section 11.3.1 for damages caused by fire or other causes of loss covered by this separate property insurance.

§ 11.4 Loss of Use, Business Interruption, and Delay in Completion Insurance

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The Owner, at the Owner's option, may purchase and maintain insurance that will protect the Owner against loss of use of the Owner's property, or the inability to conduct normal operations, due to fire or other causes of loss. The Owner waives all rights of action against the Contractor and Architect for loss of use of the Owner's property, due to fire or other hazards however caused.

§11.5 Adjustment and Settlement of Insured Loss

§ 11.5.1 A loss insured under the property insurance required by the Agreement shall be adjusted by the Owner as fiduciary and made payable to the Owner as fiduciary for the insureds, as their interests may appear, subject to requirements of any applicable mortgagee clause and of Section 11.5.2. The Owner shall pay the Architect and Contractor their just shares of insurance proceeds received by the Owner, and by appropriate agreements the Architect and Contractor shall make payments to their consultants and Subcontractors in similar manner.

§ 11.5.2 Prior to settlement of an insured loss, the Owner shall notify the Contractor of the terms of the proposed settlement as well as the proposed allocation of the insurance proceeds. The Contractor shall have 14 days from receipt of notice to object to the proposed settlement or allocation of the proceeds. If the Contractor does not object, the Owner shall settle the loss and the Contractor shall be bound by the settlement and allocation. Upon receipt, the Owner shall deposit the insurance proceeds in a separate account and make the appropriate distributions. Thereafter, if no other agreement is made or the Owner does not terminate the Contract for convenience, the Owner and Contractor shall execute a Change Order for reconstruction of the damaged or destroyed Work in the amount allocated for that purpose. If the Contractor timely objects to either the terms of the proposed settlement or the allocation of the proceeds, the Owner may proceed to settle the insured loss, and any dispute between the Owner and Contractor arising out of the settlement or allocation of the proceeds shall be resolved pursuant to Article 15. Pending resolution of any dispute, the Owner may issue a Construction Change Directive for the reconstruction of the damaged or destroyed Work.

ARTICLE 12 UNCOVERING AND CORRECTION OF WORK

§ 12.1 Uncovering of Work

§ 12.1.1 If a portion of the Work is covered contrary to the Architect's request or to requirements specifically expressed in the Contract Documents, it must, if requested in writing by the Architect, be uncovered for the Architect's examination and be replaced at the Contractor's expense without change in the Contract Time.

§ 12.1.2 If a portion of the Work has been covered that the Architect has not specifically requested to examine prior to its being covered, the Architect may request to see such Work and it shall be uncovered by the Contractor. If such Work is in accordance with the Contract Documents, the Contractor shall be entitled to an equitable adjustment to the Contract Sum and Contract Time as may be appropriate. If such Work is not in accordance with the Contract Documents, the costs of uncovering the Work, and the cost of correction, shall be at the Contractor's expense.

§ 12.2 Correction of Work

§ 12.2.1 Before Substantial Completion

The Contractor shall promptly correct Work rejected by the Architect or failing to conform to the requirements of the Contract Documents, discovered before Substantial Completion and whether or not fabricated, installed or completed. Costs of correcting such rejected Work, including additional testing and inspections, the cost of uncovering and replacement, and compensation for the Architect's services and expenses made necessary thereby, shall be at the Contractor's expense.

§ 12.2.2 After Substantial Completion

§ 12.2.2.1 In addition to the Contractor's obligations under Section 3.5, if, within one year after the date of Substantial Completion of the Work or designated portion thereof or after the date for commencement of warranties established under Section 9.9.1, or by terms of any applicable special warranty required by the Contract Documents, any of the Work is found to be not in accordance with the requirements of the Contract Documents, the Contractor shall correct it promptly after receipt of notice from the Owner to do so, unless the Owner has previously given the Contractor a written acceptance of such condition. The Owner shall give such notice promptly after discovery of the condition. During the one-year period for correction of Work, if the Owner fails to notify the Contractor and give the Contractor an opportunity to make the correction, the Owner waives the rights to require correction by the Contractor and to make a claim for breach of warranty. If the Contractor fails to correct nonconforming Work within a reasonable time during that period after receipt of notice from the Owner or Architect, the Owner may correct it in accordance with Section 2.5.

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§ 12.2.2.2 The one-year period for correction of Work shall be extended with respect to portions of Work first performed after Substantial Completion by the period of time between Substantial Completion and the actual completion of that portion of the Work.

§ 12.2.2.3 The one-year period for correction of Work shall not be extended by corrective Work performed by the Contractor pursuant to this Section 12.2.

§ 12.2.3 The Contractor shall remove from the site portions of the Work that are not in accordance with the requirements of the Contract Documents and are neither corrected by the Contractor nor accepted by the Owner.

§ 12.2.4 The Contractor shall bear the cost of correcting destroyed or damaged construction of the Owner or Separate Contractors, whether completed or partially completed, caused by the Contractor's correction or removal of Work that is not in accordance with the requirements of the Contract Documents.

§ 12.2.5 Nothing contained in this Section 12.2 shall be construed to establish a period of limitation with respect to other obligations the Contractor has under the Contract Documents. Establishment of the one-year period for correction of Work as described in Section 12.2.2 relates only to the specific obligation of the Contractor to correct the Work, and has no relationship to the time within which the obligation to comply with the Contract Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Contractor's liability with respect to the Contractor's obligations other than specifically to correct the Work.

§ 12.3 Acceptance of Nonconforming Work

If the Owner prefers to accept Work that is not in accordance with the requirements of the Contract Documents, the Owner may do so instead of requiring its removal and correction, in which case the Contract Sum will be reduced as appropriate and equitable. Such adjustment shall be effected whether or not final payment has been made.

ARTICLE 13 MISCELLANEOUS PROVISIONS

§ 13.1 Governing Law

The Contract shall be governed by the law of the place where the Project is located, excluding that jurisdiction's choice of law rules. If the parties have selected arbitration as the method of binding dispute resolution, the Federal Arbitration Act shall govern Section 15.4.

§ 13.2 Successors and Assigns

§ 13.2.1 The Owner and Contractor respectively bind themselves, their partners, successors, assigns, and legal representatives to covenants, agreements, and obligations contained in the Contract Documents. Except as provided in Section 13.2.2, neither party to the Contract shall assign the Contract as a whole without written consent of the other. If either party attempts to make an assignment without such consent, that party shall nevertheless remain legally responsible for all obligations under the Contract.

§ 13.2.2 The Owner may, without consent of the Contractor, assign the Contract to a lender providing construction financing for the Project, if the lender assumes the Owner's rights and obligations under the Contract Documents. The Contractor shall execute all consents reasonably required to facilitate the assignment.

§ 13.3 Rights and Remedies

§ 13.3.1 Duties and obligations imposed by the Contract Documents and rights and remedies available thereunder shall be in addition to and not a limitation of duties, obligations, rights, and remedies otherwise imposed or available by law.

§ 13.3.2 No action or failure to act by the Owner, Architect, or Contractor shall constitute a waiver of a right or duty afforded them under the Contract, nor shall such action or failure to act constitute approval of or acquiescence in a breach thereunder, except as may be specifically agreed upon in writing.

§ 13.4 Tests and Inspections

§ 13.4.1 Tests, inspections, and approvals of portions of the Work shall be made as required by the Contract Documents and by applicable laws, statutes, ordinances, codes, rules, and regulations or lawful orders of public authorities. Unless otherwise provided, the Contractor shall make arrangements for such tests, inspections, and

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approvals with an independent testing laboratory or entity acceptable to the Owner, or with the appropriate public authority, and shall bear all related costs of tests, inspections, and approvals. The Contractor shall give the Architect timely notice of when and where tests and inspections are to be made so that the Architect may be present for such procedures. The Owner shall bear costs of tests, inspections, or approvals that do not become requirements until after bids are received or negotiations concluded. The Owner shall directly arrange and pay for tests, inspections, or approvals where building codes or applicable laws or regulations so require.

§ 13.4.2 If the Architect, Owner, or public authorities having jurisdiction determine that portions of the Work require additional testing, inspection, or approval not included under Section 13.4.1, the Architect will, upon written authorization from the Owner, instruct the Contractor to make arrangements for such additional testing, inspection, or approval, by an entity acceptable to the Owner, and the Contractor shall give timely notice to the Architect of when and where tests and inspections are to be made so that the Architect may be present for such procedures. Such costs, except as provided in Section 13.4.3, shall be at the Owner's expense.

§ 13.4.3 If procedures for testing, inspection, or approval under Sections 13.4.1 and 13.4.2 reveal failure of the portions of the Work to comply with requirements established by the Contract Documents, all costs made necessary by such failure, including those of repeated procedures and compensation for the Architect's services and expenses, shall be at the Contractor's expense.

§ 13.4.4 Required certificates of testing, inspection, or approval shall, unless otherwise required by the Contract Documents, be secured by the Contractor and promptly delivered to the Architect.

§ 13.4.5 If the Architect is to observe tests, inspections, or approvals required by the Contract Documents, the Architect will do so promptly and, where practicable, at the normal place of testing.

§ 13.4.6 Tests or inspections conducted pursuant to the Contract Documents shall be made promptly to avoid unreasonable delay in the Work.

§ 13.5 Interest

Payments due and unpaid under the Contract Documents shall bear interest from the date payment is due at the rate the parties agree upon in writing or, in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located.

ARTICLE 14 TERMINATION OR SUSPENSION OF THE CONTRACT

§ 14.1 Termination by the Contractor

§ 14.1.1 The Contractor may terminate the Contract if the Work is stopped for a period of 30 consecutive days through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, their agents or employees, or any other persons or entities performing portions of the Work, for any of the following reasons:

- **.1** Issuance of an order of a court or other public authority having jurisdiction that requires all Work to be stopped;
- **.2** An act of government, such as a declaration of national emergency, that requires all Work to be stopped;
- **.3** Because the Architect has not issued a Certificate for Payment and has not notified the Contractor of the reason for withholding certification as provided in Section 9.4.1, or because the Owner has not made payment on a Certificate for Payment within the time stated in the Contract Documents; or
- **.4** The Owner has failed to furnish to the Contractor reasonable evidence as required by Section 2.2.

§ 14.1.2 The Contractor may terminate the Contract if, through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, their agents or employees, or any other persons or entities performing portions of the Work, repeated suspensions, delays, or interruptions of the entire Work by the Owner as described in Section 14.3, constitute in the aggregate more than 100 percent of the total number of days scheduled for completion, or 120 days in any 365-day period, whichever is less.

§ 14.1.3 If one of the reasons described in Section 14.1.1 or 14.1.2 exists, the Contractor may, upon seven days' notice to the Owner and Architect, terminate the Contract and recover from the Owner payment for Work executed, as well as reasonable overhead and profit on Work not executed, and costs incurred by reason of such termination.

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§ 14.1.4 If the Work is stopped for a period of 60 consecutive days through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, or their agents or employees or any other persons or entities performing portions of the Work because the Owner has repeatedly failed to fulfill the Owner's obligations under the Contract Documents with respect to matters important to the progress of the Work, the Contractor may, upon seven additional days' notice to the Owner and the Architect, terminate the Contract and recover from the Owner as provided in Section 14.1.3.

§ 14.2 Termination by the Owner for Cause

§ 14.2.1 The Owner may terminate the Contract if the Contractor

- **.1** repeatedly refuses or fails to supply enough properly skilled workers or proper materials;
- **.2** fails to make payment to Subcontractors or suppliers in accordance with the respective agreements between the Contractor and the Subcontractors or suppliers;
- **.3** repeatedly disregards applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of a public authority; or
- **.4** otherwise is guilty of substantial breach of a provision of the Contract Documents.

§ 14.2.2 When any of the reasons described in Section 14.2.1 exist, and upon certification by the Architect that sufficient cause exists to justify such action, the Owner may, without prejudice to any other rights or remedies of the Owner and after giving the Contractor and the Contractor's surety, if any, seven days' notice, terminate employment of the Contractor and may, subject to any prior rights of the surety:

- **.1** Exclude the Contractor from the site and take possession of all materials, equipment, tools, and construction equipment and machinery thereon owned by the Contractor;
- **.2** Accept assignment of subcontracts pursuant to Section 5.4; and
- **.3** Finish the Work by whatever reasonable method the Owner may deem expedient. Upon written request of the Contractor, the Owner shall furnish to the Contractor a detailed accounting of the costs incurred by the Owner in finishing the Work.

§ 14.2.3 When the Owner terminates the Contract for one of the reasons stated in Section 14.2.1, the Contractor shall not be entitled to receive further payment until the Work is finished.

§ 14.2.4 If the unpaid balance of the Contract Sum exceeds costs of finishing the Work, including compensation for the Architect's services and expenses made necessary thereby, and other damages incurred by the Owner and not expressly waived, such excess shall be paid to the Contractor. If such costs and damages exceed the unpaid balance, the Contractor shall pay the difference to the Owner. The amount to be paid to the Contractor or Owner, as the case may be, shall be certified by the Initial Decision Maker, upon application, and this obligation for payment shall survive termination of the Contract.

§ 14.3 Suspension by the Owner for Convenience

§ 14.3.1 The Owner may, without cause, order the Contractor in writing to suspend, delay or interrupt the Work, in whole or in part for such period of time as the Owner may determine.

§ 14.3.2 The Contract Sum and Contract Time shall be adjusted for increases in the cost and time caused by suspension, delay, or interruption under Section 14.3.1. Adjustment of the Contract Sum shall include profit. No adjustment shall be made to the extent

- **.1** that performance is, was, or would have been, so suspended, delayed, or interrupted, by another cause for which the Contractor is responsible; or
- **.2** that an equitable adjustment is made or denied under another provision of the Contract.

§ 14.4 Termination by the Owner for Convenience

§ 14.4.1 The Owner may, at any time, terminate the Contract for the Owner's convenience and without cause.

§ 14.4.2 Upon receipt of notice from the Owner of such termination for the Owner's convenience, the Contractor shall

- **.1** cease operations as directed by the Owner in the notice;
- **.2** take actions necessary, or that the Owner may direct, for the protection and preservation of the Work; and
- **.3** except for Work directed to be performed prior to the effective date of termination stated in the notice, terminate all existing subcontracts and purchase orders and enter into no further subcontracts and purchase orders.

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§ 14.4.3 In case of such termination for the Owner's convenience, the Owner shall pay the Contractor for Work properly executed; costs incurred by reason of the termination, including costs attributable to termination of Subcontracts; and the termination fee, if any, set forth in the Agreement.

ARTICLE 15 CLAIMS AND DISPUTES

§ 15.1 Claims

§ 15.1.1 Definition

A Claim is a demand or assertion by one of the parties seeking, as a matter of right, payment of money, a change in the Contract Time, or other relief with respect to the terms of the Contract. The term "Claim" also includes other disputes and matters in question between the Owner and Contractor arising out of or relating to the Contract. The responsibility to substantiate Claims shall rest with the party making the Claim. This Section 15.1.1 does not require the Owner to file a Claim in order to impose liquidated damages in accordance with the Contract Documents.

§ 15.1.2 Time Limits on Claims

The Owner and Contractor shall commence all Claims and causes of action against the other and arising out of or related to the Contract, whether in contract, tort, breach of warranty or otherwise, in accordance with the requirements of the binding dispute resolution method selected in the Agreement and within the period specified by applicable law, but in any case not more than 10 years after the date of Substantial Completion of the Work. The Owner and Contractor waive all Claims and causes of action not commenced in accordance with this Section 15.1.2.

§ 15.1.3 Notice of Claims

§ 15.1.3.1 Claims by either the Owner or Contractor, where the condition giving rise to the Claim is first discovered prior to expiration of the period for correction of the Work set forth in Section 12.2.2, shall be initiated by notice to the other party and to the Initial Decision Maker with a copy sent to the Architect, if the Architect is not serving as the Initial Decision Maker. Claims by either party under this Section 15.1.3.1 shall be initiated within 21 days after occurrence of the event giving rise to such Claim or within 21 days after the claimant first recognizes the condition giving rise to the Claim, whichever is later.

§ 15.1.3.2 Claims by either the Owner or Contractor, where the condition giving rise to the Claim is first discovered after expiration of the period for correction of the Work set forth in Section 12.2.2, shall be initiated by notice to the other party. In such event, no decision by the Initial Decision Maker is required.

§ 15.1.4 Continuing Contract Performance

§ 15.1.4.1 Pending final resolution of a Claim, except as otherwise agreed in writing or as provided in Section 9.7 and Article 14, the Contractor shall proceed diligently with performance of the Contract and the Owner shall continue to make payments in accordance with the Contract Documents.

§ 15.1.4.2 The Contract Sum and Contract Time shall be adjusted in accordance with the Initial Decision Maker's decision, subject to the right of either party to proceed in accordance with this Article 15. The Architect will issue Certificates for Payment in accordance with the decision of the Initial Decision Maker.

§ 15.1.5 Claims for Additional Cost

If the Contractor wishes to make a Claim for an increase in the Contract Sum, notice as provided in Section 15.1.3 shall be given before proceeding to execute the portion of the Work that is the subject of the Claim. Prior notice is not required for Claims relating to an emergency endangering life or property arising under Section 10.4.

§ 15.1.6 Claims for Additional Time

§ 15.1.6.1 If the Contractor wishes to make a Claim for an increase in the Contract Time, notice as provided in Section 15.1.3 shall be given. The Contractor's Claim shall include an estimate of cost and of probable effect of delay on progress of the Work. In the case of a continuing delay, only one Claim is necessary.

§ 15.1.6.2 If adverse weather conditions are the basis for a Claim for additional time, such Claim shall be documented by data substantiating that weather conditions were abnormal for the period of time, could not have been reasonably anticipated, and had an adverse effect on the scheduled construction.

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§ 15.1.7 Waiver of Claims for Consequential Damages

The Contractor and Owner waive Claims against each other for consequential damages arising out of or relating to this Contract. This mutual waiver includes

.1 damages incurred by the Owner for rental expenses, for losses of use, income, profit, financing, business and reputation, and for loss of management or employee productivity or of the services of such persons; and

.2 damages incurred by the Contractor for principal office expenses including the compensation of personnel stationed there, for losses of financing, business and reputation, and for loss of profit, except anticipated profit arising directly from the Work.

This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination in accordance with Article 14. Nothing contained in this Section 15.1.7 shall be deemed to preclude assessment of liquidated damages, when applicable, in accordance with the requirements of the Contract Documents.

§ 15.2 Initial Decision

§ 15.2.1 Claims, excluding those where the condition giving rise to the Claim is first discovered after expiration of the period for correction of the Work set forth in Section 12.2.2 or arising under Sections 10.3, 10.4, and 11.5, shall be referred to the Initial Decision Maker for initial decision. The Architect will serve as the Initial Decision Maker, unless otherwise indicated in the Agreement. Except for those Claims excluded by this Section 15.2.1, an initial decision shall be required as a condition precedent to mediation of any Claim. If an initial decision has not been rendered within 30 days after the Claim has been referred to the Initial Decision Maker, the party asserting the Claim may demand mediation and binding dispute resolution without a decision having been rendered. Unless the Initial Decision Maker and all affected parties agree, the Initial Decision Maker will not decide disputes between the Contractor and persons or entities other than the Owner.

§ 15.2.2 The Initial Decision Maker will review Claims and within ten days of the receipt of a Claim take one or more of the following actions: (1) request additional supporting data from the claimant or a response with supporting data from the other party, (2) reject the Claim in whole or in part, (3) approve the Claim, (4) suggest a compromise, or (5) advise the parties that the Initial Decision Maker is unable to resolve the Claim if the Initial Decision Maker lacks sufficient information to evaluate the merits of the Claim or if the Initial Decision Maker concludes that, in the Initial Decision Maker's sole discretion, it would be inappropriate for the Initial Decision Maker to resolve the Claim.

§ 15.2.3 In evaluating Claims, the Initial Decision Maker may, but shall not be obligated to, consult with or seek information from either party or from persons with special knowledge or expertise who may assist the Initial Decision Maker in rendering a decision. The Initial Decision Maker may request the Owner to authorize retention of such persons at the Owner's expense.

§ 15.2.4 If the Initial Decision Maker requests a party to provide a response to a Claim or to furnish additional supporting data, such party shall respond, within ten days after receipt of the request, and shall either (1) provide a response on the requested supporting data, (2) advise the Initial Decision Maker when the response or supporting data will be furnished, or (3) advise the Initial Decision Maker that no supporting data will be furnished. Upon receipt of the response or supporting data, if any, the Initial Decision Maker will either reject or approve the Claim in whole or in part.

§ 15.2.5 The Initial Decision Maker will render an initial decision approving or rejecting the Claim, or indicating that the Initial Decision Maker is unable to resolve the Claim. This initial decision shall (1) be in writing; (2) state the reasons therefor; and (3) notify the parties and the Architect, if the Architect is not serving as the Initial Decision Maker, of any change in the Contract Sum or Contract Time or both. The initial decision shall be final and binding on the parties but subject to mediation and, if the parties fail to resolve their dispute through mediation, to binding dispute resolution.

§ 15.2.6 Either party may file for mediation of an initial decision at any time, subject to the terms of Section 15.2.6.1.

§ 15.2.6.1 Either party may, within 30 days from the date of receipt of an initial decision, demand in writing that the other party file for mediation. If such a demand is made and the party receiving the demand fails to file for mediation within 30 days after receipt thereof, then both parties waive their rights to mediate or pursue binding dispute resolution proceedings with respect to the initial decision.

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§ 15.2.7 In the event of a Claim against the Contractor, the Owner may, but is not obligated to, notify the surety, if any, of the nature and amount of the Claim. If the Claim relates to a possibility of a Contractor's default, the Owner may, but is not obligated to, notify the surety and request the surety's assistance in resolving the controversy.

§ 15.2.8 If a Claim relates to or is the subject of a mechanic's lien, the party asserting such Claim may proceed in accordance with applicable law to comply with the lien notice or filing deadlines.

§ 15.3 Mediation

§ 15.3.1 Claims, disputes, or other matters in controversy arising out of or related to the Contract, except those waived as provided for in Sections 9.10.4, 9.10.5, and 15.1.7, shall be subject to mediation as a condition precedent to binding dispute resolution.

§ 15.3.2 The parties shall endeavor to resolve their Claims by mediation which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Mediation Procedures in effect on the date of the Agreement. A request for mediation shall be made in writing, delivered to the other party to the Contract, and filed with the person or entity administering the mediation. The request may be made concurrently with the filing of binding dispute resolution proceedings but, in such event, mediation shall proceed in advance of binding dispute resolution proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order. If an arbitration is stayed pursuant to this Section 15.3.2, the parties may nonetheless proceed to the selection of the arbitrator(s) and agree upon a schedule for later proceedings.

§ 15.3.3 Either party may, within 30 days from the date that mediation has been concluded without resolution of the dispute or 60 days after mediation has been demanded without resolution of the dispute, demand in writing that the other party file for binding dispute resolution. If such a demand is made and the party receiving the demand fails to file for binding dispute resolution within 60 days after receipt thereof, then both parties waive their rights to binding dispute resolution proceedings with respect to the initial decision.

§ 15.3.4 The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

§ 15.4 Arbitration

§ 15.4.1 If the parties have selected arbitration as the method for binding dispute resolution in the Agreement, any Claim subject to, but not resolved by, mediation shall be subject to arbitration which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Arbitration Rules in effect on the date of the Agreement. The Arbitration shall be conducted in the place where the Project is located, unless another location is mutually agreed upon. A demand for arbitration shall be made in writing, delivered to the other party to the Contract, and filed with the person or entity administering the arbitration. The party filing a notice of demand for arbitration must assert in the demand all Claims then known to that party on which arbitration is permitted to be demanded.

§ 15.4.1.1 A demand for arbitration shall be made no earlier than concurrently with the filing of a request for mediation, but in no event shall it be made after the date when the institution of legal or equitable proceedings based on the Claim would be barred by the applicable statute of limitations. For statute of limitations purposes, receipt of a written demand for arbitration by the person or entity administering the arbitration shall constitute the institution of legal or equitable proceedings based on the Claim.

§ 15.4.2 The award rendered by the arbitrator or arbitrators shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.

§ 15.4.3 The foregoing agreement to arbitrate and other agreements to arbitrate with an additional person or entity duly consented to by parties to the Agreement, shall be specifically enforceable under applicable law in any court having jurisdiction thereof.

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§ 15.4.4 Consolidation or Joinder

§ 15.4.4.1 Subject to the rules of the American Arbitration Association or other applicable arbitration rules, either party may consolidate an arbitration conducted under this Agreement with any other arbitration to which it is a party provided that (1) the arbitration agreement governing the other arbitration permits consolidation, (2) the arbitrations to be consolidated substantially involve common questions of law or fact, and (3) the arbitrations employ materially similar procedural rules and methods for selecting arbitrator(s).

§ 15.4.4.2 Subject to the rules of the American Arbitration Association or other applicable arbitration rules, either party may include by joinder persons or entities substantially involved in a common question of law or fact whose presence is required if complete relief is to be accorded in arbitration, provided that the party sought to be joined consents in writing to such joinder. Consent to arbitration involving an additional person or entity shall not constitute consent to arbitration of any claim, dispute or other matter in question not described in the written consent.

§ 15.4.4.3 The Owner and Contractor grant to any person or entity made a party to an arbitration conducted under this Section 15.4, whether by joinder or consolidation, the same rights of joinder and consolidation as those of the Owner and Contractor under this Agreement.

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Additions and Deletions Report for

AIA® Document A201® – 2017

This Additions and Deletions Report, as defined on page 1 of the associated document, reproduces below all text the author has added to the standard form AIA document in order to complete it, as well as any text the author may have added to or deleted from the original AIA text. Added text is shown underlined. Deleted text is indicated with a horizontal line through the original AIA text.

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PAGE 1

Ella Baker Cafeteria Improvements
Ella Baker Global Studies and Humanities School
1200 W. 26th St.
Minneapolis, MN 55405

...

Minneapolis Public Schools Special School District 1
1250 West Broadway Avenue
Minneapolis, MN 55411

...

(Name, legal status and address)

Bloom Hay Dobbs
2324 University Ave.
Suite 200
Saint Paul, MN 55104

PAGE 11

The parties shall agree upon ~~written~~ protocols governing the transmission and use ~~of, and reliance on,~~ of Instruments of Service or any other information or documentation in digital form. The parties will use AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, to establish the protocols for the development, use, transmission, and exchange of digital data.

...

Any use of, or reliance on, all or a portion of a building information model without agreement to ~~written~~ protocols governing the use of, and reliance on, the information contained in the model and without having those protocols set forth in AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, and the requisite AIA Document G202™–2013, Project Building Information Modeling Protocol Form, shall be at the using or relying party's sole risk and without liability to the other party and its contractors or consultants, the authors of, or contributors to, the building information model, and each of their agents and employees.

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Certification of Document's Authenticity

AIA® Document D401™ – 2003

I, , hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with its associated Additions and Deletions Report and this certification at 11:52:37 CT on 02/04/2025 under Order No. 4104251278 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document A201™ – 2017, General Conditions of the Contract for Construction, other than those additions and deletions shown in the associated Additions and Deletions Report.



(Signed)

Curtis Hartog, Executive Director

(Title)

2/4/2025

(Dated)

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Exhibit B – Project Charter

Project Name and Number

Ella Baker Cafeteria Improvements: Official Publication 25-2508

Description

Floor finishes and painting, per the project bid documents prepared by Bloom Hay Dobbs

Contract Sum

The Contract Sum shall be $152,757.00

Alternates

Item	Price	Status
Add Alternate No. 1: New Carpet in CR27	$7,989.00	Accepted
Add Alternate No. 2: Paint columns and walls in CR27	$3,381.00	Accepted
Add Alternate No. 3: Paint Cafeteria Walls	$8,205.00	Accepted
Add Alternate No. 4: Paint Columns in cafeteria	$3,575.00	Accepted

Allowances

Item	Price
Moisture mitigation, unit priced at $2.05/sq. ft. Allowance for 9,000 sq. ft. of floor area.	$18,450.00

EXHIBIT C Owner Insurance

Insurance Requirements

1. CONSULTANT'S INSURANCE – to be used with AIA B101-2017, AIA C103-2015, or similar non-contractor consultants:
   The Consultant shall at its own expense maintain in effect at all times during the performance of the Work under the Agreement at least the following coverage and limits of insurance:

   a. Worker's Compensation and Employer's Liability Insurance

      i. Coverage A is statutory.

      ii. Coverage B
      $500,000 Each Accident
      $500,000 Each Employee
      $500,000 Policy Limit (Disease)

   b. Comprehensive General Liability Insurance *

General Aggregate	$1,000,000
Products/Completed Operations Aggregate	$1,000,000
Per Occurrence	$1,000,000
Medical Payments	$10,000

   * The Owner should be named as an additional insured for Comprehensive General Liability Insurance.

   c. Automobile Insurance

Per Occurrence	$1,000,000
PIP	Basic
Underinsured Motorist	$1,000,000
Uninsured Motorist	$1,000,000

   d. Professional Liability Insurance

      i. Per Claim $2,000,000

ii. For projects with an estimated construction Contract Sum of over $10,000,000 or major structural work an aggregate is required as follows:
Aggregate $4,000,000

e. Umbrella Liability Insurance

i. Per Occurrence $2,000,000

ii. For projects with an estimated construction Contract Sum of over $10,000,000 or major structural work an aggregate is required as follows:
Aggregate $2,000,000

f. Manned or Unmanned Aircraft Coverage (if used)

i. Per Claim $1,000,000

ii. Aggregate $1,000,000

For specialty consultants used for commissioning activities, studies, asbestos surveys and security, items A, B, C and F shall apply.

Special Asbestos Abatement Liability Insurance is required for Asbestos Abatement Contractors. The limits are $1,500,000 per claim, for liability arising from the encapsulation, removal, handling, storage, transportation, and disposal of asbestos-containing materials.

2. CONSULTANT'S OBLIGATIONS

Consultant shall not violate or knowingly permit any violation of any conditions or terms of the policies of insurance required to be carried under the terms hereof and shall endeavor to satisfy the requirements of the insurance companies issuing them. In the event Consultant neglects, refuses or fails to provide or maintain any of the insurance required to be carried under the Agreement, or if such insurance is canceled for any reason, the Owner or the Owner's lender(s) shall have the right, but not the duty, to procure or maintain the same.

In the event the Owner or the Owner's lender(s) do procure or maintain such insurance, the Owner or the Owner's lender(s) shall have, in additional to any and all other available remedies, the right to recover from the Consultant (including the right of set-off against sums otherwise due the Consultant) all of the costs associated with procuring or maintaining such insurance.

3. PROFESSIONAL LIABILITY INSURANCE

   a. Professional Liability Coverage of $2,000,000 shall be maintained for one (1) year from the date of Substantial Completion. If the Consultant discontinues its business and if directed by Owner in writing, Consultant shall purchase such insurance in such amount for an extended discovery period beyond the one (1) year after the date of Substantial Completion, with the premium cost to be a reimbursable expense paid by the Owner. The limit of liability for such policy may not be reduced below $2,000,000 without the Owner giving its prior, written consent. All policies of insurance that Consultant is required under the terms of this Exhibit C Owner's Insurance to secure and maintain shall bear the endorsement "Not to be canceled until sixty (60) calendar days after Owner has received a written notice from insurer as evidence by a return receipt of registered or certified mail."

   b. The Owner shall not be responsible for obtaining or paying premiums or other expenses in connection with insurance required to be carried under the Agreement or normally carried by the Consultant's consultants, and the obligation to obtain such insurance and to pay such premiums and other expenses shall be solely that of the Consultant.

   c. The Consultant shall bear all the costs of any and all deductible amounts under any insurance policies required to be carried under the Agreement and shall remain solely and fully liable for the full amount of any claim or item not compensated by insurance (to the extent that any amount resulted from damages that arose out of the Consultant's sole negligence.)

4. COVERAGE
   The coverage's referred to above are set forth in full in the respective policy forms, and the foregoing descriptions of such policies are not intended to be complete.

5. GENERALLY

   a. The Consultant thereby represents and warrants to the Owner that, as of the date of the execution of the Agreement, the Consultant is not aware of any claims or potential claims which have been made, filed or threatened against any of the insurance or for damages covered by any of the insurance required to be carried under the Agreement that would affect the Consultant's ability to provide the insurance coverage required by this agreement.

b. It is understood that the provisions in the Agreement requiring the Consultant to carry insurance shall not be construed as in any manner waiving or restricting the liability of the Consultant as to any obligations imposed under the Agreement, including, but not limited to, obligations imposed under the provisions of Article 11 of the AIA A201-2017 General Conditions.

Insurance requirements for Contractors

1. CONTRACTOR'S INSURANCE – to be used with AIA A101-2017
   The Contractor shall at its own expense maintain in effect at all times during the performance of the Work under the Agreement at least the following coverage and limits of insurance:

   a. Commercial General Liability

      i. General Aggregate $1,500,000

      ii. Products/Completed Operations Aggregate $1,500,000

      iii. Per Occurrence $1,500,000

      The Owner shall be named as additional insured for Commercial General Liability Insurance

   b. Automobile Insurance

      i. Per Occurrence $1,000,000

      ii. PIP Basic

      iii. Underinsured Motorist $1,000,000

      iv. Uninsured Motorist $1,000,000

   c. Workers Compensation

      i. Coverage A is statutory.

      ii. Coverage B $500,000 Each Accident

      iii. $500,000 Each Employee

d. Professional Liability (if the Contractor is hiring professionals)

   i. Per Claim $2,000,000

   For Projects with an estimated construction cost of over $10,000,000 or major structural work, additional Aggregate coverage of $4,000,000 is required.

e. Manned or Unmanned Aircraft Coverage (if used)

   i. Per Claim $1,000,000

   ii. Aggregate $1,000,000

f. Property Insurance

   i. Per Claim $1,000,000

   ii. Aggregate $1,000,000

   This insurance is only required for materials stored offsite and not incorporated into the project at delivery. For material stored on site, no additional insurance is required.

g. Builders “all risk” Insurance

   i. Per Claim $2,000,000

   ii. Aggregate $4,000,000

   This insurance is only required for additions exceeding $10,000,000. Renovations to existing schools are not required to have builders all risk insurance.

h. Umbrella Liability

   i. Aggregate limit $5,000,000

   This insurance is required only for projects larger than $10,000,000 in total construction costs.

Exhibit D – Project Schedule

Project Name and Number

MPS Project Number: 25BAKE001

Project Name: Ella Baker Cafeteria Improvements

School: Ella Baker Global Studies and Humanities School

Address: 1200 W. 26th St., Minneapolis, MN 55405

OP#: OP 25-2508

Description

Floor finishes and painting, per the project bid documents prepared by Bloom Hay Dobbs.

Schedule

Last Day of School: June 06, 2025

Last Day for Staff: June 10, 2025

Construction Commences: June 11, 2025

Juneteenth Holiday: June 19, 2024 (All MPS Buildings Closed)

Substantial Completion: On or before July 31, 2025

Final Completion: On or before August 08, 2025

MPS Staff back in Building: August 18, 2025

First day of School: September 2, 2025

Close-out Documents due within 45 days past date of Substantial Completion

Substantial Completion

The Work will be substantially complete on or before July 31, 2025.

FY21 North High School Renovations-Bid Pack 4 Work Scope 09-D Flooring

Contract Sum: $376,835

Contractor: Grazzini Brothers & Company

Project Name and Number

North High School
1500 James Avenue N
Minneapolis, MN 55411
Minneapolis Public Schools Project Number
OP25-2512

Description

Perform flooring in accordance with Work Scope 09-D for the North High School Phase 4 renovations

Contract Sum details

Item	Price	Status
Base Bid	$376,835	accepted
Alt #1: Health Office	$38,840	rejected
Alt #2: Athletic and Counseling Offices	$19,875	rejected
Alt #3: Electrical panel replacements	$0	accepted
Alt #4: AHU-41 replacement	$0	accepted
Alt #5: Direct digital controls	$0	accepted

Contract Documents

AIA Document A132-2019
AIA Document A132 Exhibit A-2019
Exhibit B – Project Charter
Exhibit C – Owner Insurance
Exhibit D – Project Schedule
AIA Document A232-2019

AIA® Document A132® – 2019

Standard Form of Agreement Between Owner and Contractor, Construction Manager as Adviser Edition

AGREEMENT made as of the first__ day of _February_____ in the year 2025_
(In words, indicate day, month, and year.)

BETWEEN the Owner:
(Name, legal status, address, and other information)

Minneapolis Public Schools Special School District #1
1250 West Broadway Avenue
Minneapolis, MN 55411

and the Contractor:
(Name, legal status, address, and other information)

Grazzini Brothers & Company
1175 Eagan Industrial Road
Eagan, MN 55121

for the following Project:
(Name, location, and detailed description)

North High School Phase 4 Work Scope 09D Flooring
1500 James Avenue
Minneapolis, MN 55411

The Construction Manager:
(Name, legal status, address, and other information)

Kraus-Anderson Construction Company
501 South 8th Street
Minneapolis, MN 55405

The Architect:
(Name, legal status, address, and other information)

LSE Architects
1401 Glenwood Avenue
Minneapolis, MN 55405

The Owner and Contractor agree as follows.

ADDITIONS AND DELETIONS:
The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

This document is intended to be used in conjunction with AIA Documents A232™–2019, General Conditions of the Contract for Construction, Construction Manager as Adviser Edition; B132™–2019, Standard Form of Agreement Between Owner and Architect, Construction Manager as Adviser Edition; and C132™–2019, Standard Form of Agreement Between Owner and Construction Manager as Adviser. AIA Document A232™–2019 is adopted in this document by reference. Do not use with other general conditions unless this document is modified.

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TABLE OF ARTICLES

1 THE CONTRACT DOCUMENTS

2 THE WORK OF THIS CONTRACT

3 DATE OF COMMENCEMENT AND DATES OF SUBSTANTIAL COMPLETION

4 CONTRACT SUM

5 PAYMENTS

6 DISPUTE RESOLUTION

7 TERMINATION OR SUSPENSION

8 MISCELLANEOUS PROVISIONS

9 ENUMERATION OF CONTRACT DOCUMENTS

EXHIBIT A INSURANCE AND BONDS
EXHIBIT B DETERMINATION OF THE COST OF THE WORK

ARTICLE 1 THE CONTRACT DOCUMENTS

The Contract Documents consist of this Agreement, Conditions of the Contract (General, Supplementary, and other Conditions), Drawings, Specifications, Addenda issued prior to execution of this Agreement, other documents ("Contract" or "Contract Documents") listed in this Agreement, and Modifications issued after execution of this Agreement, all of which form the Contract, and are as fully a part of the Contract as if attached to this Agreement or repeated herein. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations, or agreements, either written or oral. An enumeration of the Contract Documents, other than Modifications, appears in Article 9.

§ 1.2 In the event that there are inconsistencies between any of the Project Contract Documents, all Contract Documents shall be construed together and shall be read with a purpose and intent to provide that the Contractor shall commit to fully complete its Project Work and services with the greater degree of commitment as referenced in the Contract Documents, including the plans and specifications, to work diligently to ensure completion of the Project in a timely and workmanlike manner and at the earliest stated times provided for in Project schedules, as they may be revised, and to ensure that Contractor, and all of its Subcontractors and suppliers complete the Project on schedule and within Project Contract Price, subject to approved change orders.

§ 1.3 Contractor acknowledges that it has had full, fair, and adequate opportunity to review all of the Project bidding and Contract Documents, that it has fully satisfied itself as to the scope and requirements of the Project, that it has fully and fairly investigated all Project site conditions and circumstances and Contract Documents, including any potential difficulties or interferences present in the same, that it has had the opportunity to ask questions during the bidding phase and that it has received adequate answers to any such questions, that it has had the opportunity to attend and fairly participate in all pre-bid conferences and pre-construction conferences, and that it has required the same of all of its Subcontractors.

ARTICLE 2 THE WORK OF THIS CONTRACT

The Contractor shall fully execute the Work described in the Contract Documents, except as specifically indicated in the Contract Documents to be the responsibility of others.

ARTICLE 3 DATE OF COMMENCEMENT AND DATES OF SUBSTANTIAL COMPLETION

§ 3.1 The date of commencement of the Work shall be:
(Check one of the following boxes.)

[ ] The date of this Agreement.

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[X] A date set forth in a notice to proceed issued by the Owner.

[ ] Established as follows:
(Insert a date or a means to determine the date of commencement of the Work.)

If a date of commencement of the Work is not selected, then the date of commencement shall be the date of this Agreement.

§ 3.2 The Contract Time shall be measured from the date of commencement of the Work.

§ 3.3 Substantial Completion of the Project or Portions Thereof
§ 3.3.1 Subject to adjustments of the Contract Time as provided in the Contract Documents, the date of Substantial Completion of the Work of all of the Contractors for the Project will be:
(Insert the date of Substantial Completion of the Work of all Contractors for the Project.)

Defined in EXH-D Project Schedule

§ 3.3.2 Subject to adjustments of the Contract Time as provided in the Contract Documents, if portions of the Work of all of the Contractors for the Project are to be completed prior to Substantial Completion of the entire Work of all of the Contractors for the Project, the Contractors shall achieve Substantial Completion of such portions by the following dates defined in EXH-D Project Schedule. Such portions of the Work not completed as defined in EXH-D Project Schedule shall be subject to liquidated damages as set forth in Article 4.5.

(Table deleted)
(Table deleted)
(Paragraphs deleted)
§ 3.4.3 If the Contractor fails to substantially complete the Work of this Contract, or portions thereof, as provided in this Section 3.4, liquidated damages, if any, shall be assessed as set forth in Section 4.5.

ARTICLE 4 CONTRACT SUM
§ 4.1 The Owner shall pay the Contractor the Contract Sum in current funds for the Contractor's performance of the
(Paragraphs deleted)
Contract as defined in EXH-B Project Charter, subject to additions and deductions as provided in the Contract Documents.
§ 4.2 Stipulated Sum
§ 4.2.1 The Contract Sum shall be three hundred seventy-six thousand, eight hundred thirty-five dollars ($ 376,835), subject to additions and deductions as provided in the Contract Documents.

§ 4.2.2 Alternates
§ 4.2.2.1 Alternates, if any, included in the Contract Sum are defined in EXH-B Project Charter.
(Table deleted)
§ 4.2.2.2 Subject to the conditions noted in EXH-B Project Charter, alternates may be accepted by the Owner following execution of this Agreement. Upon acceptance, the Owner shall issue a Modification to this Agreement.
(Paragraphs deleted)
(Table deleted)
§ 4.2.3 Allowances, if any, included in the Contract Sum are defined in EXH-B Project Charter.
(Identify each allowance.)

Item	Price

§ 4.2.4 Unit prices, if any are defined in EXH-B Project Charter.

(Table deleted)

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§ 4.3 Allowances, if any, included in the Contract Sum are defined in EXH-B Project Charter.

(Paragraph deleted)
(Table deleted)
(Paragraphs deleted)
§ 4.4 Unit prices, if any, are defined in EXH-B Project Charter.

(Paragraphs deleted)
(Table deleted)
(Paragraphs deleted)
(Table deleted)
(Paragraphs deleted)
(Table deleted)
(Paragraphs deleted)
(Table deleted)
(Paragraphs deleted)
§ 4.5 Liquidated damages, if any:
(Insert terms and conditions for liquidated damages, if any, to be assessed in accordance with Section 3.4.)

Contractor and Owner recognize that time is of the essence for the Project and the Owner will suffer financial loss if the Work is not completed in the time specified in the Contract Documents. The parties also recognize the delays, expenses, and difficulties involved in proving in a legal proceeding the actual loss suffered by the Owner if the Work is not completed on time. Accordingly, instead of requiring such proof, the Owner and Contractor agree that as liquidated damages for delay (but not as penalty), Contractor shall pay Owner One Thousand Dollars ($1,000.00) per calendar day for each day that expires after the time specified for Substantial Completion in EXH-D Project Schedule until such time the Work is determined to be substantially complete by the Owner.

After Substantial Completion, if Contractor neglects, refuses, or fails to complete the remaining Work within the Contract Time specified in the Contract Documents, the Contractor shall pay the Owner One Thousand Dollars ($1,000.00) per day that expires after the time specified in the Contract Documents for Final Completion and readiness for Final Payment until the Work is completed.

§ 4.6 Other:
(Insert provisions for bonus, cost savings or other incentives, if any, that might result in a change to the Contract Sum.)

None

ARTICLE 5 PAYMENTS

§ 5.1 Progress Payments

§ 5.1.1 Based upon Applications for Payment submitted to the Construction Manager by the Contractor, and Certificates for Payment issued by the Construction Manager and Architect and approval by the Owner's Representative, the Owner shall make progress payments on account of the Contract Sum, to the Contractor, as provided below and elsewhere in the Contract Documents.

§ 5.1.2 The period covered by each Application for Payment shall be one calendar month ending on the last day of the month.

§ 5.1.3 When an Application for Payment is received by the Construction Manager, payment of the amount certified shall be made by the Owner not later than forty-five (45) days after the Construction Manager receives the Application for Payment. Unless expressly otherwise agreed in this Contract, payments and payment disputes shall be governed by the Prompt Payment of Local Government Bills, Minnesota Statutes, Section 471.425 ("Prompt Payment Act").
(Federal, state or local laws may require payment within a certain period of time.)

§ 5.1.4 Progress Payments Where the Contract Sum is Based on a Stipulated Sum

§ 5.1.4.1 Each Application for Payment shall be based on the most recent schedule of values submitted by the Contractor on AIA G702 Application and Certificate for Payment in accordance with the Contract Documents. The schedule of

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values shall allocate the entire Contract Sum among the various portions of the Work. The schedule of values shall be prepared in such form, and supported by such data to substantiate its accuracy, as the Construction Manager and Architect may require. This schedule of values shall be used as a basis for reviewing the Contractor's Applications for Payment.

§ 5.1.4.2 Applications for Payment shall show the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment.

§ 5.1.4.3 In accordance with AIA Document A232™–2019, General Conditions of the Contract for Construction, Construction Manager as Adviser Edition, as modified and subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

§ 5.1.4.3.1 The amount of each progress payment shall first include:

.1 That portion of the Contract Sum properly allocable to completed Work;

.2 That portion of the Contract Sum properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction, or, if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing; and

.3 That portion of Construction Change Directives that the Architect determines, in the Architect's professional judgment, to be reasonably justified.

§ 5.1.4.3.2 The amount of each progress payment shall then be reduced by:

.1 The aggregate of any amounts previously paid by the Owner;

.2 The amount, if any, for Work that remains uncorrected and for which the Architect has previously withheld a Certificate for Payment as provided in Article 9 of AIA Document A232–2019;

.3 Any amount for which the Contractor does not intend to pay a Subcontractor or material supplier, unless the Work has been performed by others the Contractor intends to pay;

.4 For Work performed or defects discovered since the last payment application, any amount for which the Architect may withhold payment, or nullify a Certificate of Payment in whole or in part, as provided in Article 9 of AIA Document A232–2019; and

.5 Retainage withheld pursuant to Section 5.1.7.

(Paragraphs deleted)

§ 5.1.7 Retainage

§ 5.1.7.1 For each progress payment made prior to when the Work of this Contract is substantially complete, the Owner may withhold the following amount, as retainage, from the payment otherwise due:
(Insert a percentage or amount to be withheld as retainage from each Application for Payment. The amount of retainage may be limited by governing law.)

Five Percent (5%)

§ 5.1.7.1.1 The following items are not subject to retainage:
(Insert any items not subject to the withholding of retainage, such as general conditions, insurance, etc.)

For major items installed into the Work, the Contractor may request full payment for the items to ensure prompt delivery and fabrication. Such items shall be recommended by the Architect and approved by the Owner as not requiring retainage. Prompt payment for the items shall be documented by the Contractor to the Owner in the subsequent payment application by submitting a full lien release for the items. Major items may include mechanical units with long lead times, structural systems with long lead times, critical path systems or items, etc. Major items will be discussed and defined by Owner, Architect, Construction Manager and Contractor.

§ 5.1.7.2 Reduction or limitation of retainage, if any, shall be as follows:
(If the retainage established in Section 5.1.7.1 is to be modified prior to when the entire Work of this Contract is substantially complete, including modifications for completion of portions of the Work as provided in Section 3.4.2, insert provisions for such modifications.)

Prior to Substantial Completion and at the discretion of the Owner, retainage may be reduced. If the Work has been fifty percent (50%) completed as determined by the Architect and is satisfactory to the Owner, then ninety percent (90%) of the

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retained amount may be released to the Contractor for completed Work (with ten percent (10%) of the total retained by the Owner).

§ 5.1.7.3 Except as set forth in this Section 5.1.7.3, when the Work of this Contract is substantially complete, the Contractor may submit an Application for Payment that includes the retainage withheld from prior Applications for Payment pursuant to this Section 5.1.7. The Application for Payment submitted when the Work of this Contract is substantially complete shall not include retainage as follows:
(Insert any other conditions for release of retainage when the Work of this Contract is substantially complete, or upon Substantial Completion of the Work of all Contractors on the Project or portions thereof.)

Upon Substantial Completion, additional retainage may be returned to the Contractor as recommended by the Architect and Construction Manager and approved by the Owner to an amount sufficient to satisfactorily complete the Work. Retainage release will comply with Minnesota Statutes, Section 15.72 after Substantial Completion and punch list acceptance by the Owner.

§ 5.2 Final Payment

§ 5.2.1 Final Payment Where the Contract Sum is Based on a Stipulated Sum

§ 5.2.1.1 Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Contractor when

.1 the Contractor has fully performed the Contract except for the Contractor's responsibility to correct Work as provided in Article 12 of AIA Document A232–2019, and to satisfy other requirements, if any, which extend beyond final payment;

.2 a final Certificate for Payment or Project Certificate for Payment has been issued by the Architect; and

.3 all lien waivers and IC134 forms have been delivered to the Owner.

§ 5.2.1.2 The Owner's final payment to the Contractor shall be made no later than forty-five (45) days after the issuance of the Architect's final Certificate for Payment or Project Certificate for Payment, or as follows:

§ 5.2.2 Final Payment Where the Contract Sum is Based on the Cost of the Work with or without a Guaranteed Maximum Price

§ 5.2.2.1 Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Contractor when

.1 the Contractor has fully performed the Contract except for the Contractor's responsibility to correct Work as provided in Article 12 of AIA Document A232–2019, and to satisfy other requirements, if any, which extend beyond final payment;

.2 the Contractor has submitted a final accounting for the Cost of the Work, pursuant to Exhibit B, Determination of the Cost of the Work and a final Application for Payment; and

.3 a final Certificate for Payment or Project Certificate for Payment has been issued by the Architect in accordance with Exhibit B, Determination of the Cost of the Work.

§ 5.2.2.2 The Owner's final payment to the Contractor shall be made no later than 30 days after the issuance of the final Certificate for Payment or Project Certificate for Payment, or as follows:

§ 5.3 Payments due and unpaid under the Contract shall bear interest from the date payment is due at the rate stated below.
(Insert rate of interest agreed upon, if any.)

Zero %

ARTICLE 6 DISPUTE RESOLUTION

§ 6.1 Initial Decision Maker

The Architect will serve as Initial Decision Maker pursuant to Article 15 of AIA Document
(Paragraphs deleted)
A232–2019.

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§ 6.1.1 Mediation

The Owner or the Contractor may request mediation of any Claim submitted to the Initial Decision Maker before the decision becomes final and binding. The mediation shall be governed by the Construction Industry Mediation Rules of the American Arbitration Association in effect at the date of this contract. The request for mediation shall be made in writing by the party requesting mediation and the other party of this contract. The Owner and Contractor shall participate in mediation in good faith. The mediation shall be concluded within 60 days of the request. Mediation is not a condition precedent to commencing litigation. If litigation is commenced, the Owner and Contractor agree to mediate before any dispositive motion or trial.

§ 6.2 Binding Dispute Resolution

For any Claim subject to, but not resolved by, mediation pursuant to Article 15 of AIA Document A232–2019, the method of binding dispute resolution shall be as follows:
(Check the appropriate box.)

[ ] Arbitration pursuant to Article 15 of AIA Document A232–2019.

[X] Litigation in a state or federal court of competent jurisdiction located in Hennepin County, Minnesota.

[ ] Other: *(Specify)*

If the Owner and Contractor do not select a method of binding dispute resolution, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, Claims will be resolved by litigation in a court of competent jurisdiction.

ARTICLE 7 TERMINATION OR SUSPENSION

§ 7.1 Where the Contract Sum is a Stipulated Sum

§ 7.1.1 The Contract may be terminated by the Owner or the Contractor as provided in Article 14 of AIA Document A232–2019.

§ 7.1.1.1 If the Contract is terminated for the Owner's convenience in accordance with Article 14 of AIA Document A232–2019, then the Owner shall pay the Contractor a termination fee as follows:
(Insert the amount of, or method for determining, the fee, if any, payable to the Contractor following a termination for the Owner's convenience.)

Termination fee will be based on the percentage of Work completed and any materials purchased or in production at the time of termination. Said fee and justification shall be provided to the Owner by the Contractor within ten (10) days' notice of the termination.

§ 7.1.2 The Work may be suspended by the Owner as provided in Article 14 of AIA Document A232–2019.

(Paragraphs deleted)

ARTICLE 8 MISCELLANEOUS PROVISIONS

§ 8.1 Where reference is made in this Agreement to a provision of AIA Document A232–2019 or another Contract Document, the reference refers to that provision as amended or supplemented by other provisions of the Contract Documents.

§ 8.2 The Owner's representative:
(Name, address, email address, and other information)

Curtis Hartog, PE, Executive Director
Minneapolis Public Schools, SSD#1
Capital Planning, Construction & Maintenance
1250 West Broadway Avenue, Minneapolis, MN 55411

§ 8.3 The Contractor's representative:

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(Name, address, email address, and other information)

Lee Ahola
Project Manager
Grazzini Brothers & Company
1175 Eagan Industrial Road
Eagan, MN 55121

§ 8.4 Neither the Owner's nor the Contractor's representative shall be changed without ten days' prior notice to the other party.

§ 8.5 Record Keeping—Availability and Retention
Pursuant to Minnesota Statutes, Section 16C.05, subd. 5, Contractor agrees that the books, records, documents and accounting procedures and practices of Contractor, that are relevant to the Contract or transaction, are subject to examination by the Owner, the Owner's auditor, and the state auditor for a minimum of six (6) years. Contractor shall maintain such records for a minimum of six (6) years after final payment.

§ 8.6 Data Practices
Pursuant to Minnesota Statutes, Section 13.05, subd. 11, all of the data created, collected, received, stored, used, maintained, or disseminated by Contractor in performing this contract is subject to the requirements of the Minnesota Government Data Practices Act ("MGDPA"), Minnesota Statutes Chapter 13, and Contractor must comply with those requirements as if it were a government entity. The remedies in Minnesota Statutes, Section 13.08 apply to Contractor. Contractor does not have a duty to provide access to public data to the public if the public data are available from the Owner, except as required by the terms of this contract.

§ 8.7 Non-Discrimination
Pursuant to Minnesota Statutes, Section 181.59, the Contractor will take affirmative action to ensure that applicants are selected, and that employees are treated during employment, without regard to their race, color, creed, religion, national origin, sex, sexual orientation, marital status, status with regard to public assistance, membership or activity in a local civil rights commission, disability or age. The Contractor agrees to be bound by the provisions of Minnesota Statutes, Section 181.59, that prohibits certain discriminatory practices and the terms of said section are incorporated into this contract.

§ 8.8 Prompt Payment to Subcontractors
In accordance with the Prompt Payment Act, each Prime Contractor must pay any subcontractor within ten (10) days of the Prime Contractor's receipt of payment from the municipality for undisputed services provided by the subcontractor. The Subcontract must require the Prime Contractor to pay interest of 1-1/2 percent per month or any part of a month to the subcontractor on any undisputed amount not paid on time to the subcontractor. The minimum monthly interest penalty payment for an unpaid balance of $100 or more is $10. For an unpaid balance of less than $100, the Prime Contractor shall pay the actual penalty due to the subcontractor. A subcontractor who prevails in a civil action to collect interest penalties from a Prime Contractor must be awarded its costs and disbursements, including attorney's fees, incurred in bringing the action.

§ 8.9 Prevailing Wage
Contractor agrees that all laborers or mechanics working on the Project shall receive at least the prevailing wage rate in accordance with Minnesota Statutes Section 177.42, *et seq*. Contractor agrees further that it will incorporate any and all necessary contract language in its agreements with any subcontractors to allow Contractor to monitor and enforce the prevailing wage requirement for subcontractors of any tier.

§ 8.5 Insurance and Bonds
§ 8.5.1 The Owner and the Contractor shall purchase and maintain insurance as set forth EXH-C Owner Insurance.

§ 8.5.2 The Contractor shall provide bonds as set forth in AIA Document A132™–2019, Exhibit A, and elsewhere in the Contract Documents.

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§ 8.6 Notice in electronic format, pursuant to Article 1 of AIA Document A232–2019, may be given in accordance with AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, if completed, or as otherwise set forth below:
(If other than in accordance with AIA Document E203–2013, insert requirements for delivering notice in electronic format such as name, title, and email address of the recipient and whether and how the system will be required to generate a read receipt for the transmission.)

email to Owner's representative identified in Section 8.2

§ 8.7 Relationship of the Parties
Where the Contract is based on the Cost of the Work plus the Contractor's Fee, with or without a Guaranteed Maximum Price, the Contractor accepts the relationship of trust and confidence established by this Agreement and covenants with the Owner to cooperate with the Architect and exercise the Contractor's skill and judgment in furthering the interests of the Owner; to furnish efficient business administration and supervision; to furnish at all times an adequate supply of workers and materials; and to perform the Work in an expeditious and economical manner consistent with the Owner's interests. The Owner agrees to furnish and approve, in a timely manner, information required by the Contractor and to make payments to the Contractor in accordance with the requirements of the Contract Documents.

§ 8.8 Other provisions:

Owner prohibits Contractor from using the Work in any marketing material or business development practice. Contractor is prohibited from communication with any news outlet or public without Owner's written approval.

Floor plans, designs, wiring, safety and security measures shall be kept confidential by the Contractor, the Subcontractors, the Sub-Subcontractors (of any tier) during and after completion of the Work.

ARTICLE 9 ENUMERATION OF CONTRACT DOCUMENTS

§ 9.1 This Agreement is comprised of the following documents:

.1 AIA Document A132™–2019, Standard Form of Agreement Between Owner and Contractor, Construction Manager as Adviser Edition

.2 AIA Document A132™–2019, Exhibit A, Insurance and Bonds Exhibit

.3 AIA Document A232™–2019, General Conditions of the Contract for Construction, Construction Manager as Adviser Edition

.4 AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, dated as indicated below:
(Insert the date of the E203-2013 incorporated into this Agreement.)

Not Applicable

.5 Drawings

Number	Title	Date
139	North High School Renovations & CTE Center Vol 1 of 2	November 13, 2024
209	North High School Renovations & CTE Center Vol 2 of 2	November 13, 2024

.6 Specifications

Section	Title	Date	Pages
All Specifications	North High School Renovations and CTE Center Bid Package 4	November 13, 2024	1414

.7 Addenda, if any:

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Number	Date	Pages
1	December 2, 2024	70
2	December 9, 2024	165

Portions of Addenda relating to bidding or proposal requirements are not part of the Contract Documents unless the bidding or proposal requirements are also enumerated in this Article 9.

.8 Other Exhibits:

EXH-B Project Charter
EXH-C Owner Insurance
EXH-D Project Schedule
(Check all boxes that apply and include appropriate information identifying the exhibit where required.)

[ ]
(Paragraphs deleted)

[ ] Supplementary and other Conditions of the Contract:

Document	Title	Date	Pages

.9 Other documents, if any, listed below:
(List here any additional documents that are intended to form part of the Contract Documents. AIA Document A232–2019 provides that the advertisement or invitation to bid, Instructions to Bidders, sample forms, the Contractor's bid or proposal, portions of Addenda relating to bidding or proposal requirements, and other information furnished by the Owner in anticipation of receiving bids or proposals, are not part of the Contract Documents unless enumerated in this Agreement. Any such documents should be listed here only if intended to be part of the Contract Documents.)

Contractors Bid Documents

This Agreement is entered into as of the day and year first written above.

OWNER *(Signature)*	**CONTRACTOR** *(Signature)*
Tom Parent, Sr Operations Officer	Greg Grazzini, President/CEO
(Printed name and title)	*(Printed name and title)*

nit.
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Additions and Deletions Report for

AIA® Document A132® – 2019

This Additions and Deletions Report, as defined on page 1 of the associated document, reproduces below all text the author has added to the standard form AIA document in order to complete it, as well as any text the author may have added to or deleted from the original AIA text. Added text is shown underlined. Deleted text is indicated with a horizontal line through the original AIA text.

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PAGE 1

AGREEMENT made as of the first___day of _February_____in the year 2025_

...

Minneapolis Public Schools Special School District #1
1250 West Broadway Avenue
Minneapolis, MN 55411

...

Grazzini Brothers & Company
1175 Eagan Industrial Road
Eagan, MN 55121

...

North High School Phase 4 Work Scope 09D Flooring
1500 James Avenue
Minneapolis, MN 55411

...

Kraus-Anderson Construction Company
501 South 8th Street
Minneapolis, MN 55405

...

LSE Architects
1401 Glenwood Avenue
Minneapolis, MN 55405

PAGE 2

The Contract Documents consist of this Agreement, Conditions of the Contract (General, Supplementary, and other Conditions), Drawings, Specifications, Addenda issued prior to execution of this Agreement, other documents ("Contract" or "Contract Documents") listed in this Agreement, and Modifications issued after execution of this Agreement, all of which form the Contract, and are as fully a part of the Contract as if attached to this Agreement or repeated herein. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations, or agreements, either written or oral. An enumeration of the Contract Documents, other than Modifications, appears in Article 9.

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§ 1.2 In the event that there are inconsistencies between any of the Project Contract Documents, all Contract Documents shall be construed together and shall be read with a purpose and intent to provide that the Contractor shall commit to fully complete its Project Work and services with the greater degree of commitment as referenced in the Contract Documents, including the plans and specifications, to work diligently to ensure completion of the Project in a timely and workmanlike manner and at the earliest stated times provided for in Project schedules, as they may be revised, and to ensure that Contractor, and all of its Subcontractors and suppliers complete the Project on schedule and within Project Contract Price, subject to approved change orders.

§ 1.3 Contractor acknowledges that it has had full, fair, and adequate opportunity to review all of the Project bidding and Contract Documents, that it has fully satisfied itself as to the scope and requirements of the Project, that it has fully and fairly investigated all Project site conditions and circumstances and Contract Documents, including any potential difficulties or interferences present in the same, that it has had the opportunity to ask questions during the bidding phase and that it has received adequate answers to any such questions, that it has had the opportunity to attend and fairly participate in all pre-bid conferences and pre-construction conferences, and that it has required the same of all of its Subcontractors.

PAGE 3

[**X**] A date set forth in a notice to proceed issued by the Owner.

...

Defined in EXH-D Project Schedule

§ 3.3.2 Subject to adjustments of the Contract Time as provided in the Contract Documents, if portions of the Work of all of the Contractors for the Project are to be completed prior to Substantial Completion of the entire Work of all of the Contractors for the Project, the Contractors shall achieve Substantial Completion of such portions by the following ~~dates:~~dates defined in EXH-D Project Schedule. Such portions of the Work not completed as defined in EXH-D Project Schedule shall be subject to liquidated damages as set forth in Article 4.5.

~~**Portion of Work** **Substantial Completion Date**~~

~~**§ 3.4 When the Work of this Contract, or any Portion Thereof, is Substantially Complete**~~
~~**§ 3.4.1** Subject to adjustments of the Contract Time as provided in the Contract Documents, the Contractor shall substantially complete the entire Work of this Contract:~~
~~*(Check one of the following boxes and complete the necessary information.)*~~

~~[–] Not later than (–) calendar days from the date of commencement of the Work.~~

~~[–] By the following date:~~

~~**§ 3.4.2** Subject to adjustments of the Contract Time as provided in the Contract Documents, if portions of the Work of this Contract are to be substantially complete prior to when the entire Work of this Contract shall be substantially complete, the Contractor shall substantially complete such portions by the following dates:~~

~~**Portion of Work** **Date to be substantially complete**~~

...

§ 4.1 The Owner shall pay the Contractor the Contract Sum in current funds for the Contractor's performance of the ~~Contract. The Contract Sum shall be one of the following:~~
~~*(Check the appropriate box.)*~~

~~[–] Stipulated Sum, in accordance with Section 4.2 below~~

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~~[–] Cost of the Work plus the Contractor's Fee, in accordance with Section 4.3 below~~

~~[–] Cost of the Work plus the Contractor's Fee with a Guaranteed Maximum Price, in accordance with Section 4.4 below~~

~~*(Based on the selection above, complete Section 4.2, 4.3 or 4.4 below.)*~~
Contract as defined in EXH-B Project Charter, subject to additions and deductions as provided in the Contract Documents.

...

§ 4.2.1 The Contract Sum shall be three hundred seventy-six thousand, eight hundred thirty-five dollars ($ 376,835), subject to additions and deductions as provided in the Contract Documents.

...

§ 4.2.2.1 Alternates, if any, included in the Contract ~~Sum:~~
Sum are defined in EXH-B Project Charter.

~~Item~~	~~Price~~

§ 4.2.2.2 Subject to the conditions noted ~~below, the following~~ in EXH-B Project Charter, alternates may be accepted by the Owner following execution of this Agreement. Upon acceptance, the Owner shall issue a Modification to this Agreement.
~~*(Insert below each alternate and the conditions that must be met for the Owner to accept the alternate.)*~~

~~Item~~	~~Price~~	~~Conditions for Acceptance~~

§ 4.2.3 Allowances, if any, included in the Contract ~~Sum:~~Sum are defined in EXH-B Project Charter.

...

§ 4.2.4 Unit prices, if ~~any:~~
~~(Identify the item and state the unit price, and quantity limitations, if any, to which the unit price will be applicable.)~~any are defined in EXH-B Project Charter.

~~Item~~	~~Units and Limitations~~	~~Price per Unit ($0.00)~~

§ 4.3 ~~Cost of the Work Plus Contractor's Fee without a Guaranteed Maximum Price~~Allowances, if any, included in the Contract Sum are defined in EXH-B Project Charter.
~~**§ 4.3.1** The Cost of the Work is as defined in Exhibit B, Determination of the Cost of the Work.~~

~~**§ 4.3.2** The Contractor's Fee:~~
~~*(State a lump sum, percentage of Cost of the Work or other provision for determining the Contractor's Fee.)*~~

~~**§ 4.3.3** The method of adjustment of the Contractor's Fee for changes in the Work:~~

~~**§ 4.3.4** Limitations, if any, on a Subcontractor's overhead and profit for increases in the cost of its portion of the Work:~~

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§ 4.3.5 Rental rates for Contractor-owned equipment shall not exceed ( ) percent (%) of the standard rental rate paid at the place of the Project.

§ 4.3.6 Unit prices, if any:
(Identify the item and state the unit price and quantity limitations, if any, to which the unit price will be applicable.)

Item	Units and Limitations	Price per Unit ($0.00)

§ 4.3.7 The Contractor shall prepare and submit to the Construction Manager, within 14 days of executing this Agreement, a written Control Estimate for the Owner's review and approval. The Control Estimate shall include the items in Section B.1 of Exhibit B, Determination of the Cost of the Work.

§ 4.4 Cost of the Work Plus Contractor's Fee with a Guaranteed Maximum PriceUnit prices, if any, are defined in EXH-B Project Charter.
§ 4.4.1 The Cost of the Work is as defined in Exhibit B, Determination of the Cost of the Work.

§ 4.4.2 The Contractor's Fee:
(State a lump sum, percentage of Cost of the Work or other provision for determining the Contractor's Fee.)

§ 4.4.3 The method of adjustment of the Contractor's Fee for changes in the Work:

§ 4.4.4 Limitations, if any, on a Subcontractor's overhead and profit for increases in the cost of its portion of the Work:

§ 4.4.5 Rental rates for Contractor-owned equipment shall not exceed ( ) percent (%) of the standard rental rate paid at the place of the Project.

§ 4.4.6 Unit Prices, if any:
(Identify the item and state the unit price and quantity limitations, if any, to which the unit price will be applicable.)

Item	Units and Limitations	Price per Unit ($0.00)

§ 4.4.7 Guaranteed Maximum Price
§ 4.4.7.1 The Contract Sum is guaranteed by the Contractor not to exceed ($), subject to additions and deductions by Change Order as provided in the Contract Documents. This maximum sum is referred to in the Contract Documents as the Guaranteed Maximum Price. Costs which would cause the Guaranteed Maximum Price to be exceeded shall be paid by the Contractor without reimbursement by the Owner.

§ 4.4.7.2 Alternates
§ 4.4.7.2.1 Alternates, if any, included in the Guaranteed Maximum Price:

Item	Price

§ 4.4.7.2.2 Subject to the conditions noted below, the following alternates may be accepted by the Owner following execution of this Agreement. Upon acceptance, the Owner shall issue a Modification to this Agreement.
(Insert below each alternate and the conditions that must be met for the Owner to accept the alternate.)

Item	Price	Conditions for Acceptance

§ 4.4.7.3 Allowances, if any, included in the Guaranteed Maximum Price:
(Identify each allowance.)

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~~Item~~ ~~Price~~

~~§ 4.4.7.4 Assumptions, if any, upon which the Guaranteed Maximum Price is based:~~
~~*(Identify each assumption.)*~~

~~§ 4.4.8 To the extent that the Contract Documents are anticipated to require further development, the Guaranteed Maximum Price includes the costs attributable to such further development consistent with the Contract Documents and reasonably inferable therefrom. Such further development does not include changes in scope, systems, kinds and quality of materials, finishes, or equipment, all of which, if required, shall be incorporated by Change Order.~~

~~§ 4.4.9 The Owner shall authorize preparation of revisions to the Contract Documents that incorporate the agreed-upon assumptions contained in Section 4.4.7.4. The Owner shall promptly furnish such revised Contract Documents to the Contractor. The Contractor shall notify the Owner and Architect of any inconsistencies between the agreed-upon assumptions contained in Section 4.4.7.4 and the revised Contract Documents.~~

PAGE 4

Contractor and Owner recognize that time is of the essence for the Project and the Owner will suffer financial loss if the Work is not completed in the time specified in the Contract Documents. The parties also recognize the delays, expenses, and difficulties involved in proving in a legal proceeding the actual loss suffered by the Owner if the Work is not completed on time. Accordingly, instead of requiring such proof, the Owner and Contractor agree that as liquidated damages for delay (but not as penalty), Contractor shall pay Owner One Thousand Dollars ($1,000.00) per calendar day for each day that expires after the time specified for Substantial Completion in EXH-D Project Schedule until such time the Work is determined to be substantially complete by the Owner.

After Substantial Completion, if Contractor neglects, refuses, or fails to complete the remaining Work within the Contract Time specified in the Contract Documents, the Contractor shall pay the Owner One Thousand Dollars ($1,000.00) per day that expires after the time specified in the Contract Documents for Final Completion and readiness for Final Payment until the Work is completed.

...

None

...

§ 5.1.1 Based upon Applications for Payment submitted to the Construction Manager by the Contractor, and Certificates for Payment issued by the Construction Manager and ~~Architect,~~ Architect and approval by the Owner's Representative, the Owner shall make progress payments on account of the Contract Sum, to the Contractor, as provided below and elsewhere in the Contract Documents.

§ 5.1.2 The period covered by each Application for Payment shall be one calendar month ending on the last day of the ~~month, or as follows:~~
month.

§ 5.1.3 ~~Provided that~~ When an Application for Payment is received by the Construction ~~Manager not later than the day of a month, the Owner shall make payment of the amount certified to the Contractor not later than the day of the month. If an Application for Payment is received by the Construction Manager after the application date fixed above, payment of the amount certified~~ Manager, payment of the amount certified shall be made by the Owner not later than forty-five (45) days after the Construction Manager receives the Application for Payment. Unless expressly otherwise agreed in this Contract, payments and payment disputes shall be governed by the Prompt Payment of Local Government Bills, Minnesota Statutes, Section 471.425 ("Prompt Payment Act").

...

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§ 5.1.4.1 Each Application for Payment shall be based on the most recent schedule of values submitted by the Contractor on AIA G702 Application and Certificate for Payment in accordance with the Contract Documents. The schedule of values shall allocate the entire Contract Sum among the various portions of the Work. The schedule of values shall be prepared in such form, and supported by such data to substantiate its accuracy, as the Construction Manager and Architect may require. This schedule of values shall be used as a basis for reviewing the Contractor's Applications for Payment.
PAGE 5

§ 5.1.4.3 In accordance with AIA Document A232™–2019, General Conditions of the Contract for Construction, Construction Manager as Adviser Edition, as modified and subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

...

~~**§ 5.1.5 Progress Payments Where the Contract Sum is Based on the Cost of the Work without a Guaranteed Maximum Price**~~

~~**§ 5.1.5.1** With each Application for Payment, the Contractor shall submit the cost control information required in Exhibit B, Determination of the Cost of the Work, along with payrolls, petty cash accounts, receipted invoices, or invoices with check vouchers attached, and any other evidence required by the Owner, Construction Manager or Architect to demonstrate that payments already made by the Contractor on account of the Cost of the Work equal or exceed progress payments already received by the Contractor, plus payrolls for the period covered by the present Application for Payment, less that portion of the payments attributable to the Contractor's Fee.~~

~~**§ 5.1.5.2** Applications for Payment shall show the Cost of the Work actually incurred by the Contractor through the end of the period covered by the Application for Payment and for which the Contractor has made or intends to make actual payment prior to the next Application for Payment.~~

~~**§ 5.1.5.3** In accordance with AIA Document A232–2019 and subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:~~

~~**§ 5.1.5.3.1** The amount of each progress payment shall first include:~~

- ~~**.1** The Cost of the Work as described in Exhibit B, Determination of the Cost of the Work;~~
- ~~**.2** That portion of Construction Change Directives that the Architect determines, in the Architect's professional judgment, to be reasonably justified; and~~
- ~~**.3** The Contractor's Fee computed upon the Cost of the Work described in the preceding Section 5.1.5.3.1.1 at the rate stated in Section 4.3.2; or if the Contractor's Fee is stated as a fixed sum in Section 4.3.2 an amount which bears the same ratio to that fixed-sum Fee as the Cost of the Work included in Section 5.1.5.3.1.1 bears to a reasonable estimate of the probable Cost of the Work upon its completion.~~

~~**§ 5.1.5.3.2** The amount of each progress payment shall then be reduced by:~~

- ~~**.1** The aggregate of any amounts previously paid by the Owner;~~
- ~~**.2** The amount, if any, for Work that remains uncorrected and for which the Architect has previously withheld a Certificate for Payment as provided in Article 9 of AIA Document A232–2019;~~
- ~~**.3** Any amount for which the Contractor does not intend to pay a Subcontractor or material supplier, unless the Work has been performed by others the Contractor intends to pay;~~
- ~~**.4** For Work performed or defects discovered since the last payment application, any amount for which the Architect may withhold payment, or nullify a Certificate of Payment in whole or in part, as provided in Article 9 of AIA Document A232–2019;~~
- ~~**.5** The shortfall, if any, indicated by the Contractor in the documentation required by Section 5.1.5.1 to substantiate prior Applications for Payment, or resulting from errors subsequently discovered by the Owner's auditors in such documentation; and~~
- ~~**.6** Retainage withheld pursuant to Section 5.1.7.~~

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§ 5.1.5.4 The Owner, Construction Manager and Contractor shall agree upon a mutually acceptable procedure for review and approval of payments to Subcontractors and the percentage of retainage held on Subcontracts, and the Contractor shall execute subcontracts in accordance with those agreements.

§ 5.1.5.5 In taking action on the Contractor's Applications for Payment, the Construction Manager and Architect shall be entitled to rely on the accuracy and completeness of the information furnished by the Contractor, and such action shall not be deemed to be a representation that (1) the Construction Manager and Architect have made a detailed examination, audit or arithmetic verification of the documentation submitted in accordance with Article 5 or other supporting data; (2) that the Construction Manager and Architect have made exhaustive or continuous on-site inspections; or (3) that the Construction Manager and Architect have made examinations to ascertain how or for what purposes the Contractor has used amounts previously paid on account of the Contract. Such examinations, audits and verifications, if required by the Owner, will be performed by the Owner's auditors acting in the sole interest of the Owner.

§ 5.1.5.6 Except with the Owner's prior approval, the Contractor shall not make advance payments to suppliers for materials or equipment which have not been delivered and stored at the site.

§ 5.1.5.7 If final completion of the Work is materially delayed through no fault of the Contractor, then the Owner shall pay the Contractor any additional amounts in accordance with Article 9 of AIA Document A232–2019.

§ 5.1.6 Progress Payments Where the Contract Sum is Based on the Cost of the Work with a Guaranteed Maximum Price

§ 5.1.6.1 With each Application for Payment, the Contractor shall submit payrolls, petty cash accounts, receipted invoices or invoices with check vouchers attached, and any other evidence required by the Owner, Construction Manager or Architect to demonstrate that payments already made by the Contractor on account of the Cost of the Work equal or exceed progress payments already received by the Contractor plus payrolls for the period covered by the present Application for Payment, less that portion of the progress payments attributable to the Contractor's Fee.

§ 5.1.6.2 Each Application for Payment shall be based on the most recent schedule of values submitted by the Contractor in accordance with the Contract Documents. The schedule of values shall allocate the entire Guaranteed Maximum Price among: (1) the various portions of the Work; (2) any contingency for costs that are included in the Guaranteed Maximum Price but not otherwise allocated to another line item or included in a Change Order; and (3) the Contractor's Fee.

§ 5.1.6.2.1 The schedule of values shall be prepared in such form, and supported by such data to substantiate its accuracy, as the Construction Manager and Architect may require. This schedule of values shall be used as a basis for reviewing the Contractor's Applications for Payment.

§ 5.1.6.2.2 The allocation of the Guaranteed Maximum Price under this Section 5.1.6.2 shall not constitute a separate guaranteed maximum price for the Cost of the Work of each individual line item in the schedule of values.

§ 5.1.6.2.3 When the Contractor allocates costs from a contingency to another line item in the schedule of values, the Contractor shall submit supporting documentation to the Architect and Construction Manager.

§ 5.1.6.3 Applications for Payment shall show the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment. The percentage of completion shall be the lesser of (1) the percentage of that portion of the Work which has actually been completed; or (2) the percentage obtained by dividing (a) the expense that has actually been incurred by the Contractor on account of that portion of the Work and for which the Contractor has made payment or intends to make payment prior to the next Application for Payment by (b) the share of the Guaranteed Maximum Price allocated to that portion of the Work in the schedule of values.

§ 5.1.6.4 In accordance with AIA Document A232–2019, and subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

§ 5.1.6.4.1 The amount of each progress payment shall first include:

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.1 That portion of the Guaranteed Maximum Price properly allocable to completed Work as determined by multiplying the percentage of completion of each portion of the Work by the share of the Guaranteed Maximum Price allocated to that portion of the Work in the most recent schedule of values;

.2 That portion of the Guaranteed Maximum Price properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction or, if approved in writing in advance by the Owner, suitably stored off the site at a location agreed upon in writing;

.3 That portion of Construction Change Directives that the Architect determines, in the Architect's professional judgment, to be reasonably justified; and

.4 The Contractor's Fee, computed upon the Cost of the Work described in the preceding Sections 5.1.6.4.1.1 and 5.1.6.4.1.2 at the rate stated in Section 4.4.2 or, if the Contractor's Fee is stated as a fixed sum in that Section, an amount that bears the same ratio to that fixed-sum fee as the Cost of the Work included in Sections 5.1.6.4.1.1 and 5.1.6.4.1.2 bears to a reasonable estimate of the probable Cost of the Work upon its completion.

§ 5.1.6.4.2 The amount of each progress payment shall then be reduced by:

.1 The aggregate of any amounts previously paid by the Owner;

.2 The amount, if any, for Work that remains uncorrected and for which the Architect has previously withheld a Certificate for Payment as provided in Article 9 of AIA Document A232–2019;

.3 Any amount for which the Contractor does not intend to pay a Subcontractor or material supplier, unless the Work has been performed by others the Contractor intends to pay;

.4 For Work performed or defects discovered since the last payment application, any amount for which the Architect may withhold payment, or nullify a Certificate of Payment in whole or in part, as provided in Article 9 of AIA Document A232–2019;

.5 The shortfall, if any, indicated by the Contractor in the documentation required by Section 5.1.6.1 to substantiate prior Applications for Payment, or resulting from errors subsequently discovered by the Owner's auditors in such documentation; and

.6 Retainage withheld pursuant to Section 5.1.7.

§ 5.1.6.5 The Owner and the Contractor shall agree upon a mutually acceptable procedure for review and approval of payments to Subcontractors and the percentage of retainage held on Subcontracts, and the Contractor shall execute subcontracts in accordance with those agreements.

§ 5.1.6.6 In taking action on the Contractor's Applications for Payment, the Construction Manager and Architect shall be entitled to rely on the accuracy and completeness of the information furnished by the Contractor and such action shall not be deemed to be a representation that (1) the Construction Manager or Architect have made a detailed examination, audit, or arithmetic verification of the documentation submitted in accordance with Section 5.1.6.1 or other supporting data; (2) that the Construction Manager or Architect have made exhaustive or continuous on-site inspections; or (3) that the Construction Manager or Architect have made examinations to ascertain how or for what purposes the Contractor has used amounts previously paid on account of the Contract. Such examinations, audits, and verifications, if required by the Owner, will be performed by the Owner's auditors acting in the sole interest of the Owner.

§ 5.1.6.7 Except with the Owner's prior approval, the Contractor shall not make advance payments to suppliers for materials or equipment which have not been delivered and stored at the site.

§ 5.1.6.8 If final completion of the Work is materially delayed through no fault of the Contractor, then the Owner shall pay the Contractor any additional amounts in accordance with Article 9 of AIA Document A232-2019.

...

Five Percent (5%)

...

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For major items installed into the Work, the Contractor may request full payment for the items to ensure prompt delivery and fabrication. Such items shall be recommended by the Architect and approved by the Owner as not requiring retainage. Prompt payment for the items shall be documented by the Contractor to the Owner in the subsequent payment application by submitting a full lien release for the items. Major items may include mechanical units with long lead times, structural systems with long lead times, critical path systems or items, etc. Major items will be discussed and defined by Owner, Architect, Construction Manager and Contractor.

...

Prior to Substantial Completion and at the discretion of the Owner, retainage may be reduced. If the Work has been fifty percent (50%) completed as determined by the Architect and is satisfactory to the Owner, then ninety percent (90%) of the retained amount may be released to the Contractor for completed Work (with ten percent (10%) of the total retained by the Owner).

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Upon Substantial Completion, additional retainage may be returned to the Contractor as recommended by the Architect and Construction Manager and approved by the Owner to an amount sufficient to satisfactorily complete the Work. Retainage release will comply with Minnesota Statutes, Section 15.72 after Substantial Completion and punch list acceptance by the Owner.

...

.1 the Contractor has fully performed the Contract except for the Contractor's responsibility to correct Work as provided in Article 12 of AIA Document A232–2019, and to satisfy other requirements, if any, which extend beyond final payment; ~~and~~

.2 a final Certificate for Payment or Project Certificate for Payment has been issued by ~~the Architect.~~the Architect; and

.3 all lien waivers and IC134 forms have been delivered to the Owner.

§ 5.2.1.2 The Owner's final payment to the Contractor shall be made no later than ~~30~~ forty-five (45) days after the issuance of the Architect's final Certificate for Payment or Project Certificate for Payment, or as follows:

...

§ 5.3 Payments due and unpaid under the Contract shall bear interest from the date payment is due at the rate stated ~~below, or in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located.~~below.

...

Zero %

...

The Architect will serve as Initial Decision Maker pursuant to Article 15 of AIA Document ~~A232–2019, unless the parties appoint below another individual, not a party to this Agreement, to serve as Initial Decision Maker.~~
~~*(If the parties mutually agree, insert the name, address and other contact information of the Initial Decision Maker, if other than the Architect.)*~~

A232–2019.

§ 6.1.1 Mediation

The Owner or the Contractor may request mediation of any Claim submitted to the Initial Decision Maker before the decision becomes final and binding. The mediation shall be governed by the Construction Industry Mediation Rules of the American Arbitration Association in effect at the date of this contract. The request for mediation shall be made in

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writing by the party requesting mediation and the other party of this contract. The Owner and Contractor shall participate in mediation in good faith. The mediation shall be concluded within 60 days of the request. Mediation is not a condition precedent to commencing litigation. If litigation is commenced, the Owner and Contractor agree to mediate before any dispositive motion or trial.

PAGE 7

[ ] ~~Litigation in a court of competent jurisdiction.~~ [X] Litigation in a state or federal court of competent jurisdiction located in Hennepin County, Minnesota.

...

Termination fee will be based on the percentage of Work completed and any materials purchased or in production at the time of termination. Said fee and justification shall be provided to the Owner by the Contractor within ten (10) days' notice of the termination.

...

~~**§ 7.2 Where the Contract Sum is Based on the Cost of the Work with or without a Guaranteed Maximum Price**~~

~~**§ 7.2.1 Termination**~~

~~**§ 7.2.1.1** The Contract may be terminated by the Owner or the Contractor as provided in Article 14 of AIA Document A232–2019.~~

~~**§ 7.2.1.2 Termination by the Owner for Cause**~~

~~**§ 7.2.1.2.1** If the Owner terminates the Contract for cause as provided in Article 14 of AIA Document A232–2019, the Owner shall then only pay the Contractor an amount as follows:~~

- ~~**.1** Take the Cost of the Work incurred by the Contractor to the date of termination;~~
- ~~**.2** Add the Contractor's Fee, computed upon the Cost of the Work to the date of termination at the rate stated in Section 4.3.2 or 4.4.2, as applicable, or, if the Contractor's Fee is stated as a fixed sum in that Section, an amount that bears the same ratio to that fixed-sum Fee as the Cost of the Work at the time of termination bears to a reasonable estimate of the probable Cost of the Work upon its completion;~~
- ~~**.3** Subtract the aggregate of previous payments made by the Owner; and~~
- ~~**.4** Subtract the costs and damages incurred, or to be incurred, by the Owner under Article 14 of AIA Document A232–2019.~~

~~**§ 7.2.1.2.2** When the Contract Sum is based on the Cost of the Work with a Guaranteed Maximum Price, if the Owner terminates the Contract for cause as provided in Article 14 of AIA Document A232-2019, the amount, if any, to be paid to the Contractor under Article 14 of AIA Document A232-2019 shall not cause the Guaranteed Maximum Price to be exceeded, nor shall it exceed the amount calculated in Section 7.2.1.2.1.~~

~~**§ 7.2.1.2.3** The Owner shall also pay the Contractor fair compensation, either by purchase or rental at the election of the Owner, for any equipment owned by the Contractor that the Owner elects to retain and that is not otherwise included in the Cost of the Work under Section 7.2.1.2.1.1. To the extent that the Owner elects to take legal assignment of subcontracts and purchase orders (including rental agreements), the Contractor shall, as a condition of receiving the payments referred to in this Article 7, execute and deliver all such papers and take all such steps, including the legal assignment of such subcontracts and other contractual rights of the Contractor, as the Owner may require for the purpose of fully vesting in the Owner the rights and benefits of the Contractor under such subcontracts or purchase orders. All Subcontracts, purchase orders and rental agreements entered into by the Contractor will contain provisions allowing for assignment to the Owner as described above.~~

~~**§ 7.2.1.3 Termination by the Owner for Convenience**~~

~~If the Owner terminates the Contract for convenience in accordance with Article 14 of AIA Document A232–2019, then the Owner shall pay the Contractor a termination fee as follows:~~

~~*(Insert the amount of or method for determining the fee, if any, payable to the Contractor following a termination for the Owner's convenience.)*~~

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~~§ 7.3 Suspension~~

~~The Work may be suspended by the Owner as provided in Article 14 of AIA Document A232–2019; in such case, the Contract Sum and Contract Time shall be increased as provided in Article 14 of AIA Document A232–2019, except that the term "profit" shall be understood to mean the Contractor's Fee as described in Section 4.3.2 or 4.4.2, as applicable, of this Agreement.~~

...

Curtis Hartog, PE, Executive Director
Minneapolis Public Schools, SSD#1
Capital Planning, Construction & Maintenance
1250 West Broadway Avenue, Minneapolis, MN 55411
PAGE 8

Lee Ahola
Project Manager
Grazzini Brothers & Company
1175 Eagan Industrial Road
Eagan, MN 55121

...

§ 8.5 ~~Insurance and Bonds~~**Record Keeping—Availability and Retention**

Pursuant to Minnesota Statutes, Section 16C.05, subd. 5, Contractor agrees that the books, records, documents and accounting procedures and practices of Contractor, that are relevant to the Contract or transaction, are subject to examination by the Owner, the Owner's auditor, and the state auditor for a minimum of six (6) years. Contractor shall maintain such records for a minimum of six (6) years after final payment.

§ 8.6 Data Practices

Pursuant to Minnesota Statutes, Section 13.05, subd. 11, all of the data created, collected, received, stored, used, maintained, or disseminated by Contractor in performing this contract is subject to the requirements of the Minnesota Government Data Practices Act ("MGDPA"), Minnesota Statutes Chapter 13, and Contractor must comply with those requirements as if it were a government entity. The remedies in Minnesota Statutes, Section 13.08 apply to Contractor. Contractor does not have a duty to provide access to public data to the public if the public data are available from the Owner, except as required by the terms of this contract.

§ 8.7 Non-Discrimination

Pursuant to Minnesota Statutes, Section 181.59, the Contractor will take affirmative action to ensure that applicants are selected, and that employees are treated during employment, without regard to their race, color, creed, religion, national origin, sex, sexual orientation, marital status, status with regard to public assistance, membership or activity in a local civil rights commission, disability or age. The Contractor agrees to be bound by the provisions of Minnesota Statutes, Section 181.59, that prohibits certain discriminatory practices and the terms of said section are incorporated into this contract.

§ 8.8 Prompt Payment to Subcontractors

In accordance with the Prompt Payment Act, each Prime Contractor must pay any subcontractor within ten (10) days of the Prime Contractor's receipt of payment from the municipality for undisputed services provided by the subcontractor. The Subcontract must require the Prime Contractor to pay interest of 1-1/2 percent per month or any part of a month to the subcontractor on any undisputed amount not paid on time to the subcontractor. The minimum monthly interest penalty payment for an unpaid balance of $100 or more is $10. For an unpaid balance of less than $100, the Prime Contractor shall pay the actual penalty due to the subcontractor. A subcontractor who prevails in a civil action to collect interest penalties from a Prime Contractor must be awarded its costs and disbursements, including attorney's fees, incurred in bringing the action.

§ 8.9 Prevailing Wage

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Contractor agrees that all laborers or mechanics working on the Project shall receive at least the prevailing wage rate in accordance with Minnesota Statutes Section 177.42, *et seq*. Contractor agrees further that it will incorporate any and all necessary contract language in its agreements with any subcontractors to allow Contractor to monitor and enforce the prevailing wage requirement for subcontractors of any tier.

§ 8.5 Insurance and Bonds

§ 8.5.1 The Owner and the Contractor shall purchase and maintain insurance as set forth ~~in AIA Document A132™–2019, Standard Form of Agreement Between Owner and Contractor, Construction Manager as Adviser Edition, Exhibit A, Insurance and Bonds, and elsewhere in the Contract Documents.~~EXH-C Owner Insurance.

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§ 8.6 Notice in electronic format, pursuant to Article 1 of AIA Document A232–2019, may be given in accordance with ~~a building information modeling exhibit,~~ AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, if completed, or as otherwise set forth below:
(If other than in accordance with ~~a building information modeling exhibit,~~ AIA Document E203–2013, insert requirements for delivering notice in electronic format such as name, title, and email address of the recipient and whether and how the system will be required to generate a read receipt for the transmission.)

email to Owner's representative identified in Section 8.2

...

Owner prohibits Contractor from using the Work in any marketing material or business development practice. Contractor is prohibited from communication with any news outlet or public without Owner's written approval.

Floor plans, designs, wiring, safety and security measures shall be kept confidential by the Contractor, the Subcontractors, the Sub-Subcontractors (of any tier) during and after completion of the Work.

...

.4 ~~Building Information Modeling Exhibit, if completed:~~AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, dated as indicated below:
(Insert the date of the E203-2013 incorporated into this Agreement.)

Not Applicable

...

139		North High School Renovations & CTE Center Vol 1 of 2	November 13, 2024
209		North High School Renovations & CTE Center Vol 2 of 2	November 13, 2024

...

	All Specifications	North High School Renovations and CTE Center Bid Package 4	November 13, 2024	1414

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1	December 2, 2024	70
2	December 9, 2024	165

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EXH-B Project Charter
EXH-C Owner Insurance
EXH-D Project Schedule
(Check all boxes that apply and include appropriate information identifying the exhibit where required.)

~~*[ ] AIA Document A132™ 2019, Exhibit B, Determination of the Cost of the Work*~~

[ ] ~~AIA Document E235™ 2019, Sustainable Projects Exhibit, Construction Manager as Adviser Edition, dated as indicated below:~~
~~*(Insert the date of the E235-2019 incorporated into this Agreement.)*~~

~~[ ] The Sustainability Plan:~~

~~Title~~	~~Date~~	~~Pages~~

...

Contractors Bid Documents

...

Tom Parent, Sr Operations Officer

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Certification of Document's Authenticity

AIA® Document D401™ – 2003

I, , hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with its associated Additions and Deletions Report and this certification at 14:11:04 CT on 02/03/2025 under Order No. 4104251278 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document A132™ – 2019, Standard Form of Agreement Between Owner and Contractor, Construction Manager as Adviser Edition, other than those additions and deletions shown in the associated Additions and Deletions Report.



(Signed)

Curtis Hartog, Executive Director

(Title)

2/3/2025

(Dated)

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AIA® Document A132® – 2019 Exhibit A

Insurance and Bonds

This Insurance and Bonds Exhibit is part of the Agreement, between the Owner and the Contractor, dated the _first_ day of _February____ in the year _2025
(In words, indicate day, month, and year.)

for the following **PROJECT**:
(Name and location or address)

North High School Phase 4 Work Scope 09-D Flooring
1500 James Avenue, Minneapolis, MN 55411

THE OWNER:
(Name, legal status, and address)

Minneapolis Public Schools Special School District #1
1250 West Broadway Avenue
Minneapolis, MN 55411

THE CONTRACTOR:
(Name, legal status, and address)
Grazzini Brothers & Company
1175 Eagan Industrial Road
Eagan, MN 55121

TABLE OF ARTICLES

A.1 GENERAL

A.2 OWNER'S INSURANCE

A.3 CONTRACTOR'S INSURANCE AND BONDS

A.4 SPECIAL TERMS AND CONDITIONS

ARTICLE A.1 GENERAL

The Owner and Contractor shall purchase and maintain insurance, and provide bonds, as set forth in this Exhibit. As used in this Exhibit, the term General Conditions refers to AIA Document A232™–2019, General Conditions of the Contract for Construction.

ARTICLE A.2 OWNER'S INSURANCE

§ A.2.1 General

Prior to commencement of the Work, the Owner shall secure the insurance, and provide evidence of the coverage, required under this Article A.2 and, upon the Contractor's request, provide a copy of the property insurance policy or policies required by Section A.2.3. The copy of the policy or policies provided shall contain all applicable conditions, definitions, exclusions, and endorsements.

§ A.2.2 Liability Insurance

The Owner shall be responsible for purchasing and maintaining the Owner's usual general liability insurance.

ADDITIONS AND DELETIONS:
The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

This document is intended to be used in conjunction with AIA Document A232™–2019, General Conditions of the Contract for Construction. Article 11 of A232™–2019 contains additional insurance provisions

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§ A.2.3 Required Property Insurance

§ A.2.3.1 Unless this obligation is placed on the Contractor pursuant to Section A.3.3.2.1, the Owner shall purchase and maintain, from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located, property insurance policy form and sufficient to cover the total value of the entire Project on a replacement cost basis. The Owner's property insurance coverage shall be no less than the amount of the initial Contract Sum, plus the value of subsequent Modifications and labor performed and materials or equipment supplied by others. The property insurance shall be maintained until Substantial Completion and thereafter as provided in Section A.2.3.1.3, unless otherwise provided in the Contract Documents or otherwise agreed in writing by the parties to this Agreement. This insurance shall include the interests of the Owner, Contractor, Subcontractors, and Sub-subcontractors in the Project as insureds. This insurance shall include the interests of mortgagees as loss payees.

§ A.2.3.1.1 Causes of Loss. The insurance required by this Section A.2.3.1 shall provide coverage for direct physical loss or damage, and shall not exclude the risks of fire, explosion, theft, vandalism, malicious mischief, collapse, earthquake, flood, or windstorm. The insurance shall also provide coverage for ensuing loss or resulting damage from error, omission, or deficiency in construction methods, design, specifications, workmanship, or materials. Sub-limits, if any, are as follows:
(Indicate below the cause of loss and any applicable sub-limit.)

Causes of Loss	Sub-Limit

§ A.2.3.1.2 Specific Required Coverages. The insurance required by this Section A.2.3.1 shall provide coverage for loss or damage to false work and other temporary structures, and to building systems from testing and startup. The insurance shall also cover debris removal, including demolition occasioned by enforcement of any applicable legal requirements, and reasonable compensation for the Architect's, Construction Manager's, and Contractor's services and expenses required as a result of such insured loss, including claim preparation expenses. Sub-limits, if any, are as follows:
(Indicate below type of coverage and any applicable sub-limit for specific required coverages.)

Coverage	Sub-Limit

§ A.2.3.1.3 Unless the parties agree otherwise, upon Substantial Completion, the Owner shall continue the insurance required by Section A.2.3.1 or, if necessary, replace the insurance policy required under Section A.2.3.1 with property insurance written for the total value of the Project that shall remain in effect until expiration of the period for correction of the Work set forth in Section 12.2.2 of the General Conditions.

§ A.2.3.1.4 Deductibles and Self-Insured Retentions. If the insurance required by this Section A.2.3 is subject to deductibles or self-insured retentions, the Owner shall be responsible for all loss not covered because of such deductibles or retentions.

§ A.2.3.2 Occupancy or Use Prior to Substantial Completion. The Owner's occupancy or use of any completed or partially completed portion of the Work prior to Substantial Completion shall not commence until the insurance company or companies providing the insurance under Section A.2.3.1 have consented in writing to the continuance of coverage. The Owner and the Contractor shall take no action with respect to partial occupancy or use that would cause cancellation, lapse, or reduction of insurance, unless they agree otherwise in writing.

§ A.2.3.3 Insurance for Existing Structures

If the Work involves remodeling an existing structure or constructing an addition to an existing structure, the Owner shall purchase and maintain, until the expiration of the period for correction of Work as set forth in Section 12.2.2 of the General Conditions, "all-risks" property insurance, on a replacement cost basis, protecting the existing structure against direct physical loss or damage from the causes of loss identified in Section A.2.3.1, notwithstanding the undertaking of the Work. The Owner shall be responsible for all co-insurance penalties.

§ A.2.4 Optional Extended Property Insurance.

The Owner shall purchase and maintain the insurance selected and described below.

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(Select the types of insurance the Owner is required to purchase and maintain by placing an X in the box(es) next to the description(s) of selected insurance. For each type of insurance selected, indicate applicable limits of coverage or other conditions in the fill point below the selected item.)

[ ] **§ A.2.4.1 Loss of Use, Business Interruption, and Delay in Completion Insurance**, to reimburse the Owner for loss of use of the Owner's property, or the inability to conduct normal operations due to a covered cause of loss.

[ ] **§ A.2.4.2 Ordinance or Law Insurance**, for the reasonable and necessary costs to satisfy the minimum requirements of the enforcement of any law or ordinance regulating the demolition, construction, repair, replacement or use of the Project.

[ ] **§ A.2.4.3 Expediting Cost Insurance**, for the reasonable and necessary costs for the temporary repair of damage to insured property, and to expedite the permanent repair or replacement of the damaged property.

[ ] **§ A.2.4.4 Extra Expense Insurance**, to provide reimbursement of the reasonable and necessary excess costs incurred during the period of restoration or repair of the damaged property that are over and above the total costs that would normally have been incurred during the same period of time had no loss or damage occurred.

[ ] **§ A.2.4.5 Civil Authority Insurance**, for losses or costs arising from an order of a civil authority prohibiting access to the Project, provided such order is the direct result of physical damage covered under the required property insurance.

[ ] **§ A.2.4.6 Ingress/Egress Insurance**, for loss due to the necessary interruption of the insured's business due to physical prevention of ingress to, or egress from, the Project as a direct result of physical damage.

[ ] **§ A.2.4.7 Soft Costs Insurance**, to reimburse the Owner for costs due to the delay of completion of the Work, arising out of physical loss or damage covered by the required property insurance: including construction loan fees; leasing and marketing expenses; additional fees, including those of architects, engineers, consultants, attorneys and accountants, needed for the completion of the construction, repairs, or reconstruction; and carrying costs such as property taxes, building permits, additional interest on loans, realty taxes, and insurance premiums over and above normal expenses.

§ A.2.5 Other Optional Insurance.

The Owner shall purchase and maintain the insurance selected below.

(Select the types of insurance the Owner is required to purchase and maintain by placing an X in the box(es) next to the description(s) of selected insurance.)

[ ] **§ A.2.5.1 Cyber Security Insurance** for loss to the Owner due to data security and privacy breach, including costs of investigating a potential or actual breach of confidential or private information.

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(Indicate applicable limits of coverage or other conditions in the fill point below.)

[ ] **§ A.2.5.2 Other Insurance**
(List below any other insurance coverage to be provided by the Owner and any applicable limits.)

Coverage	Limits

ARTICLE A.3 CONTRACTOR'S INSURANCE AND BONDS

§ A.3.1 General

§ A.3.1.1 Certificates of Insurance. The Contractor shall provide certificates of insurance acceptable to the Owner evidencing compliance with the requirements in this Article A.3 at the following times: (1) prior to commencement of the Work; (2) upon renewal or replacement of each required policy of insurance; and (3) upon the Owner's written request. An additional certificate evidencing continuation of commercial liability coverage, including coverage for completed operations, shall be submitted with the final Application for Payment and thereafter upon renewal or replacement of such coverage until the expiration of the periods required by Section A.3.2.1 and Section A.3.3.1. The certificates will show the Owner as an additional insured on the Contractor's Commercial General Liability and excess or umbrella liability policy or policies.

§ A.3.1.2 Deductibles and Self-Insured Retentions. The Contractor shall disclose to the Owner any deductible or self-insured retentions applicable to any insurance required to be provided by the Contractor.

§ A.3.1.3 Additional Insured Obligations. To the fullest extent permitted by law, the Contractor shall cause the commercial general liability coverage to include (1) the Owner, the Architect and the Architect's consultants, and the Construction Manager and the Construction Manager's consultants, as additional insureds for claims caused in whole or in part by the Contractor's negligent acts or omissions during the Contractor's operations; and (2) the Owner as an additional insured for claims caused in whole or in part by the Contractor's negligent acts or omissions for which loss occurs during completed operations. The additional insured coverage shall be primary and non-contributory to any of the Owner's general liability insurance policies and shall apply to both ongoing and completed operations. To the extent commercially available, the additional insured coverage shall be no less than that provided by Insurance Services Office, Inc. (ISO) forms CG 20 10 07 04, CG 20 37 07 04, and, with respect to the Architect and the Architect's consultants, and the Construction Manager and the Construction Manager's consultants, CG 20 32 07 04.

§ A.3.2 Contractor's Required Insurance Coverage

§ A.3.2.1 The Contractor shall purchase and maintain the types and limits of insurance as defined in EXH-C Owner Insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The Contractor shall maintain the required insurance until the expiration of the period for correction of Work as set forth in Section 12.2.2 of the General Conditions, unless a different duration is stated below:
(If the Contractor is required to maintain insurance for a duration other than the expiration of the period for correction of Work, state the duration.)

§ A.3.2.2 Commercial General Liability

§ A.3.2.2.1 Commercial General Liability insurance for the Project written on an occurrence form with policy limits as defined in EXH-C Owner Insurance providing coverage for claims including

.1 damages because of bodily injury, sickness or disease, including occupational sickness or disease, and death of any person;
.2 personal injury and advertising injury;
.3 damages because of physical damage to or destruction of tangible property, including the loss of use of such property;
.4 bodily injury or property damage arising out of completed operations; and
.5 the Contractor's indemnity obligations under Section 3.18 of the General Conditions.

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§ A.3.2.2.2 The Contractor's Commercial General Liability policy under this Section A.3.2.2 shall not contain an exclusion or restriction of coverage for the following:

.1 Claims by one insured against another insured, if the exclusion or restriction is based solely on the fact that the claimant is an insured, and there would otherwise be coverage for the claim.

.2 Claims for property damage to the Contractor's Work arising out of the products-completed operations hazard where the damaged Work or the Work out of which the damage arises was performed by a Subcontractor.

.3 Claims for bodily injury other than to employees of the insured.

.4 Claims for indemnity under Section 3.18 of the General Conditions arising out of injury to employees of the insured.

.5 Claims or loss excluded under a prior work endorsement or other similar exclusionary language.

.6 Claims or loss due to physical damage under a prior injury endorsement or similar exclusionary language.

.7 Claims related to residential, multi-family, or other habitational projects, if the Work is to be performed on such a project.

.8 Claims related to roofing, if the Work involves roofing.

.9 Claims related to exterior insulation finish systems (EIFS), synthetic stucco or similar exterior coatings or surfaces, if the Work involves such coatings or surfaces.

.10 Claims related to earth subsidence or movement, where the Work involves such hazards.

.11 Claims related to explosion, collapse and underground hazards, where the Work involves such hazards.

§ A.3.2.3 Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Contractor, with policy limits as defined in EXH-C Owner Insurance.

§ A.3.2.4 The Contractor may achieve the required limits and coverage for Commercial General Liability and Automobile Liability through a combination of primary and excess or umbrella liability insurance, provided such primary and excess or umbrella insurance policies result in the same or greater coverage as the coverages required under Section A.3.2.2 and A.3.2.3, and in no event shall any excess or umbrella liability insurance provide narrower coverage than the primary policy. The excess policy shall not require the exhaustion of the underlying limits only through the actual payment by the underlying insurers. Umbrella coverage as defined in EXH-C Owner Insurance.

§ A.3.2.5 Workers' Compensation at statutory limits for Coverage A as defined in EXH-C Owner Insurance.

§ A.3.2.6 Employers' Liability Coverage B as defined in EXH-C Owner Insurance.

§ A.3.2.7 If the Contractor is required to furnish professional services as part of the Work, the Contractor shall procure Professional Liability insurance covering performance of the professional services, with policy limits as defined in EXH-C Owner Insurance.

§ A.3.2.8 Insurance for the use or operation of manned or unmanned aircraft, if the Work requires such activities, with policy limits as defined in EXH-C Owner Insurance.

(Paragraphs deleted)

§ A.3.3 Contractor's Other Insurance Coverage

§ A.3.3.1 Insurance selected and described in this Section A.3.3 shall be purchased from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The Contractor shall maintain the required insurance until the expiration of the period for correction of Work as set forth in Section 12.2.2 of the General Conditions, unless a different duration is stated below:
(If the Contractor is required to maintain any of the types of insurance selected below for a duration other than the expiration of the period for correction of Work, state the duration.)

If Professional Liability insurance is required as part of the Contract, the Contractor shall maintain coverage for one year beyond the date of Substantial Completion.

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§ A.3.3.2 The Contractor shall purchase and maintain the types and limits of insurance as defined in EXH-C Owner Insurance.

(Paragraphs deleted)

§ A.3.4 Performance Bond and Payment Bond

The Contractor shall provide surety bonds, from a company or companies lawfully authorized to issue surety bonds in the jurisdiction where the Project is located, as follows:
(Specify type and penal sum of bonds.)

Type	Penal Sum ($0.00)
Payment Bond	$376,835
Performance Bond	$376,835

Payment and Performance Bonds shall be AIA Document A312™, Payment Bond and Performance Bond, or contain provisions identical to AIA Document A312™, current as of the date of this Agreement.

ARTICLE A.4 SPECIAL TERMS AND CONDITIONS

Special terms and conditions that modify this Insurance and Bonds Exhibit, if any, are as follows:

None

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Additions and Deletions Report for
AIA® Document A132® – 2019 Exhibit A

This Additions and Deletions Report, as defined on page 1 of the associated document, reproduces below all text the author has added to the standard form AIA document in order to complete it, as well as any text the author may have added to or deleted from the original AIA text. Added text is shown underlined. Deleted text is indicated with a horizontal line through the original AIA text.

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PAGE 1

This Insurance and Bonds Exhibit is part of the Agreement, between the Owner and the Contractor, dated the _first_ day of _February_____in the year _2025

...

North High School Phase 4 Work Scope 09-D Flooring
1500 James Avenue, Minneapolis, MN 55411

...

Minneapolis Public Schools Special School District #1
1250 West Broadway Avenue
Minneapolis, MN 55411

...

Grazzini Brothers & Company
1175 Eagan Industrial Road
Eagan, MN 55121

PAGE 2

§ A.2.3.1 Unless this obligation is placed on the Contractor pursuant to Section A.3.3.2.1, the Owner shall purchase and maintain, from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located, property insurance ~~written on a builder's risk "all-risks" completed value or equivalent~~ policy form and sufficient to cover the total value of the entire Project on a replacement cost basis. The Owner's property insurance coverage shall be no less than the amount of the initial Contract Sum, plus the value of subsequent Modifications and labor performed and materials or equipment supplied by others. The property insurance shall be maintained until Substantial Completion and thereafter as provided in Section A.2.3.1.3, unless otherwise provided in the Contract Documents or otherwise agreed in writing by the parties to this Agreement. This insurance shall include the interests of the Owner, Contractor, Subcontractors, and Sub-subcontractors in the Project as insureds. This insurance shall include the interests of mortgagees as loss payees.

PAGE 4

§ A.3.2.1 The Contractor shall purchase and maintain the ~~following~~ types and limits of insurance as defined in EXH-C Owner Insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The Contractor shall maintain the required insurance until the expiration of the period for correction of Work as set forth in Section 12.2.2 of the General Conditions, unless a different duration is stated below:

...

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§ A.3.2.2.1 Commercial General Liability insurance for the Project written on an occurrence form with policy limits ~~of not less than ($) each occurrence, ($) general aggregate, and ($) aggregate for products-completed operations hazard,~~ as defined in EXH-C Owner Insurance providing coverage for claims including

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§ A.3.2.3 Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Contractor, with policy limits ~~of not less than ($) per accident, for bodily injury, death of any person, and property damage arising out of the ownership, maintenance and use of those motor vehicles along with any other statutorily required automobile coverage.~~as defined in EXH-C Owner Insurance.

§ A.3.2.4 The Contractor may achieve the required limits and coverage for Commercial General Liability and Automobile Liability through a combination of primary and excess or umbrella liability insurance, provided such primary and excess or umbrella insurance policies result in the same or greater coverage as the coverages required under Section A.3.2.2 and A.3.2.3, and in no event shall any excess or umbrella liability insurance provide narrower coverage than the primary policy. The excess policy shall not require the exhaustion of the underlying limits only through the actual payment by the underlying insurers. Umbrella coverage as defined in EXH-C Owner Insurance.

§ A.3.2.5 Workers' Compensation at statutory ~~limits.~~limits for Coverage A as defined in EXH-C Owner Insurance.

§ A.3.2.6 Employers' Liability ~~with policy limits not less than ($) each accident, ($) each employee, and ($) policy limit.~~Coverage B as defined in EXH-C Owner Insurance.

§ A.3.2.7 ~~Jones Act, and the Longshore & Harbor Workers' Compensation Act, as required, if the Work involves hazards arising from work on or near navigable waterways, including vessels and docks~~ If the Contractor is required to furnish professional services as part of the Work, the Contractor shall procure Professional Liability insurance covering performance of the professional services, with policy limits as defined in EXH-C Owner Insurance.

§ A.3.2.8 ~~If the Contractor is required to furnish professional services as part of the Work, the Contractor shall procure Professional Liability insurance covering performance of the professional services, with policy limits of not less than ($) per claim and ($) in the aggregate.~~Insurance for the use or operation of manned or unmanned aircraft, if the Work requires such activities, with policy limits as defined in EXH-C Owner Insurance.

~~**§ A.3.2.9** If the Work involves the transport, dissemination, use, or release of pollutants, the Contractor shall procure Pollution Liability insurance, with policy limits of not less than ($) per claim and ($) in the aggregate.~~

~~**§ A.3.2.10** Coverage under Sections A.3.2.8 and A.3.2.9 may be procured through a Combined Professional Liability and Pollution Liability insurance policy, with combined policy limits of not less than ($) per claim and ($) in the aggregate.~~

~~**§ A.3.2.11** Insurance for maritime liability risks associated with the operation of a vessel, if the Work requires such activities, with policy limits of not less than ($) per claim and ($) in the aggregate.~~

~~**§ A.3.2.12** Insurance for the use or operation of manned or unmanned aircraft, if the Work requires such activities, with policy limits of not less than ($) per claim and ($) in the aggregate.~~

...

If Professional Liability insurance is required as part of the Contract, the Contractor shall maintain coverage for one year beyond the date of Substantial Completion.

§ A.3.3.2 The Contractor shall purchase and maintain the ~~following~~ types and limits of insurance ~~in accordance with Section A.3.3.1.~~as defined in EXH-C Owner Insurance.

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(Select the types of insurance the Contractor is required to purchase and maintain by placing an X in the box(es) next to the description(s) of selected insurance. Where policy limits are provided, include the policy limit in the appropriate fill point.)

[–] **§ A.3.3.2.1** If there is only one Contractor performing the Work on the Project, property insurance of the same type and scope satisfying the requirements identified in Section A.2.3, which, if selected in this section A.3.3.2.1, relieves the Owner of the responsibility to purchase and maintain such insurance except insurance required by Section A.2.3.1.3 and Section A.2.3.3. The Contractor shall comply with all obligations of the Owner under Section A.2.3 except to the extent provided below. The Contractor shall disclose to the Owner the amount of any deductible, and the Owner shall be responsible for losses within the deductible. Upon request, the Contractor shall provide the Owner with a copy of the property insurance policy or policies required. The Owner shall adjust and settle the loss with the insurer and be the trustee of the proceeds of the property insurance in accordance with Article 11 of the General Conditions unless otherwise set forth below:
(Where the Contractor's obligation to provide property insurance differs from the Owner's obligations as described under Section A.2.3, indicate such differences in the space below. Additionally, if a party other than the Owner will be responsible for adjusting and settling a loss with the insurer and acting as the trustee of the proceeds of property insurance in accordance with Article 11 of the General Conditions, indicate the responsible party below.)

[–] **§ A.3.3.2.2 Railroad Protective Liability Insurance**, with policy limits of not less than ($) per claim and ($) in the aggregate, for Work within fifty (50) feet of railroad property.

[–] **§ A.3.3.2.3 Asbestos Abatement Liability Insurance**, with policy limits of not less than ($) per claim and ($) in the aggregate, for liability arising from the encapsulation, removal, handling, storage, transportation, and disposal of asbestos-containing materials.

[–] **§ A.3.3.2.4** Insurance for physical damage to property while it is in storage and in transit to the construction site on an "all-risks" completed value form.

[–] **§ A.3.3.2.5** Property insurance on an "all-risks" completed value form, covering property owned by the Contractor and used on the Project, including scaffolding and other equipment.

[–] **§ A.3.3.2.6 Other Insurance**
(List below any other insurance coverage to be provided by the Contractor and any applicable limits.)

Coverage	**Limits**

§ A.3.4 Performance Bond and Payment Bond
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Payment Bond	$376,835
Performance Bond	$376,835

...

None

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AIA® Document A232® – 2019

General Conditions of the Contract for Construction, *Construction Manager as Adviser Edition*

for the following PROJECT:
(Name, and location or address)

North High School Phase 4 Work Scope 09-D Flooring
1500 James Avenue, Minneapolis, MN 55411

THE CONSTRUCTION MANAGER:
(Name, legal status, and address)

Kraus-Anderson Construction Company
501 South 8th Street, Minneapolis, MN 55404

THE OWNER:
(Name, legal status, and address)

Minneapolis Public Schools Special School District #1
1250 West Broadway Avenue
Minneapolis, MN 55411

THE ARCHITECT:
(Name, legal status, and address)

LSE Architects 1401 Glenwood Avenue
Minneapolis, MN 55405

ADDITIONS AND DELETIONS:
The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

This document is intended to be used in conjunction with AIA Documents A132™–2019, Standard Form of Agreement Between Owner and Contractor, Construction Manager as Adviser Edition; B132™–2019, Standard Form of Agreement Between Owner and Architect, Construction Manager as Adviser Edition; and C132™–2019, Standard Form of Agreement Between Owner and Construction Manager as Adviser.

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ARTICLE 1 GENERAL PROVISIONS

§ 1.1 Basic Definitions

§ 1.1.1 The Contract Documents. The Contract Documents are enumerated in the Agreement between the Owner and Contractor (hereinafter the Agreement) and consist of the Agreement, Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, Addenda issued prior to execution of the Contract, other documents listed in the Agreement, and Modifications issued after execution of the Contract. A Modification is (1) a written amendment to the Contract signed by both parties, (2) a Change Order, (3) a Construction Change Directive, or (4) a written order for a minor change in the Work issued by the Architect. Unless specifically enumerated in the Agreement, the Contract Documents do not include the advertisement or invitation to bid, Instructions to Bidders, sample forms, other information furnished by the Owner in anticipation of receiving bids or proposals, the Contractor's bid or proposal, or portions of addenda relating to bidding or proposal requirements.

§ 1.1.1.1 Notwithstanding the foregoing, it is understood and agreed that the Owner is an intended third-party beneficiary of all contracts between the Contractor and Subcontractors or suppliers who provide labor and/or materials for the Work.

§ 1.1.2 The Contract. The Contract Documents form the Contract for Construction. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations, or agreements, either written or oral. The Contract may be amended or modified only by a Modification. The Contract Documents shall not be construed to create a contractual relationship of any kind (1) between the Contractor and the Architect or the Architect's consultants, (2) between the Owner and the Construction Manager or the Construction Manager's consultants, (3) between the Owner and the Architect or the Architect's consultants, (4) between the Contractor and the Construction Manager or the Construction Manager's consultants, (5) between the Owner and a Subcontractor or Sub-subcontractor (6) between the Construction Manager and the Architect, or (7) between any persons or entities other than the Owner and Contractor. The Construction Manager and Architect shall, however, be entitled to performance and enforcement of obligations under the Contract intended to facilitate performance of their duties.

§ 1.1.3 The Work. The term "Work" means the construction and services required by the Contract Documents, whether completed or partially completed, and includes all other labor, materials, equipment, and services provided or to be provided by the Contractor to fulfill the Contractor's obligations. The Work may constitute the whole or a part of the Project.

§ 1.1.4 The Project. The Project is the total construction of which the Work performed under the Contract Documents may be the whole or a part and which may include construction by other Contractors, and by the Owner's own forces and Separate Contractors.

§ 1.1.5 Contractors. Contractors are persons or entities, other than the Contractor or Separate Contractors, who perform Work under contracts with the Owner that are administered by the Architect and Construction Manager.

§ 1.1.6 Separate Contractors. Separate Contractors are persons or entities who perform construction under separate contracts with the Owner not administered by the Architect and Construction Manager.

§ 1.1.7 The Drawings. The Drawings are the graphic and pictorial portions of the Contract Documents showing the design, location and dimensions of the Work, generally including plans, elevations, sections, details, schedules, and diagrams.

§ 1.1.8 The Specifications. The Specifications are that portion of the Contract Documents consisting of the written requirements for materials, equipment, systems, standards and workmanship for the Work, and performance of related services.

§ 1.1.9 Instruments of Service. Instruments of Service are representations, in any medium of expression now known or later developed, of the tangible and intangible creative work performed by the Architect and the Architect's consultants under their respective professional services agreements. Instruments of Service may include, without limitation, studies, surveys, models, sketches, drawings, specifications, and other similar materials.

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§ 1.1.10 Initial Decision Maker. The Initial Decision Maker is the person identified in the Agreement to render initial decisions on Claims in accordance with Section 15.2. The Architect will serve as the Initial Decision Maker pursuant to Section 15.2 of AIA Document A232–2019.

§ 1.2 Correlation and Intent of the Contract Documents

§ 1.2.1 The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work by the Contractor. The Contract Documents are complementary, and what is required by one shall be as binding as if required by all; performance by the Contractor shall be required only to the extent consistent with the Contract Documents and reasonably inferable from them as being necessary to produce the intended results.

§ 1.2.1.1 The invalidity of any provision of the Contract Documents shall not invalidate the Contract or its remaining provisions. In such case the Contract Documents shall be construed, to the fullest extent permitted by law, to give effect to the parties' intentions and purposes in executing the Contract.

§ 1.2.2 Organization of the Specifications into divisions, sections and articles, and arrangement of Drawings shall not control the Contractor in dividing the Work among Subcontractors or in establishing the extent of Work to be performed by any trade.

§ 1.2.3 Unless otherwise stated in the Contract Documents, words that have well-known technical or construction industry meanings are used in the Contract Documents in accordance with such recognized meanings.

§ 1.3 Capitalization

Terms capitalized in these General Conditions include those that are (1) specifically defined, (2) the titles of numbered articles, or (3) the titles of other documents published by the American Institute of Architects.

§ 1.4 Interpretation

In the interest of brevity the Contract Documents frequently omit modifying words such as "all" and "any" and articles such as "the" and "an," but the fact that a modifier or an article is absent from one statement and appears in another is not intended to affect the interpretation of either statement.

§ 1.4.1 In the case of inconsistency between Drawings and Specifications or within Contract Documents not clarified by Addenda, the better quality or greater quantity of Work shall be provided in accordance with the Architect's interpretation.

§ 1.5 Ownership and Use of Drawings, Specifications, and Other Instruments of Service

§ 1.5.1 The Architect and the Architect's consultants shall be deemed the authors and owners of their respective Instruments of Service, including the Drawings and Specifications, and retain all common law, statutory, and other reserved rights in their Instruments of Service, including copyrights. The Contractor, Subcontractors, sub-subcontractors, and suppliers shall not own or claim a copyright in the Instruments of Service. Submittal or distribution to meet official regulatory requirements or for other purposes in connection with the Project is not to be construed as publication in derogation of the Architect's or Architect's consultants' reserved rights. The Owner retains rights to the Instruments of Service pursuant to Article 7 of AIA Document B101-2017.

§ 1.5.2 The Contractor, Subcontractors, Sub-subcontractors, and suppliers are authorized to use and reproduce the Instruments of Service provided to them, subject to any protocols established pursuant to Sections 1.7 and 1.8, solely and exclusively for execution of the Work. All copies made under this authorization shall bear the copyright notice, if any, shown on the Instruments of Service. The Contractor, Subcontractors, Sub-subcontractors, and suppliers may not use the Instruments of Service on other projects or for additions to the Project outside the scope of the Work without the specific written consent of the Owner, Architect, and the Architect's consultants.

§ 1.5.3 The Architect shall furnish to the Contractor a version of the Instruments of Service in electronic form for the sole purpose of the construction of the Project for which the Instruments of Service were created.

§ 1.6 Notice

§ 1.6.1 Except as otherwise provided in Section 1.6.2, where the Contract Documents require one party to notify or give notice to the other party, such notice shall be provided in writing to the designated representative of the party to

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whom the notice is addressed and shall be deemed to have been duly served if delivered in person, by mail, by courier, or by electronic transmission if a method for electronic transmission is set forth in the Agreement.

§ 1.6.2 Notice of Claims as provided in Section 15.1.3 shall be provided in writing and shall be deemed to have been duly served only if delivered to the designated representative of the party to whom the notice is addressed by certified or registered mail, or by courier providing proof of delivery.

§ 1.7 Digital Data Use and Transmission

The parties shall agree upon protocols governing the transmission and use of Instruments of Service or any other information or documentation in digital form. The parties may use AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit or other form, to establish the protocols for the development, use, transmission, and exchange of digital data.

§ 1.8 Building Information Models Use and Reliance

Any use of, or reliance on, all or a portion of a building information model without agreement to protocols governing the use of, and reliance on, the information contained in the model and without having those protocols set forth in AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, and the requisite AIA Document G202™–2013, Project Building Information Modeling Protocol Form or other form, shall be at the using or relying party's sole risk and without liability to the other party and its contractors or consultants, the authors of, or contributors to, the building information model, and each of their agents and employees.

ARTICLE 2 OWNER

§ 2.1 General

§ 2.1.1 The Owner is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The Owner shall designate in writing a representative who shall have express authority to bind the Owner with respect to all matters requiring the Owner's approval or authorization in accordance with Owner's Delegation of Authority Policy, a copy of which will be provided at Contractor's request. Except as otherwise provided in Section 4.2.1, the Construction Manager and the Architect do not have such authority. The term "Owner" means the Owner or the Owner's authorized representative.

(Paragraph deleted)

§ 2.2 Evidence of the Owner's Financial Arrangements

§ 2.2.1 Prior to commencement of the Work, and upon written request by the Contractor, the Owner shall furnish to the Contractor reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Contract. The Contractor shall have no obligation to commence the Work until the Owner provides such evidence. If commencement of the Work is delayed under this Section 2.2.1, the Contract Time shall be extended appropriately.

§ 2.2.2 Following commencement of the Work and upon written request by the Contractor, the Owner shall furnish to the Contractor reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Contract only if (1) the Owner fails to make payments to the Contractor as the Contract Documents require; (2) the Contractor identifies in writing a reasonable concern regarding the Owner's ability to make payment when due; or (3) a change in the Work materially changes the Contract Sum. If the Owner fails to provide such evidence, as required, within fourteen days of the Contractor's request, the Contractor may immediately stop the Work and, in that event, shall notify the Owner that the Work has stopped. However, if the request is made because a change in the Work materially changes the Contract Sum under (3) above, the Contractor may immediately stop only that portion of the Work affected by the change until reasonable evidence is provided. If the Work is stopped under this Section 2.2.2, the Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable costs of shutdown, delay and start-up, plus interest as provided in the Contract Documents.

§ 2.2.3 After the Owner furnishes evidence of financial arrangements under this Section 2.2, the Owner shall not materially vary such financial arrangements without prior notice to the Contractor.

§ 2.2.4 Where the Owner has designated information furnished under this Section 2.2 as "confidential," the Contractor shall keep the information confidential and shall not disclose it to any other person. However, the Contractor may disclose "confidential" information, after seven (7) days' notice to the Owner, where disclosure is required by law, including a subpoena or other form of compulsory legal process issued by a court or governmental entity, or by court

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or arbitrator(s) order. The Contractor may also disclose "confidential" information to its employees, consultants, sureties, Subcontractors and their employees, Sub-subcontractors, and others who need to know the content of such information solely and exclusively for the Project and who agree to maintain the confidentiality of such information.

§ 2.3 Information and Services Required of the Owner

§ 2.3.1 Except for permits and fees that are the responsibility of the Contractor under the Contract Documents, including those required under Section 3.7.1, the Owner shall secure and pay for necessary approvals, easements, assessments and charges required for construction, use or occupancy of permanent structures or for permanent changes in existing facilities. Unless otherwise provided under the Contract Documents, the Owner, assisted by the Construction Manager, shall secure and pay for the building permit.

§ 2.3.2 The Owner shall retain an architect lawfully licensed to practice architecture, or an entity lawfully practicing architecture, in the jurisdiction where the Project is located. That person or entity is identified as the Architect in the Agreement and is referred to throughout the Contract Documents as if singular in number.

§ 2.3.3 The Owner shall retain a construction manager adviser lawfully practicing construction management in the jurisdiction where the Project is located. That person or entity is identified as the Construction Manager in the Agreement and is referred to throughout the Contract Documents as if singular in number.

§ 2.3.4 If the employment of the Construction Manager or Architect terminates, the Owner shall employ a successor construction manager or architect to whom the Contractor has no reasonable objection and whose status under the Contract Documents shall be that of the Construction Manager or Architect, respectively.

§ 2.3.5 If requested by the Contractor and reasonably required for the Project, the Owner shall furnish surveys describing physical characteristics, legal limitations and utility locations for the site of the Project, and a written legal description of the site. The Contractor shall exercise proper precautions relating to the safe performance of the Work.

§ 2.3.6 The Owner shall furnish information or services required of the Owner by the Contract Documents with reasonable promptness. The Owner shall also furnish any other information or services under the Owner's control and relevant to the Contractor's performance of the Work with reasonable promptness after receiving the Contractor's written request for such information or services. The Contractor is responsible for the timeliness of, or interference caused by, Subcontractors, Sub-subcontractors (of any tier), and others directly or indirectly under contract to the Contractor.

§ 2.3.7 Unless otherwise provided in the Contract Documents, the Owner shall furnish to the Contractor one copy of the Contract Documents for purposes of making reproductions pursuant to Section 1.5.2.

§ 2.3.8 The Owner shall forward all communications to the Contractor through the Construction Manager. Other communication shall be made as set forth in Section 4.2.6.

§ 2.4 Owner's Right to Stop the Work

If the Contractor fails to correct Work that is not in accordance with the requirements of the Contract Documents as required by Section 12.2 or repeatedly fails to carry out Work in accordance with the Contract Documents, the Owner may issue a written order to the Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, the right of the Owner to stop the Work shall not give rise to a duty on the part of the Owner to exercise this right for the benefit of the Contractor or any other person or entity, except to the extent required by Section 6.1.3.

§ 2.5 Owner's Right to Carry Out the Work

If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within a three-business-day (3) period after receipt of notice from the Owner to commence and continue correction of such default or neglect with diligence and promptness, the Owner may, without prejudice to other remedies the Owner may have, correct such default or neglect. Such action by the Owner and amounts charged to the Contractor are both subject to review by the Construction Manager and prior approval of the Architect, and the Construction Manager or Architect may, pursuant to Section 9.5.1, withhold or nullify a Certificate for Payment in whole or in part, to the extent reasonably necessary to reimburse the Owner for the reasonable cost of correcting such deficiencies, including Owner's expenses and compensation for the Construction Manager's and Architect's and their respective consultants'

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additional services and expenses made necessary by such default, neglect, or failure. If current and future payments are not sufficient to cover such amounts, the Contractor shall pay the difference to the Owner within ten (10) days following written request for payment delivered by the Owner to the Contractor. If the Contractor disagrees with the actions of the Owner or the Architect, or the amounts claimed as costs to the Owner, the Contractor may file a Claim pursuant to Article 15.

ARTICLE 3 CONTRACTOR

§ 3.1 General

§ 3.1.1 The Contractor is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The Contractor shall be lawfully licensed, if required in the jurisdiction where the Project is located. The Contractor shall designate in writing a representative who shall have express authority to bind the Contractor with respect to all matters under this Contract. The term "Contractor" means the Contractor or the Contractor's authorized representative.

§ 3.1.2 The Contractor shall perform the Work in accordance with the Contract Documents.

§ 3.1.3 The Contractor shall hire a professional utilities locator to investigate and verify all private utility locations prior to excavation and cutting into of existing Work. The Contractor is responsible for locating, terminating, and reinstallation of all private utilities. Private site utilities may not be in the Drawings and Project Manual and as such, verification of private utilities is the sole responsibility of the Contractor. Costs associated with moving and repairing of unknown and undocumented utilities will be by appropriate Change Order. The Contractor shall comply with Gopher State One Call, or other public utility service locator to locate all public utilities prior to any work on the site. This shall not relieve Contractor from obligations under Article 3.

§ 3.1.4 The Contractor shall not be relieved of its obligations to perform the Work in accordance with the Contract Documents either by activities or duties of the Construction Manager or Architect in their administration of the Contract, or by tests, inspections or approvals required or performed by persons or entities other than the Contractor.

§ 3.2 Review of Contract Documents and Field Conditions by Contractor

§ 3.2.1 The Contractor shall carefully study and compare the Contract Documents with each other and with information furnished by the Owner pursuant to Section 2.2.3, and shall immediately report to the Architect and Construction Manager errors, inconsistencies, or omissions discovered. The Contractor shall not be liable to the Owner or Architect for damage resulting from errors, inconsistencies, or omissions in the Contract Document unless the Contractor recognized such error, inconsistency, or omission and knowingly failed to report it to the Architect. If the Contractor performs any construction activity knowing or believing it involves a recognized error, inconsistency, or omission in the Contract Documents without such notice to the Architect, the Contractor shall assume full responsibility for such performance and shall bear the attributable costs for correction and shall bear responsibility for any additional costs, delays, and damages resulting from such failure to immediately report any such errors, inconsistencies, or omissions which the Contractor may discover. By executing the Contract, the Contractor represents that the Contractor has reviewed and understands the Contract Documents, has visited the Site and is familiar with local conditions under which the Work is to be performed, has correlated personal observations with the requirements of the Contract Documents, and has notified the Architect of and obtained clarification of any discrepancies which have become apparent during the bidding or proposal period.

§ 3.2.1.1 The Contractor shall take field measurements and verify field conditions and shall carefully compare such field measurements and conditions and other information known to the Contractor with the Contract Documents before commencing activities. Errors, inconsistencies, or omissions discovered shall be reported to the Architect immediately in writing.

§ 3.2.1.2 The Contractor shall carefully study and compare the Contract Documents with existing conditions at the job site and shall immediately report in writing to the Architect any error, inconsistency, or omission which the Contractor may discover or any materials, systems, procedures, or methods of construction, either shown on the Drawings or specified, which the Contractor has reason to believe are incorrect, inadequate, obsolete, unsuitable for the purpose intended or which the Contractor has reason to believe would constitute or result in a violation of the Contractor's warranty under Section 3.5 or applicable law. The Contractor shall not proceed with any work in such areas until written instructions are received from the Architect.

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§ 3.2.2 The Contractor shall perform the Work in accordance with the Contract Documents and submittals accepted pursuant to Section 3.12.

§ 3.2.3 The Owner shall be entitled to deduct from the Contract Sum amounts paid to the Architect for the Architect to evaluate and respond to the Contractor's requests for interpretation or information where such information was available to the Contractor from a careful study and comparison of the Contract Documents, Filed Conditions, Owner Provided Information, Contractor Prepared Coordination Drawings, or prior Project Correspondence or Documentation.

§ 3.2.4 If the Contractor believes that any portions of the Contract Documents do not comply with applicable laws, statutes, ordinances, building codes, and rules and regulations, or any orders by code enforcement officials or the Owner or its designees acting in the capacity of building code inspectors or Referenced Standards, the Contractor must promptly notify the Owner and the Architect of the non-compliance as provided in Section 3.2.6 and request direction before proceeding with the affected Work.

§ 3.2.5 The Contractor must promptly notify the Owner and the Architect in writing of any apparent errors, inconsistencies, omissions, ambiguities, construction impracticalities or code violations discovered as a result of the Contractor's review of the Contract Documents including any differences between actual and indicated dimensions, locations and descriptions, and must give the Owner and the Architect timely notice in writing of same and of any corrections, clarifications, additional Drawings or Specifications, or other information required to define the Work in greater detail or to permit the proper progress of the Work. The Contractor must provide similar notice with respect to any variance between its review of the Site and physical data and Site conditions observed.

§ 3.2.6 If the Contractor performs any Work involving an apparent error, inconsistency, ambiguity, construction impracticality, omission or code violation in the Contract Documents of which the Contractor is aware, or which could reasonably have been discovered by the review required by Section 3.2, without prompt written notice to the Owner and the Architect and request for correction, clarification or additional information, as appropriate, the Contractor does so at its own risk and expense and all Claims relating thereafter are specifically waived.

§ 3.3 Supervision and Construction Procedures

§ 3.3.1 The Contractor shall supervise and direct the Work, using the Contractor's best skill and attention. The Contractor shall be solely responsible for, and have control over, construction means, methods, techniques, sequences, and procedures, and for coordinating all portions of the Work under the Contract. If the Contract Documents give specific instructions concerning construction means, methods, techniques, sequences, or procedures, the Contractor shall evaluate the jobsite safety thereof and shall be solely responsible for the jobsite safety of such means, methods, techniques, sequences, or procedures. If the Contractor determines that such means, methods, techniques, sequences or procedures may not be safe, the Contractor shall give timely notice to the Owner, the Construction Manager, and the Architect, and shall propose alternative means, methods, techniques, sequences, or procedures. The Architect shall evaluate the proposed alternative solely for conformance with the design intent for the completed construction. The Construction Manager shall review the proposed alternative for sequencing, constructability, and coordination impacts on the other Contractors. Unless the Architect or the Construction Manager objects to the Contractor's proposed alternative, the Contractor shall perform the Work using its alternative means, methods, techniques, sequences, or procedures.

§ 3.3.2 The Contractor shall be responsible to the Owner for acts and omissions of the Contractor's employees, Subcontractors and their agents and employees, and other persons or entities performing portions of the Work for, or on behalf of, the Contractor or any of its Subcontractors.

§ 3.3.3 The Contractor shall be responsible for inspection of portions of the Project already performed to determine that such portions are in proper condition to receive subsequent Work.

§ 3.3.4 The Contractor shall at all times staff the Project adequately to allow the Project to be managed and completed in a timely and professional manner. The Contractor shall have competent supervision on the job during work hours and readily available at all times upon call.

§ 3.3.5 The Contractor shall at all times make reasonable provisions to protect any Work performed by any separate contractors, adjacent property, and the existing building (if any) from damage due to the Work or due to the weather.

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§ 3.3.6 The Owner or its approved representative (heretofore referred to as Owner's Representative) shall have access to the Work site and all Work. No supervision or inspection by the Owner or the Owner's Representative, nor the authority to act, nor any other actions taken by the Owner's Representative shall relieve the Contractor of any of its obligations under the Contract Documents or give rise to any duty on the part of the Owner.

§ 3.3.7 The Contract shall take appropriate precautions to ensure that the Work does not materially disrupt any ongoing operation by the Owner at the Project (if any) except to the extent any such disruption is a necessary result of performing a particular portion of the Work, in which case the Contractor shall provide the Owner with reasonable advanced written notice and shall take all commercially reasonable measures to minimize the impact on the Owner and the Owner's operations.

§ 3.4 Labor and Materials

§ 3.4.1 Unless otherwise provided in the Contract Documents, the Contractor shall provide and pay for labor, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation, and other facilities and services necessary for proper execution and completion of the Work, whether temporary or permanent and whether or not incorporated or to be incorporated in the Work. Should the Contract Documents require Work to be performed after regular working hours or should the Contractor elect to perform Work after regular working hours, the additional cost of such Work shall be borne by the Contractor.

§ 3.4.2 Except in the case of minor changes in the Work approved by the Architect in accordance with Section 3.12.8 or ordered by the Architect in accordance with Section 7.4, the Contractor may make substitutions only with the consent of the Owner, after evaluation by the Architect, in consultation with the Construction Manager, and in accordance with a Change Order or Construction Change Directive.

§ 3.4.3 The Contractor shall enforce strict discipline and good order among the Contractor's employees and other persons carrying out the Work. The Contractor shall not permit employment of unfit persons or persons not properly skilled in tasks assigned to them.

§ 3.4.4 The Contractor shall be responsible for all additional costs incurred to incorporate into the Project substitute materials, products, or equipment approved by Owner during the bidding period.

§ 3.4.5 In the event of a Change related to substitute or additional materials, and which shall comply with Article 7, the Contractor shall exercise reasonable efforts, consistent with the provisions of the Contract Documents to obtain the maximum available case discounts on all materials, provided that, in doing so, the Contractor shall not accept or use materials for incorporation into the Project which are of a type or quality not reasonably contemplated under the terms of the Contract Documents.

§ 3.4.6 After award of the Contract, a request for substitution of a material, product, or piece of equipment at no change in the Contract Sum will not be approved by the Owner or the Architect, unless the specified item is no longer manufactured, the specified item is unavailable as a result of an act of government such as a declaration of a national emergency, or delivery of the specified items is substantially delayed as a result of labor disputes affecting the manufacturer, unusual delay in transportation, or any other cause beyond control of the Contractor or a Subcontractor or material supplier which the Architect determines justified the delay. Requests will not be approved where the delay in delivery results from failure to promptly place subcontracts and material orders. Requests for substitution shall be submitted in writing to the Architect and shall clearly describe the proposed substitution, state the reason for the unavailability of a specified item and be accompanied by such additional data and information as may be necessary in the discretion of the Owner and the Architect to establish the acceptability of the proposed substitute.

§ 3.4.7 The Owner shall be entitled to deduct from the Contract Sum amounts paid to the Architect to evaluate the Contractor's proposed Substitutions and for changes made to the Contract Documents as a result of Owner's acceptance of such Substitutions.

§ 3.5 Warranty

§ 3.5.1 The Contractor warrants to the Owner, Construction Manager, and Architect that materials and equipment furnished under the Contract will be of good quality and new unless the Contract Documents require or permit otherwise. The Contractor further warrants that the Work will conform to the requirements of the Contract Documents

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and will be free from defects, except for those inherent in the quality of the Work the Contract Documents require or permit. Work, materials, or equipment not conforming to these requirements may be considered defective. The Contractor's warranty excludes remedy for damage or defect caused by abuse, alterations to the Work not executed by the Contractor, improper or insufficient maintenance, improper operation, or normal wear and tear and normal usage. If required by the Construction Manager or Architect, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment.

§ 3.5.2 All material, equipment, or other special warranties required by the Contract Documents shall be issued in the name of the Owner, or shall be transferable to the Owner, and shall commence in accordance with Section 9.8.4. The Contractor shall arrange for the Owner to have the benefit of and right to enforce all warranties by Subcontractors, Sub-subcontractors, suppliers, and manufacturers.

§ 3.5.3 Manufacturers' warranties and warranties by other shall not relieve the Contractor of any of its responsibilities.

§ 3.5.4 The Contractor's general warranty and any additional or special warranties are not limited by the Contractor's obligations to specifically correct defective or nonconforming Work as provided in Article 12, nor are they limited by any other remedies provided in the Contract Documents. The Contractor shall also be liable for any damage to property or persons (including death) including consequential and direct damages relating to any breach of the Contractor's general warranty or any additional or special warranties required by the Contract Documents.

§ 3.5.5 The Contractor must furnish all special warranties required by the Contract Documents to the Owner no later than Substantial Completion. The Owner may require additional special warranties in connection with the approval of "Or-Equals" or Substitutions, Allowance items, Work that is defective or nonconforming, or the acceptance of nonconforming Work pursuant to Article 12.

§ 3.6 Taxes

The Contractor shall pay sales, consumer, use and similar taxes for the Work or portions thereof provided by the Contractor that are legally enacted when bids are received or negotiations concluded, whether or not yet effective or merely scheduled to go into effect.

§ 3.7 Permits, Fees, Notices, and Compliance with Laws

§ 3.7.1 Unless otherwise provided in the Contract Documents, the Owner, assisted by the Construction Manager, shall secure and pay for the building permit. The Contractor shall secure and pay for other permits, fees, licenses, and inspections by government agencies necessary for proper execution and completion of the Work that are customarily secured after execution of the Contract and legally required at the time bids are received or negotiations concluded. The Contractor shall be responsible for the Sewer Access (SAC) and Water Access (WAC) fees for the Project. The Contractor shall pay the SAC/WAC costs to the authorities having jurisdiction from the Allowance in the Base Bid for such charges as defined in the Construction Documents.

§ 3.7.2 The Contractor shall comply with and give notices required by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities applicable to performance of the Work.

§ 3.7.3 If the Contractor performs Work knowing or believing it to be contrary to applicable laws, statutes, ordinances, building codes, rules and regulations, or lawful orders of public authorities, without such notice to the Architect and Owner, the Contractor shall assume full responsibility for such Work and shall bear the attributable costs, delays, and damages resulting from such failure to immediately notify the Architect and Owner of any such violation..

§ 3.7.4 Concealed or Unknown Conditions. If the Contractor encounters conditions at the site that are (1) subsurface or otherwise concealed physical conditions that differ materially from those indicated in the Contract Documents or (2) unknown physical conditions of an unusual nature that differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents, the Contractor shall promptly provide notice to the Owner, Construction Manager, and the Architect before conditions are disturbed and in no event later than ten (10) days after first observance of the conditions. The Architect and Construction Manager will promptly investigate such conditions and, if the Architect, in consultation with the Construction Manager, determines that they differ materially and cause an increase or decrease in the Contractor's cost of, or time required for, performance of any part of the Work, will recommend that an equitable adjustment be made in the Contract Sum or Contract Time, or both. If the Architect, in consultation with the Construction Manager,

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determines that the conditions at the site are not materially different from those indicated in the Contract Documents and that no change in the terms of the Contract is justified, the Architect shall promptly notify the Owner, Construction Manager, and Contractor, stating the reasons. If the Owner or Contractor disputes the Architect's determination or recommendation, either party may submit a Claim as provided in Article 15.

§ 3.7.5 If, in the course of the Work, the Contractor encounters human remains or recognizes the existence of burial markers, archaeological sites or wetlands not indicated in the Contract Documents, the Contractor shall immediately suspend any operations that would affect them and shall notify the Owner, Construction Manager, and Architect. Upon receipt of such notice, the Owner shall promptly take any action necessary to obtain governmental authorization required to resume the operations. The Contractor shall continue to suspend such operations until otherwise instructed by the Owner but shall continue with all other operations that do not affect those remains or features. Requests for adjustments in the Contract Sum and Contract Time arising from the existence of such remains or features may be made as provided in Article 15.

§ 3.8 Allowances

§ 3.8.1 The Contractor shall include in the Contract Sum all allowances stated in the Contract Documents. Items covered by allowances shall be supplied for such amounts and by such persons or entities as the Owner may direct, but the Contractor shall not be required to employ persons or entities to whom the Contractor has reasonable objection.

§ 3.8.2 Unless otherwise provided in the Contract Documents:

.1 allowances shall cover the cost to the Contractor of materials and equipment delivered at the site and all required taxes, less applicable trade discounts;

.2 Contractor's costs for unloading and handling at the site, labor, installation costs, overhead, profit, and other expenses contemplated for stated allowance amounts shall be included in the Contract Sum but not in the allowances; and

.3 whenever costs are more than or less than allowances, the Contract Sum shall be adjusted accordingly by Change Order. The amount of the Change Order shall reflect (1) the difference between actual costs and the allowances under Section 3.8.2.1 and (2) changes in Contractor's costs under Section 3.8.2.2.

§ 3.8.3 Materials and equipment under an allowance shall be selected by the Owner with reasonable promptness.

§ 3.9 Superintendent

§ 3.9.1 The Contractor shall employ a competent superintendent and necessary assistants who shall be in attendance at the Project site during performance of the Work, including that performed by all Subcontractors. The superintendent shall represent the Contractor, and communications given to the superintendent shall be as binding as if given to the Contractor. Important communications including and not limited to communications regarding design changes, alterations, substitutions, clarifications, cost changes, etc. shall be confirmed in writing by the Contractor. Other communications shall be similarly confirmed on written request in each case.

§ 3.9.2 The Contractor, as soon as practicable after award of the Contract, shall notify the Owner and Architect, through the Construction Manager, of the name and qualifications of a proposed superintendent. Within 14 days of receipt of the information, the Construction Manager may notify the Contractor, stating whether the Owner, the Construction Manager, or the Architect (1) has reasonable objection to the proposed superintendent or (2) require additional time for review. Failure of the Construction Manager to provide notice within the 14-day period shall constitute notice of no reasonable objection.

§ 3.9.3 The Contractor shall not employ a proposed superintendent or any other management personnel to whom the Owner, Construction Manager, or Architect has made reasonable and timely objection. The Contractor shall not change the superintendent without the Owner's consent, which shall not unreasonably be withheld or delayed.

§ 3.9.4 If requested by the Owner, the Contractor shall replace the superintendent at no additional cost to the Owner. No other change in this position shall be made without notice to and written consent of the Owner.

§ 3.10 Contractor's Construction and Submittal Schedules

§ 3.10.1 The Contractor, promptly after being awarded the Contract, shall submit for the Owner's and Architect's information, and the Construction Manager's use in developing the Project schedule, a Contractor's construction schedule for the Work. The schedule shall contain detail appropriate for the Project, including (1) the date of

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commencement of the Work, interim schedule milestone dates, critical path schedule milestones, major construction milestones, including and not limited to Civil, Demolition, Structural, Mechanical, Electrical, and Plumbing, and the date of Substantial Completion; (2) an apportionment of the Work by construction activity; and (3) the time required for completion of each portion of the Work. The schedule shall provide for the orderly progression of the Work to completion and shall not exceed time limits current under the Contract Documents. The schedule shall be revised at appropriate intervals as required by the conditions of the Work and Project. The Contractor shall cooperate with the Construction Manager in scheduling and performing the Contractor's Work to avoid conflict with, and as to cause no delay in, the work or activities of other Contractors, or the construction or operations of the Owner's own forces or Separate Contractors.

§ 3.10.2 The Contractor, promptly after being awarded the Contract and thereafter as necessary to maintain a current submittal schedule, shall submit a submittal schedule for the Construction Manager's and Architect's approval. The Architect and Construction Manager's approval shall not be unreasonably delayed or withheld. The submittal schedule shall (1) be coordinated with the Contractor's construction schedule, and (2) allow the Construction Manager and Architect reasonable time to review submittals. If the Contractor fails to submit a submittal schedule, or fails to provide submittals in accordance with the approved submittal schedule, the Contractor shall not be entitled to any increase in Contract Sum or extension of Contract Time based on the time required for review of submittals.

§ 3.10.3 The Contractor shall participate with other Contractors, the Construction Manager, and the Owner in reviewing and coordinating all schedules for incorporation into the Project schedule that is prepared by the Construction Manager. The Contractor shall make revisions to the construction schedule and submittal schedule as deemed necessary by the Construction Manager to conform to the Project schedule.

§ 3.10.4 The Contractor shall perform the Work in general accordance with the most recent schedules submitted to and accepted in writing by the Owner, Construction Manager, and Architect, and incorporated into the approved Project schedule.

§ 3.11 Documents and Samples at the Site

§ 3.11.1 The Contractor shall make available, at the Project site, one record copy of the Contract Documents, including Change Orders, Construction Change Directives, and other Modifications, in good order and updated daily to indicate field changes and selections made during construction, and in addition accepted and approved Shop Drawings, Product Data, Samples, and similar required submittals. These shall be in electronic form or paper copy, available to the Construction Manager, Architect, and Owner as required to complete routine inspections by Architect, Construction Manager and Owner prior to any approval of payments to the Contractor, and delivered to the Construction Manager for submittal to the Owner upon completion of the Work. The Architect and Contractor must verify that all "as-built" Drawings, Specifications, Addenda, Change Orders, and other Modifications are up-to-date before Contractor's Application for Payment is acceptable and before the Owner incurs any duty to pay Contractor in accordance with the Contract. The record documents shall be a separate set of documents labeled "Record Documents" and used only for record purposes and kept clean and undamaged.

§ 3.11.2 No review or receipt of such records by the Architect or Owner shall be considered a waiver of any deviation from the Contract Documents or approved shop drawings, or any way relieve the Contractor from its responsibility to perform the Work in accordance with the Contract Documents.

§ 3.12 Shop Drawings, Product Data, and Samples

§ 3.12.1 Shop Drawings are drawings, diagrams, schedules, and other data specially prepared for the Work by the Contractor or a Subcontractor, Sub-subcontractor, manufacturer, supplier, or distributor to illustrate some portion of the Work.

§ 3.12.2 Product Data are illustrations, standard schedules, performance charts, instructions, brochures, diagrams, and other information furnished by the Contractor to illustrate materials or equipment for some portion of the Work.

§ 3.12.3 Samples are physical examples that illustrate materials, equipment, or workmanship, and establish standards by which the Work will be judged.

§ 3.12.4 Shop Drawings, Product Data, Samples, and similar submittals are not Contract Documents. Their purpose is to demonstrate how the Contractor proposes to conform to the information given and the design concept expressed in the Contract Documents for those portions of the Work for which the Contract Documents require submittals. Review

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by the Architect and Construction Manager is subject to the limitations of Sections 4.2.10 through 4.2.12. Informational submittals upon which the Construction Manager and Architect are not expected to take responsive action may be so identified in the Contract Documents. Submittals that are not required by the Contract Documents may be returned by the Construction Manager or Architect without action.

§ 3.12.5 The Contractor shall review for compliance with the Contract Documents, approve, and submit to the Construction Manager, Shop Drawings, Product Data, Samples, and similar submittals required by the Contract Documents, in accordance with the Project submittal schedule approved by the Construction Manager and Architect or, in the absence of an approved Project submittal schedule, with reasonable promptness and in such sequence as to cause no delay in the Work or in the activities of other Contractors, Separate Contractors, or the Owner's own forces. The Contractor shall cooperate with the Construction Manager in the coordination of the Contractor's Shop Drawings, Product Data, Samples, and similar submittals with related documents submitted by other Contractors. The Contractor must provide the Owner and the Architect with copies of all submittals made to regulatory agencies.

§ 3.12.6 By submitting Shop Drawings, Product Data, Samples, and similar submittals, the Contractor represents to the Owner, Construction Manager, and Architect, that the Contractor has (1) reviewed and approved them, (2) determined and verified materials, field measurements and field construction criteria related thereto, or will do so, and (3) checked and coordinated the information contained within such submittals with the requirements of the Work and of the Contract Documents.

§ 3.12.7 The Contractor shall perform no portion of the Work for which the Contract Documents require submittal and review of Shop Drawings, Product Data, Samples, or similar submittals, until the respective submittal has been reviewed and accepted by the Architect. The Contractor must correct at its cost, and without any adjustment in Contract Time, any Work the correction of which is required due to the Contractor's failure to obtain approval of a submittal required to have been obtained prior to proceeding with the Work, including, but not limited to, correction of any conflicts in the Work resulting from such failure.

§ 3.12.8 The Work shall be in accordance with accepted submittals except that the Contractor shall not be relieved of responsibility for deviations from the requirements of the Contract Documents by the Architect's acceptance of Shop Drawings, Product Data, Samples, or similar submittals, unless the Contractor has specifically notified the Construction Manager and Architect of such deviation at the time of submittal and (1) the Architect has given written acceptance to the specific deviation as a minor change in the Work, or (2) a Change Order or Construction Change Directive has been issued authorizing the deviation. The Contractor shall not be relieved of responsibility for errors or omissions in Shop Drawings, Product Data, Samples, or similar submittals, by the Architect's acceptance thereof.

§ 3.12.9 The Contractor shall direct specific attention, in writing or on resubmitted Shop Drawings, Product Data, Samples, or similar submittals, to revisions other than those requested by the Construction Manager and Architect on previous submittals. In the absence of such notice, the Architect's acceptance of a resubmission shall not apply to such revisions.

§ 3.12.10 The Contractor shall not be required to provide professional services that constitute the practice of architecture or engineering unless such services are specifically required by the Contract Documents for a portion of the Work or unless the Contractor needs to provide such services in order to carry out the Contractor's responsibilities for construction means, methods, techniques, sequences, and procedures. The Contractor shall not be required to provide professional services in violation of applicable law.

§ 3.12.10.1 If professional design services or certifications by a design professional related to systems, materials, or equipment are specifically required of the Contractor by the Contract Documents, the Owner and the Architect will specify all performance and design criteria that such services must satisfy. The Contractor shall be entitled to rely upon the adequacy and accuracy of the performance and design criteria provided in the Contract Documents. The Contractor shall cause such services or certifications to be provided by an appropriately licensed design professional, whose signature and seal shall appear on all drawings, calculations, specifications, certifications, Shop Drawings, and other submittals prepared by such professional. Shop Drawings, and other submittals related to the Work, designed or certified by such professional, if prepared by others, shall bear such professional's written approval when submitted to the Architect. The Owner, the Architect, and the Construction Manager shall be entitled to rely upon the adequacy and accuracy of the services, certifications, and approvals performed or provided by such design professionals, provided the Owner and Architect have specified to the Contractor the performance and design criteria that such services must

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satisfy. Pursuant to this Section 3.12.10, the Architect will review and approve or take other appropriate action on submittals only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Construction Manager shall review submittals for sequencing, constructability, and coordination impacts on other Contractors.

§ 3.12.10.2 If the Contract Documents require the Contractor's design professional to certify that the Work has been performed in accordance with the design criteria, the Contractor shall furnish such certifications to the Construction Manager and Architect at the time and in the form specified by the Architect.

§ 3.13 Use of Site

§ 3.13.1 The Contractor shall confine operations at the site to areas permitted by applicable laws, statutes, ordinances, codes, rules and regulations, lawful orders of public authorities, and the Contract Documents and shall not unreasonably encumber the site with materials or equipment.

§ 3.13.2 The Contractor shall coordinate the Contractor's operations with, and secure the approval of, the Construction Manager before using any portion of the site.

§ 3.13.3 Except as may be specifically provided in the Contract Documents, the Contractor shall provide all necessary temporary facilities, including power, water, sanitation, scaffolding, storage, and security. If Owner makes any such facilities available to Contractor, it is without representation or warranty as to their adequacy for Contractor's use, and Contractor shall indemnify, defend, and hold Owner harmless from and against any claims arising out of Contractor's use of such facilities.

§ 3.14 Cutting and Patching

§ 3.14.1 The Contractor shall be responsible for cutting, fitting, or patching required to complete the Work or to make its parts fit together properly. All areas requiring cutting, fitting, or patching shall be restored to the condition existing prior to the cutting, fitting, or patching, unless otherwise required by the Contract Documents.

§ 3.14.2 The Contractor shall not damage or endanger a portion of the Work or fully or partially completed construction of the Owner, Separate Contractors, or of other Contractors by cutting, patching, or otherwise altering such construction, or by excavation. The Contractor shall not cut or otherwise alter construction by the Owner, Separate Contractors, or by other Contractors except with written consent of the Construction Manager, Owner, and such other Contractors or Separate Contractors. Consent shall not be unreasonably withheld. The Contractor shall hire a professional utilities locator to verify locations of all public and private utilities prior to initiating any cutting work. The Contractor shall not unreasonably withhold, from the Separate Contractors, other Contractors, or the Owner, its consent to cutting or otherwise altering the Work.

§ 3.15 Cleaning Up

§ 3.15.1 The Contractor shall keep the premises and surrounding area continuously free from accumulation of waste materials and rubbish caused by operations under the Contract. At completion of the Work, the Contractor shall remove from and about the Project waste materials, rubbish, Contractor-generated waste materials, the Contractor's generated hazardous waste materials, the Contractor's tools, construction equipment, machinery, and surplus materials from and about the Project.

§ 3.15.2 If the Contractor fails to clean up as provided in the Contract Documents, the Owner, or Construction Manager with the Owner's approval, may do so and the Owner shall be entitled to reimbursement from the Contractor.

§ 3.16 Access to Work

The Contractor shall provide the Owner, Construction Manager, and Architect with access to the Work in preparation and progress wherever located.

§ 3.17 Royalties, Patents and Copyrights

The Contractor shall pay all royalties and license fees. The Contractor shall defend suits or claims for infringement of copyrights and patent rights and shall hold the Owner, Construction Manager, and Architect harmless from loss on account thereof, but shall not be responsible for defense or loss when a particular design, process, or product of a particular manufacturer or manufacturers is required by the Contract Documents, or where the copyright violations are contained in Drawings, Specifications, or other documents prepared by the Owner, Architect, or Construction

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Manager. However, if an infringement of a copyright or patent is discovered by, or made known to, the Contractor, the Contractor shall be responsible for the loss unless the information is promptly furnished to the Architect through the Construction Manager.

§ 3.18 Indemnification

§ 3.18.1 To the fullest extent permitted by law, the Contractor shall indemnify, defend and hold harmless the Owner, Construction Manager, Architect, Construction Manager's and Architect's consultants, and agents and employees of any of them from and against claims, damages, losses, and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), but only to the extent caused by the negligent acts or omissions of the Contractor, a Subcontractor, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss, or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity which would otherwise exist as to a party or person described in this Section 3.18. The Contractor, furthermore, agrees to obtain, maintain, and pay for such general liability coverage and endorsements (including product and completed operations coverage) as will ensure the provisions of this Section 3.18.1. The Contractor agrees to reimburse the Owner, its agents and employees for all costs and disbursements, including attorneys' fees, paid or incurred to enforce the provisions of this Section 3.18.1.

§ 3.18.2 In claims against any person or entity indemnified under this Section 3.18 by an employee of the Contractor, a Subcontractor, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, the indemnification obligation under Section 3.18.1 shall not be limited by a limitation on amount or type of damages, compensation, or benefits payable by or for the Contractor or a Subcontractor under workers' compensation acts, disability benefit acts, or other employee benefit acts.

§ 3.18.3 To the fullest extent permitted by law and without limiting any other indemnification obligations of the Contractor, except to the extent caused by the uncured failure of the Owner to make payment when due and owing, the Contractor shall indemnify and defend the Owner, its officers, directors, assigns, lenders, agents, and employees from any liens, charges (including attorneys' fees) or encumbrances (including but not limited to mechanic's and materialmen's liens or bond claims) arising out of or in connection with the performance of the Work by Contractor, its Subcontractors, or its material suppliers. Upon request of the Owner, the Contractor shall within sixty (60) days remove any liens filed against the Owner or its property. If the Contractor fails to do so, the Owner is authorized by the Contractor to remove or satisfy any such liens, and the Contractor shall pay to the Owner all costs and damages incurred by the Owner to do so, including attorneys' fees.

ARTICLE 4 ARCHITECT AND CONSTRUCTION MANAGER

§ 4.1 General

§ 4.1.1 The Architect is the person or entity retained by the Owner pursuant to Section 2.3.2 and identified as such in the Agreement.

§ 4.1.2 The Construction Manager is the person or entity retained by the Owner pursuant to Section 2.3.3 and identified as such in the Agreement.

§ 4.1.3 Duties, responsibilities, and limitations of authority of the Construction Manager and Architect as set forth in the Contract Documents shall not be restricted, modified, or extended without written consent of the Owner, Construction Manager, Architect, and Contractor. Consent shall not be unreasonably withheld.

§ 4.2 Administration of the Contract

§ 4.2.1 The Construction Manager and Architect will provide administration of the Contract as described in the Contract Documents and will be the Owner's consultants (1) during construction; (2) until final payment is due; and (3) with the Owner's concurrence, from time to time during the correction period described in Section 12.2. The Architect and Construction Manager will advise and consult with the Owner. The Construction Manager and Architect will have authority to act on behalf of the Owner only to the extent provided in the Contract Documents, unless otherwise modified in writing in accordance with other provisions of the Contract.

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§ 4.2.2 The Architect will visit the site at intervals appropriate to the stage of construction, or as otherwise agreed with the Owner, to become generally familiar with the progress and quality of the Work completed, to endeavor to guard the Owner against defects and deficiencies in the Work, and to determine in general if the Work is being performed in a manner indicating that the Work, when completed, will be in accordance with the Contract Documents. However, the Architect will not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. On the basis of the site visits, the Architect will keep the Owner and the Construction Manager reasonably informed about the progress and quality of the portion of the Work completed, and promptly report to the Owner and Construction Manager known deviations from the Contract Documents and defects and deficiencies observed in the Work.

§ 4.2.2.2 The Contractor shall reimburse the Owner for compensation paid to the Architect for additional site visits made necessary by fault, neglect, or request of the Contractor.

§ 4.2.3 The Construction Manager shall provide one or more representatives who shall be in attendance at the Project site whenever the Work is being performed. The Construction Manager will determine in general if the Work observed is being performed in accordance with the Contract Documents, will keep the Owner and Architect reasonably informed of the progress of the Work, and will promptly report to the Owner and Architect known deviations from the Contract Documents and the most recent Project schedule, and defects and deficiencies observed in the Work.

§ 4.2.4 The Construction Manager will schedule and coordinate the activities of the Contractor and other Contractors in accordance with the latest approved Project schedule.

§ 4.2.5 The Construction Manager, except to the extent required by Section 4.2.4, and Architect will not have control over, charge of, or responsibility for, the construction means, methods, techniques, sequences or procedures, or for the safety precautions and programs in connection with the Work, since these are solely the Contractor's rights and responsibilities under the Contract Documents, and neither will be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. Neither the Construction Manager nor the Architect will have control over or charge of, or be responsible for acts or omissions of, the Contractor, Subcontractors, or their agents or employees, or of any other persons or entities performing portions of the Work.

§ 4.2.6 Communications. The Owner shall communicate with the Contractor and the Construction Manager's consultants through the Construction Manager about matters arising out of or relating to the Contract Documents. The Owner and Construction Manager shall include the Architect in all communications that relate to or affect the Architect's services or professional responsibilities. The Owner shall promptly notify the Architect of the substance of any direct communications between the Owner and the Construction Manager otherwise relating to the Project. Communications by and with the Architect's consultants shall be through the Architect. Communications by and with Subcontractors and suppliers shall be through the Contractor. Communications by and with other Contractors shall be through the Construction Manager. Communications by and with the Owner's own forces and Separate Contractors shall be through the Owner unless otherwise provided. The Contract Documents may specify other communication protocols. The Owner may require the Architect, Construction Manager and the Contractor to comply with Owner requirements in regards to public communications and site signage.

§ 4.2.7 The Construction Manager and Architect will review and certify all Applications for Payment by the Contractor, in accordance with the provisions of Article 9.

§ 4.2.8 The Architect and Construction Manager have authority to reject Work that does not conform to the Contract Documents, and will notify each other about the rejection. Whenever the Construction Manager considers it necessary or advisable for implementation of the intent of the Contract Documents, the Construction Manager will have authority to require additional inspection or testing of the Work in accordance with Sections 13.4.2 and 13.4.3, upon written authorization of the Owner, whether or not the Work is fabricated, installed or completed. The foregoing authority of the Construction Manager will be subject to the provisions of Sections 4.2.18 through 4.2.20 inclusive, with respect to interpretations and decisions of the Architect. However, neither the Architect's nor the Construction Manager's authority to act under this Section 4.2.8 nor a decision made by either of them in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect or the Construction Manager to the Contractor, Subcontractors, suppliers, their agents or employees, or other persons performing any of the Work.

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§ 4.2.9 Utilizing the submittal schedule provided by the Contractor, the Construction Manager shall prepare, and revise as necessary, a Project submittal schedule incorporating information from other Contractors, the Owner, Owner's consultants, Owner's Separate Contractors and vendors, governmental agencies, and participants in the Project under the management of the Construction Manager. The Project submittal schedule and any revisions shall be submitted to the Architect for approval.

§ 4.2.10 The Construction Manager will receive and promptly review for conformance with the submittal requirements of the Contract Documents, all submittals from the Contractor such as Shop Drawings, Product Data, and Samples. Where there are other Contractors, the Construction Manager will also check and coordinate the information contained within each submittal received from the Contractor and other Contractors, and transmit to the Architect those recommended for approval. By submitting Shop Drawings, Product Data, Samples, and similar submittals, the Construction Manager represents to the Owner and Architect that the Construction Manager has reviewed and recommended them for approval. The Construction Manager's actions will be taken in accordance with the Project submittal schedule approved by the Architect or, in the absence of an approved Project submittal schedule, with reasonable promptness while allowing sufficient time to permit adequate review by the Architect.

§ 4.2.11 The Architect will, and the Owner may, review and approve, or take other appropriate action upon, the Contractor's submittals such as Shop Drawings, Product Data, and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Architect's or Owner's action will be taken with such reasonable promptness as to cause no delay in the Work or in the activities of the Owner, Contractor or separate contractors, while allowing sufficient time in the Architect's professional judgment to permit adequate review. Upon the Architect's or the Owner's completed review, the Architect shall transmit its submittal review to the Construction Manager.

§ 4.2.12 Review of the Contractor's submittals by the Construction Manager and Architect is not conducted for the purpose of determining the accuracy and completeness of other details such as dimensions and quantities, or for substantiating instructions for installation or performance of equipment or systems, all of which remain the responsibility of the Contractor as required by the Contract Documents. The Construction Manager and Architect's review of the Contractor's submittals shall not relieve the Contractor of the obligations under Sections 3.3, 3.5, and 3.12. The Construction Manager and Architect's review shall not constitute approval of safety precautions or of any construction means, methods, techniques, sequences, or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

§ 4.2.13 The Construction Manager will prepare Change Orders and Construction Change Directives.

§ 4.2.14 The Construction Manager and the Architect will take appropriate action on Change Orders or Construction Change Directives in accordance with Article 7, and the Architect will have authority to order minor changes in the Work as provided in Section 7.4. The Architect, in consultation with the Construction Manager, will investigate and make determinations and recommendations regarding concealed and unknown conditions as provided in Section 3.7.4.

§ 4.2.15 Utilizing the documents provided by the Contractor, the Construction Manager will maintain at the site for the Owner one copy of all Contract Documents, approved Shop Drawings, Product Data, Samples, and similar required submittals, in good order and marked currently to record all changes and selections made during construction. These will be available to the Architect and the Contractor, and will be delivered to the Owner upon completion of the Project.

§ 4.2.16 The Construction Manager will assist the Architect in conducting inspections to determine the date or dates of Substantial Completion and the date of final completion; issue Certificates of Substantial Completion in conjunction with the Architect pursuant to Section 9.8; and receive and forward to the Owner written warranties and related documents required by the Contract and assembled by the Contractor pursuant to Section 9.10. The Construction Manager will forward to the Architect a final Application and Certificate for Payment or final Project Application and Project Certificate for Payment upon the Contractor's compliance with the requirements of the Contract Documents.

§ 4.2.17 If the Owner and Architect agree, the Architect will provide one or more Project representatives to assist in carrying out the Architect's responsibilities at the site. The Owner shall notify the Construction Manager of any change in the duties, responsibilities and limitations of authority of the Project representatives.

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§ 4.2.18 The Architect will interpret and decide matters concerning performance under the requirements of, the Contract Documents on written request of the Construction Manager, Owner, or Contractor through the Construction Manager. The Architect's response to such requests will be made with reasonable promptness and within any time limits agreed upon. If no agreement is made concerning the time within which interpretations required of the Architect shall be furnished in compliance with this Section 4.2.18, then delay shall not be recognized on account of failure by the Architect to furnish such interpretations until fifteen (15) days after written request is made to them.

§ 4.2.19 Architect's decisions on matters relating to aesthetic effect will be final if consistent with the intent expressed in the Contract Documents.

§ 4.2.20 Architect will review and respond to requests for information about the Contract Documents. The Architect's response to such requests will be made in writing within any time limits agreed upon or otherwise with reasonable promptness. If appropriate, the Architect will prepare and issue supplemental Drawings and Specifications in response to the requests for information.

(Paragraph deleted)

ARTICLE 5 SUBCONTRACTORS

§ 5.1 Definitions

§ 5.1.1 A Subcontractor is a person or entity who has a direct contract with the Contractor to perform a portion of the Work at the site. The term "Subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Subcontractor or an authorized representative of the Subcontractor. The term "Subcontractor" does not include other Contractors or Separate Contractors or the subcontractors of other Contractors or Separate Contractors.

§ 5.1.2 A Sub-subcontractor is a person or entity who has a direct or indirect contract with a Subcontractor to perform a portion of the Work at the site. The term "Sub-subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Sub-subcontractor or an authorized representative of the Sub-subcontractor.

§ 5.2 Award of Subcontracts and Other Contracts for Portions of the Work

§ 5.2.1 Unless otherwise stated in the Contract Documents, the Contractor, as soon as practicable after award of the Contract, shall notify in writing the Construction Manager, for review by the Owner, Construction Manager and Architect, of the persons or entities proposed for each principal portion of the Work, including those who are to furnish materials or equipment fabricated to a special design. Within 14 days of receipt of the information, the Construction Manager may notify the Contractor whether the Owner, the Construction Manager or the Architect (1) has reasonable objection to any such proposed person or entity or, (2) requires additional time for review. Failure of the Construction Manager to provide notice within the 14-day period shall constitute notice of no reasonable objection. The Contractor shall not employ any Subcontractor or use any material to which the Architect, Construction Manager or Owner may object. Prior to the employment of any Subcontractor, the Contractor must obtain the Owner's approval of such Subcontractor for the designated portion of the Work.

§ 5.2.2 The Contractor shall not contract with a proposed person or entity to whom the Owner, Construction Manager or Architect has made reasonable and timely objection. The Contractor shall not be required to contract with anyone to whom the Contractor has made reasonable objection.

§ 5.2.3 If the Owner, Construction Manager or Architect has reasonable objection to a person or entity proposed by the Contractor, the Contractor shall propose another to whom the Owner, Construction Manager or Architect has no reasonable objection. The Contract Sum shall be increased or decreased by the difference in cost occasioned by such change, and an appropriate Change Order shall be issued. However, no increase in the Contract Sum or Contract Time shall be allowed for such change unless the Contractor has acted promptly and responsively in submitting names as required. Notwithstanding the foregoing, the Contractor shall have a continuing duty to the Owner, Construction Manager and Architect to find and propose such persons or entities as shall not result in material increase in the Contract Sum, or a material decrease in the quality of Work contemplated under the Contract Documents.

§ 5.2.4 The Contractor shall not substitute a Subcontractor, person, or entity for one previously selected if the Owner, Construction Manager or Architect makes reasonable objection to such substitution. Any proposed substitution of a Subcontractor, person, or entity for one previously selected shall be made in a separate writing to the Owner, Construction Manager and Architect. No substitution shall be deemed approved/accepted without written

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confirmation from the Owner, Construction Manager and Architect. Neither acceptance of, nor objection to a Subcontractor or Sub-subcontractor, material supplier, or other person or organization by the Owner, Construction Manager and Architect shall limit the responsibility of the Contractor to furnish materials, products, equipment, and services in conformance with the requirements of the Contract Documents.

§ 5.3 Subcontractual Relations

§ 5.3.1 By appropriate written agreement, the Contractor shall require each Subcontractor, to the extent of the Work to be performed by the Subcontractor, to be bound to the Contractor by terms of the Contract Documents, and to assume toward the Contractor all the obligations and responsibilities, including the responsibility for safety of the Subcontractor's Work, that the Contractor, by these Contract Documents, assumes toward the Owner, Construction Manager and Architect. Each subcontract agreement shall preserve and protect the rights of the Owner, Construction Manager and Architect under the Contract Documents with respect to the Work to be performed by the Subcontractor so that subcontracting thereof will not prejudice such rights, and shall allow to the Subcontractor, unless specifically provided otherwise in the subcontract agreement, the benefit of all rights, remedies, and redress against the Contractor that the Contractor, by the Contract Documents, has against the Owner. Where appropriate, the Contractor shall require each Subcontractor to enter into similar agreements with Sub-subcontractors. The Contractor shall make available to each proposed Subcontractor, prior to the execution of the subcontract agreement, copies of the Contract Documents to which the Subcontractor will be bound, and, upon written request of the Subcontractor, identify to the Subcontractor terms and conditions of the proposed subcontract agreement that may be at variance with the Contract Documents. Subcontractors shall similarly make copies of applicable portions of such documents available to their respective proposed Sub-subcontractors.

§ 5.3.2 The Contractor is responsible for the performance of, the actions of, the timeliness of, or interference caused by, Subcontractors, Sub-subcontractors (of any tier), and others directly or indirectly under contract to the Contractor.

§ 5.4 Contingent Assignment of Subcontracts

§ 5.4.1 Each subcontract agreement for a portion of the Work is assigned by the Contractor to the Owner, provided that

.1 assignment is effective only after termination of the Contract by the Owner for cause pursuant to Section 14.2 and only for those subcontract agreements that the Owner accepts by notifying the Subcontractor and Contractor; and

.2 assignment is subject to the prior rights of the surety, if any, obligated under bond relating to the Contract.

When the Owner accepts the assignment of a subcontract agreement, the Owner assumes the Contractor's rights and obligations under the subcontract.

§ 5.4.2 Upon such assignment, if the Work has been suspended for more than 30 days, the Subcontractor's compensation shall be equitably adjusted for increases in cost resulting from the suspension.

§ 5.4.3 Upon assignment to the Owner under this Section 5.4, the Owner may further assign the subcontract to a successor Contractor or other entity. If the Owner assigns the subcontract to a successor Contractor or other entity, the Owner shall nevertheless remain legally responsible for all of the successor Contractor's obligations under the subcontract.

ARTICLE 6 CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTORS

§ 6.1 Owner's Right to Perform Construction with Own Forces and to Award Other Contracts

§ 6.1.1 The Owner reserves the right to perform construction or operations related to the Project with the Owner's own forces, and with Separate Contractors retained under Conditions of the Contract substantially similar to those of this Contract, including those provisions of the Conditions of the Contract related to insurance and waiver of subrogation.

§ 6.1.2 When the Owner performs construction or operations with the Owner's own forces or Separate Contractors, the Owner shall provide for coordination of such forces and Separate Contractors with the Work of the Contractor, who shall cooperate with them.

§ 6.1.3 Unless otherwise provided in the Contract Documents, when the Owner performs construction or operations related to the Project with the Owner's own forces or with Separate Contractors, the Owner or its Separate Contractors

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shall have the same obligations and rights that the Contractor has under the Conditions of the Contract, including, without excluding others, those stated in Article 3, this Article 6, and Articles 10, 11, and 12.

§ 6.2 Mutual Responsibility

§ 6.2.1 The Contractor shall afford the Owner's own forces, Separate Contractors, Construction Manager and other Contractors reasonable opportunity for introduction and storage of their materials and equipment and performance of their activities, and shall connect and coordinate the Contractor's construction and operations with theirs as required by the Contract Documents.

§ 6.2.2 If part of the Contractor's Work depends for proper execution or results upon construction or operations by the Owner's own forces, Separate Contractors or other Contractors, the Contractor shall, prior to proceeding with that portion of the Work, promptly notify the Construction Manager and Architect of apparent discrepancies or defects in the construction or operations by the Owner or Separate Contractor or other Contractors that would render it unsuitable for proper execution and results of the Contractor's Work. Failure of the Contractor to notify the Construction Manager and the Architect of apparent discrepancies or defects prior to proceeding with the Work shall constitute an acknowledgment that the Owner's or Separate Contractor's or other Contractors' completed or partially completed construction is fit and proper to receive the Contractor's Work. The Contractor shall not be responsible for discrepancies or defects in the construction or operations by the Owner or Separate Contractors or other Contractors that are not reasonably discoverable.

§ 6.2.3 Costs caused by delays or by improperly timed activities or defective construction shall be borne by the party responsible therefor.

§ 6.2.4 The Contractor shall promptly remedy damage that the Contractor wrongfully causes to completed or partially completed construction, or to property of the Owner, Separate Contractors, or other Contractors as provided in Section 10.2.5.

§ 6.2.5 Claims and other disputes and matters in question between the Contractor and a separate contractor shall be subject to the provisions of Article 15 provided the separate contractor has reciprocal obligations.

§ 6.2.6 The Owner, Separate Contractors, and other Contractors shall have the same responsibilities for cutting and patching as are described for the Contractor in Section 3.14.

§ 6.3 Owner's Right to Clean Up

If a dispute arises among the Contractor, Separate Contractors, other Contractors, and the Owner as to the responsibility under their respective contracts for maintaining the premises and surrounding area free from waste materials and rubbish as described in Section 3.15, the Owner may clean up allocate the cost among those responsible as the Architect determines to be just..

ARTICLE 7 CHANGES IN THE WORK

§ 7.1 General

§ 7.1.1 Changes in the Work may be accomplished after execution of the Contract, and without invalidating the Contract, by Change Order, Construction Change Directive or order for a minor change in the Work, subject to the limitations stated in this Article 7 and elsewhere in the Contract Documents.

§ 7.1.2 A Change Order shall be based upon agreement among the Owner, Construction Manager, Architect and Contractor. A Construction Change Directive requires agreement by the Owner, Construction Manager and Architect and may or may not be agreed to by the Contractor.

§ 7.1.3 Changes in the Work shall be performed under applicable provisions of the Contract Documents. The Contractor shall proceed promptly with changes in the Work, unless otherwise provided in the Change Order, Construction Change Directive, or order for a minor change in the Work.

§ 7.1.4 The amount of credit to be allowed by the Contractor to the Owner for any deletion or change which results in a net decrease in the Contract Sum will be the amount of the actual net cost as confirmed by the Architect after consultation with the Owner and Construction Manager. When both additions and credits covering related Work or

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substitutions are involved in any one change, the allowance for both overhead and profit shall be figured on the basis of the net increase or decrease, if any, with respect to that change.

§ 7.1.5 In Section 7.3.6, the allowance for the combined overhead and profit included in the total cost to the Owner shall be based on the following schedule:

.1 For the Contractor, for Work performed by the Contractor's own forces, ten percent (10%) of the cost;

.2 For the Contractor, for Work performed by the Contractor's Subcontractor, five percent (5%) of the amount due the Subcontractor;

.3 For each Subcontractor or Sub-subcontractor involved for Work performed by the Subcontractor's or Sub-subcontractor's own forces, ten percent (10%) of the cost;

.4 For each Subcontractor for Work performed by the Subcontractor's Sub-subcontractor, five percent (5%) of the amount due the Subcontractor;

.5 Costs to which overhead and profit is to be applied shall be determined in accordance with Section 7.3.6;

.6 In order to facilitate checking of quotations for extras or credits, all proposals, expect those so minor that their propriety can be seen by inspection, shall be accompanied by a complete itemization of costs, including labor, materials and subcontracts. Labor and materials shall be itemized in the manner prescribed above. Where major cost items are subcontracts, they shall be itemized also. In no case will a change involving over $500 be approved without such itemization.

§ 7.2 Change Orders and Change Proposals

§ 7.2.1 A Change Order is a written instrument prepared by the Construction Manager and signed by the Owner, Construction Manager, Architect, and Contractor, stating their agreement upon all of the following:

.1 The change in the Work;

.2 The amount of the adjustment, if any, in the Contract Sum; and

.3 The extent of the adjustment, if any, in the Contract Time.

§ 7.2.2 Change Order shall be prepared on AIA Document G731.

§ 7.2.3 The Contractor must submit Change Proposals covering a contemplated Change Order within ten (10) days after request of the Owner, or the Architect or within ten (10) days of the event, or Contractor's discovery of a condition, whichever is earlier, giving rise to the Contractor's claim for a change in the Contract Sum or Contract Time. No increase in the Contract Sum or extension of the Contract Time will be allowed the Contractor for the cost or time involved in making Change Proposals. Change Proposals will define or confirm in detail the Work which is proposed to be added, deleted, or changed and must include any adjustment which the Contractor believes to be necessary in (i) the Contract Sum, or (ii) the Contract Time. Any proposed adjustment must include detailed documentation including, but not limited to: cost, properly itemized and supported by sufficient substantiating data to permit evaluation including cost of labor, materials, supplies and equipment, rental cost of machinery and equipment, additional bond cost, plus a fixed fee for profit and overhead (which includes office overhead and Site-specific overhead and general conditions) of ten percent (10%) if the Work is performed by the Contractor, or five percent (5%) if the Work is performed by a Subcontractor or Sub-subcontractor. The Subcontractor's or Sub-subcontractor's overhead and profit in turn must not exceed a total aggregate of ten percent (10%). Change Proposals will be binding upon the Contractor and may be accepted or rejected by the Owner in its discretion. The Owner may, at its option, instruct the Contractor through a Construction Change Directive to proceed with the Work involved in the Change Proposal in accordance with Section 7.3 without accepting the Change Proposal in its entirety.

§ 7.2.4 If the Owner determines that a Change Proposal is appropriate, the Architect will prepare and submit a request for a Change Order or Contract Amendment providing for an appropriate adjustment in the Contract Sum or Contract Time, or both, for further action by the Owner. No such change is effective until the Owner and Architect sign the Change Order.

§ 7.3 Construction Change Directives

§ 7.3.1 A Construction Change Directive is a written order prepared by the Construction Manager and signed by the Owner, Construction Manager and Architect, directing a change in the Work prior to agreement on adjustment, if any, in the Contract Sum or Contract Time, or both. The Owner may by Construction Change Directive, without

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invalidating the Contract, order changes in the Work within the general scope of the Contract consisting of additions, deletions, or other revisions, the Contract Sum and Contract Time being adjusted accordingly.

§ 7.3.2 A Construction Change Directive shall be used in the absence of total agreement on the terms of a Change Order.

§ 7.3.3 If the Construction Change Directive provides for an adjustment to the Contract Sum, the adjustment shall be based on one of the following methods:

.1 Mutual acceptance of a lump sum properly itemized and supported by sufficient substantiating data to permit evaluation;

.2 Unit prices stated in the Contract Documents or subsequently agreed upon;

.3 Cost to be determined in a manner agreed upon by the parties and a mutually acceptable fixed or percentage fee; or

.4 As provided in Section 7.3.4.

§ 7.3.4 If the Contractor does not respond promptly or disagrees with the method for adjustment in the Contract Sum, the Owner and the Construction Manager shall determine the adjustment on the basis of reasonable expenditures and savings of those performing the Work attributable to the change, including, in case of an increase in the Contract Sum, an amount for overhead and profit as set forth in the Agreement, or if no such amount is set forth in the Agreement, a reasonable amount. In such case, and also under Section 7.3.3.3, the Contractor shall keep and present, in such form as the Construction Manager may prescribe, an itemized accounting together with appropriate supporting data. Unless otherwise provided in the Contract Documents, costs for the purposes of this Section 7.3.4 shall be limited to the following:

.1 Costs of labor, including applicable payroll taxes, fringe benefits required by agreement or custom, workers' compensation insurance, and other employee costs approved by the Construction Manager and Architect;

.2 Costs of materials, supplies, and equipment, including cost of transportation, whether incorporated or consumed;

.3 Rental costs of machinery and equipment, exclusive of hand tools, whether rented from the Contractor or others (at rates approved by the Owner);

.4 Costs of premiums for all bonds and insurance, permit fees, and sales, use, or similar taxes, directly related to the change; and

.5 Costs of supervision and field office personnel directly attributable to the change.

§ 7.3.5 If the Contractor disagrees with the adjustment in the Contract Time, the Contractor may make a Claim in accordance with applicable provisions of Article 15.

§ 7.3.6 Upon receipt of a Construction Change Directive, the Contractor shall promptly proceed with the change in the Work involved and advise the Construction Manager of the Contractor's agreement or disagreement with the method, if any, provided in the Construction Change Directive for determining the proposed adjustment in the Contract Sum or Contract Time.

§ 7.3.7 A Construction Change Directive signed by the Contractor indicates the Contractor's agreement therewith, including adjustment in Contract Sum and Contract Time or the method for determining them. Such agreement shall be effective immediately.

§ 7.3.8 The amount of credit to be allowed by the Contractor to the Owner for a deletion or change that results in a net decrease in the Contract Sum shall be actual net cost as confirmed by the Construction Manager and Architect. When both additions and credits covering related Work or substitutions are involved in a change, the allowance for overhead and profit shall be figured on the basis of net increase, if any, with respect to that change.

§ 7.3.9 Pending final determination of the total cost of a Construction Change Directive to the Owner, the Contractor may request payment for Work completed under the Construction Change Directive in Applications for Payment up to and not exceeding $25,000. The Construction Manager and Architect will make an interim determination for purposes of monthly certification for payment for those costs and certify for payment the amount that the Construction Manager and Architect determine to be reasonably justified. The interim determination of cost shall adjust the Contract Sum on

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the same basis as a Change Order, subject to the right of either party to disagree and assert a Claim in accordance with Article 15.

§ 7.3.10 When the Owner and Contractor agree with a determination made by the Construction Manager and Architect concerning the adjustments in the Contract Sum and Contract Time, or otherwise reach agreement upon the adjustments, such agreement shall be effective immediately and the Construction Manager shall prepare a Change Order. Change Orders may be issued for all or any part of a Construction Change Directive.

§ 7.4 Minor Changes in the Work

The Architect may order minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. The Architect's order for minor changes shall be in writing and approved by the Owner. If the Contractor believes that the proposed minor change in the Work will affect the Contract Sum or Contract Time, the Contractor shall notify the Construction Manager and shall not proceed to implement the change in the Work. If the Contractor performs the Work set forth in the Architect's order for a minor change without prior notice to the Construction Manager that such change will affect the Contract Sum or Contract Time, the Contractor waives any adjustment to the Contract Sum or extension of the Contract Time.

ARTICLE 8 TIME

§ 8.1 Definitions

§ 8.1.1 Unless otherwise provided, Contract Time is the period of time, including authorized adjustments, allotted in the Contract Documents for Substantial Completion of the Work.

§ 8.1.2 The date of commencement of the Work is the date established in the Agreement. The date shall not be postponed by the failure to act of the Contractor or of persons or entities for whom the Contractor is responsible.

§ 8.1.3 The date of Substantial Completion is the date certified by the Architect in accordance with Section 9.8.

§ 8.1.4 The term "day" shall mean calendar day of 24 hours beginning at 12:00 midnight. Calendar days as stated in the Contract Documents, shall include all days of a seven (7) day week including Saturdays, Sundays, and holidays. The term "Milestone Date" is, in each instance, the date established in the Contract Documents for the Substantial completion of all or a designated portion of the Work.

§ 8.2 Progress and Completion

§ 8.2.1 Time limits stated in the Contract Documents are of the essence of the Contract. By executing the Agreement, the Contractor confirms that the Contract Time is a reasonable period for performing the Work.

§ 8.2.2 The Contractor shall not knowingly, except by agreement or instruction of the Owner in writing, commence the Work prior to the effective date of insurance required to be furnished by the Contractor and Owner.

§ 8.2.3 The Contractor shall proceed expeditiously with adequate forces and shall achieve Substantial Completion within the Contract Time and shall achieve specific contractual Milestone Dates (if any), Substantial Completion and final Completion within the time stated in the Contract Documents.

§ 8.2.4 Contractor understands and agrees that all Work must be performed in an orderly and closely coordinated sequence so that the dates for Substantial Completion, Final Completion, and Milestone Dates (if any) may be met by the Contractor.

§ 8.2.5 Timely final completion of the Project is of critical importance to the Owner. The Contractor agrees that it shall substantially complete all Work under the Contract documents within the time established herein and that it shall finally complete the Work in the detail required and in the time required by the Contract Documents.

§ 8.2.6 To the extent that the Contract Documents contain or provide for specific contractual Milestone Dates in addition to Final and Substantial Completion dates, such dates shall be adhered to and shall be the last acceptable dates for those milestones and completions, unless modified by the Owner.

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§ 8.2.7 Notwithstanding anything to the contrary contained in the Contract Documents, in the event that any Contractor fails, or appears likely, in the reasonable opinion of the Owner and Construction Manager, to fail to complete a critical portion of their Work on time or to complete any dates for Substantial Completion, Final Completion, or Milestone Dates as evidenced by the latest update of the CPM Schedule Report, the Owner shall have the right to select and require Contractor's performance under any or all of the following operations:

.1 Require the Contractor to substantiate their capability to get back on schedule within two (2) days;

.2 Require the Contractor, at no additional cost to the Owner, to increase their work force, work overtime and/or extra shifts and do whatever else is required by the Owner until the Contractor gets back on schedule as established by the CPM Schedule Report (including any updates thereto);

.3 Withhold progress payments or portions thereof until such time as the contractor returns to schedule, but only related to Substantial Completion or Final Completion;

.4 Contact or visit the factory, plant, or distribution center whose production or delivery schedule may be critical to the scheduled completion of a portion of the contract work and expedite such production delivery at Contractor's expense; or

.5 Require the Contractor to complete, in detail, and submit weekly a Short Interval Schedule (SIS) showing: (1) planning for the next two weeks; (2) work completed for the previous week; (3) sufficient detail to evaluate daily milestone (if any) and manpower/equipment loading, and shall identify/tie into the monthly updated CPM Schedule Report.

Any costs incurred by the Contractor in fulfilling the option(s) selected by the Owner shall be at the Contractor's expense.

§ 8.3 Delays and Extensions of Time

§ 8.3.1 If the Contractor is delayed at any time in the progress of the Work by (1) an act or neglect of the Owner, Architect, Construction Manager, or an employee of any of them, or of the Owner's own forces, Separate Contractors, or other Contractors; (2) by changes ordered in the Work; (3) by labor disputes, fire, unusual delay in deliveries, unavoidable casualties, adverse weather conditions documented in accordance with Section 15.1.6.2, or other causes beyond the Contractor's control; or (4) by other causes that the Contractor asserts and the Architect, based on the recommendation of the Construction Manager, determines justify delay, then subject to the conditions hereinafter set forth, the Contract Time shall be extended by Change Order for such reasonable time as the Architect may determine. Requests for extensions of time for causes enumerated above will be considered by the Architect subject to the following:

.1 Only those conditions enumerated above over which the Contractor has no control will be considered. The burden of proof to substantiate the claim for an extension shall rest with the Contractor, including evidence that the cause was beyond their control. It shall be deemed the Contractor has control over the supply of labor, materials, equipment, methods, techniques, and over their Subcontractors and suppliers;

.2 In the event of Changes in the Work, any consideration for a time extension will be made only at the time of authorizing the changes, and no later than when the Change Order is prepared, and only if the Change Order significantly affects the time and progress of the entire Work. For changes which do not affect the entire Work, time extension may be granted only for the area, phase, unit, or element affected by the change, if due to a valid reason for a time extension;

.3 Any unusual delay in deliveries will not be considered unless it is solely due to transportation issues wholly outside of Contractor's, Subcontractor's, Sub-subcontractor's or Supplier's control. An extension of time will not be granted for delays in deliveries where said delivery was not properly scheduled or when orders were not promptly and properly placed;

.4 With respect to a claim for an extension of time as a result of climatic conditions, the Contractor shall recognize the location of the site and the existence, as normal, or variations from "average" conditions. Foul weather in itself will not be a valid reason for a time extension. Requests for time extensions because of delay resulting from weather extremes will not be considered unless a substantial variation from usual weather conditions occurs for a significant period of time, during phases of the Work when operation necessarily were suspended to a significant degree when they would otherwise have been in progress. In considering the time extension, the weather conditions both before and after the period in which the delay is claimed will be evaluated with credit given to Owner for unseasonably favorable weather;

.5 Delays resulting from a labor dispute will not result in a time extension of a longer period than the dispute, plus a reasonable time for mobilization if justified and necessary as approved by the

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Architect, and may be less depending on the impact of the dispute, including what operations were suspended or curtailed;

.6 No time extension will be granted as a result of improper scheduling or for failure to have shop drawings or samples submitted in ample time for review under a reasonable and agreed upon schedule; or

.7 Delays by Subcontractors or suppliers will not be considered justification for a time extension, except for the same valid reasons and conditions enumerated under Section 8.3.1.

§ 8.3.2 Claims relating to time shall be made in accordance with applicable provisions of Article 15.

§ 8.3.3 This Section 8.3 does not preclude recovery of damages for delay by either party under other provisions of the Contract Documents.

§ 8.3.4 The Contractor shall be responsible for all Owner incurred costs associated with a Contractor related to delay in completion of the Project. These costs may include, but are not limited to, Owner staff overtime, Consultant additional fees, additional testing, and/or additional rental or storage costs. A Change Order or Construction Change Directive will be issued to cover these costs. If a Change Order is not agreed to by the Contractor, the Owner, after presenting documentation to the Contractor, may deduct these amounts without a Change Order from the Contract Sum.

ARTICLE 9 PAYMENTS AND COMPLETION

§ 9.1 Contract Sum

§ 9.1.1 The Contract Sum is stated in the Agreement and, including authorized adjustments, is the total amount payable by the Owner to the Contractor for performance of the Work under the Contract Documents.

§ 9.1.2 If unit prices are stated in the Contract Documents or subsequently agreed upon, and if quantities originally contemplated are materially changed so that application of such unit prices to the actual quantities causes substantial inequity to the Owner or Contractor, the applicable unit prices shall be equitably adjusted.

§ 9.2 Schedule of Values

Before the first Application for Payment, the Contractor shall submit to the Architect and Construction Manager a schedule of values allocated to various portions of the Work, prepared in the form, and supported by the data to substantiate its accuracy, required by the Construction Manager and the Architect. The schedule, unless objected to by the Construction Manager or Architect, shall be used as a basis for reviewing the Contractor's Applications for Payment. The Construction Manager shall forward to the Architect the Contractor's schedule of values. Any changes to the schedule of values shall be submitted to the Construction Manager and supported by such data to substantiate its accuracy as the Construction Manager and the Architect may require, and unless objected to by the Construction Manager or the Architect, shall be used as a basis for reviewing the Contractor's subsequent Applications for Payment. The Contractor, after receipt of Notice to Proceed, shall meet with the Owner, Construction Manager and the Architect for the purpose of reviewing the Project CPM Schedule and the Contract Schedule of Values. The Contractor shall develop a CPM Schedule for completing their portion of the Work, in conjunction with all other Contractors or Bid Packages, at the Pre-Construction Meeting(s). The Schedule of Values is to be broken down into specification sections and by labor and materials.

§ 9.3 Applications for Payment

§ 9.3.1 At least fifteen days before the date established for each progress payment, the Contractor shall submit to the Construction Manager an itemized Application for Payment for operations completed in accordance with the Schedule of Values. Such application shall be notarized and supported by all data substantiating the Contractor's right to payment that the Owner, Construction Manager or Architect require, such as copies of requisitions, and releases of waivers of lien from Subcontractors and material suppliers, and reflecting retainage if provided for elsewhere in the Contract Documents. The form of Application for Payment shall be a notarized AIA Document G732–2019, Application and Certificate for Payment, supported by AIA Document G703–1992, Continuation Sheet.

§ 9.3.1.1 As provided in Section 7.3.9, such applications may include requests for payment on account of changes in the Work that have been properly authorized by Construction Change Directives, or by interim determinations of the Construction Manager and Architect, but not yet included in Change Orders.

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§ 9.3.1.2 Such applications shall not include requests for payment of amounts the Contractor does not intend to pay a Subcontractor or supplier because of a dispute or other reason, unless such Work has been performed by others whom the Contractor intends to pay.

§ 9.3.1.3 Following certification of the Application for Payment by the Architect and Construction Manager, the Owner shall pay ninety-five percent (95%) of its value, retaining five percent (5%) until Final Completion.

§ 9.3.1.4 Contractor shall provide lien waivers for itself for the current payment application and for Subcontractors, Sub-subcontractors, and suppliers for the previous payment application before the Contractor has earned or has the right to receive payment for the specific items of work or materials covered by the lien waivers. All lien waivers shall be provided in the form required by the Owner. This Section 9.3.1.4 shall not limit other obligations of the Contractor contained elsewhere to provide lien waivers.

§ 9.3.2 Unless otherwise provided in the Contract Documents, payments shall be made on account of materials and equipment delivered and suitably stored at the site for subsequent incorporation in the Work. If approved in advance by the Owner, payment may similarly be made for materials and equipment suitably stored off the site at a location agreed upon in writing. Payment for materials and equipment stored on or off the site shall be conditioned upon compliance by the Contractor with procedures satisfactory to the Owner to establish the Owner's title to such materials and equipment or otherwise protect the Owner's interest, and shall include the costs of applicable insurance, storage, and transportation to the site, for such materials and equipment stored off the site.

§ 9.3.3 The Contractor warrants that title to all Work covered by an Application for Payment will pass to the Owner no later than the time of payment. The Contractor further warrants that upon submittal of an Application for Payment all Work for which Certificates for Payment have been previously issued and payments received from the Owner shall, to the best of the Contractor's knowledge, information, and belief, be free and clear of liens, claims, security interests, or encumbrances, in favor of the Contractor, Subcontractors, suppliers, or other persons or entities that provided labor, materials and equipment relating to the Work.

§ 9.3.4 In each Application for Payment, the Contractor shall certify as follows:

> "That there are no known mechanics' or materialmen's liens or stop notice claims outstanding by the application or any of its subcontractors of any tier, or any of the applicant's or subcontractor's material suppliers, or laborers at the date of this application, that all due and payable bills with respect to the Work have been paid or are included in the amount requested in current application, and that, except for such bills, not paid by Owner, but so included, there is no known basis for the filing of any mechanics' or materialmen's liens or stop notice claims on the Work, and that waivers from Contractor, its subcontractors of any tier, or any of the applicant's or subcontractor's material suppliers and laborers have been obtained in such form as to constitute an effective waiver of liens or stop notice claims, under the laws of the State of Minnesota to the extent of payments made by Owner to Contractor."

Notwithstanding the foregoing Section 9.3.4, Contractor acknowledges its obligation to provide a Payment Bond in accordance with the Contract Documents, and that Contractor's failure to pay any of its Subcontractors, Sub-subcontractors, suppliers, or laborers will be resolved through a claim under the Payment Bond.

§ 9.4 Certificates for Payment

§ 9.4.1 Where there is only one Contractor, the Construction Manager will, within seven days after the Construction Manager's receipt of the Contractor's Application for Payment, review the Application, certify the amount the Construction Manager determines is due the Contractor, and forward the Contractor's Application and Certificate for Payment to the Architect. Within seven days after the Architect receives the Contractor's Application for Payment from the Construction Manager, the Architect will either (1) issue to the Owner a Certificate for Payment, in the full amount of the Application for Payment, with a copy to the Construction Manager; or (2) issue to the Owner a Certificate for Payment for such amount as the Architect determines is properly due, and notify the Construction Manager and Owner of the Architect's reasons for withholding certification in part as provided in Section 9.5.1; or (3) withhold certification of the entire Application for Payment, and notify the Construction Manager and Owner of the Architect's reason for withholding certification in whole as provided in Section 9.5.1. The Construction Manager will promptly forward to the Contractor the Architect's notice of withholding certification.

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§ 9.4.2 Where there is more than one Contractor performing portions of the Project, the Construction Manager will, within seven days after the Construction Manager receives all of the Contractors' Applications for Payment: (1) review the Applications and certify the amount the Construction Manager determines is due each of the Contractors; (2) prepare a Summary of Contractors' Applications for Payment by combining information from each Contractor's application with information from similar applications for progress payments from the other Contractors; (3) prepare a Project Application and Certificate for Payment; (4) certify the amount the Construction Manager determines is due all Contractors; and (5) forward the Summary of Contractors' Applications for Payment and Project Application and Certificate for Payment to the Architect.

§ 9.4.2.1 Within seven days after the Architect receives the Project Application and Project Certificate for Payment and the Summary of Contractors' Applications for Payment from the Construction Manager, the Architect will either (1) issue to the Owner a Project Certificate for Payment, with a copy to the Construction Manager; or (2) issue to the Owner a Project Certificate for Payment for such amount as the Architect determines is properly due, and notify the Construction Manager and Owner of the Architect's reasons for withholding certification in part as provided in Section 9.5.1; or (3) withhold certification of the entire Project Application for Payment, and notify the Construction Manager and Owner of the Architect's reason for withholding certification in whole as provided in Section 9.5.1. The Construction Manager will promptly forward the Architect's notice of withholding certification to the Contractors.

§ 9.4.3 The Construction Manager's certification of an Application for Payment or, in the case of more than one Contractor, a Project Application and Certificate for Payment, shall be based upon the Construction Manager's evaluation of the Work and the data in the Application or Applications for Payment. The Construction Manager's certification will constitute a representation that, to the best of the Construction Manager's knowledge, information, and belief, the Work has progressed to the point indicated, the quality of the Work is in accordance with the Contract Documents, and that the Contractor is, or Contractors are, entitled to payment in the amount certified.

§ 9.4.4 The Architect's issuance of a Certificate for Payment or, in the case of more than one Contractor, Project Application and Certificate for Payment, shall be based upon the Architect's evaluation of the Work, the recommendation of the Construction Manager, and data in the Application for Payment or Project Application for Payment. The Architect's certification will constitute a representation that, to the best of the Architect's knowledge, information, and belief, the Work has progressed to the point indicated, the quality of the Work is in accordance with the Contract Documents, and that the Contractor is, or Contractors are, entitled to payment in the amount certified.

§ 9.4.5 The representations made pursuant to Sections 9.4.3 and 9.4.4 are subject to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, to results of subsequent tests and inspections, to correction of minor deviations from the Contract Documents prior to completion, and to specific qualifications expressed by the Construction Manager or Architect.

§ 9.4.6 The issuance of a Certificate for Payment or a Project Certificate for Payment will not be a representation that the Construction Manager or Architect has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work; (2) reviewed construction means, methods, techniques, sequences, or procedures; (3) reviewed copies of requisitions received from Subcontractors and suppliers and other data requested by the Owner to substantiate the Contractor's right to payment; or (4) made examination to ascertain how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

§ 9.5 Decisions to Withhold Certification

§ 9.5.1 The Construction Manager or Architect may withhold a Certificate for Payment or Project Certificate for Payment in whole or in part, to the extent reasonably necessary to protect the Owner, if in the Construction Manager's or Architect's opinion the representations to the Owner required by Section 9.4.3 and 9.4.4 cannot be made. If the Construction Manager or Architect is unable to certify payment in the amount of the Application, the Construction Manager will notify the Contractor and Owner as provided in Section 9.4.1 and 9.4.2. If the Contractor, Construction Manager and Architect cannot agree on a revised amount, the Architect will promptly issue a Certificate for Payment or a Project Certificate for Payment for the amount for which the Architect is able to make such representations to the Owner. The Construction Manager or Architect may also withhold a Certificate for Payment or, because of subsequently discovered evidence, may nullify the whole or a part of a Certificate for Payment or Project Certificate for Payment previously issued, to such extent as may be necessary in the Construction Manager's or Architect's opinion to protect the Owner from loss for which the Contractor is responsible, including loss resulting from the acts and omissions described in Section 3.3.2 because of

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.1 defective Work not remedied;
.2 third party claims filed or reasonable evidence indicating probable filing of such claims, unless security acceptable to the Owner is provided by the Contractor;
.3 failure of the Contractor to make payments properly to Subcontractors or suppliers for labor, materials or equipment;
.4 reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Sum;
.5 damage to the Owner or a Separate Contractor or other Contractor;
.6 reasonable evidence that the Work will not be completed within the Contract Time, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay; or
.7 repeated failure to carry out the Work in accordance with the Contract Documents.

§ 9.5.2 When either party disputes the Architect's decision regarding a Certificate for Payment under Section 9.5.1, in whole or in part, that party may submit a Claim in accordance with Article 15.

§ 9.5.3 When the reasons for withholding certification are removed, certification will be made for amounts previously withheld.

§ 9.5.4 If the Architect or Construction Manager withholds certification for payment under Section 9.5.1, the Owner may, at its sole option, issue joint checks to the Contractor and to any Subcontractor or supplier to whom the Contractor failed to make payment for Work properly performed or material or equipment suitably delivered. If the Owner makes payments by joint check, the Owner shall notify the Architect and the Construction Manager, and both will reflect such payment on the next Certificate for Payment.

§ 9.6 Progress Payments

§ 9.6.1 After the Architect has issued a Certificate for Payment or Project Certificate for Payment, the Owner shall make payment within thirty (30) days of receipt by Owner of Certificate of Payment in the manner and within the time provided in the Contract Documents, and shall so notify the Construction Manager and Architect.

§ 9.6.2 The Contractor shall pay each Subcontractor, no later than seven days after receipt of payment from the Owner, the amount to which the Subcontractor is entitled, reflecting percentages actually retained from payments to the Contractor on account of the Subcontractor's portion of the Work. The Contractor shall, by appropriate agreement with each Subcontractor, require each Subcontractor to make payments to Sub-subcontractors in a similar manner. Per Minnesota Statutes, Section 471.425, within ten (10) days of Contractor's receipt of payment from Owner, the Contractor must pay any Subcontractor for any undisputed services provided by the Subcontractor. The Contractor shall pay interest of one and one-half percent (1-1/2%) per month, or any part of a month, to the Subcontractor on any undisputed amount not paid on time to the subcontractor. The minimum monthly interest penalty payment for an unpaid balance of $100 or more is $10.00. For an unpaid balance of less than $100, the Contractor shall pay the actual interest penalty due to the Subcontractor. Contractor is advised that by reason of Minnesota Statutes, Section 471.425, subd. 4a, if a Subcontractor prevails in a civil action to collect interest penalties from a prime contractor, the Subcontractor must be awarded its costs and disbursements, including attorneys' fees incurred in bringing the action.

§ 9.6.3 The Construction Manager will, on request, furnish to a Subcontractor, if practicable, information regarding percentages of completion or amounts applied for by the Contractor and action taken thereon by the Owner, Construction Manager and Architect on account of portions of the Work done by such Subcontractor.

§ 9.6.4 The Owner has the right to request written evidence from the Contractor that the Contractor has properly paid Subcontractors and suppliers amounts paid by the Owner to the Contractor for subcontracted Work. If the Contractor fails to furnish such evidence within seven days, the Owner shall have the right to contact Subcontractors and suppliers to ascertain whether they have been properly paid. Neither the Owner, Construction Manager nor Architect shall have an obligation to pay, or to see to the payment of money to, a Subcontractor or supplier, except as may otherwise be required by law.

§ 9.6.5 The Contractor's payments to material and equipment suppliers shall be treated in a manner similar to that provided in Sections 9.6.2, 9.6.3 and 9.6.4.

§ 9.6.6 A Certificate for Payment, a progress payment, or partial or entire use or occupancy of the Project by the Owner shall not constitute acceptance of Work not in accordance with the Contract Documents.

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§ 9.6.7 Unless the Contractor provides the Owner with a payment bond in the full penal sum of the Contract Sum, payments received by the Contractor for Work properly performed by Subcontractors or provided by suppliers shall be held by the Contractor for those Subcontractors or suppliers who performed Work or furnished materials, or both, under contract with the Contractor for which payment was made by the Owner. Nothing contained herein shall require money to be placed in a separate account and not commingled with money of the Contractor, create any fiduciary liability or tort liability on the part of the Contractor for breach of trust, or entitle any person or entity to an award of punitive damages against the Contractor for breach of the requirements of this provision.

§ 9.6.8 Provided the Owner has fulfilled its payment obligations under the Contract Documents, the Contractor shall defend and indemnify the Owner from all loss, liability, damage or expense, including reasonable attorney's fees and litigation expenses, arising out of any lien claim or other claim for payment by any Subcontractor or supplier of any tier. Upon receipt of notice of a lien claim or other claim for payment, the Owner shall notify the Contractor. If approved by the applicable court, when required, the Contractor may substitute a surety bond for the property against which the lien or other claim for payment has been asserted.

§ 9.7 Failure of Payment

If the Construction Manager and Architect do not issue a Certificate for Payment or a Project Certificate for Payment, through no fault of the Contractor, within fourteen days after the Construction Manager's receipt of the Contractor's Application for Payment, or if the Owner does not pay the Contractor within thirty (30) days after the date established in the Contract Documents, the amount certified by the Construction Manager and Architect then the Contractor may, upon ten (10) additional days' notice to the Owner, Construction Manager and Architect, stop the Work until payment of the amount owing has been received. The Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable costs of shutdown, delay and start-up which shall be accomplished as provided in Article 7.

§ 9.8 Substantial Completion

§ 9.8.1 Substantial Completion is the stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Contract Documents so the Owner can occupy or utilize the Work for its intended use and when the Architect issues a Certificate of Substantial Completion.

§ 9.8.2 When the Contractor considers that the Work, or a portion thereof which the Owner agrees to accept separately, is substantially complete, the Contractor shall notify the Construction Manager, and the Contractor and Construction Manager shall jointly prepare and submit to the Architect a comprehensive list of items to be completed or corrected. The Contractor shall proceed promptly to complete and correct items on the list. Failure to include an item on such list does not alter the responsibility of the Contractor to complete all Work in accordance with the Contract Documents. Upon receipt of the Contractor's list, the Architect, assisted by the Construction Manager, will make an inspection to determine whether the Work or designated portion thereof is substantially complete. If the Architect's inspection discloses any item, whether or not included on the Contractor's list, which is not in accordance with the requirements of the Contract documents, the Contractor shall, before issuance of the Certificate of Substantial Completion, complete or correct such item, upon notification by the Architect. The Contractor shall then submit a request for another inspection by the Architect, assisted by the Construction Manager, to determine Substantial Completion. When the Work or designated portion thereof is substantially complete, the Architect will prepare a Certificate of Substantial Completion which shall establish the date of Substantial Completion, shall establish responsibilities of the Owner and Contractor for security, maintenance, heat, utilities, damage to the Work and insurance, and shall fix the time within which the Contractor shall finish all items on the list accompanying the Certificate. Warranties required by the Contract Document shall commence on the date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion.

§ 9.8.3 Upon receipt of the list, the Architect, assisted by the Construction Manager, will make an inspection to determine whether the Work or designated portion thereof is substantially complete. If the Architect's inspection discloses any item, whether or not included on the list, which is not sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work or designated portion thereof for its intended use, the Contractor shall, before issuance of the Certificate of Substantial Completion, complete or correct such item upon notification by the Architect. In such case, the Contractor shall then submit a request for another inspection by the Architect, assisted by the Construction Manager, to determine Substantial Completion.

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§ 9.8.4 When the Architect, assisted by the Construction Manager, determines that the Work of all of the Contractors, or designated portion thereof, is substantially complete, the Construction Manager will prepare, and the Construction Manager and Architect shall execute, a Certificate of Substantial Completion that shall establish the date of Substantial Completion; establish responsibilities of the Owner and Contractor for security, maintenance, heat, utilities, damage to the Work and insurance; and fix the time within which the Contractor shall finish all items on the list accompanying the Certificate. Warranties required by the Contract Documents shall commence on the date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion.

§ 9.8.5 The Certificate of Substantial Completion shall be submitted to the Owner and Contractor for their written acceptance of responsibilities assigned to them in the Certificate. Upon such acceptance, and consent of surety if any, the Owner shall make payment of retainage applying to the Work or designated portion thereof. Such payment shall be adjusted for Work that is incomplete or not in accordance with the requirements of the Contract Documents.

§ 9.8.6 Upon Substantial completion of the Work or designated portion thereof and upon application by the Contractor and certification by the Architect, the Owner shall make payment, reflecting adjustment in retainage, pursuant to Minnesota Statutes, Section 15.72, for such Work or portion thereof as provided in the Contract Documents.

§ 9.8.7 The Architect, assisted by the Construction Manager, shall make one (1) inspection for Substantial Completion and Final Completion in accordance with the AIA Document B101–2017 Owner Architect Agreement. If additional inspections are required due to the Contractor's failure to complete previously listed corrective or uncompleted work, the Architect's expense for conducting such re-inspections and related time in processing, reviewing, and revision of requirements shall be charged to the Contractor and such payment shall be accomplished by a deductive Change Order to the Contractor.

§ 9.9 Partial Occupancy or Use

§ 9.9.1 The Owner may occupy or use any completed or partially completed portion of the Work at any stage when such portion is designated by separate agreement with the Contractor, provided such occupancy or use is consented to by the insurer and authorized by public authorities having jurisdiction over the Project. Such partial occupancy or use may commence whether or not the portion is substantially complete, provided the Owner and Contractor have accepted in writing the responsibilities assigned to each of them for payments, retainage if any, security, maintenance, heat, utilities, damage to the Work and insurance, and have agreed in writing concerning the period for correction of the Work and commencement of warranties required by the Contract Documents. When the Contractor considers a portion substantially complete, the Contractor and Construction Manager shall jointly prepare and submit a list to the Architect as provided under Section 9.8.2. Consent of the Contractor to partial occupancy or use shall not be unreasonably withheld. The stage of the progress of the Work shall be determined by written agreement between the Owner and Contractor or, if no agreement is reached, by decision of the Architect after consultation with the Construction Manager.

§ 9.9.2 Immediately prior to such partial occupancy or use, the Owner, Construction Manager, Contractor, and Architect shall jointly inspect the area to be occupied or portion of the Work to be used in order to determine and record the condition of the Work.

§ 9.9.3 Unless otherwise agreed upon, partial occupancy or use of a portion or portions of the Work shall not constitute acceptance of Work not complying with the requirements of the Contract Documents.

§ 9.10 Final Completion and Final Payment

§ 9.10.1 Upon completion of the Work, the Contractor shall forward to the Construction Manager a notice that the Work is ready for final inspection and acceptance, and shall also forward to the Construction Manager a final Contractor's Application for Payment. Upon receipt, the Construction Manager shall perform an inspection to confirm the completion of Work of the Contractor. The Construction Manager shall make recommendations to the Architect when the Work of all of the Contractors is ready for final inspection, and shall then forward the Contractors' notices and Application for Payment or Project Application for Payment, to the Architect, who will promptly make such inspection. When the Architect finds the Work acceptable under the Contract Documents and the Contract fully performed, the Construction Manager and Architect will promptly issue a final Certificate for Payment or Project Certificate for Payment stating that to the best of their knowledge, information and belief, and on the basis of their observations, on-site visits and inspections, the Work has been completed in accordance with the Contract Documents

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and that the entire balance found to be due the Contractor and noted in the final Certificate is due and payable. The Construction Manager's and Architect's final Certificate for Payment or Project Certificate for Payment will constitute a further representation that conditions listed in Section 9.10.2 as precedent to the Contractor's being entitled to final payment have been fulfilled.

§ 9.10.2 Neither final payment nor any remaining retained percentage shall become due until the Contractor submits to the Architect through the Construction Manager (1) an affidavit that payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which the Owner or the Owner's property might be responsible or encumbered (less amounts withheld by Owner) have been paid or otherwise satisfied, (2) a certificate evidencing that insurance required by the Contract Documents to remain in force after final payment is currently in effect and will not be cancelled or allowed to expire until at least (60) days' prior written notice has been given to the Owner, (3) a written statement that the Contractor knows of no reason that the insurance will not be renewable to cover the period required by the Contract Documents, (4) consent of surety, if any, to final payment (5) documentation of any special warranties, such as manufacturers' warranties or specific Subcontractor warranties, including a summary listing all applicable warranties both standard and extended, itemized by specification section and included at the front of the Operation and Maintenance manuals, and (6) other data establishing payment or satisfaction of obligations, such as receipts and releases and waivers of liens, claims, security interests, or encumbrances arising out of the Contract, to the extent and in such form as may be designated by the Owner. If a Subcontractor refuses to furnish a release or waiver required by the Owner, the Contractor may furnish a bond satisfactory to the Owner to indemnify the Owner against such lien, claim, security interest, or encumbrance. If a lien, claim, security interest, or encumbrance remains unsatisfied after payments are made, the Contractor shall refund to the Owner all money that the Owner may be compelled to pay in discharging the lien, claim, security interest, or encumbrance, including all costs and reasonable attorneys' fees.

§ 9.10.3 If, after Substantial Completion of the Work, final completion thereof is materially delayed through no fault of the Contractor or by issuance of Change Orders affecting final completion, and the Construction Manager and Architect so confirm, the Owner shall, upon application by the Contractor and certification by the Construction Manager and Architect, and without terminating the Contract, make payment of the balance due for that portion of the Work fully completed, corrected, and accepted. If the remaining balance for Work not fully completed or corrected is less than retainage stipulated in the Contract Documents, and if bonds have been furnished, the written consent of the surety to payment of the balance due for that portion of the Work fully completed and accepted shall be submitted by the Contractor to the Architect through the Construction Manager prior to certification of such payment. Such payment shall be made under terms and conditions governing final payment, except that it shall not constitute a waiver of Claims.

§ 9.10.4 The making of final payment shall constitute a waiver of Claims by the Owner except those arising from

- **.1** liens, Claims, security interests, or encumbrances arising out of the Contract and unsettled;
- **.2** failure of the Work to comply with the requirements of the Contract Documents;
- **.3** terms of special warranties required by the Contract Documents; or
- **.4** audits performed by the Owner, if permitted by the Contract Documents, after final payment.

§ 9.10.5 Acceptance of final payment by the Contractor, a Subcontractor, or a supplier, shall constitute a waiver of claims by that payee except those previously made in writing and identified by that payee as unsettled at the time of final Application for Payment.

§ 9.11 Damages for Delay

§ 9.11.1 The Contractor shall be responsible for damages incurred by the Owner and any other separate contractors for delay resulting from the Contractor's failure to complete the Work within the contract Time or resulting from the progress of the Work failing to substantially conform to the Project Construction Schedule. These damages are not included in liquidated damages and represent additional direct costs incurred by the Owner for the delay. These damages may include Owner incurred costs for temporary classrooms, temporary facilities, moving of programs, etc.

ARTICLE 10 PROTECTION OF PERSONS AND PROPERTY

§ 10.1 Safety Precautions and Programs

§ 10.1.1 The Contractor shall be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the performance of the Contract. The Contractor shall submit the Contractor's safety program to the Construction Manager for review and coordination with the safety programs of other Contractors. The Construction Manager's responsibilities for review and coordination of safety programs shall not extend to direct control over or charge of the acts or omissions of the Contractors, Subcontractors, agents or employees of the

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Contractors or Subcontractors, or any other persons performing portions of the Work and not directly employed by the Construction Manager.

§ 10.1.2 The Contractor shall comply with all applicable laws and regulations. Notwithstanding any language to the contrary, the Owner shall not have any responsibility for job site inspections or safety recommendations. Any inspections or observations by the Owner, Construction Manager or the Architect are solely for the benefit of the Owner and shall not create any duties or obligations to anyone else.

§ 10.2 Safety of Persons and Property

§ 10.2.1 The Contractor shall take reasonable precautions for safety of, and shall provide reasonable protection to prevent damage, injury, or loss to

- **.1** employees on the Work and other persons who may be affected thereby;
- **.2** the Work and materials and equipment to be incorporated therein, whether in storage on or off the site, under care, custody, or control of the Contractor, a Subcontractor, or a Sub-subcontractor;
- **.3** other property at the site or adjacent thereto, such as trees, shrubs, lawns, walks, pavements, roadways, structures, and utilities not designated for removal, relocation, or replacement in the course of construction; and
- **.4** construction or operations by the Owner, Separate Contractors, or other Contractors.

§ 10.2.2 The Contractor shall comply with, and give notices required by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities, bearing on safety of persons or property or their protection from damage, injury, or loss.

§ 10.2.3 The Contractor shall implement, erect, and maintain, as required by existing conditions and performance of the Contract, reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards; promulgating safety regulations; and notifying the owners and users of adjacent sites and utilities of the safeguards.

§ 10.2.4 When use or storage of explosives or other hazardous materials or equipment or unusual methods are necessary for execution of the Work, the Contractor shall exercise utmost care and carry on such activities under supervision of properly qualified personnel.

§ 10.2.5 The Contractor shall promptly remedy damage and loss (other than damage or loss insured under property insurance required by the Contract Documents) to property referred to in Sections 10.2.1.2, 10.2.1.3 and 10.2.1.4 caused in whole or in part by the Contractor, a Subcontractor, a Sub-subcontractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable and for which the Contractor is responsible under Sections 10.2.1.2, 10.2.1.3 and 10.2.1.4. The Contractor may make a Claim for the cost to remedy the damage or loss to the extent such damage or loss is attributable to acts or omissions of the Owner, Construction Manager or Architect or anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable, and not attributable to the fault or negligence of the Contractor. The foregoing obligations of the Contractor are in addition to the Contractor's obligations under Section 3.18.

§ 10.2.6 The Contractor shall designate a responsible member of the Contractor's organization at the site whose duty shall be the prevention of accidents. This person shall be the Contractor's superintendent unless otherwise designated by the Contractor in writing to the Owner, Construction Manager and Architect.

§ 10.2.7 The Contractor shall not permit any part of the construction or site to be loaded so as to cause damage or create an unsafe condition.

§ 10.2.8 Injury or Damage to Person or Property

If either party suffers injury or damages to person or property because of an act or omission of the other party, of any of the other party's employees or agents, or of others for whose acts such party is legally responsible, notice of the injury or damage, whether or not insured, shall be given to the other party within a reasonable time not exceeding ten (10) days after first observance. The notice shall provide sufficient detail to enable the other party to investigate the matter. If a Claim for additional cost or time related to this Claim is to be asserted, it shall be filed as provided in Sections 15.1.4 and 15.1.5.

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§ 10.3 Hazardous Materials

§ 10.3.1 In the event the Contractor encounters on the site material reasonably believed to be asbestos or polychlorinated biphenyl (PCB) which has not been rendered harmless, the Contractor shall immediately stop Work in the area affected and report the condition to the Owner, Construction Manager and Architect in writing. The Work in the affected area shall not thereafter be resumed except by written agreement of the Owner and Contractor if in fact the material is asbestos or polychlorinated biphenyl (PCB) and has not been rendered harmless. The Work in the affected area shall be resumed in the absence of asbestos or polychlorinated biphenyl (PCB), or when it has been rendered harmless, by written agreement of the Owner and Contractor.

.1 Except where otherwise stated in the Contract Documents, no hazardous material work of any nature shall be performed by the Contractor pursuant to this Contract.

.2 The term "hazardous materials" includes, but is not limited to, asbestos, toxic chemicals, acids, alkalis, irritants, contaminants, or other pollutants, together with any other waste, material, substance, pollutants, or contaminant, all or a portion of which is or would be designated as hazardous waste or substance under applicable local, state, or federal laws, ordinances, codes, rules, or regulations.

§ 10.3.2 To the fullest extent permitted by law, the Owner shall indemnify and hold harmless the Contractor, Construction Manager, Architect, their consultants, and agents and employees of any of them from and against claims, damages, losses, and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work on Owner's property if in fact the material is asbestos or polychlorinated biphenyl (PCB) and has not been rendered harmless, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), including loss of use resulting therefrom, but only to the extent caused in whole or in part by negligent acts or omissions of the Owner, anyone directly or indirectly employed by the Owner, or anyone for whose acts the Owner may be liable, regardless of whether or not such claim, damage, loss, or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity which would otherwise exist as to a party or person described in this Subparagraph 10.3.2.

§ 10.3.3 If reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a material or substance encountered on the site by the contractor, the Contractor shall, upon recognizing the condition, immediately stop Work on Owner's property and report the condition to the Owner, Construction Manager and Architect in writing. The Owner, Construction Manager, Contractor, and Architect shall then proceed in the same manner described in Subparagraph 10.3.1.

(Paragraph deleted)

§ 10.3.5 The Contractor shall reimburse the Owner for the cost and expense the Owner incurs (1) for remediation of hazardous materials or substances the Contractor brings to the site and negligently handles, or (2) where the Contractor fails to perform its obligations under Section 10.3.1, except to the extent that the cost and expense are due to the Owner's fault or negligence. Owner shall be responsible for obtaining the services of a licensed laboratory to verify a presence or absence of the material or substance reported by the Contractor and, in the event such material or substance is found to be present, to verify that it has been rendered harmless.

§ 10.3.6 Regulations concerning the availability of information and employee training in the use and handling of "hazardous substances" and "harmful physical agents", as set forth in the Employee Right-to-Know Act of 1983, Minnesota Statutes, Sections 182.65 to 182.676 are incorporated herein by reference as if fully set forth herein.

§ 10.3.7 The Contractor shall furnish three Material Safety Data Sheets to the Owner for each material used in the Work that is classified by the Employee Right-to-Know Act of 1983 as a "hazardous substance" or a "harmful physical agent."

§ 10.3.8 The Contractor shall label, in generally accepted and/or standardized fashion, all containers on the work site containing "hazardous substances" or as "harmful physical agents." This shall include factory containers and all subsequent containers used in the Work.

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§ 10.4 Emergencies

In an emergency affecting safety of persons or property, the Contractor shall act to prevent threatened damage, injury, or loss. Additional compensation or extension of time claimed by the Contractor on account of an emergency shall be determined as provided in Article 15 and Article 7.

ARTICLE 11 INSURANCE AND BONDS

§ 11.1 Contractor's Insurance and Bonds

§ 11.1.1 The Contractor shall purchase and maintain insurance of the types and limits of liability, containing the endorsements, and subject to the terms and conditions, as described in the Agreement, in EXH-C Owner Insurance or elsewhere in the Contract Documents. The Contractor shall purchase and maintain the required insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located and which carry a Best's rating of A- or higher or are otherwise acceptable to the Owner. The Owner, Construction Manager and Construction Manager's consultants, and the Architect and Architect's consultants, shall be named as additional insureds under the Contractor's commercial general liability policy or as otherwise described in the Contract Documents.

§ 11.1.2 The Contractor shall provide surety bonds of the types, for such penal sums, and subject to such terms and conditions as required by the Contract Documents. The Contractor shall purchase and maintain the required bonds from a company or companies lawfully authorized to issue surety bonds in the jurisdiction where the Project is located.

§ 11.1.3 Upon the request of any person or entity appearing to be a potential beneficiary of bonds covering payment of obligations arising under the Contract, the Contractor shall promptly furnish a copy of the bonds or shall authorize a copy to be furnished. The Contractor shall furnish Certificates of Insurance acceptable to the Owner which shall specifically set forth evidence of all coverage required by Article 11 and EXH-C Owner Insurance and shall be filed with the Owner and Construction Manager prior to commencement of the Work and thereafter upon renewal or replacement of each required policy of insurance.

The Contractor shall not allow insurance required by this Agreement to lapse, be canceled, reduced in limits or coverage, non-renewed, or materially changed or have restrictive modifications added during the life of this Agreement, including the periods of required coverage. The Contractor shall furnish to the Owner and Construction Manager copies of any endorsements that are subsequently issued amending coverage and limits.

If any of the foregoing insurance coverages are required to remain in force after final payment and are reasonably available, all additional certificates evidencing continuation of such coverage shall be submitted with the final Application for Payment. Information concerning reduction of coverage shall be furnished by the Contractor with reasonable promptness in accordance with the Contractor's information and belief.

§ 11.1.3.1 Acceptable insurance certificates are AIA Document G705, CICC of Minnesota Form 701, and/or ACORD form of the American Insurance Institute.

Failure of the Owner to collect certificates does not void the requirements to obtain insurance.

The acceptance of any certificate of insurance by the Owner shall not relieve or decrease the liability of the Contractor hereunder. It is to be understood the Owner, Construction Manager and Architect do not in any way represent that the insurance specified in these articles are sufficient or adequate to protect the Contractor's interest or liabilities, but are merely minimum requirements.

The Contractor shall furnish to the Owner copies of any endorsements that are subsequently issued amending coverage and limits.

§ 11.1.4 In the event the Contractor fails to procure or maintain any insurance coverage required under this Agreement, the Owner may purchase such coverage and deduct the cost thereof from any monies due to the Contractor, or terminate this Agreement under Paragraph 14.2. The Contractor shall be liable to the Owner for providing all coverage, defense, and payments that would have been provided by any insurance that the Contractor failed to procure and maintain as required by the Contract Documents.

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§ 11.1.5 Compliance by the Contractor with the foregoing insurance requirements shall not relieve it from liability for amounts in excess of the limits of insurance.

§ 11.1.6 The Contractor and any of its Subcontractors, Sub-subcontractors, agents and employees, and any separate contractors described in Article 6, if any, and any of their subcontractors, sub-subcontractors, agents and employees shall waive any of their subrogation rights on their Workers Compensation Policy in favor of the Owner, Construction Manager and Architect. The policies shall provide such waivers of subrogation by endorsement or otherwise. A waiver of subrogation shall be effective as to a person or entity even though that person or entity would otherwise have a duty of indemnification, contractual, or otherwise, did not pay the insurance premium directly or indirectly, and whether or not the person or entity had an insurable interest.

§ 11.2 Owner's Insurance

§ 11.2.1 The Owner shall purchase and maintain insurance of the types and limits of liability, containing the endorsements, and subject to the terms and conditions, as described in the Agreement or elsewhere in the Contract Documents. The Owner shall purchase and maintain the required insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The Owner may self-insure and maintain the Owner's usual liability insurance. Optionally, the Owner may purchase and maintain other insurance for self-protection against claims which may arise from operations under the Contract. The Contractor shall not be responsible for purchasing and maintaining this optional Owner's liability insurance unless specifically required by the Contract Documents.

§ 11.2.2 Failure to Purchase Required Property Insurance. If the Owner fails to purchase and maintain the required property insurance, with all of the coverages and in the amounts described in the Agreement or elsewhere in the Contract Documents, the Owner shall inform both the Contractor and the Construction Manager, separately and in writing, prior to commencement of the Work. Upon receipt of notice from the Owner, the Contractor may delay commencement of the Work and may obtain insurance that will protect the interests of the Contractor, Subcontractors, and Sub-Subcontractors in the Work. When the failure to provide coverage has been cured or resolved, the Contract Sum and Contract Time shall be equitably adjusted. In the event the Owner fails to procure coverage, the Owner waives all rights against the Contractor, Subcontractors, and Sub-subcontractors to the extent the loss to the Owner would have been covered by the insurance to have been procured by the Owner. The cost of the insurance shall be charged to the Owner by a Change Order. If the Owner does not provide written notice, and the Contractor is damaged by the failure or neglect of the Owner to purchase or maintain the required insurance, the Owner shall reimburse the Contractor for all reasonable costs and damages attributable thereto.

§ 11.2.3 Notice of Cancellation or Expiration of Owner's Required Property Insurance. Within three (3) business days of the date the Owner becomes aware of an impending or actual cancellation or expiration of any property insurance required by the Contract Documents, the Owner shall provide notice directly to the Contractor, and separately to the Construction Manager, of such impending or actual cancellation or expiration. Unless the lapse in coverage arises from an act or omission of the Contractor: (1) the Contractor, upon receipt of notice from the Owner, shall have the right to stop the Work until the lapse in coverage has been cured by the procurement of replacement coverage by either the Owner or the Contractor; (2) the Contract Time and Contract Sum shall be equitably adjusted; and (3) the Owner waives all rights against the Contractor, Subcontractors, and Sub-subcontractors to the extent any loss to the Owner would have been covered by the insurance had it not expired or been cancelled. If the Contractor purchases replacement coverage, the cost of the insurance shall be charged to the Owner by an appropriate Change Order. The furnishing of notice by the Owner shall not relieve the Owner of any contractual obligation to provide required insurance.

§ 11.3 Waivers of Subrogation

§ 11.3.1 The Owner and Contractor waive all rights against (1) each other and any of their subcontractors, sub-subcontractors, agents, and employees, each of the other; (2) the Construction Manager and Construction Manager's consultants; (3) the Architect and Architect's consultants; (4) other Contractors and any of their subcontractors, sub-subcontractors, agents, and employees; and (5) Separate Contractors, if any, and any of their subcontractors, sub-subcontractors, agents, and employees, for damages caused by fire, or other causes of loss, to the extent those losses are covered by property insurance required by the Agreement or other property insurance applicable to the Project, except such rights as they have to proceeds of such insurance. The Owner or Contractor, as appropriate, shall require similar written waivers in favor of the individuals and entities identified above from the Construction Manager, Construction Manager's consultants, Architect, Architect's consultants, other Contractors,

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Separate Contractors, subcontractors, and sub-subcontractors. The policies of insurance purchased and maintained by each person or entity agreeing to waive claims pursuant to this Section 11.3.1 shall not prohibit this waiver of subrogation. This waiver of subrogation shall be effective as to a person or entity (1) even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, (2) even though that person or entity did not pay the insurance premium directly or indirectly, or (3) whether or not the person or entity had an insurable interest in the damaged property.

(Paragraph deleted)

§ 11.4 Loss of Use, Business Interruption, and Delay in Completion Insurance

The Owner, at the Owner's option, may purchase and maintain insurance that will protect the Owner against loss of use of the Owner's property, or the inability to conduct normal operations, due to fire or other causes of loss. The Owner waives all rights of action against the Contractor, Architect, and Construction Manager for loss of use of the Owner's property, due to fire or other hazards however caused.

§ 11.5 Adjustment and Settlement of Insured Loss

§ 11.5.1 A loss insured under the property insurance required by the Agreement shall be adjusted by the Owner as fiduciary and made payable to the Owner as fiduciary for the insureds, as their interests may appear, subject to requirements of any applicable mortgagee clause and of Section 11.5.2. The Owner shall pay the Construction Manager, Architect and Contractor their just shares of insurance proceeds received by the Owner, and by appropriate agreements the Construction Manager, Architect and Contractor shall make payments to their consultants and Subcontractors in similar manner.

§ 11.5.2 Prior to settlement of an insured loss, the Owner shall notify the Contractor of the terms of the proposed settlement as well as the proposed allocation of the insurance proceeds. The Contractor shall have 14 days from receipt of notice to object to the proposed settlement or allocation of the proceeds. If the Contractor does not object, the Owner shall settle the loss and the Contractor shall be bound by the settlement and allocation. Upon receipt, the Owner shall make the appropriate distributions. Thereafter, if no other agreement is made or the Owner does not terminate the Contract for convenience, the Owner and Contractor shall execute a Change Order for reconstruction of the damaged or destroyed Work in the amount allocated for that purpose. If the Contractor timely objects to either the terms of the proposed settlement or the allocation of the proceeds, the Owner may proceed to settle the insured loss, and any dispute between the Owner and Contractor arising out of the settlement or allocation of the proceeds shall be resolved pursuant to Article 15. Pending resolution of any dispute, the Owner may issue a Construction Change Directive for the reconstruction of the damaged or destroyed Work.

§ 11.6 Bonds

§ 11.6.1 Contractor shall furnish a Performance Bond and a Payment Bond to the Owner in the amount of one hundred percent (100%) of the Contract Sum and issued by a Surety Company authorized to do business in the State of Minnesota, rated "A" or better, and approved by the Owner. The Performance Bond shall be in accordance with Minnesota Statutory requirements, and shall be in the form included in the Project Manual. The Bonds shall allow for any additions or deductions to the Contract Sum.

§ 11.6.2 In order to be acceptable as a surety, Contractor's bonding company bust hold a "Certificate of Authority acceptable to the U.S. Treasury Department and be listed in the Department's current publication of "Bond Qualifiers" with underwriting limitations not less than ten percent (10%) above the Contract Sum.

§ 11.6.3 The surety of the Bonds shall be by a corporate surety company authorized to do business in the state in which Work is being performed under this Contract and acceptable to the Owner. The conditions of the bonds shall meet requirements of the statutes of the state where Work is being performed and all other applicable provisions of state law.

§ 11.6.4 The Contractor shall furnish two (2) originals of the Bonds to the Owner, with copies to the Architect and Construction Manager, within ten (10) days after notification of award and before execution of the Contract. Failure to do so shall constitute a violation of terms of the proposal and provide grounds for forfeiture of bid security.

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ARTICLE 12 UNCOVERING AND CORRECTION OF WORK

§ 12.1 Uncovering of Work

§ 12.1.1 If a portion of the Work is covered contrary to the Construction Manager's or Architect's request or to requirements specifically expressed in the Contract Documents, it must, if requested in writing by either, be uncovered for their examination and be replaced at the Contractor's expense without change in the Contract Time.

§ 12.1.2 If a portion of the Work has been covered that the Construction Manager or Architect has not specifically requested to examine prior to its being covered, the Construction Manager or Architect may request to see such Work and it shall be uncovered by the Contractor. If such Work is in accordance with the Contract Documents, the Contractor shall be entitled to an equitable adjustment to the Contract Sum and Contract Time as may be appropriate. If such Work is not in accordance with the Contract Documents, the costs of uncovering the Work, and the cost of correction, shall be at the Contractor's expense.

§ 12.2 Correction of Work

§ 12.2.1 Before Substantial Completion

The Contractor shall promptly correct Work rejected by the Construction Manager or Architect or failing to conform to the requirements of the Contract Documents, discovered before Substantial Completion, and whether or not fabricated, installed or completed. The Contractor shall bear costs of correcting such rejected Work, including additional testing and inspections, the cost of uncovering and replacement, and compensation for the Construction Manager's and Architect's services and expenses made necessary thereby.

§ 12.2.2 After Substantial Completion

(Paragraphs deleted)

§ 12.2.2.1 If within one year after the date of Substantial Completion of the Work or designated portion thereof, or after the date for commencement of warranties established under Section 9.9.1, or by terms of any applicable special warranty required by the Contract Documents, any of the Work is found to be not in accordance with the requirements of the Contract Documents, the Contractor shall correct it promptly (and any other property damaged or removed in effecting the correction) after receipt of notice from the Owner, Construction Manager or Architect to do so, unless the Owner has previously given the Contractor a written acceptance of such condition. The Owner, Construction Manager or Architect shall give such notice promptly after discovery of the condition. This period of one year shall be extended with respect to portions of Work first performed after Substantial completion by the period of time between Substantial completion and the actual performance of the Work. This obligation under this Subparagraph 12.2.2.1 shall survive acceptance of the Work under the contract and termination of the Contract. The Owner, Construction Manager or Architect shall give such notice promptly after discovery of the condition. The expiration of the above one year or any other specified time period, or any other period prescribed by the law, shall not relieve the Contractor of the obligation form the expense to correct any latent defect in the work or deficiencies which are not readily ascertained, including but not limited to, defective materials and quality of work performed, defects attributable to material substitutions for special materials, substandard performance or otherwise not in compliance with the Contract Documents. Such latent defects or deficiencies shall be corrected as provided in this Paragraph 12.2. Following the correction or replacement of any of the Work, as above specified, the Contractor shall correct any defects or deficiencies in the corrected or replaced materials and workmanship which is found within one year after the date of correction or replacement.

§ 12.2.3 The Contractor shall remove from the site portions of the Work that are not in accordance with the requirements of the Contract Documents and are neither corrected by the Contractor nor accepted by the Owner.

§ 12.2.4 If the Contractor fails to correct nonconforming Work within a reasonable time, the Owner may correct it in accordance with Paragraph 2.4. If the Contractor does not proceed with correction of such nonconforming Work within a reasonable time fixed by written notice from the Architect or Construction Manager, the Owner may correct or remove it and store the salvageable materials or equipment all at the Contractor's expense. If the Contractor does not pay costs of such removal and storage within ten (10) days after written notice, the Owner may upon ten (10) additional days' written notice sell such materials and equipment at auction or at private sale and shall account for the proceeds thereof, after deducting costs and damages that should have been borne by the Contractor, the Contract Sum shall be reduced by the deficiency. If payments then or thereafter due the Contractor are not sufficient to cover such amount, the Contractor shall pay the difference to the Owner.

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§ 12.2.5 The Contractor shall bear the cost of correcting destroyed or damaged construction whether completed or partially completed, of the Owner or separate contractors caused by the Contractor's correction or removal of Work which is not in accordance with the requirements of the Contract Documents.

§ 12.2.6 Nothing contained in this Section 12.2 shall be construed to establish a period of limitation with respect to other obligations the Contractor has under the Contract Documents. Establishment of the one-year period for correction of Work as described in Section 12.2.2 relates only to the specific obligation of the Contractor to correct the Work, and has no relationship to the time within which the obligation to comply with the Contract Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Contractor's liability with respect to the Contractor's obligations other than specifically to correct the Work.

§ 12.3 Acceptance of Nonconforming Work

If the Owner prefers to accept Work that is not in accordance with the requirements of the Contract Documents, the Owner may do so instead of requiring its removal and correction, in which case the Contract Sum will be reduced as appropriate and equitable. Such adjustment shall be effected whether or not final payment has been made.

ARTICLE 13 MISCELLANEOUS PROVISIONS

§ 13.1 Governing Law

The Contract shall be governed by the law of the place where the Project is located excluding that jurisdiction's choice of law rules. If the parties have selected arbitration as the method of binding dispute resolution, the Federal Arbitration Act shall govern Section 15.4.

§ 13.2 Successors and Assigns

§ 13.2.1 The Owner and Contractor respectively bind themselves, their partners, successors, assigns, and legal representatives to covenants, agreements, and obligations contained in the Contract Documents. Except as provided in Section 13.2.2, neither party to the Contract shall assign the Contract as a whole without written consent of the other. If either party attempts to make an assignment without such consent, that party shall nevertheless remain legally responsible for all obligations under the Contract.

§ 13.2.2 The Owner may, without consent of the Contractor, assign the Contract to a lender providing construction financing for the Project, if the lender assumes the Owner's rights and obligations under the Contract Documents. The Contractor shall execute all consents reasonably required to facilitate the assignment.

§ 13.3 Rights and Remedies

§ 13.3.1 Duties and obligations imposed by the Contract Documents and rights and remedies available thereunder shall be in addition to and not a limitation of duties, obligations, rights, and remedies otherwise imposed or available by law.

§ 13.3.2 No action or failure to act by the Owner, Construction Manager, Architect, or Contractor shall constitute a waiver of a right or duty afforded them under the Contract, nor shall such action or failure to act constitute approval of or acquiescence in a breach thereunder, except as may be specifically agreed upon in writing.

§ 13.4 Tests and Inspections

§ 13.4.1 Tests, inspections, and approvals of portions of the Work shall be made as required by the Contract Documents and by applicable laws, statutes, ordinances, codes, rules, and regulations or lawful orders of public authorities. The Owner, Construction Manager or Architect shall make arrangements for such tests, inspections, and approvals with an independent testing laboratory or entity acceptable to the Owner, or with the appropriate public authority. Timely notice shall be given to the Construction Manager and Architect of when and where tests and inspections are to be made so that the Construction Manager and Architect may observe such procedures. The Owner shall bear costs of tests, inspections, or approvals that do not become requirements until after bids are received or negotiations concluded. The Owner shall directly arrange and pay for tests, inspections, or approvals where building codes or applicable laws or regulations so require.

§ 13.4.2 If the Construction Manager, Architect, Owner, or public authorities having jurisdiction determine that portions of the Work require additional testing, inspection, or approval not included under Section 13.4.1, the Construction Manager and Architect will, upon written authorization from the Owner, instruct the Contractor to make arrangements for such additional testing, inspection, or approval, by an entity acceptable to the Owner, and the

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Contractor shall give a minimum of two (2) working days' notice to the Construction Manager and Architect of when and where tests and inspections are to be made so that the Construction Manager and Architect may observe procedures. The Owner shall bear such costs, except as provided in Section 13.4.3.

§ 13.4.3 If procedures for testing, inspection, or approval under Sections 13.4.1 and 13.4.2 reveal failure of the portions of the Work to comply with requirements established by the Contract Documents, all costs made necessary by such failure, including those of repeated procedures and compensation for the Construction Manager's and Architect's services and expenses, shall be at the Contractor's expense.

§ 13.4.4 Required certificates of testing, inspection, or approval shall, unless otherwise required by the Contract Documents, be secured by the Contractor and promptly delivered to the Construction Manager for transmittal to the Architect.

§ 13.4.5 If the Construction Manager or Architect is to observe tests, inspections, or approvals required by the Contract Documents, the Construction Manager or Architect will do so promptly and, where practicable, at the normal place of testing.

§ 13.4.6 Tests or inspections conducted pursuant to the Contract Documents shall be made promptly to avoid unreasonable delay in the Work.

§ 13.5 Interest

All payments to the Contractor shall be governed by the Prompt Payment of Local Government Bills, Minnesota Statutes, Section 471.125 ("Prompt Payment Act") and Article 5 of the A132–2019 Agreement on this Project.

§ 13.6 Non-Discrimination

§ 13.6.1 All contracts between the Owner and companies providing goods and services under the Contract Documents shall contain the following equal opportunity and civil right clause:

> "During the performance of this Agreement, the provider agrees to the following: No contractor, material supplier, vendor, or other person shall on the basis of sex, race, creed, color, religion, national origin, age, marital status, sexual orientation, or disability be excluded from full employment rights in, participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program, service, or activity under the provisions of any and all applicable Federal and State laws against discrimination, including the Minnesota Human Rights Act and the Civil Rights Act of 1964."

Upon request, the Contractor shall furnish all information and reports required by the Owner, or by the rules and regulations of investigation to ascertain compliance with all applicable rules and regulations. The Contractor shall also comply with any applicable licensing requirements of the Minnesota Department of Human Services in employment of personnel.

The Contractor acknowledges that the violation of the above-stated paragraph is a misdemeanor pursuant to Minnesota Statutes, Section 181.59.

This Agreement may be cancelled or terminated by the Owner or any other person authorized to grant the contracts for employment under this Agreement, and all money due, or to become due under this Agreement may be forfeited for a second or any subsequent violation of the non-discriminatory terms stated above.

§ 13.6.2 During the completion of the work and all other services required by the Contract Documents, the Contractor agrees that no contractor, material supplier, vendor, or other person shall, on the basis of sex, race, creed, color, religion, national origin, age, marital status, sexual orientation, or disability be excluded from full employment rights in participation in, be denied the benefits of, or be otherwise subjected to discrimination under the provisions of any and all applicable Federal and State laws against discrimination, including the Minnesota Human Rights Act and the Civil Rights Act of 1964. Upon request, the Architect, Construction Manager and Contractor shall furnish all information and reports required by the Owner, or by the rules and regulations of investigation to ascertain compliance with all applicable rules and regulations. The Contractor shall also comply with any applicable licensing requirements of the Minnesota Department of Human Services in employment of personnel.

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Contractor acknowledges that the violation of the above-states paragraph is a misdemeanor pursuant to Minnesota Statutes Section 181.59.

The Contract Documents may be cancelled or terminated by the Owner or any other person authorized to grant the contracts for employment under this Agreement, and all money due, or to become due under the Agreement may be forfeited for a second or any subsequent violation of the non-discriminatory terms stated above.

§ 13.7 No action or failure to act by the Owner shall constitute a waiver of a right or duty afforded the Owner under the Contract Documents, nor shall such action or failure to act constitute approval of or acquiescence of the Owner in a breach of the Contract Documents, except as may be specifically agreed in writing. None of the approval of any Application for Payment, the making of any payment, the giving of any approval or consent, the use or occupancy of the Work, or any part thereof, the making of final payment, or any other action or inaction on the part of the Owner, Construction Manager or Architect shall constitute a waiver of claims by or rights of the Owner or an acceptance of any Work that is not in accordance with the Contract Documents. The Contractor shall not be relieved from its obligations to perform the Work in accordance with the Contract Documents either by the activities or duties of the representations of the Owner, Construction Manager or Architect, or by inspections, tests, or approvals required or performed by the Owner, Construction Manager or Architect or anyone else.

ARTICLE 14 TERMINATION OR SUSPENSION OF THE CONTRACT

§ 14.1 Termination by the Contractor

§ 14.1.1 The Contractor may terminate the Contract if the Work is stopped for a period of 30 consecutive days through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, their agents or employees, or any other persons or entities performing portions of the Work, for any of the following reasons:

.1 Issuance of an order of a court or other public authority having jurisdiction that requires all Work to be stopped;

.2 An act of government, such as a declaration of national emergency, that requires all Work to be stopped;

.3 Because the Construction Manager has not certified or the Architect has not issued a Certificate for Payment and has not notified the Contractor of the reason for withholding certification as provided in Section 9.4, or because the Owner has not made payment on a Certificate for Payment within the time stated in the Contract Documents; or

.4 The Owner has failed to furnish to the Contractor reasonable evidence as required by Section 2.2.

§ 14.1.2 The Contractor may terminate the Contract if, through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, their agents or employees, or any other persons or entities performing portions of the Work, repeated suspensions, delays, or interruptions of the entire Work by the Owner as described in Section 14.3, constitute in the aggregate more than 100 percent of the total number of days scheduled for completion, or 120 days in any 365-day period, whichever is less.

§ 14.1.3 If one of the reasons described in Section 14.1.1 or 14.1.2 exists, the Contractor may, upon seven days' notice to the Owner, Construction Manager and Architect, terminate the Contract and recover from the Owner payment for Work executed, as well as reasonable overhead and profit on Work not executed, and costs incurred by reason of such termination.

§ 14.1.4 If the Work is stopped for a period of 60 consecutive days through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, or their agents or employees, or any other persons performing portions of the Work because the Owner has repeatedly failed to fulfill the Owner's obligations under the Contract Documents with respect to matters important to the progress of the Work, the Contractor may, upon seven additional days' notice to the Owner, Construction Manager and Architect, terminate the Contract and recover from the Owner as provided in Section 14.1.3.

§ 14.1.5 No Right to Stop Work for Non-Payment

The Contractor has no right to stop Work as a consequence of non-payment. In the event of any disagreement between the Contractor and Owner involving the Contractor's entitlement to payment, the Contractor's only remedy is to file a Claim in accordance with Article 15. The Contractor must diligently proceed with the Work pending resolution of the Claim. If, however, an Application for Payment has been approved for payment by the Owner, and the Owner fails to make payment within sixty (60) days of the approval for payment by the Owner, the Contractor may upon ten (10)

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days written notice to the Owner, stop work if payment is not made by the Owner within ten (10) days following the notice.

§ 14.2 Termination by the Owner for Cause

§ 14.2.1 The Owner may terminate the Contract if the Contractor

.1 repeatedly refuses or fails to supply enough properly skilled workers or proper materials;

.2 fails to make payment to Subcontractors or suppliers in accordance with the respective agreements between the Contractor and the Subcontractors or suppliers;

.3 repeatedly disregards applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of a public authority; or

.4 otherwise is guilty of substantial breach of a provision of the Contract Documents.

§ 14.2.2 When any of the reasons described in Section 14.2.1 exist, after consultation with the Construction Manager, and upon certification by the Architect that sufficient cause exists to justify such action, the Owner may, without prejudice to any other rights or remedies of the Owner and after giving the Contractor and the Contractor's surety, if any, seven days' notice, terminate employment of the Contractor and may, subject to any prior rights of the surety:

.1 Exclude the Contractor from the site and take possession of all materials, equipment, tools, and construction equipment and machinery thereon owned by the Contractor;

.2 Accept assignment of subcontracts pursuant to Section 5.4; and

.3 Finish the Work by whatever reasonable method the Owner may deem expedient. Upon written request of the Contractor, the Owner shall furnish to the Contractor a detailed accounting of the costs incurred by the Owner in finishing the Work.

§ 14.2.3 When the Owner terminates the Contract for one of the reasons stated in Section 14.2.1, the Contractor shall not be entitled to receive further payment until the Work is finished.

§ 14.2.4 If the unpaid balance of the Contract Sum exceeds costs of finishing the Work, including compensation for the Construction Manager's and Architect's services and expenses made necessary thereby, and other damages incurred by the Owner and not expressly waived, such excess shall be paid to the Contractor. If such costs and damages exceed the unpaid balance, the Contractor shall pay the difference to the Owner. The amount to be paid to the Contractor or Owner, as the case may be, shall, upon application, be certified by the Initial Decision Maker after consultation with the Construction Manager, and this obligation for payment shall survive termination of the Contract.

§ 14.3 Suspension by the Owner for Convenience

§ 14.3.1 The Owner may, without cause, order the Contractor in writing to suspend, delay or interrupt the Work, in whole or in part for such period of time as the Owner may determine.

§ 14.3.2 The Contract Sum and the Contract Time shall be adjusted for increases or decreases in the cost and time caused by suspension, delay, or interruption under Section 14.3.1. Adjustment of the Contract Sum shall include reasonable profit. No adjustment shall be made to the extent:

.1 that performance is, was, or would have been, so suspended, delayed, or interrupted, by another cause for which the Contractor is responsible; or

.2 that an equitable adjustment is made or denied under another provision of this Contract.

§ 14.4 Termination by the Owner for Convenience

§ 14.4.1 The Owner may, at any time, terminate the Contract for the Owner's convenience and without cause.

§ 14.4.2 Upon receipt of notice from the Owner of such termination for the Owner's convenience, the Contractor shall

.1 cease operations as directed by the Owner in the notice;

.2 take actions necessary, or that the Owner may direct, for the protection and preservation of the Work; and

.3 except for Work directed to be performed prior to the effective date of termination stated in the notice, terminate all existing subcontracts and purchase orders and enter into no further subcontracts and purchase orders.

(Paragraph deleted)

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ARTICLE 15 CLAIMS AND DISPUTES

§ 15.1 Claims

§ 15.1.1 Definition. A Claim is a demand or assertion by the Contractor seeking, as a matter of right, payment of money, a change in the Contract Time, or other relief with respect to the terms of the Contract. The responsibility to substantiate Claims shall rest with the Contractor. Nothing in this paragraph 15.1.1 is intended to apply to or in any way limit the Owner's right to make Claims related to or arising out of the Contract. This Section 15.1.1 does not require the Owner to file a Claim in order to impose liquidated damages in accordance with the Contract Documents.

§ 15.1.2 Time Limits on Claims

The Owner and Contractor shall commence all Claims and causes of action against the other and arising out of or related to the Contract, whether in contract, tort, breach of warranty or otherwise, in accordance with the requirements of the binding dispute resolution method selected in the Agreement and within the period specified by applicable law, but in any case not more than 10 years after the date of Substantial Completion of the Work. The Owner and Contractor waive all Claims and causes of action not commenced in accordance with this Section 15.1.2.

§ 15.1.3 Notice of Claims

§ 15.1.3.1 Claims by Contractor, where the condition giving rise to the Claim is first discovered prior to expiration of the period for correction of the Work set forth in Section 12.2.2, shall be initiated by written notice to the Owner and to the Initial Decision Maker with a copy sent to the Construction Manager and Architect, if the Architect is not serving as the Initial Decision Maker. Claims by the Contractor under this Section 15.1.3.1 shall be initiated within ten (10) days after occurrence of the event giving rise to such Claim or within ten (10) days after the Contractor first recognizes the condition giving rise to the Claim, whichever is later. Any additional Claim made after and relating to the initial Claim has been implemented by Change Order will not be considered unless submitted in a timely manner. As a condition to making a claim for additional costs, the Contractor shall maintain and produce accurate records to substantiate all additional costs actually incurred. If a Claim for actual costs is approved, the Owner shall pay the Contractor actual costs incurred, plus either (a) ten percent (10%) for overhead and profit for work performed by the Contractor, or (b) five percent (5%) overhead and profit for work performed by a Subcontractor, as applicable.

§ 15.1.3.2 Claims by either the Owner or Contractor, where the condition giving rise to the Claim is first discovered after expiration of the period for correction of the Work set forth in Section 12.2.2, shall be initiated by written notice to the other party. In such event, no decision by the Initial Decision Maker is required.

§ 15.1.4 Continuing Contract Performance

§ 15.1.4.1 Pending final resolution of a Claim, except as otherwise agreed in writing or as provided in Section 9.7 and Article 14, the Contractor shall proceed diligently with performance of the Contract and the Owner shall continue to make payments in accordance with the Contract Documents. Subject to Paragraph 15.1.5, no such continuing performance by the Contractor, nor payment by the Owner shall be deemed a waiver of, or to otherwise impair any such Claim.

§ 15.1.4.2 The Contract Sum and Contract Time shall be adjusted in accordance with the Initial Decision Maker's decision, subject to the right of either party to proceed in accordance with this Article 15. The Architect will issue Certificates for Payment in accordance with the decision of the Initial Decision Maker.

§ 15.1.5 Claims for Additional Cost. If the Contractor wishes to make a Claim for an increase in the Contract Sum, notice as provided in Section 15.1.3 shall be given before proceeding to execute the portion of the Work that is the subject of the Claim. Prior notice is not required for Claims relating to an emergency endangering life or property arising under Section 10.4.

§ 15.1.6 Claims for Additional Time

§ 15.1.6.1 If the Contractor wishes to make a Claim for any increase in the Contract Time, notice as provided in Section 15.1.3 shall be given. The Contractor's Claim shall include an estimate of cost and of probable effect of delay on progress of the Work. In the case of a continuing delay only one Claim is necessary.

§ 15.1.6.2 If adverse weather conditions are the basis for a Claim for additional time, such Claim shall be documented by data substantiating that weather conditions were abnormal for the period of time, could not have been reasonably anticipated and had an adverse effect on the scheduled construction.

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(Paragraphs deleted)

§ 15.2 Initial Decision

§ 15.2.1 Claims, excluding those where the condition giving rise to the Claim is first discovered after expiration of the period for correction of the Work set forth in Section 12.2.2 or arising under Sections 10.3, 10.4, and 11.5, shall be referred to the Initial Decision Maker for initial decision. The Architect will serve as the Initial Decision Maker, unless otherwise indicated in the Agreement. Except for those Claims excluded by this Section 15.2.1, an initial decision shall be required as a condition precedent to mediation of any Claim. If an initial decision has not been rendered within 30 days after the Claim has been referred to the Initial Decision Maker, the party asserting the Claim may demand mediation and binding dispute resolution without a decision having been rendered. Unless the Initial Decision Maker and all affected parties agree, the Initial Decision Maker will not decide disputes between the Contractor and persons or entities other than the Owner.

§ 15.2.2 The Initial Decision Maker will review Claims and within ten days of the receipt of a Claim take one or more of the following actions: (1) request additional supporting data from the claimant or a response with supporting data from the other party, (2) reject the Claim in whole or in part, (3) approve the Claim, (4) suggest a compromise, or (5) advise the parties that the Initial Decision Maker is unable to resolve the Claim if the Initial Decision Maker lacks sufficient information to evaluate the merits of the Claim or if the Initial Decision Maker concludes that, in the Initial Decision Maker's sole discretion, it would be inappropriate for the Initial Decision Maker to resolve the Claim.

§ 15.2.3 In evaluating Claims, the Initial Decision Maker may, but shall not be obligated to, consult with or seek information from either party or from persons with special knowledge or expertise who may assist the Initial Decision Maker in rendering a decision. The Initial Decision Maker may request the Owner to authorize retention of such persons at the Owner's expense.

§ 15.2.4 If the Initial Decision Maker requests a party to provide a response to a Claim or to furnish additional supporting data, such party shall respond, within ten days after receipt of the request, and shall either (1) provide a response on the requested supporting data, (2) advise the Initial Decision Maker when the response or supporting data will be furnished, or (3) advise the Initial Decision Maker that no supporting data will be furnished. Upon receipt of the response or supporting data, if any, the Initial Decision Maker will either reject or approve the Claim in whole or in part.

§ 15.2.5 The Initial Decision Maker will render an initial decision approving or rejecting the Claim, or indicating that the Initial Decision Maker is unable to resolve the Claim. This initial decision shall (1) be in writing; (2) state the reasons therefor; and (3) notify the parties, the Construction Manager, and the Architect, if the Architect is not serving as the Initial Decision Maker, of any change in the Contract Sum or Contract Time or both. The initial decision shall be final and binding on the parties but subject to mediation and, if the parties fail to resolve their dispute through mediation, to binding dispute resolution.

§ 15.2.6 In the event of a Claim against the Contractor, the Owner may, but is not obligated to notify the surety, if any, of the nature and amount of the Claim. If the Claim relates to a possibility of a Contractor's default, the Owner may, but is not obligated to notify the surety and initiate a Claim on the performance bond.

(Paragraphs deleted)

§ 15.3 Mediation

§ 15.3.1 Any claim, dispute or other matter in question or arising out of or related to the Contract shall be subject to mediation. Mediation is not a condition precedent to commencing litigation, but if litigation is commenced before mediation is held, the Parties agree to mediate before any dispositive motions or trial.

§ 15.3.2 The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located unless another location is mutually agreed upon. Agreements reached in mediation and ratified by the Owner's Council shall be enforceable as settlement agreements in any court having jurisdiction thereof.

(Paragraphs deleted)

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Additions and Deletions Report for
AIA® Document A232® – 2019

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PAGE 1

North High School Phase 4 Work Scope 09-D Flooring
1500 James Avenue, Minneapolis, MN 55411

...

Kraus-Anderson Construction Company
501 South 8th Street, Minneapolis, MN 55404

...

Minneapolis Public Schools Special School District #1
1250 West Broadway Avenue
Minneapolis, MN 55411

...

LSE Architects 1401 Glenwood Avenue
Minneapolis, MN 55405

PAGE 3

§ 1.1.1.1 Notwithstanding the foregoing, it is understood and agreed that the Owner is an intended third-party beneficiary of all contracts between the Contractor and Subcontractors or suppliers who provide labor and/or materials for the Work.

PAGE 4

§ 1.1.10 Initial Decision Maker. The Initial Decision Maker is the person identified in the Agreement to render initial decisions on Claims in accordance with Section 15.2. The ~~Initial Decision Maker shall not show partiality to the Owner or Contractor and shall not be liable for results of interpretations or decisions rendered in good faith.~~Architect will serve as the Initial Decision Maker pursuant to Section 15.2 of AIA Document A232–2019.

...

§ 1.2.1 The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work by the Contractor. The Contract Documents are complementary, and what is required by one shall be as binding as if required by all; performance by the Contractor shall be required only to the extent consistent with the Contract Documents and reasonably inferable from them as being necessary to produce the ~~indicated~~ intended results.

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§ 1.2.1.1 The invalidity of any provision of the Contract Documents shall not invalidate the Contract or its remaining provisions. ~~If it is determined that any provision of the Contract Documents violates any law, or is otherwise invalid or unenforceable, then that provision shall be revised to the extent necessary to make that provision legal and enforceable.~~ In such case the Contract Documents shall be construed, to the fullest extent permitted by law, to give effect to the parties' intentions and purposes in executing the Contract.

...

§ 1.4.1 In the case of inconsistency between Drawings and Specifications or within Contract Documents not clarified by Addenda, the better quality or greater quantity of Work shall be provided in accordance with the Architect's interpretation.

§ 1.5.1 The Architect and the Architect's consultants shall be deemed the authors and owners of their respective Instruments of Service, including the Drawings and Specifications, and retain all common law, statutory, and other reserved rights in their Instruments of Service, including copyrights. The Contractor, Subcontractors, sub-subcontractors, and suppliers shall not own or claim a copyright in the Instruments of Service. Submittal or distribution to meet official regulatory requirements or for other purposes in connection with the Project is not to be construed as publication in derogation of the Architect's or Architect's consultants' reserved rights. The Owner retains rights to the Instruments of Service pursuant to Article 7 of AIA Document B101-2017.

...

§ 1.5.3 The Architect shall furnish to the Contractor a version of the Instruments of Service in electronic form for the sole purpose of the construction of the Project for which the Instruments of Service were created.

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The parties shall agree upon ~~written~~ protocols governing the transmission and use ~~of, and reliance on,~~ of Instruments of Service or any other information or documentation in digital form. The parties may use AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit or other form, to establish the protocols for the development, use, transmission, and exchange of digital data.

...

Any use of, or reliance on, all or a portion of a building information model without agreement to ~~written~~ protocols governing the use of, and reliance on, the information contained in the model and without having those protocols set forth in AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, and the requisite AIA Document G202™–2013, Project Building Information Modeling Protocol Form or other form, shall be at the using or relying party's sole risk and without liability to the other party and its contractors or consultants, the authors of, or contributors to, the building information model, and each of their agents and employees.

...

§ 2.1.1 The Owner is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The Owner shall designate in writing a representative who shall have express authority to bind the Owner with respect to all matters requiring the Owner's approval or ~~authorization.~~ authorization in accordance with Owner's Delegation of Authority Policy, a copy of which will be provided at Contractor's request. Except as otherwise provided in Section 4.2.1, the Construction Manager and the Architect do not have such authority. The term "Owner" means the Owner or the Owner's authorized representative.

~~**§ 2.1.2** The Owner shall furnish to the Contractor, within fifteen days after receipt of a written request, information necessary and relevant for the Contractor to evaluate, give notice of, or enforce mechanic's lien rights. Such information shall include a correct statement of the record legal title to the property on which the Project is located, usually referred to as the site, and the Owner's interest therein.~~

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§ 2.3.5 ~~The~~ If requested by the Contractor and reasonably required for the Project, the Owner shall furnish surveys describing physical characteristics, legal limitations and utility locations for the site of the Project, and a written legal description of the site. The Contractor ~~shall be entitled to rely on the accuracy of information furnished by the Owner but~~ shall exercise proper precautions relating to the safe performance of the Work.

§ 2.3.6 The Owner shall furnish information or services required of the Owner by the Contract Documents with reasonable promptness. The Owner shall also furnish any other information or services under the Owner's control and relevant to the Contractor's performance of the Work with reasonable promptness after receiving the Contractor's written request for such information or services. The Contractor is responsible for the timeliness of, or interference caused by, Subcontractors, Sub-subcontractors (of any tier), and others directly or indirectly under contract to the Contractor.

...

If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within a ~~ten-day~~ three-business-day (3) period after receipt of notice from the Owner to commence and continue correction of such default or neglect with diligence and promptness, the Owner may, without prejudice to other remedies the Owner may have, correct such default or neglect. Such action by the Owner and amounts charged to the Contractor are both subject to review by the Construction Manager and prior approval of the Architect, and the Construction Manager or Architect may, pursuant to Section 9.5.1, withhold or nullify a Certificate for Payment in whole or in part, to the extent reasonably necessary to reimburse the Owner for the reasonable cost of correcting such deficiencies, including Owner's expenses and compensation for the Construction Manager's and Architect's and their respective consultants' additional services and expenses made necessary by such default, neglect, or failure. If current and future payments are not sufficient to cover such amounts, the Contractor shall pay the difference to the ~~Owner.~~ Owner within ten (10) days following written request for payment delivered by the Owner to the Contractor. If the Contractor disagrees with the actions of the Owner or the Architect, or the amounts claimed as costs to the Owner, the Contractor may file a Claim pursuant to Article 15.

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§ 3.1.3 The Contractor shall ~~not be relieved of its obligations to perform the Work in accordance with the Contract Documents either by activities or duties of the Construction Manager or Architect in their administration of the Contract, or by tests, inspections or approvals required or performed by persons or entities other than the Contractor.~~hire a professional utilities locator to investigate and verify all private utility locations prior to excavation and cutting into of existing Work. The Contractor is responsible for locating, terminating, and reinstallation of all private utilities. Private site utilities may not be in the Drawings and Project Manual and as such, verification of private utilities is the sole responsibility of the Contractor. Costs associated with moving and repairing of unknown and undocumented utilities will be by appropriate Change Order. The Contractor shall comply with Gopher State One Call, or other public utility service locator to locate all public utilities prior to any work on the site. This shall not relieve Contractor from obligations under Article 3.

§ 3.1.4 The Contractor shall not be relieved of its obligations to perform the Work in accordance with the Contract Documents either by activities or duties of the Construction Manager or Architect in their administration of the Contract, or by tests, inspections or approvals required or performed by persons or entities other than the Contractor.

...

§ 3.2.1 ~~Execution of the Contract by the Contractor is a representation that the Contractor has visited the site, become generally~~ The Contractor shall carefully study and compare the Contract Documents with each other and with information furnished by the Owner pursuant to Section 2.2.3, and shall immediately report to the Architect and Construction Manager errors, inconsistencies, or omissions discovered. The Contractor shall not be liable to the Owner or Architect for damage resulting from errors, inconsistencies, or omissions in the Contract Document unless the Contractor recognized such error, inconsistency, or omission and knowingly failed to report it to the Architect. If the Contractor performs any construction activity knowing or believing it involves a recognized error, inconsistency, or omission in the Contract Documents without such notice to the Architect, the Contractor shall assume full responsibility for such performance and shall bear the attributable costs for correction and shall bear responsibility for any additional costs, delays, and damages resulting from such failure to immediately report any such errors,

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inconsistencies, or omissions which the Contractor may discover. By executing the Contract, the Contractor represents that the Contractor has reviewed and understands the Contract Documents, has visited the Site and is familiar with local conditions under which the Work is to be performed, ~~and correlated personal observations with requirements of the Contract Documents.~~has correlated personal observations with the requirements of the Contract Documents, and has notified the Architect of and obtained clarification of any discrepancies which have become apparent during the bidding or proposal period.

§ 3.2.1.1 The Contractor shall take field measurements and verify field conditions and shall carefully compare such field measurements and conditions and other information known to the Contractor with the Contract Documents before commencing activities. Errors, inconsistencies, or omissions discovered shall be reported to the Architect immediately in writing.

§ 3.2.1.2 The Contractor shall carefully study and compare the Contract Documents with existing conditions at the job site and shall immediately report in writing to the Architect any error, inconsistency, or omission which the Contractor may discover or any materials, systems, procedures, or methods of construction, either shown on the Drawings or specified, which the Contractor has reason to believe are incorrect, inadequate, obsolete, unsuitable for the purpose intended or which the Contractor has reason to believe would constitute or result in a violation of the Contractor's warranty under Section 3.5 or applicable law. The Contractor shall not proceed with any work in such areas until written instructions are received from the Architect.

§ 3.2.2 ~~Because the Contract Documents are complementary, the Contractor shall, before starting each portion of the Work, carefully study and compare the various Contract Documents relative to that portion of the Work, as well as the information furnished by the Owner pursuant to Section 2.3.5, shall take field measurements of any existing conditions related to that portion of the Work, and shall observe any conditions at the site affecting it. These obligations are for the purpose of facilitating coordination and construction by the Contractor and are not for the purpose of discovering errors, omissions, or inconsistencies in the Contract Documents; however, the Contractor shall promptly report to the Construction Manager and Architect any errors, inconsistencies or omissions discovered by or made known to the Contractor as a request for information submitted to the Construction Manager in such form as the Construction Manager and Architect may require. It is recognized that the Contractor's review is made in the Contractor's capacity as a contractor and not as a licensed design professional, unless otherwise specifically provided in the Contract Documents.~~The Contractor shall perform the Work in accordance with the Contract Documents and submittals accepted pursuant to Section 3.12.

§ 3.2.3 The ~~Contractor is not required to ascertain that the Contract Documents are in accordance with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, but the Contractor shall promptly report to the Construction Manager and Architect any nonconformity discovered by or made known to the Contractor as a request for information submitted to Construction Manager in such form as the Construction Manager and Architect may require.~~Owner shall be entitled to deduct from the Contract Sum amounts paid to the Architect for the Architect to evaluate and respond to the Contractor's requests for interpretation or information where such information was available to the Contractor from a careful study and comparison of the Contract Documents, Filed Conditions, Owner Provided Information, Contractor Prepared Coordination Drawings, or prior Project Correspondence or Documentation.

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§ 3.2.4 If the Contractor believes that ~~additional cost or time is involved because of clarifications or instructions the Architect issues in response to the Contractor's notices or requests for information pursuant to Sections 3.2.2 or 3.2.3, the Contractor shall submit Claims as provided in Article 15. If the Contractor fails to perform the obligations of Sections 3.2.2 or 3.2.3, the Contractor shall pay such costs and damages to the Owner, subject to section 15.1.7, as would have been avoided if the Contractor had performed such obligations. If the Contractor performs those obligations, the Contractor shall not be liable to the Owner or Architect for damages resulting from errors, inconsistencies or omissions in the Contract Documents, for differences between field measurements or conditions and the Contract Documents, or for nonconformities of the Contract Documents to applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities.~~any portions of the Contract Documents do not comply with applicable laws, statutes, ordinances, building codes, and rules and regulations, or any orders by code enforcement officials or the Owner or its designees acting in the capacity of building code inspectors or Referenced Standards, the Contractor must promptly notify the Owner and the Architect of the non-compliance as provided in Section 3.2.6 and request direction before proceeding with the affected Work.

§ 3.2.5 The Contractor must promptly notify the Owner and the Architect in writing of any apparent errors, inconsistencies, omissions, ambiguities, construction impracticalities or code violations discovered as a result of the Contractor's review of the Contract Documents including any differences between actual and indicated dimensions, locations and descriptions, and must give the Owner and the Architect timely notice in writing of same and of any corrections, clarifications, additional Drawings or Specifications, or other information required to define the Work in greater detail or to permit the proper progress of the Work. The Contractor must provide similar notice with respect to any variance between its review of the Site and physical data and Site conditions observed.

§ 3.2.6 If the Contractor performs any Work involving an apparent error, inconsistency, ambiguity, construction impracticality, omission or code violation in the Contract Documents of which the Contractor is aware, or which could reasonably have been discovered by the review required by Section 3.2, without prompt written notice to the Owner and the Architect and request for correction, clarification or additional information, as appropriate, the Contractor does so at its own risk and expense and all Claims relating thereafter are specifically waived.

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§ 3.3.4 The Contractor shall at all times staff the Project adequately to allow the Project to be managed and completed in a timely and professional manner. The Contractor shall have competent supervision on the job during work hours and readily available at all times upon call.

§ 3.3.5 The Contractor shall at all times make reasonable provisions to protect any Work performed by any separate contractors, adjacent property, and the existing building (if any) from damage due to the Work or due to the weather.

§ 3.3.6 The Owner or its approved representative (heretofore referred to as Owner's Representative) shall have access to the Work site and all Work. No supervision or inspection by the Owner or the Owner's Representative, nor the authority to act, nor any other actions taken by the Owner's Representative shall relieve the Contractor of any of its obligations under the Contract Documents or give rise to any duty on the part of the Owner.

§ 3.3.7 The Contract shall take appropriate precautions to ensure that the Work does not materially disrupt any ongoing operation by the Owner at the Project (if any) except to the extent any such disruption is a necessary result of performing a particular portion of the Work, in which case the Contractor shall provide the Owner with reasonable advanced written notice and shall take all commercially reasonable measures to minimize the impact on the Owner and the Owner's operations.

§ 3.4.1 Unless otherwise provided in the Contract Documents, the Contractor shall provide and pay for labor, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation, and other facilities and services necessary for proper execution and completion of the Work, whether temporary or permanent and whether or not incorporated or to be incorporated in the Work. Should the Contract Documents require Work to be performed after regular working hours or should the Contractor elect to perform Work after regular working hours, the additional cost of such Work shall be borne by the Contractor.

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§ 3.4.4 The Contractor shall be responsible for all additional costs incurred to incorporate into the Project substitute materials, products, or equipment approved by Owner during the bidding period.

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§ 3.4.5 In the event of a Change related to substitute or additional materials, and which shall comply with Article 7, the Contractor shall exercise reasonable efforts, consistent with the provisions of the Contract Documents to obtain the maximum available case discounts on all materials, provided that, in doing so, the Contractor shall not accept or use materials for incorporation into the Project which are of a type or quality not reasonably contemplated under the terms of the Contract Documents.

§ 3.4.6 After award of the Contract, a request for substitution of a material, product, or piece of equipment at no change in the Contract Sum will not be approved by the Owner or the Architect, unless the specified item is no longer manufactured, the specified item is unavailable as a result of an act of government such as a declaration of a national emergency, or delivery of the specified items is substantially delayed as a result of labor disputes affecting the manufacturer, unusual delay in transportation, or any other cause beyond control of the Contractor or a Subcontractor or material supplier which the Architect determines justified the delay. Requests will not be approved where the delay in delivery results from failure to promptly place subcontracts and material orders. Requests for substitution shall be submitted in writing to the Architect and shall clearly describe the proposed substitution, state the reason for the unavailability of a specified item and be accompanied by such additional data and information as may be necessary in the discretion of the Owner and the Architect to establish the acceptability of the proposed substitute.

§ 3.4.7 The Owner shall be entitled to deduct from the Contract Sum amounts paid to the Architect to evaluate the Contractor's proposed Substitutions and for changes made to the Contract Documents as a result of Owner's acceptance of such Substitutions.

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§ 3.5.2 All material, equipment, or other special warranties required by the Contract Documents shall be issued in the name of the Owner, or shall be transferable to the Owner, and shall commence in accordance with Section 9.8.4. The Contractor shall arrange for the Owner to have the benefit of and right to enforce all warranties by Subcontractors, Sub-subcontractors, suppliers, and manufacturers.

§ 3.5.3 Manufacturers' warranties and warranties by other shall not relieve the Contractor of any of its responsibilities.

§ 3.5.4 The Contractor's general warranty and any additional or special warranties are not limited by the Contractor's obligations to specifically correct defective or nonconforming Work as provided in Article 12, nor are they limited by any other remedies provided in the Contract Documents. The Contractor shall also be liable for any damage to property or persons (including death) including consequential and direct damages relating to any breach of the Contractor's general warranty or any additional or special warranties required by the Contract Documents.

§ 3.5.5 The Contractor must furnish all special warranties required by the Contract Documents to the Owner no later than Substantial Completion. The Owner may require additional special warranties in connection with the approval of "Or-Equals" or Substitutions, Allowance items, Work that is defective or nonconforming, or the acceptance of nonconforming Work pursuant to Article 12.

...

§ 3.7.1 Unless otherwise provided in the Contract Documents, the Owner, assisted by the Construction Manager, shall secure and pay for the building permit. The Contractor shall secure and pay for other permits, fees, licenses, and inspections by government agencies necessary for proper execution and completion of the Work that are customarily secured after execution of the Contract and legally required at the time bids are received or negotiations concluded. The Contractor shall be responsible for the Sewer Access (SAC) and Water Access (WAC) fees for the Project. The Contractor shall pay the SAC/WAC costs to the authorities having jurisdiction from the Allowance in the Base Bid for such charges as defined in the Construction Documents.

...

§ 3.7.3 If the Contractor performs Work knowing or believing it to be contrary to applicable laws, statutes, ordinances, building codes, rules and regulations, or lawful orders of public authorities, without such notice to the Architect and Owner, the Contractor shall assume ~~appropriate~~ full responsibility for such Work and shall bear the ~~costs attributable~~

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~~to correction.~~attributable costs, delays, and damages resulting from such failure to immediately notify the Architect and Owner of any such violation..

§ 3.7.4 Concealed or Unknown Conditions. If the Contractor encounters conditions at the site that are (1) subsurface or otherwise concealed physical conditions that differ materially from those indicated in the Contract Documents or (2) unknown physical conditions of an unusual nature that differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents, the Contractor shall promptly provide notice to the Owner, Construction Manager, and the Architect before conditions are disturbed and in no event later than ~~14~~ ten (10) days after first observance of the conditions. The Architect and Construction Manager will promptly investigate such conditions and, if the Architect, in consultation with the Construction Manager, determines that they differ materially and cause an increase or decrease in the Contractor's cost of, or time required for, performance of any part of the Work, will recommend that an equitable adjustment be made in the Contract Sum or Contract Time, or both. If the Architect, in consultation with the Construction Manager, determines that the conditions at the site are not materially different from those indicated in the Contract Documents and that no change in the terms of the Contract is justified, the Architect shall promptly notify the Owner, Construction Manager, and Contractor, stating the reasons. If the Owner or Contractor disputes the Architect's determination or recommendation, either party may submit a Claim as provided in Article 15.

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§ 3.9.1 The Contractor shall employ a competent superintendent and necessary assistants who shall be in attendance at the Project site during performance of the ~~Work.~~ Work, including that performed by all Subcontractors. The superintendent shall represent the Contractor, and communications given to the superintendent shall be as binding as if given to the Contractor. Important communications including and not limited to communications regarding design changes, alterations, substitutions, clarifications, cost changes, etc. shall be confirmed in writing by the Contractor. Other communications shall be similarly confirmed on written request in each case.

...

§ 3.9.3 The Contractor shall not employ a proposed superintendent or any other management personnel to whom the Owner, Construction Manager, or Architect has made reasonable and timely objection. The Contractor shall not change the superintendent without the Owner's consent, which shall not unreasonably be withheld or delayed.

§ 3.9.4 If requested by the Owner, the Contractor shall replace the superintendent at no additional cost to the Owner. No other change in this position shall be made without notice to and written consent of the Owner.

...

§ 3.10.1 The Contractor, promptly after being awarded the Contract, shall submit for the Owner's and Architect's information, and the Construction Manager's use in developing the Project schedule, a Contractor's construction schedule for the Work. The schedule shall contain detail appropriate for the Project, including (1) the date of commencement of the Work, interim schedule milestone dates, critical path schedule milestones, major construction milestones, including and not limited to Civil, Demolition, Structural, Mechanical, Electrical, and Plumbing, and the date of Substantial Completion; (2) an apportionment of the Work by construction activity; and (3) the time required for completion of each portion of the Work. The schedule shall provide for the orderly progression of the Work to completion and shall not exceed time limits current under the Contract Documents. The schedule shall be revised at appropriate intervals as required by the conditions of the Work and Project. The Contractor shall cooperate with the Construction Manager in scheduling and performing the Contractor's Work to avoid conflict with, and as to cause no delay in, the work or activities of other Contractors, or the construction or operations of the Owner's own forces or Separate Contractors.

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§ 3.10.4 The Contractor shall perform the Work in general accordance with the most recent schedules submitted to and accepted in writing by the Owner, Construction Manager, and Architect, and incorporated into the approved Project schedule.

...

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~~The Contractor shall make available, at the Project site, the Contract Documents, including Change Orders, Construction Change Directives, and other Modifications, in good order and marked currently to indicate field changes and selections made during construction, and the approved Shop Drawings, Product Data, Samples, and similar required submittals. These shall be in electronic form or paper copy, available to the Construction Manager, Architect, and Owner, and delivered to the Construction Manager for submittal to the Owner upon completion of the Work as a record of the Work as constructed.~~**§ 3.11.1** The Contractor shall make available, at the Project site, one record copy of the Contract Documents, including Change Orders, Construction Change Directives, and other Modifications, in good order and updated daily to indicate field changes and selections made during construction, and in addition accepted and approved Shop Drawings, Product Data, Samples, and similar required submittals. These shall be in electronic form or paper copy, available to the Construction Manager, Architect, and Owner as required to complete routine inspections by Architect, Construction Manager and Owner prior to any approval of payments to the Contractor, and delivered to the Construction Manager for submittal to the Owner upon completion of the Work. The Architect and Contractor must verify that all "as-built" Drawings, Specifications, Addenda, Change Orders, and other Modifications are up-to-date before Contractor's Application for Payment is acceptable and before the Owner incurs any duty to pay Contractor in accordance with the Contract. The record documents shall be a separate set of documents labeled "Record Documents" and used only for record purposes and kept clean and undamaged.

§ 3.11.2 No review or receipt of such records by the Architect or Owner shall be considered a waiver of any deviation from the Contract Documents or approved shop drawings, or any way relieve the Contractor from its responsibility to perform the Work in accordance with the Contract Documents.

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§ 3.12.5 The Contractor shall review for compliance with the Contract Documents, approve, and submit to the Construction Manager, Shop Drawings, Product Data, Samples, and similar submittals required by the Contract Documents, in accordance with the Project submittal schedule approved by the Construction Manager and Architect or, in the absence of an approved Project submittal schedule, with reasonable promptness and in such sequence as to cause no delay in the Work or in the activities of other Contractors, Separate Contractors, or the Owner's own forces. The Contractor shall cooperate with the Construction Manager in the coordination of the Contractor's Shop Drawings, Product Data, Samples, and similar submittals with related documents submitted by other Contractors. The Contractor must provide the Owner and the Architect with copies of all submittals made to regulatory agencies.

...

§ 3.12.7 The Contractor shall perform no portion of the Work for which the Contract Documents require submittal and review of Shop Drawings, Product Data, Samples, or similar submittals, until the respective submittal has been reviewed and ~~approved by the Architect.~~accepted by the Architect. The Contractor must correct at its cost, and without any adjustment in Contract Time, any Work the correction of which is required due to the Contractor's failure to obtain approval of a submittal required to have been obtained prior to proceeding with the Work, including, but not limited to, correction of any conflicts in the Work resulting from such failure.

§ 3.12.8 The Work shall be in accordance with ~~approved~~ accepted submittals except that the Contractor shall not be relieved of responsibility for deviations from the requirements of the Contract Documents by the Architect's ~~approval~~ acceptance of Shop Drawings, Product Data, Samples, or similar submittals, unless the Contractor has specifically notified the Construction Manager and Architect of such deviation at the time of submittal and (1) the Architect has given written ~~approval~~ acceptance to the specific deviation as a minor change in the Work, or (2) a Change Order or Construction Change Directive has been issued authorizing the deviation. The Contractor shall not be relieved of responsibility for errors or omissions in Shop Drawings, Product Data, Samples, or similar submittals, by the Architect's ~~approval~~ acceptance thereof.

§ 3.12.9 The Contractor shall direct specific attention, in writing or on resubmitted Shop Drawings, Product Data, Samples, or similar submittals, to revisions other than those requested by the Construction Manager and Architect on previous submittals. In the absence of such notice, the Architect's ~~approval~~ acceptance of a resubmission shall not apply to such revisions.

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§ 3.13.3 Except as may be specifically provided in the Contract Documents, the Contractor shall provide all necessary temporary facilities, including power, water, sanitation, scaffolding, storage, and security. If Owner makes any such

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facilities available to Contractor, it is without representation or warranty as to their adequacy for Contractor's use, and Contractor shall indemnify, defend, and hold Owner harmless from and against any claims arising out of Contractor's use of such facilities.

...

§ 3.14.2 The Contractor shall not damage or endanger a portion of the Work or fully or partially completed construction of the Owner, Separate Contractors, or of other Contractors by cutting, patching, or otherwise altering such construction, or by excavation. The Contractor shall not cut or otherwise alter construction by the Owner, Separate Contractors, or by other Contractors except with written consent of the Construction Manager, Owner, and such other Contractors or Separate Contractors. Consent shall not be unreasonably withheld. The Contractor shall hire a professional utilities locator to verify locations of all public and private utilities prior to initiating any cutting work. The Contractor shall not unreasonably withhold, from the Separate Contractors, other Contractors, or the Owner, its consent to cutting or otherwise altering the Work.

...

§ 3.15.1 The Contractor shall keep the premises and surrounding area continuously free from accumulation of waste materials and rubbish caused by operations under the Contract. At completion of the Work, the Contractor shall remove from and about the Project waste materials, rubbish, Contractor-generated waste materials, the Contractor's generated hazardous waste materials, the Contractor's tools, construction equipment, machinery, and surplus materials from and about the Project.

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§ 3.18.1 To the fullest extent permitted by law, the Contractor shall ~~indemnify~~ indemnify, defend and hold harmless the Owner, Construction Manager, Architect, Construction Manager's and Architect's consultants, and agents and employees of any of them from and against claims, damages, losses, and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), but only to the extent caused by the negligent acts or omissions of the Contractor, a Subcontractor, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss, or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity ~~that~~ which would otherwise exist as to a party or person described in this Section 3.18. The Contractor, furthermore, agrees to obtain, maintain, and pay for such general liability coverage and endorsements (including product and completed operations coverage) as will ensure the provisions of this Section 3.18.1. The Contractor agrees to reimburse the Owner, its agents and employees for all costs and disbursements, including attorneys' fees, paid or incurred to enforce the provisions of this Section 3.18.1.

...

§ 3.18.3 To the fullest extent permitted by law and without limiting any other indemnification obligations of the Contractor, except to the extent caused by the uncured failure of the Owner to make payment when due and owing, the Contractor shall indemnify and defend the Owner, its officers, directors, assigns, lenders, agents, and employees from any liens, charges (including attorneys' fees) or encumbrances (including but not limited to mechanic's and materialmen's liens or bond claims) arising out of or in connection with the performance of the Work by Contractor, its Subcontractors, or its material suppliers. Upon request of the Owner, the Contractor shall within sixty (60) days remove any liens filed against the Owner or its property. If the Contractor fails to do so, the Owner is authorized by the Contractor to remove or satisfy any such liens, and the Contractor shall pay to the Owner all costs and damages incurred by the Owner to do so, including attorneys' fees.

...

§ 4.2.1 The Construction Manager and Architect will provide administration of the Contract as described in the Contract Documents and will be the Owner's ~~representatives during construction until the date the Architect issues the final Certificate for Payment.~~ consultants (1) during construction; (2) until final payment is due; and (3) with the

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Owner's concurrence, from time to time during the correction period described in Section 12.2. The Architect and Construction Manager will advise and consult with the Owner. The Construction Manager and Architect will have authority to act on behalf of the Owner only to the extent provided in the Contract ~~Documents.~~Documents, unless otherwise modified in writing in accordance with other provisions of the Contract.

§ 4.2.2 The Architect will visit the site at intervals appropriate to the stage of construction, or as otherwise agreed with the Owner, to become generally familiar with the progress and quality of the ~~portion of the Work completed,~~ Work completed, to endeavor to guard the Owner against defects and deficiencies in the Work, and to determine in general if the Work ~~observed~~ is being performed in a manner indicating that the Work, when ~~fully~~ completed, will be in accordance with the Contract Documents. However, the Architect will not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. On the basis of the site visits, the Architect will keep the Owner and the Construction Manager reasonably informed about the progress and quality of the portion of the Work completed, and promptly report to the Owner and Construction Manager known deviations from the Contract Documents and defects and deficiencies observed in the Work.

§ 4.2.2.2 The Contractor shall reimburse the Owner for compensation paid to the Architect for additional site visits made necessary by fault, neglect, or request of the Contractor.
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§ 4.2.6 Communications. The Owner shall communicate with the Contractor and the Construction Manager's consultants through the Construction Manager about matters arising out of or relating to the Contract Documents. The Owner and Construction Manager shall include the Architect in all communications that relate to or affect the Architect's services or professional responsibilities. The Owner shall promptly notify the Architect of the substance of any direct communications between the Owner and the Construction Manager otherwise relating to the Project. Communications by and with the Architect's consultants shall be through the Architect. Communications by and with Subcontractors and suppliers shall be through the Contractor. Communications by and with other Contractors shall be through the Construction Manager. Communications by and with the Owner's own forces and Separate Contractors shall be through the ~~Owner.~~ Owner unless otherwise provided. The Contract Documents may specify other communication protocols. The Owner may require the Architect, Construction Manager and the Contractor to comply with Owner requirements in regards to public communications and site signage.

...

§ 4.2.8 The Architect and Construction Manager have authority to reject Work that does not conform to the Contract Documents, and will notify each other about the rejection. Whenever the Construction Manager considers it necessary or ~~advisable,~~ advisable for implementation of the intent of the Contract Documents, the Construction Manager will have authority to require additional inspection or testing of the Work in accordance with Sections 13.4.2 and 13.4.3, upon written authorization of the Owner, whether or not the Work is fabricated, installed or completed. The foregoing authority of the Construction Manager will be subject to the provisions of Sections 4.2.18 through 4.2.20 inclusive, with respect to interpretations and decisions of the Architect. However, neither the Architect's nor the Construction Manager's authority to act under this Section 4.2.8 nor a decision made by either of them in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect or the Construction Manager to the Contractor, Subcontractors, suppliers, their agents or employees, or other persons performing any of the Work.
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§ 4.2.11 The Architect ~~will~~ will, and the Owner may, review and approve, or take other appropriate action upon, the Contractor's submittals such as Shop Drawings, Product Data, and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Architect's ~~action will be taken in accordance with the submittal schedule approved by the Architect or, in the absence of an approved submittal schedule, with reasonable promptness~~ or Owner's action will be taken with such reasonable promptness as to cause no delay in the Work or in the activities of the Owner, Contractor or separate contractors, while allowing sufficient time in the Architect's professional judgment to permit adequate review. Upon the Architect's or the Owner's completed review, the Architect shall transmit its submittal review to the Construction Manager.
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§ 4.2.18 The Architect will interpret and decide matters concerning performance ~~under, and~~ under the requirements of, the Contract Documents on written request of the Construction Manager, Owner, or Contractor through the Construction Manager. The Architect's response to such requests will be made ~~in writing within any time limits agreed upon or otherwise with reasonable promptness.~~ with reasonable promptness and within any time limits agreed upon. If no agreement is made concerning the time within which interpretations required of the Architect shall be furnished in compliance with this Section 4.2.18, then delay shall not be recognized on account of failure by the Architect to furnish such interpretations until fifteen (15) days after written request is made to them.

§ 4.2.19 ~~Interpretations and decisions of the Architect will be consistent with the intent of, and reasonably inferable from, the Contract Documents and will be in writing or in the form of drawings. When making such interpretations and decisions, the Architect will endeavor to secure faithful performance by both Owner and Contractor, will not show partiality to either, and will not be liable for results of interpretations or decisions so rendered in good faith.~~Architect's decisions on matters relating to aesthetic effect will be final if consistent with the intent expressed in the Contract Documents.

§ 4.2.20 ~~The Architect's decisions on matters relating to aesthetic effect will be final if consistent with the intent expressed in the Contract Documents.~~Architect will review and respond to requests for information about the Contract Documents. The Architect's response to such requests will be made in writing within any time limits agreed upon or otherwise with reasonable promptness. If appropriate, the Architect will prepare and issue supplemental Drawings and Specifications in response to the requests for information.

~~**§ 4.2.21** The Construction Manager will receive and review requests for information from the Contractor, and forward each request for information to the Architect, with the Construction Manager's recommendation. The Architect will review and respond in writing, through the Construction Manager, to requests for information about the Contract Documents. The Construction Manager's recommendation and the Architect's response to each request will be made in writing within any time limits agreed upon or otherwise with reasonable promptness. If appropriate, the Architect will prepare and issue supplemental Drawings and Specifications in response to the requests for information.~~

...

§ 5.2.1 Unless otherwise stated in the Contract Documents, the Contractor, as soon as practicable after award of the Contract, shall notify in writing the Construction Manager, for review by the Owner, Construction Manager and Architect, of the persons or entities proposed for each principal portion of the Work, including those who are to furnish materials or equipment fabricated to a special design. Within 14 days of receipt of the information, the Construction Manager may notify the Contractor whether the Owner, the Construction Manager or the Architect (1) has reasonable objection to any such proposed person or entity or, (2) requires additional time for review. Failure of the Construction Manager to provide notice within the 14-day period shall constitute notice of no reasonable objection. The Contractor shall not employ any Subcontractor or use any material to which the Architect, Construction Manager or Owner may object. Prior to the employment of any Subcontractor, the Contractor must obtain the Owner's approval of such Subcontractor for the designated portion of the Work.

...

§ 5.2.3 If the Owner, Construction Manager or Architect has reasonable objection to a person or entity proposed by the Contractor, the Contractor shall propose another to whom the Owner, Construction Manager or Architect has no reasonable objection. ~~If the proposed but rejected Subcontractor was reasonably capable of performing the Work, the Contract Sum and Contract Time~~ The Contract Sum shall be increased or decreased by the ~~difference, if any,~~ difference in cost occasioned by such change, and an appropriate Change Order shall be ~~issued before commencement of the substitute Subcontractor's Work.~~ issued. However, no increase in the Contract Sum or Contract Time shall be allowed for such change unless the Contractor has acted promptly and responsively in submitting names as required. Notwithstanding the foregoing, the Contractor shall have a continuing duty to the Owner, Construction Manager and Architect to find and propose such persons or entities as shall not result in material increase in the Contract Sum, or a material decrease in the quality of Work contemplated under the Contract Documents.

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§ 5.2.4 The Contractor shall not substitute a Subcontractor, person, or entity for one previously selected if the Owner, Construction Manager or Architect makes reasonable objection to such substitution. Any proposed substitution of a Subcontractor, person, or entity for one previously selected shall be made in a separate writing to the Owner, Construction Manager and Architect. No substitution shall be deemed approved/accepted without written confirmation from the Owner, Construction Manager and Architect. Neither acceptance of, nor objection to a Subcontractor or Sub-subcontractor, material supplier, or other person or organization by the Owner, Construction Manager and Architect shall limit the responsibility of the Contractor to furnish materials, products, equipment, and services in conformance with the requirements of the Contract Documents.

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~~By appropriate written agreement, the Contractor shall require each Subcontractor, to the extent of the Work to be performed by the Subcontractor, to be bound to the Contractor by terms of the Contract Documents, and to assume toward the Contractor all the obligations and responsibilities, including the responsibility for safety of the Subcontractor's Work, that the Contractor, by these Contract Documents, assumes toward the Owner, Construction Manager and Architect. Each subcontract agreement shall preserve and protect the rights of the Owner, Construction Manager and Architect under the Contract Documents with respect to the Work to be performed by the Subcontractor so that subcontracting thereof will not prejudice such rights, and shall allow to the Subcontractor, unless specifically provided otherwise in the subcontract agreement, the benefit of all rights, remedies, and redress against the Contractor that the Contractor, by the Contract Documents, has against the Owner. Where appropriate, the Contractor shall require each Subcontractor to enter into similar agreements with Sub-subcontractors. The Contractor shall make available to each proposed Subcontractor, prior to the execution of the subcontract agreement, copies of the Contract Documents to which the Subcontractor will be bound, and, upon written request of the Subcontractor, identify to the Subcontractor terms and conditions of the proposed subcontract agreement that may be at variance with the Contract Documents. Subcontractors will similarly make copies of applicable portions of such documents available to their respective proposed Sub-subcontractors.~~**§ 5.3.1** By appropriate written agreement, the Contractor shall require each Subcontractor, to the extent of the Work to be performed by the Subcontractor, to be bound to the Contractor by terms of the Contract Documents, and to assume toward the Contractor all the obligations and responsibilities, including the responsibility for safety of the Subcontractor's Work, that the Contractor, by these Contract Documents, assumes toward the Owner, Construction Manager and Architect. Each subcontract agreement shall preserve and protect the rights of the Owner, Construction Manager and Architect under the Contract Documents with respect to the Work to be performed by the Subcontractor so that subcontracting thereof will not prejudice such rights, and shall allow to the Subcontractor, unless specifically provided otherwise in the subcontract agreement, the benefit of all rights, remedies, and redress against the Contractor that the Contractor, by the Contract Documents, has against the Owner. Where appropriate, the Contractor shall require each Subcontractor to enter into similar agreements with Sub-subcontractors. The Contractor shall make available to each proposed Subcontractor, prior to the execution of the subcontract agreement, copies of the Contract Documents to which the Subcontractor will be bound, and, upon written request of the Subcontractor, identify to the Subcontractor terms and conditions of the proposed subcontract agreement that may be at variance with the Contract Documents. Subcontractors shall similarly make copies of applicable portions of such documents available to their respective proposed Sub-subcontractors.

§ 5.3.2 The Contractor is responsible for the performance of, the actions of, the timeliness of, or interference caused by, Subcontractors, Sub-subcontractors (of any tier), and others directly or indirectly under contract to the Contractor.

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§ 6.2.2 If part of the Contractor's Work depends for proper execution or results upon construction or operations by the Owner's own forces, Separate Contractors or other Contractors, the Contractor shall, prior to proceeding with that portion of the Work, promptly notify the Construction Manager and Architect of apparent discrepancies or defects in the construction or operations by the Owner or Separate Contractor or other Contractors that would render it unsuitable for proper execution and results of the Contractor's Work. Failure of the Contractor to notify the Construction Manager and the Architect of apparent discrepancies or defects prior to proceeding with the Work shall constitute an acknowledgment that the Owner's or Separate Contractor's or other Contractors' completed or partially completed construction is fit and proper to receive the Contractor's Work. The Contractor shall not be responsible for discrepancies or defects in the construction or operations by the Owner or Separate Contractors or other Contractors that are not ~~apparent.~~reasonably discoverable.

§ 6.2.3 ~~The Contractor shall reimburse the Owner for costs the Owner incurs, including costs that are payable to a Separate Contractors or to other Contractors, because of the Contractor's delays, improperly timed activities or~~

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~~defective construction. The Owner shall be responsible to the Contractor for costs the Contractor incurs because of delays, improperly timed activities, damage to the Work or defective construction by the Owner's own forces, Separate Contractors, or other Contractors.~~Costs caused by delays or by improperly timed activities or defective construction shall be borne by the party responsible therefor.

...

§ 6.2.5 ~~The Owner, Separate Contractors, and other Contractors shall have the same responsibilities for cutting and patching as are described for the Contractor in Section 3.14.~~Claims and other disputes and matters in question between the Contractor and a separate contractor shall be subject to the provisions of Article 15 provided the separate contractor has reciprocal obligations.

§ 6.2.6 The Owner, Separate Contractors, and other Contractors shall have the same responsibilities for cutting and patching as are described for the Contractor in Section 3.14.

...

If a dispute arises among the Contractor, Separate Contractors, other Contractors, and the Owner as to the responsibility under their respective contracts for maintaining the premises and surrounding area free from waste materials and ~~rubbish, the Owner may clean up and the Construction Manager, with notice to the Architect, will allocate the cost among those responsible.~~rubbish as described in Section 3.15, the Owner may clean up allocate the cost among those responsible as the Architect determines to be just..

...

§ 7.1.2 A Change Order shall be based upon agreement among the Owner, Construction Manager, Architect and Contractor. A Construction Change Directive requires agreement by the Owner, Construction Manager and Architect and may or may not be agreed to by the Contractor. ~~An order for a minor change in the Work may be issued by the Architect alone.~~

...

§ 7.1.4 The amount of credit to be allowed by the Contractor to the Owner for any deletion or change which results in a net decrease in the Contract Sum will be the amount of the actual net cost as confirmed by the Architect after consultation with the Owner and Construction Manager. When both additions and credits covering related Work or substitutions are involved in any one change, the allowance for both overhead and profit shall be figured on the basis of the net increase or decrease, if any, with respect to that change.

§ 7.1.5 In Section 7.3.6, the allowance for the combined overhead and profit included in the total cost to the Owner shall be based on the following schedule:

.1 For the Contractor, for Work performed by the Contractor's own forces, ten percent (10%) of the cost;

.2 For the Contractor, for Work performed by the Contractor's Subcontractor, five percent (5%) of the amount due the Subcontractor;

.3 For each Subcontractor or Sub-subcontractor involved for Work performed by the Subcontractor's or Sub-subcontractor's own forces, ten percent (10%) of the cost;

.4 For each Subcontractor for Work performed by the Subcontractor's Sub-subcontractor, five percent (5%) of the amount due the Subcontractor;

.5 Costs to which overhead and profit is to be applied shall be determined in accordance with Section 7.3.6;

.6 In order to facilitate checking of quotations for extras or credits, all proposals, expect those so minor that their propriety can be seen by inspection, shall be accompanied by a complete itemization of costs, including labor, materials and subcontracts. Labor and materials shall be itemized in the manner prescribed above. Where major cost items are subcontracts, they shall be itemized also. In no case will a change involving over $500 be approved without such itemization.

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§ 7.2 Change Orders and Change Proposals

~~A Change Order is a written instrument prepared by the Construction Manager and signed by the Owner, Construction Manager, Architect, and Contractor, stating their agreement upon all of the following:~~**§ 7.2.1** A Change Order is a written instrument prepared by the Construction Manager and signed by the Owner, Construction Manager, Architect, and Contractor, stating their agreement upon all of the following:

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.3 The extent of the adjustment, if any, in the Contract Time.

§ 7.2.2 Change Order shall be prepared on AIA Document G731.

§ 7.2.3 The Contractor must submit Change Proposals covering a contemplated Change Order within ten (10) days after request of the Owner, or the Architect or within ten (10) days of the event, or Contractor's discovery of a condition, whichever is earlier, giving rise to the Contractor's claim for a change in the Contract Sum or Contract Time. No increase in the Contract Sum or extension of the Contract Time will be allowed the Contractor for the cost or time involved in making Change Proposals. Change Proposals will define or confirm in detail the Work which is proposed to be added, deleted, or changed and must include any adjustment which the Contractor believes to be necessary in (i) the Contract Sum, or (ii) the Contract Time. Any proposed adjustment must include detailed documentation including, but not limited to: cost, properly itemized and supported by sufficient substantiating data to permit evaluation including cost of labor, materials, supplies and equipment, rental cost of machinery and equipment, additional bond cost, plus a fixed fee for profit and overhead (which includes office overhead and Site-specific overhead and general conditions) of ten percent (10%) if the Work is performed by the Contractor, or five percent (5%) if the Work is performed by a Subcontractor or Sub-subcontractor. The Subcontractor's or Sub-subcontractor's overhead and profit in turn must not exceed a total aggregate of ten percent (10%). Change Proposals will be binding upon the Contractor and may be accepted or rejected by the Owner in its discretion. The Owner may, at its option, instruct the Contractor through a Construction Change Directive to proceed with the Work involved in the Change Proposal in accordance with Section 7.3 without accepting the Change Proposal in its entirety.

§ 7.2.4 If the Owner determines that a Change Proposal is appropriate, the Architect will prepare and submit a request for a Change Order or Contract Amendment providing for an appropriate adjustment in the Contract Sum or Contract Time, or both, for further action by the Owner. No such change is effective until the Owner and Architect sign the Change Order.

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§ 7.3.4 If the Contractor does not respond promptly or disagrees with the method for adjustment in the Contract Sum, the Owner and the Construction Manager shall determine the adjustment on the basis of reasonable expenditures and savings of those performing the Work attributable to the change, including, in case of an increase in the Contract Sum, an amount for overhead and profit as set forth in the Agreement, or if no such amount is set forth in the Agreement, a reasonable amount. In such case, and also under Section 7.3.3.3, the Contractor shall keep and present, in such form as the Construction Manager may prescribe, an itemized accounting together with appropriate supporting data. Unless otherwise provided in the Contract Documents, costs for the purposes of this Section 7.3.4 shall be limited to the following:

...

.3 Rental costs of machinery and equipment, exclusive of hand tools, whether rented from the Contractor or ~~others;~~others (at rates approved by the Owner);

...

§ 7.3.7 A Construction Change Directive signed by the Contractor indicates the Contractor's agreement therewith, including adjustment in Contract Sum and Contract Time or the method for determining them. Such agreement shall be effective ~~immediately and shall be recorded as a Change Order.~~immediately.

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§ 7.3.9 Pending final determination of the total cost of a Construction Change Directive to the Owner, the Contractor may request payment for Work completed under the Construction Change Directive in Applications for ~~Payment.~~ Payment up to and not exceeding $25,000. The Construction Manager and Architect will make an interim determination for purposes of monthly certification for payment for those costs and certify for payment the amount that the Construction Manager and Architect determine to be reasonably justified. The interim determination of cost shall adjust the Contract Sum on the same basis as a Change Order, subject to the right of either party to disagree and assert a Claim in accordance with Article 15.

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The Architect may order minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. The Architect's order for minor changes shall be in ~~writing.~~ writing and approved by the Owner. If the Contractor believes that the proposed minor change in the Work will affect the Contract Sum or Contract Time, the Contractor shall notify the Construction Manager and shall not proceed to implement the change in the Work. If the Contractor performs the Work set forth in the Architect's order for a minor change without prior notice to the Construction Manager that such change will affect the Contract Sum or Contract Time, the Contractor waives any adjustment to the Contract Sum or extension of the Contract Time.

...

§ 8.1.2 The date of commencement of the Work is the date established in the Agreement. The date shall not be postponed by the failure to act of the Contractor or of persons or entities for whom the Contractor is responsible.

...

§ 8.1.4 The term "day" ~~as used in the Contract Documents shall mean calendar day unless otherwise specifically defined.~~shall mean calendar day of 24 hours beginning at 12:00 midnight. Calendar days as stated in the Contract Documents, shall include all days of a seven (7) day week including Saturdays, Sundays, and holidays. The term "Milestone Date" is, in each instance, the date established in the Contract Documents for the Substantial completion of all or a designated portion of the Work.

...

§ 8.2.3 The Contractor shall proceed expeditiously with adequate forces and shall achieve Substantial Completion within the Contract ~~Time.~~Time and shall achieve specific contractual Milestone Dates (if any), Substantial Completion and final Completion within the time stated in the Contract Documents.

§ 8.2.4 Contractor understands and agrees that all Work must be performed in an orderly and closely coordinated sequence so that the dates for Substantial Completion, Final Completion, and Milestone Dates (if any) may be met by the Contractor.

§ 8.2.5 Timely final completion of the Project is of critical importance to the Owner. The Contractor agrees that it shall substantially complete all Work under the Contract documents within the time established herein and that it shall finally complete the Work in the detail required and in the time required by the Contract Documents.

§ 8.2.6 To the extent that the Contract Documents contain or provide for specific contractual Milestone Dates in addition to Final and Substantial Completion dates, such dates shall be adhered to and shall be the last acceptable dates for those milestones and completions, unless modified by the Owner.

§ 8.2.7 Notwithstanding anything to the contrary contained in the Contract Documents, in the event that any Contractor fails, or appears likely, in the reasonable opinion of the Owner and Construction Manager, to fail to complete a critical portion of their Work on time or to complete any dates for Substantial Completion, Final Completion, or Milestone Dates as evidenced by the latest update of the CPM Schedule Report, the Owner shall have the right to select and require Contractor's performance under any or all of the following operations:

.1 Require the Contractor to substantiate their capability to get back on schedule within two (2) days;

.2 Require the Contractor, at no additional cost to the Owner, to increase their work force, work overtime and/or extra shifts and do whatever else is required by the Owner until the Contractor gets

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back on schedule as established by the CPM Schedule Report (including any updates thereto);

.3 Withhold progress payments or portions thereof until such time as the contractor returns to schedule, but only related to Substantial Completion or Final Completion;

.4 Contact or visit the factory, plant, or distribution center whose production or delivery schedule may be critical to the scheduled completion of a portion of the contract work and expedite such production delivery at Contractor's expense; or

.5 Require the Contractor to complete, in detail, and submit weekly a Short Interval Schedule (SIS) showing: (1) planning for the next two weeks; (2) work completed for the previous week; (3) sufficient detail to evaluate daily milestone (if any) and manpower/equipment loading, and shall identify/tie into the monthly updated CPM Schedule Report.

Any costs incurred by the Contractor in fulfilling the option(s) selected by the Owner shall be at the Contractor's expense.

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§ 8.3.1 If the Contractor is delayed at any time in the ~~commencement or~~ progress of the Work by (1) an act or neglect of the Owner, Architect, Construction Manager, or an employee of any of them, or of the Owner's own forces, Separate Contractors, or other Contractors; (2) by changes ordered in the Work; (3) by labor disputes, fire, unusual delay in deliveries, unavoidable casualties, adverse weather conditions documented in accordance with Section 15.1.6.2, or other causes beyond the Contractor's control; ~~(4) by delay authorized by the Owner pending mediation and binding dispute resolution; or (5)~~ or (4) by other causes that the Contractor asserts and the Architect, based on the recommendation of the Construction Manager, determines justify delay, then subject to the conditions hereinafter set forth, the Contract Time shall be extended by Change Order for such reasonable time as the Architect may determine. Requests for extensions of time for causes enumerated above will be considered by the Architect subject to the following:

.1 Only those conditions enumerated above over which the Contractor has no control will be considered. The burden of proof to substantiate the claim for an extension shall rest with the Contractor, including evidence that the cause was beyond their control. It shall be deemed the Contractor has control over the supply of labor, materials, equipment, methods, techniques, and over their Subcontractors and suppliers;

.2 In the event of Changes in the Work, any consideration for a time extension will be made only at the time of authorizing the changes, and no later than when the Change Order is prepared, and only if the Change Order significantly affects the time and progress of the entire Work. For changes which do not affect the entire Work, time extension may be granted only for the area, phase, unit, or element affected by the change, if due to a valid reason for a time extension;

.3 Any unusual delay in deliveries will not be considered unless it is solely due to transportation issues wholly outside of Contractor's, Subcontractor's, Sub-subcontractor's or Supplier's control. An extension of time will not be granted for delays in deliveries where said delivery was not properly scheduled or when orders were not promptly and properly placed;

.4 With respect to a claim for an extension of time as a result of climatic conditions, the Contractor shall recognize the location of the site and the existence, as normal, or variations from "average" conditions. Foul weather in itself will not be a valid reason for a time extension. Requests for time extensions because of delay resulting from weather extremes will not be considered unless a substantial variation from usual weather conditions occurs for a significant period of time, during phases of the Work when operation necessarily were suspended to a significant degree when they would otherwise have been in progress. In considering the time extension, the weather conditions both before and after the period in which the delay is claimed will be evaluated with credit given to Owner for unseasonably favorable weather;

.5 Delays resulting from a labor dispute will not result in a time extension of a longer period than the dispute, plus a reasonable time for mobilization if justified and necessary as approved by the Architect, and may be less depending on the impact of the dispute, including what operations were suspended or curtailed;

.6 No time extension will be granted as a result of improper scheduling or for failure to have shop drawings or samples submitted in ample time for review under a reasonable and agreed upon schedule; or

.7 Delays by Subcontractors or suppliers will not be considered justification for a time extension, except for the same valid reasons and conditions enumerated under Section 8.3.1.

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§ 8.3.4 The Contractor shall be responsible for all Owner incurred costs associated with a Contractor related to delay in completion of the Project. These costs may include, but are not limited to, Owner staff overtime, Consultant additional fees, additional testing, and/or additional rental or storage costs. A Change Order or Construction Change Directive will be issued to cover these costs. If a Change Order is not agreed to by the Contractor, the Owner, after presenting documentation to the Contractor, may deduct these amounts without a Change Order from the Contract Sum.

...

~~Where the Contract is based on a stipulated sum or Guaranteed Maximum Price, the Contractor shall submit a schedule of values to the Construction Manager, before the first Application for Payment, allocating the entire Contract Sum to the various portions of the Work. The schedule of values shall be~~ Before the first Application for Payment, the Contractor shall submit to the Architect and Construction Manager a schedule of values allocated to various portions of the Work, prepared in the form, and supported by the data to substantiate its accuracy, required by the Construction Manager and the Architect. ~~This~~ The schedule, unless objected to by the Construction Manager or Architect, shall be used as a basis for reviewing the Contractor's Applications for Payment. The Construction Manager shall forward to the Architect the Contractor's schedule of values. Any changes to the schedule of values shall be submitted to the Construction Manager and supported by such data to substantiate its accuracy as the Construction Manager and the Architect may require, and unless objected to by the Construction Manager or the Architect, shall be used as a basis for reviewing the Contractor's subsequent Applications for Payment. The Contractor, after receipt of Notice to Proceed, shall meet with the Owner, Construction Manager and the Architect for the purpose of reviewing the Project CPM Schedule and the Contract Schedule of Values. The Contractor shall develop a CPM Schedule for completing their portion of the Work, in conjunction with all other Contractors or Bid Packages, at the Pre-Construction Meeting(s). The Schedule of Values is to be broken down into specification sections and by labor and materials.

...

§ 9.3.1 At least fifteen days before the date established for each progress payment, the Contractor shall submit to the Construction Manager an itemized Application for Payment ~~prepared in accordance with the schedule of values, if required under Section 9.2, for completed portions of the Work. The application shall be notarized, if required,~~ for operations completed in accordance with the Schedule of Values. Such application shall be notarized and supported by all data substantiating the Contractor's right to payment that the Owner, Construction Manager or Architect require, such as copies of requisitions, and releases of waivers of lien from Subcontractors and ~~suppliers, and shall reflect retainage if provided for in the Contract Documents.~~material suppliers, and reflecting retainage if provided for elsewhere in the Contract Documents. The form of Application for Payment shall be a notarized AIA Document G732–2019, Application and Certificate for Payment, supported by AIA Document G703–1992, Continuation Sheet.

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§ 9.3.1.2 ~~Applications for Payment~~ Such applications shall not include requests for payment ~~for portions of the Work for which the~~ of amounts the Contractor does not intend to pay a Subcontractor ~~or supplier,~~ or supplier because of a dispute or other reason, unless such Work has been performed by others whom the Contractor intends to pay.

§ 9.3.1.3 Following certification of the Application for Payment by the Architect and Construction Manager, the Owner shall pay ninety-five percent (95%) of its value, retaining five percent (5%) until Final Completion.

§ 9.3.1.4 Contractor shall provide lien waivers for itself for the current payment application and for Subcontractors, Sub-subcontractors, and suppliers for the previous payment application before the Contractor has earned or has the right to receive payment for the specific items of work or materials covered by the lien waivers. All lien waivers shall be provided in the form required by the Owner. This Section 9.3.1.4 shall not limit other obligations of the Contractor contained elsewhere to provide lien waivers.

...

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§ 9.3.4 In each Application for Payment, the Contractor shall certify as follows:

"That there are no known mechanics' or materialmen's liens or stop notice claims outstanding by the application or any of its subcontractors of any tier, or any of the applicant's or subcontractor's material suppliers, or laborers at the date of this application, that all due and payable bills with respect to the Work have been paid or are included in the amount requested in current application, and that, except for such bills, not paid by Owner, but so included, there is no known basis for the filing of any mechanics' or materialmen's liens or stop notice claims on the Work, and that waivers from Contractor, its subcontractors of any tier, or any of the applicant's or subcontractor's material suppliers and laborers have been obtained in such form as to constitute an effective waiver of liens or stop notice claims, under the laws of the State of Minnesota to the extent of payments made by Owner to Contractor."

Notwithstanding the foregoing Section 9.3.4, Contractor acknowledges its obligation to provide a Payment Bond in accordance with the Contract Documents, and that Contractor's failure to pay any of its Subcontractors, Sub-subcontractors, suppliers, or laborers will be resolved through a claim under the Payment Bond.

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§ 9.6.1 After the Architect has issued a Certificate for Payment or Project Certificate for Payment, the Owner shall make payment within thirty (30) days of receipt by Owner of Certificate of Payment in the manner and within the time provided in the Contract Documents, and shall so notify the Construction Manager and Architect.

§ 9.6.2 The Contractor shall pay each Subcontractor, no later than seven days after receipt of payment from the Owner, the amount to which the Subcontractor is entitled, reflecting percentages actually retained from payments to the Contractor on account of the Subcontractor's portion of the Work. The Contractor shall, by appropriate agreement with each Subcontractor, require each Subcontractor to make payments to Sub-subcontractors in a similar manner. Per Minnesota Statutes, Section 471.425, within ten (10) days of Contractor's receipt of payment from Owner, the Contractor must pay any Subcontractor for any undisputed services provided by the Subcontractor. The Contractor shall pay interest of one and one-half percent (1-1/2%) per month, or any part of a month, to the Subcontractor on any undisputed amount not paid on time to the subcontractor. The minimum monthly interest penalty payment for an unpaid balance of $100 or more is $10.00. For an unpaid balance of less than $100, the Contractor shall pay the actual interest penalty due to the Subcontractor. Contractor is advised that by reason of Minnesota Statutes, Section 471.425, subd. 4a, if a Subcontractor prevails in a civil action to collect interest penalties from a prime contractor, the Subcontractor must be awarded its costs and disbursements, including attorneys' fees incurred in bringing the action.

...

§ 9.6.5 The Contractor's payments to material and equipment suppliers shall be treated in a manner similar to that provided in Sections 9.6.2, 9.6.3 and 9.6.4.

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If the Construction Manager and Architect do not issue a Certificate for Payment or a Project Certificate for Payment, through no fault of the Contractor, within fourteen days after the Construction Manager's receipt of the Contractor's Application for Payment, or if the Owner does not pay the Contractor within ~~seven~~ thirty (30) days after the date established in the Contract Documents, the amount certified by the Construction Manager and Architect ~~or awarded by binding dispute resolution,~~ then the Contractor may, upon ~~seven~~ ten (10) additional days' notice to the Owner, Construction Manager and Architect, stop the Work until payment of the amount owing has been received. The Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable costs of shutdown, delay and ~~start-up, plus interest as provided for in the Contract Documents.~~start-up which shall be accomplished as provided in Article 7.

...

§ 9.8.1 Substantial Completion is the stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Contract Documents so the Owner can occupy or utilize the Work for its intended ~~use.~~use and when the Architect issues a Certificate of Substantial Completion.

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§ 9.8.2 When the Contractor considers that the Work, or a portion thereof which the Owner agrees to accept separately, is substantially complete, the Contractor shall notify the Construction Manager, and the Contractor and Construction Manager shall jointly prepare and submit to the Architect a comprehensive list of items to be completed or ~~corrected prior to final payment.~~ corrected. The Contractor shall proceed promptly to complete and correct items on the list. Failure to include an item on such list does not alter the responsibility of the Contractor to complete all Work in accordance with the Contract Documents. Upon receipt of the Contractor's list, the Architect, assisted by the Construction Manager, will make an inspection to determine whether the Work or designated portion thereof is substantially complete. If the Architect's inspection discloses any item, whether or not included on the Contractor's list, which is not in accordance with the requirements of the Contract documents, the Contractor shall, before issuance of the Certificate of Substantial Completion, complete or correct such item, upon notification by the Architect. The Contractor shall then submit a request for another inspection by the Architect, assisted by the Construction Manager, to determine Substantial Completion. When the Work or designated portion thereof is substantially complete, the Architect will prepare a Certificate of Substantial Completion which shall establish the date of Substantial Completion, shall establish responsibilities of the Owner and Contractor for security, maintenance, heat, utilities, damage to the Work and insurance, and shall fix the time within which the Contractor shall finish all items on the list accompanying the Certificate. Warranties required by the Contract Document shall commence on the date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion.

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§ 9.8.6 Upon Substantial completion of the Work or designated portion thereof and upon application by the Contractor and certification by the Architect, the Owner shall make payment, reflecting adjustment in retainage, pursuant to Minnesota Statutes, Section 15.72, for such Work or portion thereof as provided in the Contract Documents.

§ 9.8.7 The Architect, assisted by the Construction Manager, shall make one (1) inspection for Substantial Completion and Final Completion in accordance with the AIA Document B101–2017 Owner Architect Agreement. If additional inspections are required due to the Contractor's failure to complete previously listed corrective or uncompleted work, the Architect's expense for conducting such re-inspections and related time in processing, reviewing, and revision of requirements shall be charged to the Contractor and such payment shall be accomplished by a deductive Change Order to the Contractor.

...

§ 9.10.1 Upon completion of the Work, the Contractor shall forward to the Construction Manager a notice that the Work is ready for final inspection and acceptance, and shall also forward to the Construction Manager a final Contractor's Application for Payment. Upon receipt, the Construction Manager shall perform an inspection to confirm the completion of Work of the Contractor. The Construction Manager shall make recommendations to the Architect when the Work of all of the Contractors is ready for final inspection, and shall then forward the Contractors' notices and Application for Payment or Project Application for Payment, to the Architect, who will promptly make such inspection. When the Architect finds the Work acceptable under the Contract Documents and the Contract fully performed, the Construction Manager and Architect will promptly issue a final Certificate for Payment or Project Certificate for Payment stating that to the best of their knowledge, information and belief, and on the basis of their observations, on-site visits and inspections, the Work has been completed in accordance with the Contract Documents and that the entire balance found to be due the Contractor and noted in the final Certificate is due and payable. The Construction Manager's and Architect's final Certificate for Payment or Project Certificate for Payment will constitute a further representation that conditions listed in Section 9.10.2 as precedent to the Contractor's being entitled to final payment have been fulfilled.

§ 9.10.2 Neither final payment nor any remaining retained percentage shall become due until the Contractor submits to the Architect through the Construction Manager (1) an affidavit that payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which the Owner or the Owner's property might be responsible or encumbered (less amounts withheld by Owner) have been paid or otherwise satisfied, (2) a certificate evidencing that insurance required by the Contract Documents to remain in force after final payment is currently in ~~effect,~~ effect and will not be cancelled or allowed to expire until at least (60) days' prior written notice has been given to the Owner, (3) a written statement that the Contractor knows of no reason that the insurance will not be renewable to cover the period required by the Contract Documents, (4) consent of surety, if any, to final payment (5) documentation of any special

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warranties, such as manufacturers' warranties or specific Subcontractor warranties, ~~and (6), if required by the Owner,~~ including a summary listing all applicable warranties both standard and extended, itemized by specification section and included at the front of the Operation and Maintenance manuals, and (6) other data establishing payment or satisfaction of obligations, such as receipts and releases and waivers of liens, claims, security interests, or encumbrances arising out of the Contract, to the extent and in such form as may be designated by the Owner. If a Subcontractor refuses to furnish a release or waiver required by the Owner, the Contractor may furnish a bond satisfactory to the Owner to indemnify the Owner against such lien, claim, security interest, or encumbrance. If a lien, claim, security interest, or encumbrance remains unsatisfied after payments are made, the Contractor shall refund to the Owner all money that the Owner may be compelled to pay in discharging the lien, claim, security interest, or encumbrance, including all costs and reasonable attorneys' fees.

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§ 9.11 Damages for Delay

§ 9.11.1 The Contractor shall be responsible for damages incurred by the Owner and any other separate contractors for delay resulting from the Contractor's failure to complete the Work within the contract Time or resulting from the progress of the Work failing to substantially conform to the Project Construction Schedule. These damages are not included in liquidated damages and represent additional direct costs incurred by the Owner for the delay. These damages may include Owner incurred costs for temporary classrooms, temporary facilities, moving of programs, etc.

...

~~The Contractor shall be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the performance of the Contract. The Contractor shall submit the Contractor's safety program to the Construction Manager for review and coordination with the safety programs of other Contractors. The Construction Manager's responsibilities for review and coordination of safety programs shall not extend to direct control over or charge of the acts or omissions of the Contractors, Subcontractors, agents or employees of the Contractors or Subcontractors, or any other persons performing portions of the Work and not directly employed by the Construction Manager.~~**§ 10.1.1** The Contractor shall be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the performance of the Contract. The Contractor shall submit the Contractor's safety program to the Construction Manager for review and coordination with the safety programs of other Contractors. The Construction Manager's responsibilities for review and coordination of safety programs shall not extend to direct control over or charge of the acts or omissions of the Contractors, Subcontractors, agents or employees of the Contractors or Subcontractors, or any other persons performing portions of the Work and not directly employed by the Construction Manager.

§ 10.1.2 The Contractor shall comply with all applicable laws and regulations. Notwithstanding any language to the contrary, the Owner shall not have any responsibility for job site inspections or safety recommendations. Any inspections or observations by the Owner, Construction Manager or the Architect are solely for the benefit of the Owner and shall not create any duties or obligations to anyone else.

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If either party suffers injury or ~~damage~~ damages to person or property because of an act or omission of the other party, of any of the other party's employees or agents, or of others for whose acts such party is legally responsible, notice of the injury or damage, whether or not insured, shall be given to the other party within a reasonable time not exceeding ~~21~~ ten (10) days after ~~discovery.~~ first observance. The notice shall provide sufficient detail to enable the other party to investigate the matter. If a Claim for additional cost or time related to this Claim is to be asserted, it shall be filed as provided in Sections 15.1.4 and 15.1.5.

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§ 10.3.1 ~~The Contractor is responsible for compliance with any requirements included in the Contract Documents regarding hazardous materials or substances. If the Contractor encounters a hazardous material or substance not addressed in the Contract Documents and if reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a material or substance, including but not limited to asbestos or polychlorinated biphenyl (PCB), encountered on the site by the Contractor, the Contractor shall, upon recognizing the condition, immediately stop Work in the affected area and notify~~ In the event the Contractor encounters on the site material reasonably believed to be asbestos or polychlorinated biphenyl (PCB) which has not been rendered harmless,

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the Contractor shall immediately stop Work in the area affected and report the condition to the Owner, Construction Manager and Architect ~~of the condition.~~in writing. The Work in the affected area shall not thereafter be resumed except by written agreement of the Owner and Contractor if in fact the material is asbestos or polychlorinated biphenyl (PCB) and has not been rendered harmless. The Work in the affected area shall be resumed in the absence of asbestos or polychlorinated biphenyl (PCB), or when it has been rendered harmless, by written agreement of the Owner and Contractor.

.1 Except where otherwise stated in the Contract Documents, no hazardous material work of any nature shall be performed by the Contractor pursuant to this Contract.

.2 The term "hazardous materials" includes, but is not limited to, asbestos, toxic chemicals, acids, alkalis, irritants, contaminants, or other pollutants, together with any other waste, material, substance, pollutants, or contaminant, all or a portion of which is or would be designated as hazardous waste or substance under applicable local, state, or federal laws, ordinances, codes, rules, or regulations.

§ 10.3.2 ~~Upon receipt of the Contractor's notice, the Owner shall obtain the services of a licensed laboratory to verify the presence or absence of the material or substance reported by the Contractor and, in the event such material or substance is found to be present, to cause it to be rendered harmless. Unless otherwise required by the Contract Documents, the Owner shall furnish in writing to the Contractor, Construction Manager and Architect the names and qualifications of persons or entities who are to perform tests verifying the presence or absence of the material or substance or who are to perform the task of removal or safe containment of the material or substance. The Contractor, the Construction Manager and the Architect will promptly reply to the Owner in writing stating whether or not any of them has reasonable objection to the persons or entities proposed by the Owner. If the Contractor, Construction Manager or Architect has an objection to a person or entity proposed by the Owner, the Owner shall propose another to whom the Contractor, the Construction Manager and the Architect have no reasonable objection. When the material or substance has been rendered harmless, Work in the affected area shall resume upon written agreement of the Owner and Contractor. By Change Order, the Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable additional costs of shutdown, delay, and start-up.~~To the fullest extent permitted by law, the Owner shall indemnify and hold harmless the Contractor, Construction Manager, Architect, their consultants, and agents and employees of any of them from and against claims, damages, losses, and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work on Owner's property if in fact the material is asbestos or polychlorinated biphenyl (PCB) and has not been rendered harmless, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), including loss of use resulting therefrom, but only to the extent caused in whole or in part by negligent acts or omissions of the Owner, anyone directly or indirectly employed by the Owner, or anyone for whose acts the Owner may be liable, regardless of whether or not such claim, damage, loss, or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity which would otherwise exist as to a party or person described in this Subparagraph 10.3.2.

§ 10.3.3 ~~To the fullest extent permitted by law, the Owner shall indemnify and hold harmless the Contractor, Subcontractors, Construction Manager, Architect, their consultants, and agents and employees of any of them from and against claims, damages, losses, and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work in the affected area if in fact the material or substance presents the risk of bodily injury or death as described in Section 10.3.1 and has not been rendered harmless, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), except to the extent that such damage, loss, or expense is due to the fault or negligence of the party seeking indemnity.~~If reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a material or substance encountered on the site by the contractor, the Contractor shall, upon recognizing the condition, immediately stop Work on Owner's property and report the condition to the Owner, Construction Manager and Architect in writing. The Owner, Construction Manager, Contractor, and Architect shall then proceed in the same manner described in Subparagraph 10.3.1.

§ 10.3.4 ~~The Owner shall not be responsible under this Section 10.3 for hazardous materials or substances the Contractor brings to the site unless such materials or substances are required by the Contract Documents. The Owner shall be responsible for hazardous materials or substances required by the Contract Documents, except to the extent of the Contractor's fault or negligence in the use and handling of such materials or substances.~~

§ 10.3.5 The Contractor shall reimburse the Owner for the cost and expense the Owner incurs (1) for remediation of hazardous materials or substances the Contractor brings to the site and negligently handles, or (2) where the

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Contractor fails to perform its obligations under Section 10.3.1, except to the extent that the cost and expense are due to the Owner's fault or negligence. Owner shall be responsible for obtaining the services of a licensed laboratory to verify a presence or absence of the material or substance reported by the Contractor and, in the event such material or substance is found to be present, to verify that it has been rendered harmless.

§ 10.3.6 ~~If, without negligence on the part of the Contractor, the Contractor is held liable by a government agency for the cost of remediation of a hazardous material or substance solely by reason of performing Work as required by the Contract Documents, the Owner shall reimburse the Contractor for all cost and expense thereby incurred.~~Regulations concerning the availability of information and employee training in the use and handling of "hazardous substances" and "harmful physical agents", as set forth in the Employee Right-to-Know Act of 1983, Minnesota Statutes, Sections 182.65 to 182.676 are incorporated herein by reference as if fully set forth herein.

§ 10.3.7 The Contractor shall furnish three Material Safety Data Sheets to the Owner for each material used in the Work that is classified by the Employee Right-to-Know Act of 1983 as a "hazardous substance" or a "harmful physical agent."

§ 10.3.8 The Contractor shall label, in generally accepted and/or standardized fashion, all containers on the work site containing "hazardous substances" or as "harmful physical agents." This shall include factory containers and all subsequent containers used in the Work.

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In an emergency affecting safety of persons or property, the Contractor shall ~~act, at the Contractor's discretion,~~ act to prevent threatened damage, injury, or loss. Additional compensation or extension of time claimed by the Contractor on account of an emergency shall be determined as provided in Article 15 and Article 7.

...

§ 11.1.1 The Contractor shall purchase and maintain insurance of the types and limits of liability, containing the endorsements, and subject to the terms and conditions, as described in the ~~Agreement~~ Agreement, in EXH-C Owner Insurance or elsewhere in the Contract Documents. The Contractor shall purchase and maintain the required insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is ~~located.~~ located and which carry a Best's rating of A- or higher or are otherwise acceptable to the Owner. The Owner, Construction Manager and Construction Manager's consultants, and the Architect and Architect's consultants, shall be named as additional insureds under the Contractor's commercial general liability policy or as otherwise described in the Contract Documents.

...

§ 11.1.3 Upon the request of any person or entity appearing to be a potential beneficiary of bonds covering payment of obligations arising under the Contract, the Contractor shall promptly furnish a copy of the bonds or shall authorize a copy to be furnished. The Contractor shall furnish Certificates of Insurance acceptable to the Owner which shall specifically set forth evidence of all coverage required by Article 11 and EXH-C Owner Insurance and shall be filed with the Owner and Construction Manager prior to commencement of the Work and thereafter upon renewal or replacement of each required policy of insurance.

The Contractor shall not allow insurance required by this Agreement to lapse, be canceled, reduced in limits or coverage, non-renewed, or materially changed or have restrictive modifications added during the life of this Agreement, including the periods of required coverage. The Contractor shall furnish to the Owner and Construction Manager copies of any endorsements that are subsequently issued amending coverage and limits.

If any of the foregoing insurance coverages are required to remain in force after final payment and are reasonably available, all additional certificates evidencing continuation of such coverage shall be submitted with the final Application for Payment. Information concerning reduction of coverage shall be furnished by the Contractor with reasonable promptness in accordance with the Contractor's information and belief.

§ 11.1.3.1 Acceptable insurance certificates are AIA Document G705, CICC of Minnesota Form 701, and/or ACORD form of the American Insurance Institute.

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Failure of the Owner to collect certificates does not void the requirements to obtain insurance.

The acceptance of any certificate of insurance by the Owner shall not relieve or decrease the liability of the Contractor hereunder. It is to be understood the Owner, Construction Manager and Architect do not in any way represent that the insurance specified in these articles are sufficient or adequate to protect the Contractor's interest or liabilities, but are merely minimum requirements.

The Contractor shall furnish to the Owner copies of any endorsements that are subsequently issued amending coverage and limits.

§ 11.1.4 ~~Notice of Cancellation or Expiration of Contractor's Required Insurance.~~ ~~Within three (3) business days of the date the Contractor becomes aware of an impending or actual cancellation or expiration of any insurance required by the Contract Documents, the Contractor shall provide notice directly to the Owner, and separately to the Construction Manager, of such impending or actual cancellation or expiration. Upon receipt of notice from the Contractor, the Owner shall, unless the lapse in coverage arises from an act or omission of the Owner, have the right to stop the Work until the lapse in coverage has been cured by the procurement of replacement coverage by the Contractor. The furnishing of notice by the Contractor shall not relieve the Contractor of any contractual obligation to provide any required coverage.~~In the event the Contractor fails to procure or maintain any insurance coverage required under this Agreement, the Owner may purchase such coverage and deduct the cost thereof from any monies due to the Contractor, or terminate this Agreement under Paragraph 14.2. The Contractor shall be liable to the Owner for providing all coverage, defense, and payments that would have been provided by any insurance that the Contractor failed to procure and maintain as required by the Contract Documents.

§ 11.1.5 Compliance by the Contractor with the foregoing insurance requirements shall not relieve it from liability for amounts in excess of the limits of insurance.

§ 11.1.6 The Contractor and any of its Subcontractors, Sub-subcontractors, agents and employees, and any separate contractors described in Article 6, if any, and any of their subcontractors, sub-subcontractors, agents and employees shall waive any of their subrogation rights on their Workers Compensation Policy in favor of the Owner, Construction Manager and Architect. The policies shall provide such waivers of subrogation by endorsement or otherwise. A waiver of subrogation shall be effective as to a person or entity even though that person or entity would otherwise have a duty of indemnification, contractual, or otherwise, did not pay the insurance premium directly or indirectly, and whether or not the person or entity had an insurable interest.
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§ 11.2.1 The Owner shall purchase and maintain insurance of the types and limits of liability, containing the endorsements, and subject to the terms and conditions, as described in the Agreement or elsewhere in the Contract Documents. The Owner shall purchase and maintain the required insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The Owner may self-insure and maintain the Owner's usual liability insurance. Optionally, the Owner may purchase and maintain other insurance for self-protection against claims which may arise from operations under the Contract. The Contractor shall not be responsible for purchasing and maintaining this optional Owner's liability insurance unless specifically required by the Contract Documents.
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~~§ 11.3.2~~ ~~If during the Project construction period the Owner insures properties, real or personal or both, at or adjacent to the site by property insurance under policies separate from those insuring the Project, or if after final payment property insurance is to be provided on the completed Project through a policy or policies other than those insuring the Project during the construction period, to the extent permissible by such policies, the Owner waives all rights in accordance with the terms of Section 11.3.1 for damages caused by fire or other causes of loss covered by this separate property insurance.~~

...

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§ 11.5.2 Prior to settlement of an insured loss, the Owner shall notify the Contractor of the terms of the proposed settlement as well as the proposed allocation of the insurance proceeds. The Contractor shall have 14 days from receipt of notice to object to the proposed settlement or allocation of the proceeds. If the Contractor does not object, the Owner shall settle the loss and the Contractor shall be bound by the settlement and allocation. Upon receipt, the Owner shall ~~deposit the insurance proceeds in a separate account and~~ make the appropriate distributions. Thereafter, if no other agreement is made or the Owner does not terminate the Contract for convenience, the Owner and Contractor shall execute a Change Order for reconstruction of the damaged or destroyed Work in the amount allocated for that purpose. If the Contractor timely objects to either the terms of the proposed settlement or the allocation of the proceeds, the Owner may proceed to settle the insured loss, and any dispute between the Owner and Contractor arising out of the settlement or allocation of the proceeds shall be resolved pursuant to Article 15. Pending resolution of any dispute, the Owner may issue a Construction Change Directive for the reconstruction of the damaged or destroyed Work.

§ 11.6 Bonds

§ 11.6.1 Contractor shall furnish a Performance Bond and a Payment Bond to the Owner in the amount of one hundred percent (100%) of the Contract Sum and issued by a Surety Company authorized to do business in the State of Minnesota, rated "A" or better, and approved by the Owner. The Performance Bond shall be in accordance with Minnesota Statutory requirements, and shall be in the form included in the Project Manual. The Bonds shall allow for any additions or deductions to the Contract Sum.

§ 11.6.2 In order to be acceptable as a surety, Contractor's bonding company bust hold a "Certificate of Authority acceptable to the U.S. Treasury Department and be listed in the Department's current publication of "Bond Qualifiers" with underwriting limitations not less than ten percent (10%) above the Contract Sum.

§ 11.6.3 The surety of the Bonds shall be by a corporate surety company authorized to do business in the state in which Work is being performed under this Contract and acceptable to the Owner. The conditions of the bonds shall meet requirements of the statutes of the state where Work is being performed and all other applicable provisions of state law.

§ 11.6.4 The Contractor shall furnish two (2) originals of the Bonds to the Owner, with copies to the Architect and Construction Manager, within ten (10) days after notification of award and before execution of the Contract. Failure to do so shall constitute a violation of terms of the proposal and provide grounds for forfeiture of bid security.

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The Contractor shall promptly correct Work rejected by the Construction Manager or Architect or failing to conform to the requirements of the Contract Documents, discovered before Substantial Completion, and whether or not fabricated, installed or completed. ~~Costs~~ The Contractor shall bear costs of correcting such rejected Work, including additional testing and inspections, the cost of uncovering and replacement, and compensation for the Construction Manager's and Architect's services and expenses made necessary ~~thereby, shall be at the Contractor's expense.~~thereby.

...

~~**§ 12.2.2.1** In addition to the Contractor's obligations under Section 3.5, if, within one year after the date of Substantial Completion of the Work or designated portion thereof, or after the date for commencement of warranties established under Section 9.9.1, or by terms of any applicable special warranty required by the Contract Documents, any of the Work is found to be not in accordance with the requirements of the Contract Documents, the Contractor shall correct it promptly after receipt of notice from the Owner to do so, unless the Owner has previously given the Contractor a written acceptance of such condition. The Owner shall give such notice promptly after discovery of the condition. During the one-year period for correction of Work, if the Owner fails to notify the Contractor and give the Contractor an opportunity to make the correction, the Owner waives the rights to require correction by the Contractor and to make a claim for breach of warranty. If the Contractor fails to correct nonconforming Work within a reasonable time during that period after receipt of notice from the Owner, Construction Manager or Architect, the Owner may correct it in accordance with Section 2.5.~~

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~~**§ 12.2.2.2** The one-year period for correction of Work shall be extended with respect to portions of Work first performed after Substantial Completion by the period of time between Substantial Completion and the actual completion of that portion of the Work.~~

~~**§ 12.2.2.3** The one-year period for correction of Work shall not be extended by corrective Work performed by the Contractor pursuant to this Section 12.2.~~

§ 12.2.2.1 If within one year after the date of Substantial Completion of the Work or designated portion thereof, or after the date for commencement of warranties established under Section 9.9.1, or by terms of any applicable special warranty required by the Contract Documents, any of the Work is found to be not in accordance with the requirements of the Contract Documents, the Contractor shall correct it promptly (and any other property damaged or removed in effecting the correction) after receipt of notice from the Owner, Construction Manager or Architect to do so, unless the Owner has previously given the Contractor a written acceptance of such condition. The Owner, Construction Manager or Architect shall give such notice promptly after discovery of the condition. This period of one year shall be extended with respect to portions of Work first performed after Substantial completion by the period of time between Substantial completion and the actual performance of the Work. This obligation under this Subparagraph 12.2.2.1 shall survive acceptance of the Work under the contract and termination of the Contract. The Owner, Construction Manager or Architect shall give such notice promptly after discovery of the condition. The expiration of the above one year or any other specified time period, or any other period prescribed by the law, shall not relieve the Contractor of the obligation form the expense to correct any latent defect in the work or deficiencies which are not readily ascertained, including but not limited to, defective materials and quality of work performed, defects attributable to material substitutions for special materials, substandard performance or otherwise not in compliance with the Contract Documents. Such latent defects or deficiencies shall be corrected as provided in this Paragraph 12.2. Following the correction or replacement of any of the Work, as above specified, the Contractor shall correct any defects or deficiencies in the corrected or replaced materials and workmanship which is found within one year after the date of correction or replacement.

§ 12.2.4 ~~The Contractor shall bear the cost of correcting destroyed or damaged construction of the Owner, Separate Contractors, or other Contractors, whether completed or partially completed, caused by the Contractor's correction or removal of Work that is not in accordance with the requirements of the Contract Documents.~~ If the Contractor fails to correct nonconforming Work within a reasonable time, the Owner may correct it in accordance with Paragraph 2.4. If the Contractor does not proceed with correction of such nonconforming Work within a reasonable time fixed by written notice from the Architect or Construction Manager, the Owner may correct or remove it and store the salvageable materials or equipment all at the Contractor's expense. If the Contractor does not pay costs of such removal and storage within ten (10) days after written notice, the Owner may upon ten (10) additional days' written notice sell such materials and equipment at auction or at private sale and shall account for the proceeds thereof, after deducting costs and damages that should have been borne by the Contractor, the Contract Sum shall be reduced by the deficiency. If payments then or thereafter due the Contractor are not sufficient to cover such amount, the Contractor shall pay the difference to the Owner.

§ 12.2.5 ~~Nothing contained in this Section 12.2 shall be construed to establish a period of limitation with respect to other obligations the Contractor has under the Contract Documents. Establishment of the one-year period for correction of Work as described in Section 12.2.2 relates only to the specific obligation of the Contractor to correct the Work, and has no relationship to the time within which the obligation to comply with the Contract Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Contractor's liability with respect to the Contractor's obligations other than specifically to correct the Work.~~ The Contractor shall bear the cost of correcting destroyed or damaged construction whether completed or partially completed, of the Owner or separate contractors caused by the Contractor's correction or removal of Work which is not in accordance with the requirements of the Contract Documents.

§ 12.2.6 Nothing contained in this Section 12.2 shall be construed to establish a period of limitation with respect to other obligations the Contractor has under the Contract Documents. Establishment of the one-year period for correction of Work as described in Section 12.2.2 relates only to the specific obligation of the Contractor to correct the Work, and has no relationship to the time within which the obligation to comply with the Contract Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Contractor's liability with respect to the Contractor's obligations other than specifically to correct the Work.

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§ 13.4.1 Tests, inspections, and approvals of portions of the Work shall be made as required by the Contract Documents and by applicable laws, statutes, ordinances, codes, rules, and regulations or lawful orders of public authorities. ~~Unless otherwise provided, the Contractor~~ The Owner, Construction Manager or Architect shall make arrangements for such tests, inspections, and approvals with an independent testing laboratory or entity acceptable to the Owner, or with the appropriate public ~~authority, and shall bear all related costs of tests, inspections, and approvals. The Contractor shall give the Construction Manager and Architect timely notice~~ authority. Timely notice shall be given to the Construction Manager and Architect of when and where tests and inspections are to be made so that the Construction Manager and Architect may ~~be present for~~ observe such procedures. The Owner shall bear costs of tests, inspections, or approvals that do not become requirements until after bids are received or negotiations concluded. The Owner shall directly arrange and pay for tests, inspections, or approvals where building codes or applicable laws or regulations so require.

§ 13.4.2 If the Construction Manager, Architect, Owner, or public authorities having jurisdiction determine that portions of the Work require additional testing, inspection, or approval not included under Section 13.4.1, the Construction Manager and Architect will, upon written authorization from the Owner, instruct the Contractor to make arrangements for such additional testing, inspection, or approval, by an entity acceptable to the Owner, and the Contractor shall give ~~timely~~ a minimum of two (2) working days' notice to the Construction Manager and Architect of when and where tests and inspections are to be made so that the Construction Manager and Architect may ~~be present for such procedures. Such~~ observe procedures. The Owner shall bear such costs, except as provided in Section ~~13.4.3, shall be at the Owner's expense.~~13.4.3.

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~~Payments due and unpaid under the Contract Documents shall bear interest from the date payment is due at the rate the parties agree upon in writing or, in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located.~~All payments to the Contractor shall be governed by the Prompt Payment of Local Government Bills, Minnesota Statutes, Section 471.125 ("Prompt Payment Act") and Article 5 of the A132–2019 Agreement on this Project.

§ 13.6 Non-Discrimination

§ 13.6.1 All contracts between the Owner and companies providing goods and services under the Contract Documents shall contain the following equal opportunity and civil right clause:

> "During the performance of this Agreement, the provider agrees to the following: No contractor, material supplier, vendor, or other person shall on the basis of sex, race, creed, color, religion, national origin, age, marital status, sexual orientation, or disability be excluded from full employment rights in, participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program, service, or activity under the provisions of any and all applicable Federal and State laws against discrimination, including the Minnesota Human Rights Act and the Civil Rights Act of 1964."

Upon request, the Contractor shall furnish all information and reports required by the Owner, or by the rules and regulations of investigation to ascertain compliance with all applicable rules and regulations. The Contractor shall also comply with any applicable licensing requirements of the Minnesota Department of Human Services in employment of personnel.

The Contractor acknowledges that the violation of the above-stated paragraph is a misdemeanor pursuant to Minnesota Statutes, Section 181.59.

This Agreement may be cancelled or terminated by the Owner or any other person authorized to grant the contracts for employment under this Agreement, and all money due, or to become due under this Agreement may be forfeited for a second or any subsequent violation of the non-discriminatory terms stated above.

§ 13.6.2 During the completion of the work and all other services required by the Contract Documents, the Contractor agrees that no contractor, material supplier, vendor, or other person shall, on the basis of sex, race, creed, color, religion, national origin, age, marital status, sexual orientation, or disability be excluded from full employment rights in participation in, be denied the benefits of, or be otherwise subjected to discrimination under the provisions of any and all applicable Federal and State laws against discrimination, including the Minnesota Human Rights Act and the

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Civil Rights Act of 1964. Upon request, the Architect, Construction Manager and Contractor shall furnish all information and reports required by the Owner, or by the rules and regulations of investigation to ascertain compliance with all applicable rules and regulations. The Contractor shall also comply with any applicable licensing requirements of the Minnesota Department of Human Services in employment of personnel.

Contractor acknowledges that the violation of the above-states paragraph is a misdemeanor pursuant to Minnesota Statutes Section 181.59.

The Contract Documents may be cancelled or terminated by the Owner or any other person authorized to grant the contracts for employment under this Agreement, and all money due, or to become due under the Agreement may be forfeited for a second or any subsequent violation of the non-discriminatory terms stated above.

§ 13.7 No action or failure to act by the Owner shall constitute a waiver of a right or duty afforded the Owner under the Contract Documents, nor shall such action or failure to act constitute approval of or acquiescence of the Owner in a breach of the Contract Documents, except as may be specifically agreed in writing. None of the approval of any Application for Payment, the making of any payment, the giving of any approval or consent, the use or occupancy of the Work, or any part thereof, the making of final payment, or any other action or inaction on the part of the Owner, Construction Manager or Architect shall constitute a waiver of claims by or rights of the Owner or an acceptance of any Work that is not in accordance with the Contract Documents. The Contractor shall not be relieved from its obligations to perform the Work in accordance with the Contract Documents either by the activities or duties of the representations of the Owner, Construction Manager or Architect, or by inspections, tests, or approvals required or performed by the Owner, Construction Manager or Architect or anyone else.

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§ 14.1.5 No Right to Stop Work for Non-Payment

The Contractor has no right to stop Work as a consequence of non-payment. In the event of any disagreement between the Contractor and Owner involving the Contractor's entitlement to payment, the Contractor's only remedy is to file a Claim in accordance with Article 15. The Contractor must diligently proceed with the Work pending resolution of the Claim. If, however, an Application for Payment has been approved for payment by the Owner, and the Owner fails to make payment within sixty (60) days of the approval for payment by the Owner, the Contractor may upon ten (10) days written notice to the Owner, stop work if payment is not made by the Owner within ten (10) days following the notice.

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§ 14.3.2 The Contract Sum and the Contract Time shall be adjusted for increases or decreases in the cost and time caused by suspension, delay, or interruption under Section 14.3.1. Adjustment of the Contract Sum shall include reasonable profit. No adjustment shall be made to the extent:

...

~~**§ 14.4.3** In case of such termination for the Owner's convenience, the Owner shall pay the Contractor for Work properly executed; costs incurred by reason of the termination, including costs attributable to termination of Subcontracts; and the termination fee, if any, set forth in the Agreement.~~

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§ 15.1.1 Definition. A Claim is a demand or assertion by ~~one of the parties~~ the Contractor seeking, as a matter of right, payment of money, a change in the Contract Time, or other relief with respect to the terms ~~of the Contract. The term "Claim" also includes other disputes and matters in question between the Owner and Contractor arising out~~ of ~~or relating to~~ the Contract. The responsibility to substantiate Claims shall rest with ~~the party making the Claim.~~ the Contractor. Nothing in this paragraph 15.1.1 is intended to apply to or in any way limit the Owner's right to make Claims related to or arising out of the Contract. This Section 15.1.1 does not require the Owner to file a Claim in order to impose liquidated damages in accordance with the Contract Documents.

...

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§ 15.1.3.1 Claims by ~~either the Owner or~~ Contractor, where the condition giving rise to the Claim is first discovered prior to expiration of the period for correction of the Work set forth in Section 12.2.2, shall be initiated by written notice to the ~~other party~~ Owner and to the Initial Decision Maker with a copy sent to the Construction Manager and Architect, if the Architect is not serving as the Initial Decision Maker. Claims by ~~either party~~ the Contractor under this Section 15.1.3.1 shall be initiated within ~~21~~ ten (10) days after occurrence of the event giving rise to such Claim or within ~~21~~ ten (10) days after the ~~claimant~~ Contractor first recognizes the condition giving rise to the Claim, whichever is later. Any additional Claim made after and relating to the initial Claim has been implemented by Change Order will not be considered unless submitted in a timely manner. As a condition to making a claim for additional costs, the Contractor shall maintain and produce accurate records to substantiate all additional costs actually incurred. If a Claim for actual costs is approved, the Owner shall pay the Contractor actual costs incurred, plus either (a) ten percent (10%) for overhead and profit for work performed by the Contractor, or (b) five percent (5%) overhead and profit for work performed by a Subcontractor, as applicable.

§ 15.1.3.2 Claims by either the Owner or Contractor, where the condition giving rise to the Claim is first discovered after expiration of the period for correction of the Work set forth in Section 12.2.2, shall be initiated by written notice to the other party. In such event, no decision by the Initial Decision Maker is required.

...

§ 15.1.4.1 Pending final resolution of a Claim, except as otherwise agreed in writing or as provided in Section 9.7 and Article 14, the Contractor shall proceed diligently with performance of the Contract and the Owner shall continue to make payments in accordance with the Contract Documents. Subject to Paragraph 15.1.5, no such continuing performance by the Contractor, nor payment by the Owner shall be deemed a waiver of, or to otherwise impair any such Claim.

...

§ 15.1.6.1 If the Contractor wishes to make a Claim for ~~an~~ any increase in the Contract Time, notice as provided in Section 15.1.3 shall be given. The Contractor's Claim shall include an estimate of cost and of probable effect of delay on progress of the Work. In the case of a continuing delay only one Claim is necessary.

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~~**§ 15.1.7 Waiver of Claims for Consequential Damages.** The Contractor and Owner waive Claims against each other for consequential damages arising out of or relating to this Contract. This mutual waiver includes~~

- ~~.1 damages incurred by the Owner for rental expenses, for losses of use, income, profit, financing, business and reputation, and for loss of management or employee productivity or of the services of such persons; and~~
- ~~.2 damages incurred by the Contractor for principal office expenses including the compensation of personnel stationed there, for losses of financing, business and reputation, and for loss of profit except anticipated profit arising directly from the Work.~~

~~This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination in accordance with Article 14. Nothing contained in this Section 15.1.7 shall be deemed to preclude assessment of liquidated damages, when applicable, in accordance with the requirements of the Contract Documents.~~

...

§ 15.2.6 ~~Either party may file for mediation of an initial decision at any time, subject to the terms of Section 15.2.6.1.~~In the event of a Claim against the Contractor, the Owner may, but is not obligated to notify the surety, if any, of the nature and amount of the Claim. If the Claim relates to a possibility of a Contractor's default, the Owner may, but is not obligated to notify the surety and initiate a Claim on the performance bond.

~~**§ 15.2.6.1** Either party may, within 30 days from the date of receipt of an initial decision, demand in writing that the other party file for mediation. If such a demand is made and the party receiving the demand fails to file for mediation~~

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~~within 30 days of receipt thereof, then both parties waive their rights to mediate or pursue binding dispute resolution proceedings with respect to the initial decision.~~

~~§ 15.2.7~~ ~~In the event of a Claim against the Contractor, the Owner may, but is not obligated to, notify the surety, if any, of the nature and amount of the Claim. If the Claim relates to a possibility of a Contractor's default, the Owner may, but is not obligated to, notify the surety and request the surety's assistance in resolving the controversy.~~

~~§ 15.2.8~~ ~~If a Claim relates to or is the subject of a mechanic's lien, the party asserting such Claim may proceed in accordance with applicable law to comply with the lien notice or filing deadlines.~~

§ 15.3.1 ~~Claims, disputes, or other matters in controversy~~ Any claim, dispute or other matter in question or arising out of or related to the ~~Contract, except those waived as provided for in Sections 9.10.4, 9.10.5, and 15.1.7, shall be subject to mediation as a condition precedent to binding dispute resolution.~~Contract shall be subject to mediation. Mediation is not a condition precedent to commencing litigation, but if litigation is commenced before mediation is held, the Parties agree to mediate before any dispositive motions or trial.

§ 15.3.2 The parties shall ~~endeavor to resolve their Claims by mediation which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Mediation Procedures in effect on the date of the Agreement. A request for mediation shall be made in writing, delivered to the other party to the Contract, and filed with the person or entity administering the mediation. The request may be made concurrently with the filing of binding dispute resolution proceedings but, in such event, mediation shall proceed in advance of binding dispute resolution proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order. If an arbitration is stayed pursuant to this Section 15.3.2, the parties may nonetheless proceed to the selection of the arbitrator(s) and agree upon a schedule for later proceedings.~~share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located unless another location is mutually agreed upon. Agreements reached in mediation and ratified by the Owner's Council shall be enforceable as settlement agreements in any court having jurisdiction thereof.

~~§ 15.3.3~~ ~~Either party may, within 30 days from the date that mediation has been concluded without resolution of the dispute or 60 days after mediation has been demanded without resolution of the dispute, demand in writing that the other party file for binding dispute resolution. If such a demand is made and the party receiving the demand fails to file for binding dispute resolution within 60 days after receipt thereof, then both parties waive their rights to binding dispute resolution proceedings with respect to the initial decision.~~

~~§ 15.3.4~~ ~~The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.~~

~~§ 15.4 Arbitration~~

~~§ 15.4.1~~ ~~If the parties have selected arbitration as the method for binding dispute resolution in the Agreement, any Claim subject to, but not resolved by, mediation shall be subject to arbitration which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Arbitration Rules in effect on the date of the Agreement. The Arbitration shall be conducted in the place where the Project is located, unless another location is mutually agreed upon. A demand for arbitration shall be made in writing, delivered to the other party to the Contract, and filed with the person or entity administering the arbitration. The party filing a notice of demand for arbitration must assert in the demand all Claims then known to that party on which arbitration is permitted to be demanded.~~

~~§ 15.4.1.1~~ ~~A demand for arbitration shall be made no earlier than concurrently with the filing of a request for mediation, but in no event shall it be made after the date when the institution of legal or equitable proceedings based on the Claim would be barred by the applicable statute of limitations. For statute of limitations purposes, receipt of a written demand for arbitration by the person or entity administering the arbitration shall constitute the institution of legal or equitable proceedings based on the Claim.~~

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User Notes: (1819036997)

~~**§ 15.4.2** The award rendered by the arbitrator or arbitrators shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.~~

~~**§ 15.4.3** The foregoing agreement to arbitrate and other agreements to arbitrate with an additional person or entity duly consented to by parties to the Agreement, shall be specifically enforceable under applicable law in any court having jurisdiction thereof.~~

~~**§ 15.4.4 Consolidation or Joinder**~~

~~**§ 15.4.4.1** Subject to the rules of the American Arbitration Association or other applicable arbitration rules, either party may consolidate an arbitration conducted under this Agreement with any other arbitration to which it is a party provided that (1) the arbitration agreement governing the other arbitration permits consolidation, (2) the arbitrations to be consolidated substantially involve common questions of law or fact, and (3) the arbitrations employ materially similar procedural rules and methods for selecting arbitrator(s).~~

~~**§ 15.4.4.2** Subject to the rules of the American Arbitration Association or other applicable arbitration rules, either party may include by joinder persons or entities substantially involved in a common question of law or fact whose presence is required if complete relief is to be accorded in arbitration, provided that the party sought to be joined consents in writing to such joinder. Consent to arbitration involving an additional person or entity shall not constitute consent to arbitration of any claim, dispute or other matter in question not described in the written consent.~~

~~**§ 15.4.4.3** The Owner and Contractor grant to any person or entity made a party to an arbitration conducted under this Section 15.4, whether by joinder or consolidation, the same rights of joinder and consolidation as those of the Owner and Contractor under this Agreement.~~

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User Notes: (1819036997)

Certification of Document's Authenticity

AIA® Document D401™ – 2003

I, , hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with its associated Additions and Deletions Report and this certification at 14:12:34 CT on 02/03/2025 under Order No. 4104251278 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document A232™ – 2019, General Conditions of the Contract for Construction, Construction Manager as Adviser Edition, other than those additions and deletions shown in the associated Additions and Deletions Report.



(Signed)

Curtis Hartog, Executive Director

(Title)

2/3/2025

(Dated)

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User Notes: (1819036997)

Exhibit B – Project Charter

FY21 North High School Renovations-Bid Pack 4

Work Scope 09-D Flooring

Description

Perform flooring in accordance with Work Scope 09-D for the North High School Phase 4 renovations

Contract Sum

The Contract Sum shall be $376,835

Alternates

Item	Price	Status
Alt #1: Health Office	$34,840	rejected
Alt #2: Athletic and Counseling Offices	$19,875	rejected
Alt #3: Electrical panel replacements	$0	accepted
Alt #4: AHU-41 replacement	$0	accepted
Alt #5: Direct digital controls	$0	accepted

EXHIBIT C Owner Insurance

Insurance Requirements

1. CONSULTANT'S INSURANCE – to be used with AIA B101-2017, AIA C103-2015, or similar non-contractor consultants:
   The Consultant shall at its own expense maintain in effect at all times during the performance of the Work under the Agreement at least the following coverage and limits of insurance:

   a. Worker's Compensation and Employer's Liability Insurance

      i. Coverage A is statutory.

      ii. Coverage B
      $500,000 Each Accident
      $500,000 Each Employee
      $500,000 Policy Limit (Disease)

   b. Comprehensive General Liability Insurance *

General Aggregate	$1,000,000
Products/Completed Operations Aggregate	$1,000,000
Per Occurrence	$1,000,000
Medical Payments	$10,000

   * The Owner should be named as an additional insured for Comprehensive General Liability Insurance.

   c. Automobile Insurance

Per Occurrence	$1,000,000
PIP	Basic
Underinsured Motorist	$1,000,000
Uninsured Motorist	$1,000,000

   d. Professional Liability Insurance

      i. Per Claim $2,000,000

ii. For projects with an estimated construction Contract Sum of over $10,000,000 or major structural work an aggregate is required as follows:
Aggregate $4,000,000

e. Umbrella Liability Insurance

i. Per Occurrence $2,000,000

ii. For projects with an estimated construction Contract Sum of over $10,000,000 or major structural work an aggregate is required as follows:
Aggregate $2,000,000

f. Manned or Unmanned Aircraft Coverage (if used)

i. Per Claim $1,000,000

ii. Aggregate $1,000,000

For specialty consultants used for commissioning activities, studies, asbestos surveys and security, items A, B, C and F shall apply.

Special Asbestos Abatement Liability Insurance is required for Asbestos Abatement Contractors. The limits are $1,500,000 per claim, for liability arising from the encapsulation, removal, handling, storage, transportation, and disposal of asbestos-containing materials.

2. CONSULTANT'S OBLIGATIONS

Consultant shall not violate or knowingly permit any violation of any conditions or terms of the policies of insurance required to be carried under the terms hereof and shall endeavor to satisfy the requirements of the insurance companies issuing them. In the event Consultant neglects, refuses or fails to provide or maintain any of the insurance required to be carried under the Agreement, or if such insurance is canceled for any reason, the Owner or the Owner's lender(s) shall have the right, but not the duty, to procure or maintain the same.

In the event the Owner or the Owner's lender(s) do procure or maintain such insurance, the Owner or the Owner's lender(s) shall have, in additional to any and all other available remedies, the right to recover from the Consultant (including the right of set-off against sums otherwise due the Consultant) all of the costs associated with procuring or maintaining such insurance.

3. PROFESSIONAL LIABILITY INSURANCE

   a. Professional Liability Coverage of $2,000,000 shall be maintained for one (1) year from the date of Substantial Completion. If the Consultant discontinues its business and if directed by Owner in writing, Consultant shall purchase such insurance in such amount for an extended discovery period beyond the one (1) year after the date of Substantial Completion, with the premium cost to be a reimbursable expense paid by the Owner. The limit of liability for such policy may not be reduced below $2,000,000 without the Owner giving its prior, written consent. All policies of insurance that Consultant is required under the terms of this Exhibit C Owner's Insurance to secure and maintain shall bear the endorsement "Not to be canceled until sixty (60) calendar days after Owner has received a written notice from insurer as evidence by a return receipt of registered or certified mail."

   b. The Owner shall not be responsible for obtaining or paying premiums or other expenses in connection with insurance required to be carried under the Agreement or normally carried by the Consultant's consultants, and the obligation to obtain such insurance and to pay such premiums and other expenses shall be solely that of the Consultant.

   c. The Consultant shall bear all the costs of any and all deductible amounts under any insurance policies required to be carried under the Agreement and shall remain solely and fully liable for the full amount of any claim or item not compensated by insurance (to the extent that any amount resulted from damages that arose out of the Consultant's sole negligence.)

4. COVERAGE
   The coverage's referred to above are set forth in full in the respective policy forms, and the foregoing descriptions of such policies are not intended to be complete.

5. GENERALLY

   a. The Consultant thereby represents and warrants to the Owner that, as of the date of the execution of the Agreement, the Consultant is not aware of any claims or potential claims which have been made, filed or threatened against any of the insurance or for damages covered by any of the insurance required to be carried under the Agreement that would affect the Consultant's ability to provide the insurance coverage required by this agreement.

b. It is understood that the provisions in the Agreement requiring the Consultant to carry insurance shall not be construed as in any manner waiving or restricting the liability of the Consultant as to any obligations imposed under the Agreement, including, but not limited to, obligations imposed under the provisions of Article 11 of the AIA A201-2017 General Conditions.

Insurance requirements for Contractors

1. CONTRACTOR'S INSURANCE – to be used with AIA A101-2017
   The Contractor shall at its own expense maintain in effect at all times during the performance of the Work under the Agreement at least the following coverage and limits of insurance:

   a. Commercial General Liability

      i. General Aggregate $1,500,000

      ii. Products/Completed Operations Aggregate $1,500,000

      iii. Per Occurrence $1,500,000

      The Owner shall be named as additional insured for Commercial General Liability Insurance

   b. Automobile Insurance

      i. Per Occurrence $1,000,000

      ii. PIP Basic

      iii. Underinsured Motorist $1,000,000

      iv. Uninsured Motorist $1,000,000

   c. Workers Compensation

      i. Coverage A is statutory.

      ii. Coverage B $500,000 Each Accident

      iii. $500,000 Each Employee

d. Professional Liability (if the Contractor is hiring professionals)

   i. Per Claim $2,000,000

   For Projects with an estimated construction cost of over $10,000,000 or major structural work, additional Aggregate coverage of $4,000,000 is required.

e. Manned or Unmanned Aircraft Coverage (if used)

   i. Per Claim $1,000,000

   ii. Aggregate $1,000,000

f. Property Insurance

   i. Per Claim $1,000,000

   ii. Aggregate $1,000,000

   This insurance is only required for materials stored offsite and not incorporated into the project at delivery. For material stored on site, no additional insurance is required.

g. Builders “all risk” Insurance

   i. Per Claim $2,000,000

   ii. Aggregate $4,000,000

   This insurance is only required for additions exceeding $10,000,000. Renovations to existing schools are not required to have builders all risk insurance.

h. Umbrella Liability

   i. Aggregate limit $5,000,000

   This insurance is required only for projects larger than $10,000,000 in total construction costs.

Exhibit D – Project Schedule

FY21 North High School Renovations-Bid Pack 4 Work Scope 09-D Flooring

OP#:25-2512

Description

Perform flooring in accordance with Work Scope 09-D for the North High School Phase 4 renovations.

Schedule

Start Construction: On or about March 2025 but within 5 days of notice to proceed as directed by the Construction Manager. Please refer to schedule provided in Specifications.
To be completed in 2025-June 2025 to August 2025
Base Bid Level 1 Area E
Base Bid Level 2 Area F, Area G, Area E
Area D Bathrooms March 2025 – May 2025 and September 2025 to December 2025.
Base Bid Level 2 Area E classrooms March 2025-May 2025
Base Bid Area Level 1 Area C – June 2026-August 2026
Base Bid Level 2 Area G – June 2026-August 2026
Bae Bid Level2 Area D – January 2026-August 2026
Alternate #3 – March 2025 through August 2026
Alternate #4 – June 2025-August 2025
Alternate #5 – June 2025-August 2026
Substantial Completion: August 21, 2026.

Major School Days
Recordkeeping Day – March 28, 2025
Spring Break – March 31 – April 4, 2025
Memorial Day – May 26, 2025
Last Day of School – June 6, 2025
Juneteenth – June 19, 2025
Independence Day – July 4, 2025
Last day for Staff – June 30, 2025
Labor Day – September 1, 2025
First Day of School – September 2, 2025

Rosh Hashanah – September 23, 2025
Yom Kippur – October 2, 2025
MEA – October 16-17, 2025
Recordkeeping Day – November 4, 2025
Thanksgiving – November 26-28, 2025
Winter Break – December 22, 2025 to January 2, 2026
Martin Luther King Day – January 19, 2026
Recordkeeping Day – January 23, 2026
Presidents Day – February 16, 2026
Professional Development – February 17, 2026
Eid al-Fitr – March 20, 2026
Recordkeeping Day – March 27, 2026
Memorial Day – May 25, 2026
Professional Development – May 26, 2026
Eid al Adha – May 27, 2026
Juneteenth – June 19, 2026
Independence Day – July 4, 2026
Labor Day – September 7, 2026
First day of School – September 8, 2026

Substantial Completion

The Work will be substantially complete on or before August 21, 2026

MINNEAPOLIS PUBLIC SCHOOLS

Capital Planning, Construction & Maintenance Department

Construction Contract Change Order Cover Sheet

		Request Date	1/27/2025
Project Name	North High School CTE Renovation PH3	Project Number	21NORTCTE
Contractor Name	Work Scope 9D Flooring - Grazzini Bros	Substantial Completion Date:	8/18/2024
Board Authorized Amount	$ 917,541.89	Board Authorized Date	8/6/2024
Original Contract Amount	$ 794,730.00	Contract Date:	1/31/2024
MAS	**14395**	**PO**	**2100085142**

Summary of Change Orders

Change Order #1	$	122,811.89	servery floor and kitchen floor changes
Change Order #2	$	(16,368.62)	change in flooring scope
Change Order #3	$	6,303.03	area G toilet room changes
Change Order #4	$	7,973.15	flooring changes in auditorium
Change Order #5	$	37,432.43	flooring repairs in kitchen and halls
		Total of Change Orders	$ 158,151.88

AMOUNT OF THIS CHANGE ORDER #	**5**	**$**	**37,432.43**

Total Amount of Change Orders to Date	**$**	**158,151.88**
REVISED CONTRACT AMOUNT	**$**	**952,881.88**
Revised Date of Substantial Completion	NA	
Date of Requested Board Action	NA	

Approved By: _____ Date: 2/13/2025
Executive Director, CPCM

Reviewed by: Girish Bhatnagar Date: 2/28/2025
Director of Strategic Procurement

Approved By: _____ Date: _____
Senior Operations Officer

Docusign Envelope ID: 6A6DD76F-845F-4DEB-948E-F9C5FDDD790D

KRAUS-ANDERSON®
Construction Company
501 South Eighth Street
Minneapolis MN 55404

Contract Change Order

Project: 2210222-04 MPS - BP#3 North High School Renovations & CTE OP#24-2
1500 James Avenue
Minneapolis, MN 55411

Contract #: 2210222-04 - WS 09D
Contract Change Order #: 5
Change Order Date: 1/27/25

To Contractor : Grazzini Brothers & Company
1175 Eagan Industrial Road
Eagan, MN 55121

THE CONTRACT IS CHANGED AS FOLLOWS:

PCO	Item	Description	Amount
124	1	Additional Grazzini WO - Substrate Repairs	$23,274.88
124	2	Additional Grazzini WO - Substrate Kitchen	$4,939.73
124	3	Additional Grazzini WO - Overtime	$2,917.82
65.2	2	Grazzini - LABOR ONLY	$6,300.00
		Total	**$37,432.43**

The original Contract Sum was	**$794,730.00**
The net change by previously authorized Change Orders was	**$120,719.45**
The Contract Sum prior to this Change Order was	**$915,449.45**
The Contract Sum will be increased by this Change Order	**$37,432.43**
The new Contract Sum will be	**$952,881.88**

NOT VALID UNTIL SIGNED BY THE OWNER, CONSTRUCTION MANAGER, ARCHITECT AND CONTRACTOR

Kraus-Anderson Construction Company
CONSTRUCTION MANAGER *(Firm name)*
501 South Eighth Street
Minneapolis MN 55404
ADDRESS
DocuSigned by: Dustin Kempf 65C274FC894C445...
BY *(Signature)*
Dustin Kempf 1/29/2025 | 11:48 AM CST
(Typed name) **DATE:**

LSE Architects, Inc.
ARCHITECT *(Firm name)*
1401 Glenwood Ave.
Minneapolis. MN 55405
ADDRESS
DocuSigned by: Deborah Bauknight F65D4C431D924FB...
BY *(Signature)*
Deborah Bauknight 1/29/2025 | 12:23 PM C
(Typed name) **DATE:**

Grazzini Brothers & Company
CONTRACTOR *(Firm name)*
1175 Eagan Industrial Road
Eagan, MN 55121
ADDRESS
DocuSigned by: Gene Grazzini AD4B2785F943483...
BY *(Signature)*
Gene Grazzini 1/29/2025 | 10:21 AM CST
(Typed name) **DATE:**

Mpls Public Schools Special School Dist #1
OWNER *(Firm name)*
1250 West Broadway Avenue
Minneapolis, MN 55411
ADDRESS
BY *(Signature)*
Curtis Hartog
(Typed name) **DATE:**

Docusign Envelope ID: 6A6DD76F-845F-4DEB-948E-F9C5FDDD790D

KRAUS-ANDERSON®
Construction Company

Change Order Request

Project: 2210222-04
MPS - BP#3 North High School Renovations & CTE OP#24-2405
1500 James Avenue
Minneapolis, MN 55411

COR # 58.02

Date: 1/23/2025

To: Owner Mpls Public Schools Special School Dist #1
1250 West Broadway Avenue
Minneapolis, MN 55411

From: Kraus-Anderson Construction Company
501 South Eighth Street
Minneapolis, MN 55404

PCO # 65.2 - LSE PR #35: RFI 63 Raceway in Auditorium - FLOORING LABOR

Item #	Description	Vendor	Amount
2	Grazzini - LABOR ONLY	Grazzini Brothers & Company	$6,300.00
		Total For Change Order	**$6,300.00**

Approved By: Mpls Public Schools Special School Dist #1 **Signed** DocuSigned by: Curtis Hartog 53601F68E644483... **Date:** 1/27/2025 | 10:18 AM P

Submitted By: Kraus-Anderson Construction Company **Signed** DocuSigned by: Eric Nava 562A882533C1431... **Date:** 1/23/2025 | 12:03 PM PS

Accepted By: LSE Architects, Inc. **Signed** DocuSigned by: Deborah Bainbright F65D4C431D924FB... **Date:** 1/23/2025 | 2:15 PM CS

Docusign Envelope ID: 6A6DD76F-845F-4DEB-948E-F9C5FDDD790D

Haney, Shanna

From: Nava, Bre
Sent: Monday, January 20, 2025 5:48 PM
To: Haney, Shanna
Cc: Kempf, Dustin
Subject: FW: [EXTERNAL] MPS: Grazzini Labor Rates

Importance: High

Shanna – please see below for PCO 65.2, can we adjust the cost on our end and resend please?

Thank you!
Breanna Nava | Project Manager | WELL AP Certified
bre.nava@krausanderson.com | **cell** 612.398.3654

KRAUS-ANDERSON CONSTRUCTION COMPANY
501 South Eighth Street, Minneapolis, MN 55404
Together, strengthening the communities we serve

From: Kempf, Dustin <dustin.kempf@krausanderson.com>
Sent: Monday, January 20, 2025 3:52 PM
To: curtis.hartog <curtis.hartog@mpls.k12.mn.us>
Cc: Nava, Bre <bre.nava@krausanderson.com>
Subject: RE: [EXTERNAL] MPS: Grazzini Labor Rates

Not a problem – we'll get it corrected.

Thanks Curt!

Dustin Kempf | Senior Project Manager
dustin.kempf@krausanderson.com | direct 612.255.2355

KRAUS-ANDERSON CONSTRUCTION COMPANY
501 S. 8th Street, Minneapolis, MN 55404
office 612.332.7281 | cell 612.554.9421 | krausanderson.com

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From: Curtis Hartog <Curtis.Hartog@mpls.k12.mn.us>
Sent: Monday, January 20, 2025 3:38 PM
To: Kempf, Dustin <dustin.kempf@krausanderson.com>
Cc: Nava, Bre <bre.nava@krausanderson.com>
Subject: RE: [EXTERNAL] MPS: Grazzini Labor Rates

Accept that. Change the COR to reflect that change. Thanks for your hard work on this.

Curt

Docusign Envelope ID: 6A6DD76F-845F-4DEB-948E-F9C5FDDD790D

From: Kempf, Dustin <dustin.kempf@krausanderson.com>
Sent: Monday, January 20, 2025 2:34 PM
To: Curtis Hartog <Curtis.Hartog@mpls.k12.mn.us>
Cc: Nava, Bre <bre.nava@krausanderson.com>
Subject: FW: [EXTERNAL] MPS: Grazzini Labor Rates

Hi Curt –

Following up on this one. Please find the below from Grazzini and let us know your thoughts.

Thanks,

Dustin Kempf | Senior Project Manager
dustin.kempf@krausanderson.com | direct 612.255.2355

KRAUS-ANDERSON CONSTRUCTION COMPANY
501 S. 8th Street, Minneapolis, MN 55404
office 612.332.7281 | cell 612.554.9421 | **krausanderson.com**

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From: Lee Ahola <lahola@grazzini.com>
Sent: Friday, January 17, 2025 3:23 PM
To: Kempf, Dustin <dustin.kempf@krausanderson.com>
Cc: Nava, Bre <bre.nava@krausanderson.com>
Subject: RE: [EXTERNAL] MPS: Grazzini Labor Rates

Dustin,

Our original labor price to complete this scope of work for the auditorium stairways was $28,512 per the pricing submitted on PR #35. To help the school district, we had already agreed to reduce our price and complete on a T&M basis. The total for the T&M labor was $12,508.85, which is a savings of about 56% from the original price. Our labor rate of $107.28/hr is in line with other companies in the flooring industry for a union hourly rate. That is the current rate for doing business in today's market for a union flooring company.

To help move forward, so we can close up this project, I am willing to reduce the cost of this change to $6,300, which is less than 25% of my original price for this change. In addition, we will also install the carpeting in the engineer's office at no cost.

Please review, and let me know if this is something that can be agreed upon. Let me know as soon as possible, as I know Jesus is looking for us to install the carpeting in the engineer's office ASAP.

Thank you,

Lee Ahola
Project Manager

Docusign Envelope ID: 6A6DD76F-845F-4DEB-948E-F9C5FDDD790D

Grazzini Brothers & Company
Tile, Terrazzo, Stone & Floor Covering
Nationwide Contractors Since 1923
1175 Eagan Industrial Road
St. Paul, MN 55121
651-452-2700 – Phone
952-367-7780 – Cellphone
651-994-4146 – Direct Dial
Proven Reliable Craftsmanship
www.grazzini.com

Please consider the environment before printing this e-mail

From: Curtis Hartog <Curtis.Hartog@mpls.k12.mn.us>
Sent: Wednesday, January 15, 2025 11:52 AM
To: Kempf, Dustin <dustin.kempf@krausanderson.com>
Cc: Nava, Bre <bre.nava@krausanderson.com>
Subject: RE: [EXTERNAL] MPS: Grazzini Labor Rates

Dustin
While I do understand the breakdown for the labor, I believe the OHP is limited to 5%. So, the wage rate is $75.60 and the OH is $31.68 which is 42%.

From: Kempf, Dustin <dustin.kempf@krausanderson.com>
Sent: Wednesday, January 15, 2025 10:54 AM
To: Curtis Hartog <Curtis.Hartog@mpls.k12.mn.us>
Cc: Nava, Bre <bre.nava@krausanderson.com>
Subject: [EXTERNAL] MPS: Grazzini Labor Rates

Hi Curt –

Per our conversation last Thursday – please find the below labor breakdown from Grazzini for $107.28:

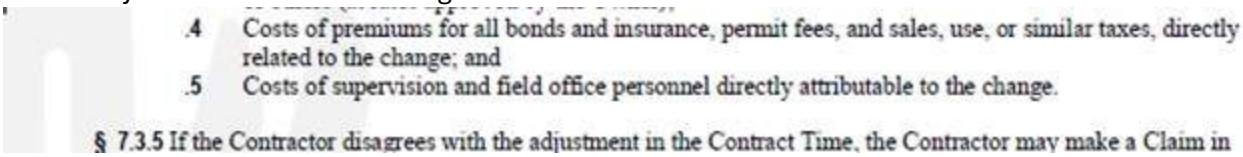
High Level Breakdown
Hourly rate - $41.19
Fringes - $30.81
Safety - $3.60
Insurance, Taxes, & Direct Expenses - $31.68

Detailed Breakdown
Hourly Rate - $41.19
Health - $16.87
Pension - $8.50
Vacation - $2.25 – is part of the fringe benefits.
Dues - $1.8 – is part of the fringe benefits.
Promotion - $0.10 – is part of the fringe benefits.
IMI - $0.15
Apprentice - $0.96 – is part of the fringe benefits.
FCF - $0.02

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CPI - $0.15
FICA - $3.15
FUI - $2.47
SUI - $2.00

Foreman - $4.06 & Supervision - $1.67

- Foreman/Supervision is part of overseeing all the work Grazzini does no matter if it is original bid work or changed work. Grazzini didn't charge additional hours for foreman/supervision for this change.
- Per the specifications, they are allowed to be compensated for costs of supervision and field office personnel directly attributable to the change.
  - 
.4 Costs of premiums for all bonds and insurance, permit fees, and sales, use, or similar taxes, directly related to the change; and
.5 Costs of supervision and field office personnel directly attributable to the change.
§ 7.3.5 If the Contractor disagrees with the adjustment in the Contract Time, the Contractor may make a Claim in

Worker Comp - $3.51

Education/Training - $1.55 – is part of the fringe benefits.

Finance Charge - $4.42 & Retention - $2.44

- Finance Charge and Retention are based on when Grazzini will see payment for this work. Grazzini pays their installers weekly and don't withhold paychecks until Grazzini is paid for work. Based on this and since it is added work, Grazzini is financing this portion of the project which Grazzini should be compensated.

Misc - $6.41

- The misc. includes office personnel costs that are directly attributable to this change. There are payroll/administrative/etc costs associated with this additional labor and pending change order.

Please let us know if you have any questions.

Thanks,

Dustin Kempf | Senior Project Manager
dustin.kempf@krausanderson.com | direct 612.255.2355

KRAUS-ANDERSON CONSTRUCTION COMPANY
501 S. 8th Street, Minneapolis, MN 55404
office 612.332.7281 | cell 612.554.9421 | krausanderson.com

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MINNEAPOLIS PUBLIC SCHOOLS
Urban Education. Global Citizens.

Grazzini Brothers & Company

NORTH HIGH SCHOOL RENOVATIONS BP #3

GRAZZINI BROTHERS & COMPANY
1175 Eagan Industrial Road Eagan, MN 55121

Date : **12/10/24**

PCO #: **065**

Project Manager: Lee Ahola

PR/SI # **PR #35**

(T&M Actual Cost)

COST SUMMARY

Description		Cost	Notes/Attachments
Labor Total	$	11,371.68	(Auto Fill from Sub-Total Below)
Materials and Equipment Total	$	-	(Auto Fill from Sub-Total Below)
Tax on Materials and Equipment Only	$	-	<<< Provide Sales/Use Tax Total
Self Performed Subtotal	$	~~11,371.68~~ $10,990.08	
10% Overhead and Profit	$	$1099.01~~1,137.17~~	(10% is the max fee allowed on CO's)
Self Performed Total	$	~~12,508.85~~ $12,089.09	
Subcontractors	$	-	Auto Fill from Sub-Total Below
5% Overhead and Profit on Subs	$	-	(5% is the max allowed on subcontractors)
Subcontractor Total	$	-	
TOTAL COST OF CHANGE	$	~~12,508.85~~ $12,089.09	

Signature:

Contractor acknowledges no other Costs assciated with this PCO.

PROVIDE DETAIL BREAKDOWN BELOW:

Labor By Task	Qty	Unit	Unit Cost	Total Cost
				$ -
Install RTF-10 rubber tile at treads and nosings	106	hrs	$ ~~107.28~~ $103.68	$ ~~11,371.68~~ $10,990.08
				$ -
Sub-Total				**$ 11,371.68**

Materials and Equipment By Task	Qty	Unit	Unit Cost	Total Cost
				$ -
				$ -
				$ -
				$ -
				$ -
				$ -
				$ -
				$ -
Sub-Total				**$ -**

Sub-Contractor Proposals	Description of Work	Total Cost
		$ -
		$ -
		$ -
		$ -
Sub-Total	*(Attach Sub-Contractor Proposals)*	**$ -**

Includes RTF-10 rubber tile at treads only, the risers to be exposed concrete. All stair transition materials to be supplied by others. Excludes installation of raceways and junction boxes. Excludes any transitions at lower seating area.

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Grazzini Brothers & Company

1175 Eagan Industrial Road
Eagan, MN 55121
Phone # (651) 452-2700
Fax # (651) 452-2701

ADDITIONAL WORK AUTHORIZATION SHEET

Date: 11-18
Job Name: North High School BP#3
Job No.: 3-23-0314

The undersigned agrees to pay Grazzini Brothers & Company for the additional work authorized as indicated below

Total Hours Worked							
Date Work Done	11-18						
Employee	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
Pat Nacog	8	8	8	8	8		
James Latzke	8	8	8	8	8		
Eddie Barrera		8					
		~~8~~					

Down Time:
Reason for down time:

Total Hours Tools Used							
Tools Used	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday

Materials Used:

Description	Quantity	Unit
Schonox	6	Bags

Description	Quantity	Unit

Summary of additional work completed:
install carping on stairs, install rubber stair threads and nosing / base

Additional Work authorized by (please print name): Jesus Espinoza
Company Name / Title / Signature :

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Grazzini Brothers & Company

1175 Eagan Industrial Road
Eagan, MN 55121
Phone # (651) 452-2700
Fax # (651) 452-2701

ADDITIONAL WORK AUTHORIZATION SHEET

Date: 11-26
Job Name: North High School BP#3
Job No.: 3-23-0314

The undersigned agrees to pay Grazzini Brothers & Company for the additional work authorized as indicated below

Total Hours Worked							
Date Work Done		11-26	12-9	12-10			
Employee	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
Pat Neiog		5	8	5			

Down Time:							

Reason for down time:

Total Hours Tools Used							
Tools Used	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday

Materials Used:

Description	Quantity	Unit

Description	Quantity	Unit

Summary of additional work completed:

Additional Work authorized by (please print name): Jesus Espinoza
Company Name / Title / Signature :

Docusign Envelope ID: 6A6DD76F-845F-4DEB-948E-F9C5FDDD790D

501 S. 8th Street, Minneapolis, MN 55404
office 612.332.7281 | cell 612.554.9421 | **krausanderson.com**

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From: Lee Ahola <lahola@grazzini.com>
Sent: Thursday, December 12, 2024 3:37 PM
To: Nava, Bre <bre.nava@krausanderson.com>
Cc: Kempf, Dustin <dustin.kempf@krausanderson.com>
Subject: RE: North HS - Auditorium stairway labor T&M

Bre,

Please see below.

Hourly Rate - $41.19
Health - $16.87
Pension - $8.50
Vacation - $2.25
Dues - $1.81
Promotion - $0.10
IMI - $0.15
Apprentice - $0.96
FCF - $0.02
CPI - $0.15
FICA - $3.15
FUI - $2.47
SUI - $2.00
Foreman - $4.06
Worker Comp - $3.51
Education/Training - $1.55
Supervision - $1.67
Finance Charge - $4.42
Retention - $2.44
Misc - $6.41

Thanks - Lee

From: Nava, Bre <bre.nava@krausanderson.com>
Sent: Thursday, December 12, 2024 12:04 PM
To: Lee Ahola <lahola@grazzini.com>
Cc: Kempf, Dustin <dustin.kempf@krausanderson.com>
Subject: RE: North HS - Auditorium stairway labor T&M

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Lee – this does not change the fact the owner wants to see this break out, this is a PLA job and they have every right to request this. Please provide the information requested below.

Thank you,
Breanna Nava | Project Manager | WELL AP Certified
bre.nava@krausanderson.com | **cell** 612.398.3654

KRAUS-ANDERSON CONSTRUCTION COMPANY
501 South Eighth Street, Minneapolis, MN 55404
Together, strengthening the communities we serve

From: Lee Ahola <lahola@grazzini.com>
Sent: Thursday, December 12, 2024 11:41 AM
To: Nava, Bre <bre.nava@krausanderson.com>
Subject: RE: North HS - Auditorium stairway labor T&M

Bre,

We had agreed to complete this work on a T&M basis to help the cost to the district. Our original price for labor was $28,512. Our pricing of $12,508.85 is less than half of the original pricing. Per the documents, I should be able to charge for my time with this change as costs of supervision and field office personnel directly attributable to the change are an allowable cost to be charged for changes. I did not charge any of my time or any other supervision costs for this change.

To get this change approved, I will remove the safety charge of $3.60/hr to decrease it to $103.68/hr. Therefore, revised pricing would be $12,089.09.

Let me know if you can get this approved.

Thanks - Lee

From: Nava, Bre <bre.nava@krausanderson.com>
Sent: Thursday, December 12, 2024 11:10 AM
To: Lee Ahola <lahola@grazzini.com>
Subject: RE: North HS - Auditorium stairway labor T&M

Lee – Grazzini is not permitted per contract to charge for safety. Please send me a further break out what is in included in each Fringes, Insurances, Taxes, and Direct Expenses.

Thank you,
Breanna Nava | Project Manager | WELL AP Certified
bre.nava@krausanderson.com | **cell** 612.398.3654

KRAUS-ANDERSON CONSTRUCTION COMPANY
501 South Eighth Street, Minneapolis, MN 55404
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KRAUS-ANDERSON®
Construction Company

Change Order Request

Project: 2210222-04
MPS - BP#3 North High School Renovations & CTE OP#24-2405
1500 James Avenue
Minneapolis, MN 55411

COR # 94.00

Date: 10/15/2024

To: Owner Mpls Public Schools Special School Dist #1
1250 West Broadway Avenue
Minneapolis, MN 55411

From: Kraus-Anderson Construction Company
501 South Eighth Street
Minneapolis, MN 55404

PCO # ***124 - Additional Grazzini WO***

Item #	Description	Vendor	Amount
1	Additional Grazzini WO - Substrate Repairs	Grazzini Brothers & Company	$23,274.88
2	Additional Grazzini WO - Substrate Kitchen	Grazzini Brothers & Company	$4,939.73
3	Additional Grazzini WO - Overtime	Grazzini Brothers & Company	$2,917.82
		Total For Change Order	**$31,132.43**

Approved By: Mpls Public Schools Special School Dist #1 **Signed** DocuSigned by: Curtis Hartog 53601F68E644483... **Date:** 10/29/2024 | 9:38 AM P

Submitted By: Kraus-Anderson Construction Company **Signed** DocuSigned by: Eric Nava 562A882533C1431... **Date:** 10/28/2024 | 9:32 AM PD

Accepted By: LSE Architects, Inc. **Signed** DocuSigned by: Deborah Bainbright F65D4C431D924FB... **Date:** 10/28/2024 | 9:14 PM CI

Docusign Envelope ID: 6A6DD76F-845F-4DEB-948E-F9C5FDDD790D

MINNEAPOLIS PUBLIC SCHOOLS
Urban Education. Global Citizens.

Grazzini Brothers & Company

NORTH HIGH SCHOOL RENOVATIONS BP #3

GRAZZINI BROTHERS & COMPANY
1175 Eagan Industrial Road Eagan, MN 55121

Date : **9/16/24**

PCO #: **Substrate Repairs**
PR/SI #

Project Manager: Lee Ahola

COST SUMMARY

Description		Cost	Notes/Attachments
Labor Total	$	17,701.20	(Auto Fill from Sub-Total Below)
Materials and Equipment Total	$	3,457.78	(Auto Fill from Sub-Total Below)
Tax on Materials and Equipment Only	$	-	<<< Provide Sales/Use Tax Total
Self Performed Subtotal	**$**	**21,158.98**	
10% Overhead and Profit	$	2,115.90	(10% is the max fee allowed on CO's)
Self Performed Total	**$**	**23,274.88**	
Subcontractors	$	-	Auto Fill from Sub-Total Below
5% Overhead and Profit on Subs	$	-	(5% is the max allowed on subcontractors)
Subcontractor Total	**$**	**-**	
TOTAL COST OF CHANGE	**$**	**23,274.88**	

Signature:

Contractor acknowledges no other Costs assciated with this PCO.

PROVIDE DETAIL BREAKDOWN BELOW:

Labor By Task	Qty	Unit	Unit Cost	Total Cost
				$ -
Labor	165	hrs	$ 107.28	$ 17,701.20
				$ -
				$ -
Sub-Total				**$ 17,701.20**

Materials and Equipment By Task	Qty	Unit	Unit Cost	Total Cost
				$ -
Schonox SL Feather Finish	89	bgs	19.46	$ 1,731.94
Ardex Feather Finish	16	bgs	22.14	$ 354.24
Schonox XM Self Leveling	40	bgs	34.29	$ 1,371.60
				$ -
				$ -
				$ -
				$ -
Sub-Total				**$ 3,457.78**

Sub-Contractor Proposals	Description of Work	Total Cost
		$ -
		$ -
		$ -
		$ -
Sub-Total	*(Attach Sub-Contractor Proposals)*	**$ -**

Docusign Envelope ID: 6A6DD76F-845F-4DEB-948E-F9C5FDDD790D

FLOOR PREP (1)

Grazzini Brothers & Company

1175 Eagan Industrial Road
Eagan, MN 55121
Phone # (651) 452-2700
Fax # (651) 452-2701

ADDITIONAL WORK AUTHORIZATION SHEET

Date: 7/28/25
Job Name: North High School BP#3
Job No.: 3-23-0314

The undersigned agrees to pay Grazzini Brothers & Company for the additional work authorized as indicated below

Total Hours Worked							
Date Work Done	7/22	7/23	7/24	7/25	7/26	7/27	7/28
Employee	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
Steve S.	—	—	—	—	—	8	6
Ricardo H.	—	—	—	—	—	8	6
Oddie B.	—	—	—	—	—	—	6
Nate D.	—	—	—	—	—	—	6
	—	—	—	—	—	—	—
Down Time:						16	24

Reason for down time:

Total Hours Tools Used							
Tools Used	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
Planetary Grinder						8	

Materials Used:

Description	Quantity	Unit
Schonox SL	52	

Description	Quantity	Unit

Summary of additional work completed:
Planetary ground Serving H110, Preparation G128A Spot grind with cup grinder, 4' bar screed throughout, 4' ramp to terrazo, chip out and set drain + cleanout heights, sand and skim multiple times to smoth substra

Additional Work authorized by (please print name): Terry Coleman
Company Name / Title / Signature :

Docusign Envelope ID: 6A6DD76F-845F-4DEB-948E-F9C5FDDD790D

FLOOR PREP

Grazzini Brothers & Company

1175 Eagan Industrial Road
Eagan, MN 55121
Phone # (651) 452-2700
Fax # (651) 452-2701

ADDITIONAL WORK AUTHORIZATION SHEET

Date: 8/4/25
Job Name: North High School GP#3
Job No.: 3-23-0314

The undersigned agrees to pay Grazzini Brothers & Company for the additional work authorized as indicated below

Total Hours Worked							
Date Work Done			7/31	8/1	8/2	8/3	8/4
Employee	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
Nate D.	—	—	9	7	—	—	—
Dylan M.	—	—	—	7	—	—	—
Pat	—	—	—	—	—	7	—
Down Time:			9	14		7	

Reason for down time:

Total Hours Tools Used							
Tools Used	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday

Materials Used:

Description	Quantity	Unit
Schonox SL	7	

Description	Quantity	Unit

Summary of additional work completed:
Sand, final skim coat and sand again H110, G1
Cup grind, sand + skim coat F148J, F148I, F148H
F148E, F148K, standard prepping of saw cuts not charged.

Additional Work authorized by (please print name): Terry Coleman

Company Name / Title / Signature :

Docusign Envelope ID: 6A6DD76F-845F-4DEB-948E-F9C5FDDD790D

PREP (5)

Grazzini Brothers & Company
1175 Eagan Industrial Road
Eagan, MN 55121
Phone # (651) 452-2700
Fax # (651) 452-2701

ADDITIONAL WORK AUTHORIZATION SHEET

Date: 8/16/25
Job Name: North High School BP#3
Job No.: 3-23-0314

The undersigned agrees to pay Grazzini Brothers & Company for the additional work authorized as indicated below

Total Hours Worked							
Date Work Done	8/12	8/13	8/14	8/15	8/16	8/17	8/18
Employee	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
Nate D	9				3.5	2	
Pat	9				3.5	2	
Ehdo P	9				3.5		
Preston			8	8	3.5	2	
Alex			4	8	3.5		
Down Time:	27		12	16	17.5	6	

Reason for down time:

Total Hours Tools Used							
Tools Used	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday

Materials Used:

Description	Quantity	Unit
FeatherEdge	16	
Schonox SL	30	
Schonox XM	40	40#

Description	Quantity	Unit

Summary of additional work completed: VCT room in Media Center
Substrate/concrete repair in MediaCenter + Kitchen + Coolers
Required sanding through pat, cup grinding, 3'-5' screeding, multiple skim coats and final sand to achieve a smooth acceptable surface for applicable floor coverings.
Large Screed at hallway infront of Media Center

Additional Work authorized by (please print name):
Company Name / Title / Signature :

Docusign Envelope ID: 6A6DD76F-845F-4DEB-948E-F9C5FDDD790D

PREP (4)

Grazzini Brothers & Company

1175 Eagan Industrial Road
Eagan, MN 55121
Phone # (651) 452-2700
Fax # (651) 452-2701

ADDITIONAL WORK AUTHORIZATION SHEET

Date: 8/16/25
Job Name: North High School BP#3
Job No.: 3-23-0314

The undersigned agrees to pay Grazzini Brothers & Company for the additional work authorized as indicated below

Total Hours Worked							
Date Work Done	8/12	8/13	8/14	8/15	8/16	8/17	8/18
Employee	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
Aung					3.5		
Ricardo H.					3.5	6	
Son H.					3.5		

Down Time:
Reason for down time:

10.5 6

Total Hours Tools Used							
Tools Used	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday

Materials Used:

Description	Quantity	Unit

Description	Quantity	Unit

Summary of additional work completed:

Additional Work authorized by (please print name):
Company Name / Title / Signature :

Docusign Envelope ID: 6A6DD76F-845F-4DEB-948E-F9C5FDDD790D

MINNEAPOLIS PUBLIC SCHOOLS
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Grazzini Brothers & Company

NORTH HIGH SCHOOL RENOVATIONS BP #3

GRAZZINI BROTHERS & COMPANY
1175 Eagan Industrial Road Eagan, MN 55121

Date : **9/16/24**

PCO #: **Kitchen Substrate Concrete Too High**

Project Manager: Lee Ahola

PR/SI #

COST SUMMARY

Description		Cost	Notes/Attachments
Labor Total	$	2,574.72	(Auto Fill from Sub-Total Below)
Materials and Equipment Total	$	77.84	(Auto Fill from Sub-Total Below)
Tax on Materials and Equipment Only	$	-	<<< Provide Sales/Use Tax Total
Self Performed Subtotal	**$**	**2,652.56**	
10% Overhead and Profit	$	265.26	(10% is the max fee allowed on CO's)
Self Performed Total	**$**	**2,917.82**	
Subcontractors	$	-	Auto Fill from Sub-Total Below
5% Overhead and Profit on Subs	$	-	(5% is the max allowed on subcontractors)
Subcontractor Total	**$**	**-**	
TOTAL COST OF CHANGE	**$**	**2,917.82**	

Signature:

Contractor acknowledges no other Costs asscociated with this PCO.

PROVIDE DETAIL BREAKDOWN BELOW:

Labor By Task	Qty	Unit	Unit Cost	Total Cost
				$ -
Labor	24	hrs	$ 107.28	$ 2,574.72
				$ -
				$ -
Sub-Total				**$ 2,574.72**

Materials and Equipment By Task	Qty	Unit	Unit Cost	Total Cost
				$ -
Schonox SL Feather Finish	4	bgs	19.46	$ 77.84
				$ -
				$ -
				$ -
				$ -
				$ -
				$ -
Sub-Total				**$ 77.84**

Sub-Contractor Proposals	Description of Work	Total Cost
		$ -
		$ -
		$ -
		$ -
Sub-Total	*(Attach Sub-Contractor Proposals)*	**$ -**

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FLOOR PREP

(3)

Grazzini Brothers & Company
1175 Eagan Industrial Road
Eagan, MN 55121
Phone # (651) 452-2700
Fax # (651) 452-2701

ADDITIONAL WORK AUTHORIZATION SHEET

Date: 8/11/25
Job Name: North High School BP#3
Job No.: 3-23-0314

The undersigned agrees to pay Grazzini Brothers & Company for the additional work authorized as indicated below

Total Hours Worked							
Date Work Done	8/5	8/6	8/7	8/8	8/9	8/10	8/11
Employee	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
Jon H	—	—	—	—	8	—	—
Nate D	—	—	—	—	8	—	—
Dylan M.	—	—	—	—	8	—	—
Down Time:					24		

Reason for down time:

Total Hours Tools Used							
Tools Used	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday

Materials Used:

Description	Quantity	Unit
Schonox SL	4	

Description	Quantity	Unit

Summary of additional work completed:
Kitchen, cup grind 7 drains from below grade, 3' screed randomly, sand entire area, skim multiple coats then final sand.

Additional Work authorized by (please print name): Terry Coleman
Company Name / Title / Signature :

This is from Floor poured High and not Dishing

Docusign Envelope ID: 6A6DD76F-845F-4DEB-948E-F9C5FDDD790D

MINNEAPOLIS PUBLIC SCHOOLS
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Grazzini Brothers & Company

NORTH HIGH SCHOOL RENOVATIONS BP #3

GRAZZINI BROTHERS & COMPANY
1175 Eagan Industrial Road Eagan, MN 55121

Date : **9/16/24**

PCO #: **Overtime**

Project Manager: Lee Ahola

PR/SI #

COST SUMMARY

Description		Cost	Notes/Attachments
Labor Total	$	4,490.66	(Auto Fill from Sub-Total Below)
Materials and Equipment Total	$	-	(Auto Fill from Sub-Total Below)
Tax on Materials and Equipment Only	$	-	<<< Provide Sales/Use Tax Total
Self Performed Subtotal	**$**	**4,490.66**	
10% Overhead and Profit	$	449.07	(10% is the max fee allowed on CO's)
Self Performed Total	**$**	**4,939.73**	
Subcontractors	$	-	Auto Fill from Sub-Total Below
5% Overhead and Profit on Subs	$	-	(5% is the max allowed on subcontractors)
Subcontractor Total	**$**	**-**	
TOTAL COST OF CHANGE	**$**	**4,939.73**	

Signature: 

Contractor acknowledges no other Costs assciated with this PCO.

PROVIDE DETAIL BREAKDOWN BELOW:

Labor By Task	Qty	Unit	Unit Cost	Total Cost
				$ -
Standard Overtime	76	hrs	$ 51.39	$ 3,905.64
Double Overtime	6.75	hrs	$ 86.67	$ 585.02
				$ -
Sub-Total				**$ 4,490.66**

Materials and Equipment By Task	Qty	Unit	Unit Cost	Total Cost
				$ -
				$ -
				$ -
				$ -
				$ -
				$ -
				$ -
				$ -
Sub-Total				**$ -**

Sub-Contractor Proposals	Description of Work	Total Cost
		$ -
		$ -
		$ -
		$ -
Sub-Total	*(Attach Sub-Contractor Proposals)*	**$ -**

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OVERTIME (1) 1488

Grazzini Brothers & Company
1175 Eagan Industrial Road
Eagan, MN 55121
Phone # (651) 452-2700
Fax # (651) 452-2701

ADDITIONAL WORK AUTHORIZATION SHEET

Date: 8/11/25
Job Name: North High School BP#3
Job No.: 3-23-0314

The undersigned agrees to pay Grazzini Brothers & Company for the additional work authorized as indicated below

Total Hours Worked							
Date Work Done / Employee	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
Oddie B	—	—	—	—	1	6	—
Payton	—	—	—	—	—	5	6.75
Ricardo H.	—	—	—	—	1	6	—
Down Time:						17	6.75

Reason for down time:

Total Hours Tools Used							
Tools Used	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday

Materials Used:

Description	Quantity	Unit

Description	Quantity	Unit

Summary of additional work completed:

Additional Work authorized by (please print name): Terry Column
Company Name / Title / Signature :

Docusign Envelope ID: 6A6DD76F-845F-4DEB-948E-F9C5FDDD790D

OVERTIME (3)

Grazzini Brothers & Company
1175 Eagan Industrial Road
Eagan, MN 55121
Phone # (651) 452-2700
Fax # (651) 452-2701

ADDITIONAL WORK AUTHORIZATION SHEET

Date: 8/16/25
Job Name: North High School BP#3
Job No.: 3-23-0314

The undersigned agrees to pay Grazzini Brothers & Company for the additional work authorized as indicated below

Total Hours Worked							
Date Work Done	8/12	8/13	8/14	8/15	8/16	8/17	8/18
Employee	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
Pat	1	1	1.5	—	1	8	—
Nate D.	.5	1	1.5	1	1	7.5	—
Ehdoe P.	—	1	1	—	1	—	—
Alex H	—	—	—	—	—	7	—
Ricardo H.	—	—	—	—	—	7	—
Preston	—	—	—	—	—	0	—
Down Time:	1.5	3	4	1	3	37.5	

Reason for down time:

Total Hours Tools Used							
Tools Used	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday

Materials Used:

Description	Quantity	Unit

Description	Quantity	Unit

Summary of additional work completed:
O.T.

Additional Work authorized by (please print name):
Company Name / Title / Signature :

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(2)

OVERTIME

Grazzini Brothers & Company
1175 Eagan Industrial Road
Eagan, MN 55121
Phone # (651) 452-2700
Fax # (651) 452-2701

ADDITIONAL WORK AUTHORIZATION SHEET

Date: 8/16/25
Job Name: North High School BP#3
Job No.: 3-23-0314

The undersigned agrees to pay Grazzini Brothers & Company for the additional work authorized as indicated below

Total Hours Worked							
Date Work Done	8/12	8/13	8/14	8/15	8/16	8/17	8/18
Employee	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
Steve S	—	—	—	—	—	7	—

Down Time: 7
Reason for down time:

Total Hours Tools Used							
Tools Used	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday

Materials Used:

Description	Quantity	Unit

Description	Quantity	Unit

Summary of additional work completed:
O.T.

Additional Work authorized by (please print name):
Company Name / Title / Signature :

2 OF 2

AIA® Document A132® – 2019

Standard Form of Agreement Between Owner and Contractor, Construction Manager as Adviser Edition

AGREEMENT made as of the 31 day of January in the year 2024 January
(In words, indicate day, month, and year.)

BETWEEN the Owner:
(Name, legal status, address, and other information)

Minneapolis Public Schools Special School District #1
1250 West Broadway Avenue
Minneapolis, MN 55411

and the Contractor:
(Name, legal status, address, and other information)

Grazzini Brothers & Company
1175 Eagan Industrial Road
Eagan, MN 55121

for the following Project:
(Name, location, and detailed description)

North High School Phase 3 Work Scope 9D Flooring
1500 James Avenue
Minneapolis, MN 55411

The Construction Manager:
(Name, legal status, address, and other information)

Kraus-Anderson Construction Company
501 South 8th Street
Minneapolis, MN 55405

The Architect:
(Name, legal status, address, and other information)

LSE Architects
1401 Glenwood Avenue
Minneapolis, MN 55405

The Owner and Contractor agree as follows.

ADDITIONS AND DELETIONS:
The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

This document is intended to be used in conjunction with AIA Documents A232™–2019, General Conditions of the Contract for Construction, Construction Manager as Adviser Edition; B132™–2019, Standard Form of Agreement Between Owner and Architect, Construction Manager as Adviser Edition; and C132™–2019, Standard Form of Agreement Between Owner and Construction Manager as Adviser. AIA Document A232™–2019 is adopted in this document by reference. Do not use with other general conditions unless this document is modified.

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TABLE OF ARTICLES

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EXHIBIT A INSURANCE AND BONDS
EXHIBIT B DETERMINATION OF THE COST OF THE WORK

ARTICLE 1 THE CONTRACT DOCUMENTS

The Contract Documents consist of this Agreement, Conditions of the Contract (General, Supplementary, and other Conditions), Drawings, Specifications, Addenda issued prior to execution of this Agreement, other documents ("Contract" or "Contract Documents") listed in this Agreement, and Modifications issued after execution of this Agreement, all of which form the Contract, and are as fully a part of the Contract as if attached to this Agreement or repeated herein. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations, or agreements, either written or oral. An enumeration of the Contract Documents, other than Modifications, appears in Article 9.

§ 1.2 In the event that there are inconsistencies between any of the Project Contract Documents, all Contract Documents shall be construed together and shall be read with a purpose and intent to provide that the Contractor shall commit to fully complete its Project Work and services with the greater degree of commitment as referenced in the Contract Documents, including the plans and specifications, to work diligently to ensure completion of the Project in a timely and workmanlike manner and at the earliest stated times provided for in Project schedules, as they may be revised, and to ensure that Contractor, and all of its Subcontractors and suppliers complete the Project on schedule and within Project Contract Price, subject to approved change orders.

§ 1.3 Contractor acknowledges that it has had full, fair, and adequate opportunity to review all of the Project bidding and Contract Documents, that it has fully satisfied itself as to the scope and requirements of the Project, that it has fully and fairly investigated all Project site conditions and circumstances and Contract Documents, including any potential difficulties or interferences present in the same, that it has had the opportunity to ask questions during the bidding phase and that it has received adequate answers to any such questions, that it has had the opportunity to attend and fairly participate in all pre-bid conferences and pre-construction conferences, and that it has required the same of all of its Subcontractors.

ARTICLE 2 THE WORK OF THIS CONTRACT

The Contractor shall fully execute the Work described in the Contract Documents, except as specifically indicated in the Contract Documents to be the responsibility of others.

ARTICLE 3 DATE OF COMMENCEMENT AND DATES OF SUBSTANTIAL COMPLETION

§ 3.1 The date of commencement of the Work shall be:
(Check one of the following boxes.)

[ ] The date of this Agreement.

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[X] A date set forth in a notice to proceed issued by the Owner.

[ ] Established as follows:
(Insert a date or a means to determine the date of commencement of the Work.)

If a date of commencement of the Work is not selected, then the date of commencement shall be the date of this Agreement.

§ 3.2 The Contract Time shall be measured from the date of commencement of the Work.

§ 3.3 Substantial Completion of the Project or Portions Thereof

§ 3.3.1 Subject to adjustments of the Contract Time as provided in the Contract Documents, the date of Substantial Completion of the Work of all of the Contractors for the Project will be:
(Insert the date of Substantial Completion of the Work of all Contractors for the Project.)

Defined in EXH-D Project Schedule

§ 3.3.2 Subject to adjustments of the Contract Time as provided in the Contract Documents, if portions of the Work of all of the Contractors for the Project are to be completed prior to Substantial Completion of the entire Work of all of the Contractors for the Project, the Contractors shall achieve Substantial Completion of such portions by the following dates defined in EXH-D Project Schedule. Such portions of the Work not completed as defined in EXH-D Project Schedule shall be subject to liquidated damages as set forth in Article 4.5.

(Table deleted)
(Table deleted)
(Paragraphs deleted)
§ 3.4.3 If the Contractor fails to substantially complete the Work of this Contract, or portions thereof, as provided in this Section 3.4, liquidated damages, if any, shall be assessed as set forth in Section 4.5.

ARTICLE 4 CONTRACT SUM

§ 4.1 The Owner shall pay the Contractor the Contract Sum in current funds for the Contractor's performance of the
(Paragraphs deleted)
Contract as defined in EXH-B Project Charter, subject to additions and deductions as provided in the Contract Documents.

§ 4.2 Stipulated Sum

§ 4.2.1 The Contract Sum shall be seven hundred, ninety-four thousand, seven hundred, thirty dollars ($ 794,730), subject to additions and deductions as provided in the Contract Documents.

§ 4.2.2 Alternates

§ 4.2.2.1 Alternates, if any, included in the Contract Sum are defined in EXH-B Project Charter.
(Table deleted)
§ 4.2.2.2 Subject to the conditions noted in EXH-B Project Charter, alternates may be accepted by the Owner following execution of this Agreement. Upon acceptance, the Owner shall issue a Modification to this Agreement.
(Paragraphs deleted)
(Table deleted)
§ 4.2.3 Allowances, if any, included in the Contract Sum are defined in EXH-B Project Charter.
(Identify each allowance.)

Item	Price

§ 4.2.4 Unit prices, if any are defined in EXH-B Project Charter.

(Table deleted)

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§ 4.3 Allowances, if any, included in the Contract Sum are defined in EXH-B Project Charter.

(Paragraph deleted)
(Table deleted)
(Paragraphs deleted)
§ 4.4 Unit prices, if any, are defined in EXH-B Project Charter.

(Paragraphs deleted)
(Table deleted)
(Paragraphs deleted)
(Table deleted)
(Paragraphs deleted)
(Table deleted)
(Paragraphs deleted)
(Table deleted)
(Paragraphs deleted)
§ 4.5 Liquidated damages, if any:
(Insert terms and conditions for liquidated damages, if any, to be assessed in accordance with Section 3.4.)

Contractor and Owner recognize that time is of the essence for the Project and the Owner will suffer financial loss if the Work is not completed in the time specified in the Contract Documents. The parties also recognize the delays, expenses, and difficulties involved in proving in a legal proceeding the actual loss suffered by the Owner if the Work is not completed on time. Accordingly, instead of requiring such proof, the Owner and Contractor agree that as liquidated damages for delay (but not as penalty), Contractor shall pay Owner One Thousand Dollars ($1,000.00) per calendar day for each day that expires after the time specified for Substantial Completion in EXH-D Project Schedule until such time the Work is determined to be substantially complete by the Owner.

After Substantial Completion, if Contractor neglects, refuses, or fails to complete the remaining Work within the Contract Time specified in the Contract Documents, the Contractor shall pay the Owner One Thousand Dollars ($1,000.00) per day that expires after the time specified in the Contract Documents for Final Completion and readiness for Final Payment until the Work is completed.

§ 4.6 Other:
(Insert provisions for bonus, cost savings or other incentives, if any, that might result in a change to the Contract Sum.)

None

ARTICLE 5 PAYMENTS

§ 5.1 Progress Payments

§ 5.1.1 Based upon Applications for Payment submitted to the Construction Manager by the Contractor, and Certificates for Payment issued by the Construction Manager and Architect and approval by the Owner's Representative, the Owner shall make progress payments on account of the Contract Sum, to the Contractor, as provided below and elsewhere in the Contract Documents.

§ 5.1.2 The period covered by each Application for Payment shall be one calendar month ending on the last day of the month.

§ 5.1.3 When an Application for Payment is received by the Construction Manager, payment of the amount certified shall be made by the Owner not later than forty-five (45) days after the Construction Manager receives the Application for Payment. Unless expressly otherwise agreed in this Contract, payments and payment disputes shall be governed by the Prompt Payment of Local Government Bills, Minnesota Statutes, Section 471.425 ("Prompt Payment Act").
(Federal, state or local laws may require payment within a certain period of time.)

§ 5.1.4 Progress Payments Where the Contract Sum is Based on a Stipulated Sum

§ 5.1.4.1 Each Application for Payment shall be based on the most recent schedule of values submitted by the Contractor on AIA G702 Application and Certificate for Payment in accordance with the Contract Documents. The schedule of

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values shall allocate the entire Contract Sum among the various portions of the Work. The schedule of values shall be prepared in such form, and supported by such data to substantiate its accuracy, as the Construction Manager and Architect may require. This schedule of values shall be used as a basis for reviewing the Contractor's Applications for Payment.

§ 5.1.4.2 Applications for Payment shall show the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment.

§ 5.1.4.3 In accordance with AIA Document A232™–2019, General Conditions of the Contract for Construction, Construction Manager as Adviser Edition, as modified and subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

§ 5.1.4.3.1 The amount of each progress payment shall first include:

.1 That portion of the Contract Sum properly allocable to completed Work;

.2 That portion of the Contract Sum properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction, or, if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing; and

.3 That portion of Construction Change Directives that the Architect determines, in the Architect's professional judgment, to be reasonably justified.

§ 5.1.4.3.2 The amount of each progress payment shall then be reduced by:

.1 The aggregate of any amounts previously paid by the Owner;

.2 The amount, if any, for Work that remains uncorrected and for which the Architect has previously withheld a Certificate for Payment as provided in Article 9 of AIA Document A232–2019;

.3 Any amount for which the Contractor does not intend to pay a Subcontractor or material supplier, unless the Work has been performed by others the Contractor intends to pay;

.4 For Work performed or defects discovered since the last payment application, any amount for which the Architect may withhold payment, or nullify a Certificate of Payment in whole or in part, as provided in Article 9 of AIA Document A232–2019; and

.5 Retainage withheld pursuant to Section 5.1.7.

(Paragraphs deleted)

§ 5.1.7 Retainage

§ 5.1.7.1 For each progress payment made prior to when the Work of this Contract is substantially complete, the Owner may withhold the following amount, as retainage, from the payment otherwise due:
(Insert a percentage or amount to be withheld as retainage from each Application for Payment. The amount of retainage may be limited by governing law.)

Five Percent (5%)

§ 5.1.7.1.1 The following items are not subject to retainage:
(Insert any items not subject to the withholding of retainage, such as general conditions, insurance, etc.)

For major items installed into the Work, the Contractor may request full payment for the items to ensure prompt delivery and fabrication. Such items shall be recommended by the Architect and approved by the Owner as not requiring retainage. Prompt payment for the items shall be documented by the Contractor to the Owner in the subsequent payment application by submitting a full lien release for the items. Major items may include mechanical units with long lead times, structural systems with long lead times, critical path systems or items, etc. Major items will be discussed and defined by Owner, Architect, Construction Manager and Contractor.

§ 5.1.7.2 Reduction or limitation of retainage, if any, shall be as follows:
(If the retainage established in Section 5.1.7.1 is to be modified prior to when the entire Work of this Contract is substantially complete, including modifications for completion of portions of the Work as provided in Section 3.4.2, insert provisions for such modifications.)

Prior to Substantial Completion and at the discretion of the Owner, retainage may be reduced. If the Work has been fifty percent (50%) completed as determined by the Architect and is satisfactory to the Owner, then ninety percent (90%) of the

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retained amount may be released to the Contractor for completed Work (with ten percent (10%) of the total retained by the Owner).

§ 5.1.7.3 Except as set forth in this Section 5.1.7.3, when the Work of this Contract is substantially complete, the Contractor may submit an Application for Payment that includes the retainage withheld from prior Applications for Payment pursuant to this Section 5.1.7. The Application for Payment submitted when the Work of this Contract is substantially complete shall not include retainage as follows:
(Insert any other conditions for release of retainage when the Work of this Contract is substantially complete, or upon Substantial Completion of the Work of all Contractors on the Project or portions thereof.)

Upon Substantial Completion, additional retainage may be returned to the Contractor as recommended by the Architect and Construction Manager and approved by the Owner to an amount sufficient to satisfactorily complete the Work. Retainage release will comply with Minnesota Statutes, Section 15.72 after Substantial Completion and punch list acceptance by the Owner.

§ 5.2 Final Payment

§ 5.2.1 Final Payment Where the Contract Sum is Based on a Stipulated Sum

§ 5.2.1.1 Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Contractor when

.1 the Contractor has fully performed the Contract except for the Contractor's responsibility to correct Work as provided in Article 12 of AIA Document A232–2019, and to satisfy other requirements, if any, which extend beyond final payment;

.2 a final Certificate for Payment or Project Certificate for Payment has been issued by the Architect; and

.3 all lien waivers and IC134 forms have been delivered to the Owner.

§ 5.2.1.2 The Owner's final payment to the Contractor shall be made no later than forty-five (45) days after the issuance of the Architect's final Certificate for Payment or Project Certificate for Payment, or as follows:

§ 5.2.2 Final Payment Where the Contract Sum is Based on the Cost of the Work with or without a Guaranteed Maximum Price

§ 5.2.2.1 Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Contractor when

.1 the Contractor has fully performed the Contract except for the Contractor's responsibility to correct Work as provided in Article 12 of AIA Document A232–2019, and to satisfy other requirements, if any, which extend beyond final payment;

.2 the Contractor has submitted a final accounting for the Cost of the Work, pursuant to Exhibit B, Determination of the Cost of the Work and a final Application for Payment; and

.3 a final Certificate for Payment or Project Certificate for Payment has been issued by the Architect in accordance with Exhibit B, Determination of the Cost of the Work.

§ 5.2.2.2 The Owner's final payment to the Contractor shall be made no later than 30 days after the issuance of the final Certificate for Payment or Project Certificate for Payment, or as follows:

§ 5.3 Payments due and unpaid under the Contract shall bear interest from the date payment is due at the rate stated below.
(Insert rate of interest agreed upon, if any.)

Zero %

ARTICLE 6 DISPUTE RESOLUTION

§ 6.1 Initial Decision Maker

The Architect will serve as Initial Decision Maker pursuant to Article 15 of AIA Document
(Paragraphs deleted)
A232–2019.

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§ 6.1.1 Mediation
The Owner or the Contractor may request mediation of any Claim submitted to the Initial Decision Maker before the decision becomes final and binding. The mediation shall be governed by the Construction Industry Mediation Rules of the American Arbitration Association in effect at the date of this contract. The request for mediation shall be made in writing by the party requesting mediation and the other party of this contract. The Owner and Contractor shall participate in mediation in good faith. The mediation shall be concluded within 60 days of the request. Mediation is not a condition precedent to commencing litigation. If litigation is commenced, the Owner and Contractor agree to mediate before any dispositive motion or trial.

§ 6.2 Binding Dispute Resolution
For any Claim subject to, but not resolved by, mediation pursuant to Article 15 of AIA Document A232–2019, the method of binding dispute resolution shall be as follows:
(Check the appropriate box.)

[ ] Arbitration pursuant to Article 15 of AIA Document A232–2019.

[**X**] Litigation in a state or federal court of competent jurisdiction located in Hennepin County, Minnesota.

[ ] Other: *(Specify)*

If the Owner and Contractor do not select a method of binding dispute resolution, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, Claims will be resolved by litigation in a court of competent jurisdiction.

ARTICLE 7 TERMINATION OR SUSPENSION
§ 7.1 Where the Contract Sum is a Stipulated Sum
§ 7.1.1 The Contract may be terminated by the Owner or the Contractor as provided in Article 14 of AIA Document A232–2019.

§ 7.1.1.1 If the Contract is terminated for the Owner's convenience in accordance with Article 14 of AIA Document A232–2019, then the Owner shall pay the Contractor a termination fee as follows:
(Insert the amount of, or method for determining, the fee, if any, payable to the Contractor following a termination for the Owner's convenience.)

Termination fee will be based on the percentage of Work completed and any materials purchased or in production at the time of termination. Said fee and justification shall be provided to the Owner by the Contractor within ten (10) days' notice of the termination.

§ 7.1.2 The Work may be suspended by the Owner as provided in Article 14 of AIA Document A232–2019.

(Paragraphs deleted)
ARTICLE 8 MISCELLANEOUS PROVISIONS
§ 8.1 Where reference is made in this Agreement to a provision of AIA Document A232–2019 or another Contract Document, the reference refers to that provision as amended or supplemented by other provisions of the Contract Documents.

§ 8.2 The Owner's representative:
(Name, address, email address, and other information)

Curtis Hartog, PE, Executive Director
Minneapolis Public Schools, SSD#1
Capital Planning, Construction & Maintenance
1250 West Broadway Avenue, Minneapolis, MN 55411

§ 8.3 The Contractor's representative:

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(Name, address, email address, and other information)

Lee Ahola
Project Manager
Grazzini Brothers & Company
1175 Eagan Industrial Road
Eagan, MN 55121

§ 8.4 Neither the Owner's nor the Contractor's representative shall be changed without ten days' prior notice to the other party.

§ 8.5 Record Keeping—Availability and Retention
Pursuant to Minnesota Statutes, Section 16C.05, subd. 5, Contractor agrees that the books, records, documents and accounting procedures and practices of Contractor, that are relevant to the Contract or transaction, are subject to examination by the Owner, the Owner's auditor, and the state auditor for a minimum of six (6) years. Contractor shall maintain such records for a minimum of six (6) years after final payment.

§ 8.6 Data Practices
Pursuant to Minnesota Statutes, Section 13.05, subd. 11, all of the data created, collected, received, stored, used, maintained, or disseminated by Contractor in performing this contract is subject to the requirements of the Minnesota Government Data Practices Act ("MGDPA"), Minnesota Statutes Chapter 13, and Contractor must comply with those requirements as if it were a government entity. The remedies in Minnesota Statutes, Section 13.08 apply to Contractor. Contractor does not have a duty to provide access to public data to the public if the public data are available from the Owner, except as required by the terms of this contract.

§ 8.7 Non-Discrimination
Pursuant to Minnesota Statutes, Section 181.59, the Contractor will take affirmative action to ensure that applicants are selected, and that employees are treated during employment, without regard to their race, color, creed, religion, national origin, sex, sexual orientation, marital status, status with regard to public assistance, membership or activity in a local civil rights commission, disability or age. The Contractor agrees to be bound by the provisions of Minnesota Statutes, Section 181.59, that prohibits certain discriminatory practices and the terms of said section are incorporated into this contract.

§ 8.8 Prompt Payment to Subcontractors
In accordance with the Prompt Payment Act, each Prime Contractor must pay any subcontractor within ten (10) days of the Prime Contractor's receipt of payment from the municipality for undisputed services provided by the subcontractor. The Subcontract must require the Prime Contractor to pay interest of 1-1/2 percent per month or any part of a month to the subcontractor on any undisputed amount not paid on time to the subcontractor. The minimum monthly interest penalty payment for an unpaid balance of $100 or more is $10. For an unpaid balance of less than $100, the Prime Contractor shall pay the actual penalty due to the subcontractor. A subcontractor who prevails in a civil action to collect interest penalties from a Prime Contractor must be awarded its costs and disbursements, including attorney's fees, incurred in bringing the action.

§ 8.9 Prevailing Wage
Contractor agrees that all laborers or mechanics working on the Project shall receive at least the prevailing wage rate in accordance with Minnesota Statutes Section 177.42, *et seq*. Contractor agrees further that it will incorporate any and all necessary contract language in its agreements with any subcontractors to allow Contractor to monitor and enforce the prevailing wage requirement for subcontractors of any tier.

§ 8.5 Insurance and Bonds
§ 8.5.1 The Owner and the Contractor shall purchase and maintain insurance as set forth EXH-C Owner Insurance.

§ 8.5.2 The Contractor shall provide bonds as set forth in AIA Document A132™–2019, Exhibit A, and elsewhere in the Contract Documents.

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§ 8.6 Notice in electronic format, pursuant to Article 1 of AIA Document A232–2019, may be given in accordance with AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, if completed, or as otherwise set forth below:
(If other than in accordance with AIA Document E203–2013, insert requirements for delivering notice in electronic format such as name, title, and email address of the recipient and whether and how the system will be required to generate a read receipt for the transmission.)

email to Owner's representative identified in Section 8.2

§ 8.7 Relationship of the Parties
Where the Contract is based on the Cost of the Work plus the Contractor's Fee, with or without a Guaranteed Maximum Price, the Contractor accepts the relationship of trust and confidence established by this Agreement and covenants with the Owner to cooperate with the Architect and exercise the Contractor's skill and judgment in furthering the interests of the Owner; to furnish efficient business administration and supervision; to furnish at all times an adequate supply of workers and materials; and to perform the Work in an expeditious and economical manner consistent with the Owner's interests. The Owner agrees to furnish and approve, in a timely manner, information required by the Contractor and to make payments to the Contractor in accordance with the requirements of the Contract Documents.

§ 8.8 Other provisions:

Owner prohibits Contractor from using the Work in any marketing material or business development practice. Contractor is prohibited from communication with any news outlet or public without Owner's written approval.

Floor plans, designs, wiring, safety and security measures shall be kept confidential by the Contractor, the Subcontractors, the Sub-Subcontractors (of any tier) during and after completion of the Work.

ARTICLE 9 ENUMERATION OF CONTRACT DOCUMENTS

§ 9.1 This Agreement is comprised of the following documents:

.1 AIA Document A132™–2019, Standard Form of Agreement Between Owner and Contractor, Construction Manager as Adviser Edition

.2 AIA Document A132™–2019, Exhibit A, Insurance and Bonds Exhibit

.3 AIA Document A232™–2019, General Conditions of the Contract for Construction, Construction Manager as Adviser Edition

.4 AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, dated as indicated below:
(Insert the date of the E203-2013 incorporated into this Agreement.)

.5 Drawings

Number	Title	Date
165	North Renovations Vol. 1 of 2	October 30, 2023
156	North Renovations Vol. 2 of 2	October 30, 2023

.6 Specifications

Section	Title	Date	Pages
All specifications	North Renovations Bid Package 3	October 30, 2023	1565

.7 Addenda, if any:

Number	Date	Pages
1	11/10/2023	110

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2	11/21/2023	222
3	11/30/2023	140

Portions of Addenda relating to bidding or proposal requirements are not part of the Contract Documents unless the bidding or proposal requirements are also enumerated in this Article 9.

.8 Other Exhibits:

EXH-B Project Charter
EXH-C Owner Insurance
EXH-D Project Schedule
(Check all boxes that apply and include appropriate information identifying the exhibit where required.)

[ ]
(Paragraphs deleted)

[ ] Supplementary and other Conditions of the Contract:

Document	Title	Date	Pages

.9 Other documents, if any, listed below:
(List here any additional documents that are intended to form part of the Contract Documents. AIA Document A232–2019 provides that the advertisement or invitation to bid, Instructions to Bidders, sample forms, the Contractor's bid or proposal, portions of Addenda relating to bidding or proposal requirements, and other information furnished by the Owner in anticipation of receiving bids or proposals, are not part of the Contract Documents unless enumerated in this Agreement. Any such documents should be listed here only if intended to be part of the Contract Documents.)

contractors bidding documents

This Agreement is entered into as of the day and year first written above.

Ibrahima Diop
OWNER *(Signature)*

Ibrahima Diop Sr. Officer of Finance and Operations
(Printed name and title)

CONTRACTOR *(Signature)* Gregory P. Grazzini

CEO/President
(Printed name and title)

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Additions and Deletions Report for
AIA® Document A132® – 2019

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PAGE 1

AGREEMENT made as of the 31 day of January in the year 2024 January

...

Minneapolis Public Schools Special School District #1
1250 West Broadway Avenue
Minneapolis, MN 55411

...

Grazzini Brothers & Company
1175 Eagan Industrial Road
Eagan, MN 55121

...

North High School Phase 3 Work Scope 9D Flooring
1500 James Avenue
Minneapolis, MN 55411

...

Kraus-Anderson Construction Company
501 South 8th Street
Minneapolis, MN 55405

...

LSE Architects
1401 Glenwood Avenue
Minneapolis, MN 55405

PAGE 2

The Contract Documents consist of this Agreement, Conditions of the Contract (General, Supplementary, and other Conditions), Drawings, Specifications, Addenda issued prior to execution of this Agreement, other documents ("Contract" or "Contract Documents") listed in this Agreement, and Modifications issued after execution of this Agreement, all of which form the Contract, and are as fully a part of the Contract as if attached to this Agreement or repeated herein. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations, or agreements, either written or oral. An enumeration of the Contract Documents, other than Modifications, appears in Article 9.

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§ 1.2 In the event that there are inconsistencies between any of the Project Contract Documents, all Contract Documents shall be construed together and shall be read with a purpose and intent to provide that the Contractor shall commit to fully complete its Project Work and services with the greater degree of commitment as referenced in the Contract Documents, including the plans and specifications, to work diligently to ensure completion of the Project in a timely and workmanlike manner and at the earliest stated times provided for in Project schedules, as they may be revised, and to ensure that Contractor, and all of its Subcontractors and suppliers complete the Project on schedule and within Project Contract Price, subject to approved change orders.

§ 1.3 Contractor acknowledges that it has had full, fair, and adequate opportunity to review all of the Project bidding and Contract Documents, that it has fully satisfied itself as to the scope and requirements of the Project, that it has fully and fairly investigated all Project site conditions and circumstances and Contract Documents, including any potential difficulties or interferences present in the same, that it has had the opportunity to ask questions during the bidding phase and that it has received adequate answers to any such questions, that it has had the opportunity to attend and fairly participate in all pre-bid conferences and pre-construction conferences, and that it has required the same of all of its Subcontractors.

[X] A date set forth in a notice to proceed issued by the Owner.

...

Defined in EXH-D Project Schedule

§ 3.3.2 Subject to adjustments of the Contract Time as provided in the Contract Documents, if portions of the Work of all of the Contractors for the Project are to be completed prior to Substantial Completion of the entire Work of all of the Contractors for the Project, the Contractors shall achieve Substantial Completion of such portions by the following ~~dates:~~dates defined in EXH-D Project Schedule. Such portions of the Work not completed as defined in EXH-D Project Schedule shall be subject to liquidated damages as set forth in Article 4.5.

~~**Portion of Work** **Substantial Completion Date**~~

~~**§ 3.4 When the Work of this Contract, or any Portion Thereof, is Substantially Complete**~~
~~**§ 3.4.1** Subject to adjustments of the Contract Time as provided in the Contract Documents, the Contractor shall substantially complete the entire Work of this Contract:~~
~~*(Check one of the following boxes and complete the necessary information.)*~~

~~[ ] Not later than ( ) calendar days from the date of commencement of the Work.~~

~~[ ] By the following date:~~

~~**§ 3.4.2** Subject to adjustments of the Contract Time as provided in the Contract Documents, if portions of the Work of this Contract are to be substantially complete prior to when the entire Work of this Contract shall be substantially complete, the Contractor shall substantially complete such portions by the following dates:~~

~~**Portion of Work** **Date to be substantially complete**~~

...

§ 4.1 The Owner shall pay the Contractor the Contract Sum in current funds for the Contractor's performance of the ~~Contract. The Contract Sum shall be one of the following:~~
~~*(Check the appropriate box.)*~~

~~[ ] Stipulated Sum, in accordance with Section 4.2 below~~

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[ ] Cost of the Work plus the Contractor's Fee, in accordance with Section 4.3 below

[ ] Cost of the Work plus the Contractor's Fee with a Guaranteed Maximum Price, in accordance with Section 4.4 below

(Based on the selection above, complete Section 4.2, 4.3 or 4.4 below.)
Contract as defined in EXH-B Project Charter, subject to additions and deductions as provided in the Contract Documents.

...

§ 4.2.1 The Contract Sum shall be seven hundred, ninety-four thousand, seven hundred, thirty dollars ($ 794,730), subject to additions and deductions as provided in the Contract Documents.

...

§ 4.2.2.1 Alternates, if any, included in the Contract Sum:
Sum are defined in EXH-B Project Charter.

Item	Price

§ 4.2.2.2 Subject to the conditions noted below, the following in EXH-B Project Charter, alternates may be accepted by the Owner following execution of this Agreement. Upon acceptance, the Owner shall issue a Modification to this Agreement.
(Insert below each alternate and the conditions that must be met for the Owner to accept the alternate.)

Item	Price	Conditions for Acceptance

§ 4.2.3 Allowances, if any, included in the Contract Sum:Sum are defined in EXH-B Project Charter.

...

§ 4.2.4 Unit prices, if any:
(Identify the item and state the unit price, and quantity limitations, if any, to which the unit price will be applicable.)any are defined in EXH-B Project Charter.

Item	Units and Limitations	Price per Unit ($0.00)

§ 4.3 Cost of the Work Plus Contractor's Fee without a Guaranteed Maximum PriceAllowances, if any, included in the Contract Sum are defined in EXH-B Project Charter.
§ 4.3.1 The Cost of the Work is as defined in Exhibit B, Determination of the Cost of the Work.

§ 4.3.2 The Contractor's Fee:
(State a lump sum, percentage of Cost of the Work or other provision for determining the Contractor's Fee.)

§ 4.3.3 The method of adjustment of the Contractor's Fee for changes in the Work:

§ 4.3.4 Limitations, if any, on a Subcontractor's overhead and profit for increases in the cost of its portion of the Work:

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§ 4.3.5 Rental rates for Contractor-owned equipment shall not exceed percent (%) of the standard rental rate paid at the place of the Project.

§ 4.3.6 Unit prices, if any:
(Identify the item and state the unit price and quantity limitations, if any, to which the unit price will be applicable.)

Item	Units and Limitations	Price per Unit ($0.00)

§ 4.3.7 The Contractor shall prepare and submit to the Construction Manager, within 14 days of executing this Agreement, a written Control Estimate for the Owner's review and approval. The Control Estimate shall include the items in Section B.1 of Exhibit B, Determination of the Cost of the Work.

§ 4.4 Cost of the Work Plus Contractor's Fee with a Guaranteed Maximum PriceUnit prices, if any, are defined in EXH-B Project Charter.
§ 4.4.1 The Cost of the Work is as defined in Exhibit B, Determination of the Cost of the Work.

§ 4.4.2 The Contractor's Fee:
(State a lump sum, percentage of Cost of the Work or other provision for determining the Contractor's Fee.)

§ 4.4.3 The method of adjustment of the Contractor's Fee for changes in the Work:

§ 4.4.4 Limitations, if any, on a Subcontractor's overhead and profit for increases in the cost of its portion of the Work:

§ 4.4.5 Rental rates for Contractor-owned equipment shall not exceed percent (%) of the standard rental rate paid at the place of the Project.

§ 4.4.6 Unit Prices, if any:
(Identify the item and state the unit price and quantity limitations, if any, to which the unit price will be applicable.)

Item	Units and Limitations	Price per Unit ($0.00)

§ 4.4.7 Guaranteed Maximum Price
§ 4.4.7.1 The Contract Sum is guaranteed by the Contractor not to exceed ($), subject to additions and deductions by Change Order as provided in the Contract Documents. This maximum sum is referred to in the Contract Documents as the Guaranteed Maximum Price. Costs which would cause the Guaranteed Maximum Price to be exceeded shall be paid by the Contractor without reimbursement by the Owner.

§ 4.4.7.2 Alternates
§ 4.4.7.2.1 Alternates, if any, included in the Guaranteed Maximum Price:

Item	Price

§ 4.4.7.2.2 Subject to the conditions noted below, the following alternates may be accepted by the Owner following execution of this Agreement. Upon acceptance, the Owner shall issue a Modification to this Agreement.
(Insert below each alternate and the conditions that must be met for the Owner to accept the alternate.)

Item	Price	Conditions for Acceptance

§ 4.4.7.3 Allowances, if any, included in the Guaranteed Maximum Price:
(Identify each allowance.)

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~~Item~~ ~~Price~~

~~§ 4.4.7.4 Assumptions, if any, upon which the Guaranteed Maximum Price is based:~~
~~*(Identify each assumption.)*~~

~~§ 4.4.8 To the extent that the Contract Documents are anticipated to require further development, the Guaranteed Maximum Price includes the costs attributable to such further development consistent with the Contract Documents and reasonably inferable therefrom. Such further development does not include changes in scope, systems, kinds and quality of materials, finishes, or equipment, all of which, if required, shall be incorporated by Change Order.~~

~~§ 4.4.9 The Owner shall authorize preparation of revisions to the Contract Documents that incorporate the agreed upon assumptions contained in Section 4.4.7.4. The Owner shall promptly furnish such revised Contract Documents to the Contractor. The Contractor shall notify the Owner and Architect of any inconsistencies between the agreed upon assumptions contained in Section 4.4.7.4 and the revised Contract Documents.~~

PAGE 4

Contractor and Owner recognize that time is of the essence for the Project and the Owner will suffer financial loss if the Work is not completed in the time specified in the Contract Documents. The parties also recognize the delays, expenses, and difficulties involved in proving in a legal proceeding the actual loss suffered by the Owner if the Work is not completed on time. Accordingly, instead of requiring such proof, the Owner and Contractor agree that as liquidated damages for delay (but not as penalty), Contractor shall pay Owner One Thousand Dollars ($1,000.00) per calendar day for each day that expires after the time specified for Substantial Completion in EXH-D Project Schedule until such time the Work is determined to be substantially complete by the Owner.

After Substantial Completion, if Contractor neglects, refuses, or fails to complete the remaining Work within the Contract Time specified in the Contract Documents, the Contractor shall pay the Owner One Thousand Dollars ($1,000.00) per day that expires after the time specified in the Contract Documents for Final Completion and readiness for Final Payment until the Work is completed.

...

None

...

§ 5.1.1 Based upon Applications for Payment submitted to the Construction Manager by the Contractor, and Certificates for Payment issued by the Construction Manager and ~~Architect,~~ Architect and approval by the Owner's Representative, the Owner shall make progress payments on account of the Contract Sum, to the Contractor, as provided below and elsewhere in the Contract Documents.

§ 5.1.2 The period covered by each Application for Payment shall be one calendar month ending on the last day of the ~~month, or as follows:~~
month.

§ 5.1.3 ~~Provided that~~ When an Application for Payment is received by the Construction ~~Manager not later than the day of a month, the Owner shall make payment of the amount certified to the Contractor not later than the day of the month. If an Application for Payment is received by the Construction Manager after the application date fixed above, payment of the amount certified~~ Manager, payment of the amount certified shall be made by the Owner not later than forty-five (45) days after the Construction Manager receives the Application for Payment. Unless expressly otherwise agreed in this Contract, payments and payment disputes shall be governed by the Prompt Payment of Local Government Bills, Minnesota Statutes, Section 471.425 ("Prompt Payment Act").

...

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§ 5.1.4.1 Each Application for Payment shall be based on the most recent schedule of values submitted by the Contractor on AIA G702 Application and Certificate for Payment in accordance with the Contract Documents. The schedule of values shall allocate the entire Contract Sum among the various portions of the Work. The schedule of values shall be prepared in such form, and supported by such data to substantiate its accuracy, as the Construction Manager and Architect may require. This schedule of values shall be used as a basis for reviewing the Contractor's Applications for Payment.
PAGE 5

§ 5.1.4.3 In accordance with AIA Document A232™–2019, General Conditions of the Contract for Construction, Construction Manager as Adviser Edition, as modified and subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

...

~~**§ 5.1.5 Progress Payments Where the Contract Sum is Based on the Cost of the Work without a Guaranteed Maximum Price**~~

~~**§ 5.1.5.1** With each Application for Payment, the Contractor shall submit the cost control information required in Exhibit B, Determination of the Cost of the Work, along with payrolls, petty cash accounts, receipted invoices, or invoices with check vouchers attached, and any other evidence required by the Owner, Construction Manager or Architect to demonstrate that payments already made by the Contractor on account of the Cost of the Work equal or exceed progress payments already received by the Contractor, plus payrolls for the period covered by the present Application for Payment, less that portion of the payments attributable to the Contractor's Fee.~~

~~**§ 5.1.5.2** Applications for Payment shall show the Cost of the Work actually incurred by the Contractor through the end of the period covered by the Application for Payment and for which the Contractor has made or intends to make actual payment prior to the next Application for Payment.~~

~~**§ 5.1.5.3** In accordance with AIA Document A232–2019 and subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:~~

~~**§ 5.1.5.3.1** The amount of each progress payment shall first include:~~

- ~~.1 The Cost of the Work as described in Exhibit B, Determination of the Cost of the Work;~~
- ~~.2 That portion of Construction Change Directives that the Architect determines, in the Architect's professional judgment, to be reasonably justified; and~~
- ~~.3 The Contractor's Fee computed upon the Cost of the Work described in the preceding Section 5.1.5.3.1.1 at the rate stated in Section 4.3.2; or if the Contractor's Fee is stated as a fixed sum in Section 4.3.2 an amount which bears the same ratio to that fixed-sum Fee as the Cost of the Work included in Section 5.1.5.3.1.1 bears to a reasonable estimate of the probable Cost of the Work upon its completion.~~

~~**§ 5.1.5.3.2** The amount of each progress payment shall then be reduced by:~~

- ~~.1 The aggregate of any amounts previously paid by the Owner;~~
- ~~.2 The amount, if any, for Work that remains uncorrected and for which the Architect has previously withheld a Certificate for Payment as provided in Article 9 of AIA Document A232–2019;~~
- ~~.3 Any amount for which the Contractor does not intend to pay a Subcontractor or material supplier, unless the Work has been performed by others the Contractor intends to pay;~~
- ~~.4 For Work performed or defects discovered since the last payment application, any amount for which the Architect may withhold payment, or nullify a Certificate of Payment in whole or in part, as provided in Article 9 of AIA Document A232–2019;~~
- ~~.5 The shortfall, if any, indicated by the Contractor in the documentation required by Section 5.1.5.1 to substantiate prior Applications for Payment, or resulting from errors subsequently discovered by the Owner's auditors in such documentation; and~~
- ~~.6 Retainage withheld pursuant to Section 5.1.7.~~

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~~§ 5.1.5.4 The Owner, Construction Manager and Contractor shall agree upon a mutually acceptable procedure for review and approval of payments to Subcontractors and the percentage of retainage held on Subcontracts, and the Contractor shall execute subcontracts in accordance with those agreements.~~

~~§ 5.1.5.5 In taking action on the Contractor's Applications for Payment, the Construction Manager and Architect shall be entitled to rely on the accuracy and completeness of the information furnished by the Contractor, and such action shall not be deemed to be a representation that (1) the Construction Manager and Architect have made a detailed examination, audit or arithmetic verification of the documentation submitted in accordance with Article 5 or other supporting data; (2) that the Construction Manager and Architect have made exhaustive or continuous on-site inspections; or (3) that the Construction Manager and Architect have made examinations to ascertain how or for what purposes the Contractor has used amounts previously paid on account of the Contract. Such examinations, audits and verifications, if required by the Owner, will be performed by the Owner's auditors acting in the sole interest of the Owner.~~

~~§ 5.1.5.6 Except with the Owner's prior approval, the Contractor shall not make advance payments to suppliers for materials or equipment which have not been delivered and stored at the site.~~

~~§ 5.1.5.7 If final completion of the Work is materially delayed through no fault of the Contractor, then the Owner shall pay the Contractor any additional amounts in accordance with Article 9 of AIA Document A232–2019.~~

~~**§ 5.1.6 Progress Payments Where the Contract Sum is Based on the Cost of the Work with a Guaranteed Maximum Price**~~

~~§ 5.1.6.1 With each Application for Payment, the Contractor shall submit payrolls, petty cash accounts, receipted invoices or invoices with check vouchers attached, and any other evidence required by the Owner, Construction Manager or Architect to demonstrate that payments already made by the Contractor on account of the Cost of the Work equal or exceed progress payments already received by the Contractor plus payrolls for the period covered by the present Application for Payment, less that portion of the progress payments attributable to the Contractor's Fee.~~

~~§ 5.1.6.2 Each Application for Payment shall be based on the most recent schedule of values submitted by the Contractor in accordance with the Contract Documents. The schedule of values shall allocate the entire Guaranteed Maximum Price among: (1) the various portions of the Work; (2) any contingency for costs that are included in the Guaranteed Maximum Price but not otherwise allocated to another line item or included in a Change Order; and (3) the Contractor's Fee.~~

~~§ 5.1.6.2.1 The schedule of values shall be prepared in such form, and supported by such data to substantiate its accuracy, as the Construction Manager and Architect may require. This schedule of values shall be used as a basis for reviewing the Contractor's Applications for Payment.~~

~~§ 5.1.6.2.2 The allocation of the Guaranteed Maximum Price under this Section 5.1.6.2 shall not constitute a separate guaranteed maximum price for the Cost of the Work of each individual line item in the schedule of values.~~

~~§ 5.1.6.2.3 When the Contractor allocates costs from a contingency to another line item in the schedule of values, the Contractor shall submit supporting documentation to the Architect and Construction Manager.~~

~~§ 5.1.6.3 Applications for Payment shall show the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment. The percentage of completion shall be the lesser of (1) the percentage of that portion of the Work which has actually been completed; or (2) the percentage obtained by dividing (a) the expense that has actually been incurred by the Contractor on account of that portion of the Work and for which the Contractor has made payment or intends to make payment prior to the next Application for Payment by (b) the share of the Guaranteed Maximum Price allocated to that portion of the Work in the schedule of values.~~

~~§ 5.1.6.4 In accordance with AIA Document A232–2019, and subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:~~

~~§ 5.1.6.4.1 The amount of each progress payment shall first include:~~

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.1 That portion of the Guaranteed Maximum Price properly allocable to completed Work as determined by multiplying the percentage of completion of each portion of the Work by the share of the Guaranteed Maximum Price allocated to that portion of the Work in the most recent schedule of values;

.2 That portion of the Guaranteed Maximum Price properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction or, if approved in writing in advance by the Owner, suitably stored off the site at a location agreed upon in writing;

.3 That portion of Construction Change Directives that the Architect determines, in the Architect's professional judgment, to be reasonably justified; and

.4 The Contractor's Fee, computed upon the Cost of the Work described in the preceding Sections 5.1.6.4.1.1 and 5.1.6.4.1.2 at the rate stated in Section 4.4.2 or, if the Contractor's Fee is stated as a fixed sum in that Section, an amount that bears the same ratio to that fixed-sum fee as the Cost of the Work included in Sections 5.1.6.4.1.1 and 5.1.6.4.1.2 bears to a reasonable estimate of the probable Cost of the Work upon its completion.

§ 5.1.6.4.2 The amount of each progress payment shall then be reduced by:

.1 The aggregate of any amounts previously paid by the Owner;

.2 The amount, if any, for Work that remains uncorrected and for which the Architect has previously withheld a Certificate for Payment as provided in Article 9 of AIA Document A232–2019;

.3 Any amount for which the Contractor does not intend to pay a Subcontractor or material supplier, unless the Work has been performed by others the Contractor intends to pay;

.4 For Work performed or defects discovered since the last payment application, any amount for which the Architect may withhold payment, or nullify a Certificate of Payment in whole or in part, as provided in Article 9 of AIA Document A232–2019;

.5 The shortfall, if any, indicated by the Contractor in the documentation required by Section 5.1.6.1 to substantiate prior Applications for Payment, or resulting from errors subsequently discovered by the Owner's auditors in such documentation; and

.6 Retainage withheld pursuant to Section 5.1.7.

§ 5.1.6.5 The Owner and the Contractor shall agree upon a mutually acceptable procedure for review and approval of payments to Subcontractors and the percentage of retainage held on Subcontracts, and the Contractor shall execute subcontracts in accordance with those agreements.

§ 5.1.6.6 In taking action on the Contractor's Applications for Payment, the Construction Manager and Architect shall be entitled to rely on the accuracy and completeness of the information furnished by the Contractor and such action shall not be deemed to be a representation that (1) the Construction Manager or Architect have made a detailed examination, audit, or arithmetic verification of the documentation submitted in accordance with Section 5.1.6.1 or other supporting data; (2) that the Construction Manager or Architect have made exhaustive or continuous on-site inspections; or (3) that the Construction Manager or Architect have made examinations to ascertain how or for what purposes the Contractor has used amounts previously paid on account of the Contract. Such examinations, audits, and verifications, if required by the Owner, will be performed by the Owner's auditors acting in the sole interest of the Owner.

§ 5.1.6.7 Except with the Owner's prior approval, the Contractor shall not make advance payments to suppliers for materials or equipment which have not been delivered and stored at the site.

§ 5.1.6.8 If final completion of the Work is materially delayed through no fault of the Contractor, then the Owner shall pay the Contractor any additional amounts in accordance with Article 9 of AIA Document A232–2019.

...

Five Percent (5%)

...

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For major items installed into the Work, the Contractor may request full payment for the items to ensure prompt delivery and fabrication. Such items shall be recommended by the Architect and approved by the Owner as not requiring retainage. Prompt payment for the items shall be documented by the Contractor to the Owner in the subsequent payment application by submitting a full lien release for the items. Major items may include mechanical units with long lead times, structural systems with long lead times, critical path systems or items, etc. Major items will be discussed and defined by Owner, Architect, Construction Manager and Contractor.

...

Prior to Substantial Completion and at the discretion of the Owner, retainage may be reduced. If the Work has been fifty percent (50%) completed as determined by the Architect and is satisfactory to the Owner, then ninety percent (90%) of the retained amount may be released to the Contractor for completed Work (with ten percent (10%) of the total retained by the Owner).

PAGE 6

Upon Substantial Completion, additional retainage may be returned to the Contractor as recommended by the Architect and Construction Manager and approved by the Owner to an amount sufficient to satisfactorily complete the Work. Retainage release will comply with Minnesota Statutes, Section 15.72 after Substantial Completion and punch list acceptance by the Owner.

...

.1 the Contractor has fully performed the Contract except for the Contractor's responsibility to correct Work as provided in Article 12 of AIA Document A232–2019, and to satisfy other requirements, if any, which extend beyond final payment; ~~and~~

.2 a final Certificate for Payment or Project Certificate for Payment has been issued by ~~the Architect.~~the Architect; and

.3 all lien waivers and IC134 forms have been delivered to the Owner.

§ 5.2.1.2 The Owner's final payment to the Contractor shall be made no later than ~~30~~ forty-five (45) days after the issuance of the Architect's final Certificate for Payment or Project Certificate for Payment, or as follows:

...

§ 5.3 Payments due and unpaid under the Contract shall bear interest from the date payment is due at the rate stated ~~below, or in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located.~~below.

...

Zero %

...

The Architect will serve as Initial Decision Maker pursuant to Article 15 of AIA Document ~~A232–2019, unless the parties appoint below another individual, not a party to this Agreement, to serve as Initial Decision Maker.~~
~~*(If the parties mutually agree, insert the name, address and other contact information of the Initial Decision Maker, if other than the Architect.)*~~

A232–2019.

§ 6.1.1 Mediation

The Owner or the Contractor may request mediation of any Claim submitted to the Initial Decision Maker before the decision becomes final and binding. The mediation shall be governed by the Construction Industry Mediation Rules of the American Arbitration Association in effect at the date of this contract. The request for mediation shall be made in

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writing by the party requesting mediation and the other party of this contract. The Owner and Contractor shall participate in mediation in good faith. The mediation shall be concluded within 60 days of the request. Mediation is not a condition precedent to commencing litigation. If litigation is commenced, the Owner and Contractor agree to mediate before any dispositive motion or trial.

PAGE 7

[ ] ~~Litigation in a court of competent jurisdiction.~~ [X] Litigation in a state or federal court of competent jurisdiction located in Hennepin County, Minnesota.

...

Termination fee will be based on the percentage of Work completed and any materials purchased or in production at the time of termination. Said fee and justification shall be provided to the Owner by the Contractor within ten (10) days' notice of the termination.

...

~~**§ 7.2 Where the Contract Sum is Based on the Cost of the Work with or without a Guaranteed Maximum Price**~~

~~**§ 7.2.1 Termination**~~

~~**§ 7.2.1.1** The Contract may be terminated by the Owner or the Contractor as provided in Article 14 of AIA Document A232–2019.~~

~~**§ 7.2.1.2 Termination by the Owner for Cause**~~

~~**§ 7.2.1.2.1** If the Owner terminates the Contract for cause as provided in Article 14 of AIA Document A232–2019, the Owner shall then only pay the Contractor an amount as follows:~~

- ~~.1 Take the Cost of the Work incurred by the Contractor to the date of termination;~~
- ~~.2 Add the Contractor's Fee, computed upon the Cost of the Work to the date of termination at the rate stated in Section 4.3.2 or 4.4.2, as applicable, or, if the Contractor's Fee is stated as a fixed sum in that Section, an amount that bears the same ratio to that fixed-sum Fee as the Cost of the Work at the time of termination bears to a reasonable estimate of the probable Cost of the Work upon its completion;~~
- ~~.3 Subtract the aggregate of previous payments made by the Owner; and~~
- ~~.4 Subtract the costs and damages incurred, or to be incurred, by the Owner under Article 14 of AIA Document A232–2019.~~

~~**§ 7.2.1.2.2** When the Contract Sum is based on the Cost of the Work with a Guaranteed Maximum Price, if the Owner terminates the Contract for cause as provided in Article 14 of AIA Document A232–2019, the amount, if any, to be paid to the Contractor under Article 14 of AIA Document A232–2019 shall not cause the Guaranteed Maximum Price to be exceeded, nor shall it exceed the amount calculated in Section 7.2.1.2.1.~~

~~**§ 7.2.1.2.3** The Owner shall also pay the Contractor fair compensation, either by purchase or rental at the election of the Owner, for any equipment owned by the Contractor that the Owner elects to retain and that is not otherwise included in the Cost of the Work under Section 7.2.1.2.1.1. To the extent that the Owner elects to take legal assignment of subcontracts and purchase orders (including rental agreements), the Contractor shall, as a condition of receiving the payments referred to in this Article 7, execute and deliver all such papers and take all such steps, including the legal assignment of such subcontracts and other contractual rights of the Contractor, as the Owner may require for the purpose of fully vesting in the Owner the rights and benefits of the Contractor under such subcontracts or purchase orders. All Subcontracts, purchase orders and rental agreements entered into by the Contractor will contain provisions allowing for assignment to the Owner as described above.~~

~~**§ 7.2.1.3 Termination by the Owner for Convenience**~~

~~If the Owner terminates the Contract for convenience in accordance with Article 14 of AIA Document A232–2019, then the Owner shall pay the Contractor a termination fee as follows:~~

~~*(Insert the amount of or method for determining the fee, if any, payable to the Contractor following a termination for the Owner's convenience.)*~~

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~~§ 7.3 Suspension~~

~~The Work may be suspended by the Owner as provided in Article 14 of AIA Document A232–2019; in such case, the Contract Sum and Contract Time shall be increased as provided in Article 14 of AIA Document A232–2019, except that the term "profit" shall be understood to mean the Contractor's Fee as described in Section 4.3.2 or 4.4.2, as applicable, of this Agreement.~~

...

Curtis Hartog, PE, Executive Director
Minneapolis Public Schools, SSD#1
Capital Planning, Construction & Maintenance
1250 West Broadway Avenue, Minneapolis, MN 55411
PAGE 8

Lee Ahola
Project Manager
Grazzini Brothers & Company
1175 Eagan Industrial Road
Eagan, MN 55121

...

§ 8.5 ~~Insurance and Bonds~~Record Keeping—Availability and Retention

Pursuant to Minnesota Statutes, Section 16C.05, subd. 5, Contractor agrees that the books, records, documents and accounting procedures and practices of Contractor, that are relevant to the Contract or transaction, are subject to examination by the Owner, the Owner's auditor, and the state auditor for a minimum of six (6) years. Contractor shall maintain such records for a minimum of six (6) years after final payment.

§ 8.6 Data Practices

Pursuant to Minnesota Statutes, Section 13.05, subd. 11, all of the data created, collected, received, stored, used, maintained, or disseminated by Contractor in performing this contract is subject to the requirements of the Minnesota Government Data Practices Act ("MGDPA"), Minnesota Statutes Chapter 13, and Contractor must comply with those requirements as if it were a government entity. The remedies in Minnesota Statutes, Section 13.08 apply to Contractor. Contractor does not have a duty to provide access to public data to the public if the public data are available from the Owner, except as required by the terms of this contract.

§ 8.7 Non-Discrimination

Pursuant to Minnesota Statutes, Section 181.59, the Contractor will take affirmative action to ensure that applicants are selected, and that employees are treated during employment, without regard to their race, color, creed, religion, national origin, sex, sexual orientation, marital status, status with regard to public assistance, membership or activity in a local civil rights commission, disability or age. The Contractor agrees to be bound by the provisions of Minnesota Statutes, Section 181.59, that prohibits certain discriminatory practices and the terms of said section are incorporated into this contract.

§ 8.8 Prompt Payment to Subcontractors

In accordance with the Prompt Payment Act, each Prime Contractor must pay any subcontractor within ten (10) days of the Prime Contractor's receipt of payment from the municipality for undisputed services provided by the subcontractor. The Subcontract must require the Prime Contractor to pay interest of 1-1/2 percent per month or any part of a month to the subcontractor on any undisputed amount not paid on time to the subcontractor. The minimum monthly interest penalty payment for an unpaid balance of $100 or more is $10. For an unpaid balance of less than $100, the Prime Contractor shall pay the actual penalty due to the subcontractor. A subcontractor who prevails in a civil action to collect interest penalties from a Prime Contractor must be awarded its costs and disbursements, including attorney's fees, incurred in bringing the action.

§ 8.9 Prevailing Wage

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Contractor agrees that all laborers or mechanics working on the Project shall receive at least the prevailing wage rate in accordance with Minnesota Statutes Section 177.42, *et seq*. Contractor agrees further that it will incorporate any and all necessary contract language in its agreements with any subcontractors to allow Contractor to monitor and enforce the prevailing wage requirement for subcontractors of any tier.

§ 8.5 Insurance and Bonds

§ 8.5.1 The Owner and the Contractor shall purchase and maintain insurance as set forth ~~in AIA Document A132™ 2019, Standard Form of Agreement Between Owner and Contractor, Construction Manager as Adviser Edition, Exhibit A, Insurance and Bonds, and elsewhere in the Contract Documents.~~EXH-C Owner Insurance.

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email to Owner's representative identified in Section 8.2

...

Owner prohibits Contractor from using the Work in any marketing material or business development practice. Contractor is prohibited from communication with any news outlet or public without Owner's written approval.

Floor plans, designs, wiring, safety and security measures shall be kept confidential by the Contractor, the Subcontractors, the Sub-Subcontractors (of any tier) during and after completion of the Work.

...

165	North Renovations Vol. 1 of 2	October 30, 2023	
156	North Renovations Vol. 2 of 2	October 30, 2023	

...

All specifications	North Renovations Bid Package 3	October 30, 2023	1565

...

1	11/10/2023	110
2	11/21/2023	222
3	11/30/2023	140

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EXH-B Project Charter
EXH-C Owner Insurance
EXH-D Project Schedule
(Check all boxes that apply and include appropriate information identifying the exhibit where required.)

~~*[ ] AIA Document A132™ 2019, Exhibit B, Determination of the Cost of the Work*~~

[ ] ~~AIA Document E235™ 2019, Sustainable Projects Exhibit, Construction Manager as Adviser Edition, dated as indicated below:~~
~~*(Insert the date of the E235 2019 incorporated into this Agreement.)*~~

~~[ ] The Sustainability Plan:~~

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~~Title~~	~~Date~~	~~Pages~~
...		
contractors bidding documents		
...		
Ibrahima Diop Sr. Officer of Finance and Operations		

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Certification of Document's Authenticity

AIA® Document D401™ – 2003

I, , hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with its associated Additions and Deletions Report and this certification at 14:52:02 CT on 01/30/2024 under Order No. 4104240957 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document A132™ – 2019, Standard Form of Agreement Between Owner and Contractor, Construction Manager as Adviser Edition, other than those additions and deletions shown in the associated Additions and Deletions Report.



(Signed)

Curtis Hartog, Executive Director

(Title)

1/30/2024

(Dated)

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AIA® Document A132® – 2019 Exhibit A

Insurance and Bonds

This Insurance and Bonds Exhibit is part of the Agreement, between the Owner and the Contractor, dated the 31st day of January in the year 2024
(In words, indicate day, month, and year.)

for the following **PROJECT**:
(Name and location or address)

North High School Phase 3 Work Scope 9D Flooring
1500 James Avenue, Minneapolis, MN 55411

THE OWNER:
(Name, legal status, and address)

Minneapolis Public Schools Special School District #1
1250 West Broadway Avenue
Minneapolis, MN 55411

THE CONTRACTOR:
(Name, legal status, and address)

Grazzini Brothers & Company 1175 Eagan Industrial Road
Eagan, MN 55121

TABLE OF ARTICLES

A.1 GENERAL

A.2 OWNER'S INSURANCE

A.3 CONTRACTOR'S INSURANCE AND BONDS

A.4 SPECIAL TERMS AND CONDITIONS

ADDITIONS AND DELETIONS:
The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

This document is intended to be used in conjunction with AIA Document A232™–2019, General Conditions of the Contract for Construction. Article 11 of A232™–2019 contains additional insurance provisions

ARTICLE A.1 GENERAL

The Owner and Contractor shall purchase and maintain insurance, and provide bonds, as set forth in this Exhibit. As used in this Exhibit, the term General Conditions refers to AIA Document A232™–2019, General Conditions of the Contract for Construction.

ARTICLE A.2 OWNER'S INSURANCE

§ A.2.1 General

Prior to commencement of the Work, the Owner shall secure the insurance, and provide evidence of the coverage, required under this Article A.2 and, upon the Contractor's request, provide a copy of the property insurance policy or policies required by Section A.2.3. The copy of the policy or policies provided shall contain all applicable conditions, definitions, exclusions, and endorsements.

§ A.2.2 Liability Insurance

The Owner shall be responsible for purchasing and maintaining the Owner's usual general liability insurance.

Init. /

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§ A.2.3 Required Property Insurance

§ A.2.3.1 Unless this obligation is placed on the Contractor pursuant to Section A.3.3.2.1, the Owner shall purchase and maintain, from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located, property insurance policy form and sufficient to cover the total value of the entire Project on a replacement cost basis. The Owner's property insurance coverage shall be no less than the amount of the initial Contract Sum, plus the value of subsequent Modifications and labor performed and materials or equipment supplied by others. The property insurance shall be maintained until Substantial Completion and thereafter as provided in Section A.2.3.1.3, unless otherwise provided in the Contract Documents or otherwise agreed in writing by the parties to this Agreement. This insurance shall include the interests of the Owner, Contractor, Subcontractors, and Sub-subcontractors in the Project as insureds. This insurance shall include the interests of mortgagees as loss payees.

§ A.2.3.1.1 Causes of Loss. The insurance required by this Section A.2.3.1 shall provide coverage for direct physical loss or damage, and shall not exclude the risks of fire, explosion, theft, vandalism, malicious mischief, collapse, earthquake, flood, or windstorm. The insurance shall also provide coverage for ensuing loss or resulting damage from error, omission, or deficiency in construction methods, design, specifications, workmanship, or materials. Sub-limits, if any, are as follows:
(Indicate below the cause of loss and any applicable sub-limit.)

Causes of Loss	Sub-Limit

§ A.2.3.1.2 Specific Required Coverages. The insurance required by this Section A.2.3.1 shall provide coverage for loss or damage to false work and other temporary structures, and to building systems from testing and startup. The insurance shall also cover debris removal, including demolition occasioned by enforcement of any applicable legal requirements, and reasonable compensation for the Architect's, Construction Manager's, and Contractor's services and expenses required as a result of such insured loss, including claim preparation expenses. Sub-limits, if any, are as follows:
(Indicate below type of coverage and any applicable sub-limit for specific required coverages.)

Coverage	Sub-Limit

§ A.2.3.1.3 Unless the parties agree otherwise, upon Substantial Completion, the Owner shall continue the insurance required by Section A.2.3.1 or, if necessary, replace the insurance policy required under Section A.2.3.1 with property insurance written for the total value of the Project that shall remain in effect until expiration of the period for correction of the Work set forth in Section 12.2.2 of the General Conditions.

§ A.2.3.1.4 Deductibles and Self-Insured Retentions. If the insurance required by this Section A.2.3 is subject to deductibles or self-insured retentions, the Owner shall be responsible for all loss not covered because of such deductibles or retentions.

§ A.2.3.2 Occupancy or Use Prior to Substantial Completion. The Owner's occupancy or use of any completed or partially completed portion of the Work prior to Substantial Completion shall not commence until the insurance company or companies providing the insurance under Section A.2.3.1 have consented in writing to the continuance of coverage. The Owner and the Contractor shall take no action with respect to partial occupancy or use that would cause cancellation, lapse, or reduction of insurance, unless they agree otherwise in writing.

§ A.2.3.3 Insurance for Existing Structures

If the Work involves remodeling an existing structure or constructing an addition to an existing structure, the Owner shall purchase and maintain, until the expiration of the period for correction of Work as set forth in Section 12.2.2 of the General Conditions, "all-risks" property insurance, on a replacement cost basis, protecting the existing structure against direct physical loss or damage from the causes of loss identified in Section A.2.3.1, notwithstanding the undertaking of the Work. The Owner shall be responsible for all co-insurance penalties.

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§ A.2.4 Optional Extended Property Insurance.
The Owner shall purchase and maintain the insurance selected and described below.
(Select the types of insurance the Owner is required to purchase and maintain by placing an X in the box(es) next to the description(s) of selected insurance. For each type of insurance selected, indicate applicable limits of coverage or other conditions in the fill point below the selected item.)

[ ] **§ A.2.4.1 Loss of Use, Business Interruption, and Delay in Completion Insurance,** to reimburse the Owner for loss of use of the Owner's property, or the inability to conduct normal operations due to a covered cause of loss.

[ ] **§ A.2.4.2 Ordinance or Law Insurance,** for the reasonable and necessary costs to satisfy the minimum requirements of the enforcement of any law or ordinance regulating the demolition, construction, repair, replacement or use of the Project.

[ ] **§ A.2.4.3 Expediting Cost Insurance,** for the reasonable and necessary costs for the temporary repair of damage to insured property, and to expedite the permanent repair or replacement of the damaged property.

[ ] **§ A.2.4.4 Extra Expense Insurance,** to provide reimbursement of the reasonable and necessary excess costs incurred during the period of restoration or repair of the damaged property that are over and above the total costs that would normally have been incurred during the same period of time had no loss or damage occurred.

[ ] **§ A.2.4.5 Civil Authority Insurance,** for losses or costs arising from an order of a civil authority prohibiting access to the Project, provided such order is the direct result of physical damage covered under the required property insurance.

[ ] **§ A.2.4.6 Ingress/Egress Insurance,** for loss due to the necessary interruption of the insured's business due to physical prevention of ingress to, or egress from, the Project as a direct result of physical damage.

[ ] **§ A.2.4.7 Soft Costs Insurance,** to reimburse the Owner for costs due to the delay of completion of the Work, arising out of physical loss or damage covered by the required property insurance: including construction loan fees; leasing and marketing expenses; additional fees, including those of architects, engineers, consultants, attorneys and accountants, needed for the completion of the construction, repairs, or reconstruction; and carrying costs such as property taxes, building permits, additional interest on loans, realty taxes, and insurance premiums over and above normal expenses.

§ A.2.5 Other Optional Insurance.
The Owner shall purchase and maintain the insurance selected below.
(Select the types of insurance the Owner is required to purchase and maintain by placing an X in the box(es) next to the description(s) of selected insurance.)

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User Notes:
(1093947189)

[ ] **§ A.2.5.1 Cyber Security Insurance** for loss to the Owner due to data security and privacy breach, including costs of investigating a potential or actual breach of confidential or private information. *(Indicate applicable limits of coverage or other conditions in the fill point below.)*

[ ] **§ A.2.5.2 Other Insurance**
(List below any other insurance coverage to be provided by the Owner and any applicable limits.)

Coverage	Limits

ARTICLE A.3 CONTRACTOR'S INSURANCE AND BONDS

§ A.3.1 General

§ A.3.1.1 Certificates of Insurance. The Contractor shall provide certificates of insurance acceptable to the Owner evidencing compliance with the requirements in this Article A.3 at the following times: (1) prior to commencement of the Work; (2) upon renewal or replacement of each required policy of insurance; and (3) upon the Owner's written request. An additional certificate evidencing continuation of commercial liability coverage, including coverage for completed operations, shall be submitted with the final Application for Payment and thereafter upon renewal or replacement of such coverage until the expiration of the periods required by Section A.3.2.1 and Section A.3.3.1. The certificates will show the Owner as an additional insured on the Contractor's Commercial General Liability and excess or umbrella liability policy or policies.

§ A.3.1.2 Deductibles and Self-Insured Retentions. The Contractor shall disclose to the Owner any deductible or self-insured retentions applicable to any insurance required to be provided by the Contractor.

§ A.3.1.3 Additional Insured Obligations. To the fullest extent permitted by law, the Contractor shall cause the commercial general liability coverage to include (1) the Owner, the Architect and the Architect's consultants, and the Construction Manager and the Construction Manager's consultants, as additional insureds for claims caused in whole or in part by the Contractor's negligent acts or omissions during the Contractor's operations; and (2) the Owner as an additional insured for claims caused in whole or in part by the Contractor's negligent acts or omissions for which loss occurs during completed operations. The additional insured coverage shall be primary and non-contributory to any of the Owner's general liability insurance policies and shall apply to both ongoing and completed operations. To the extent commercially available, the additional insured coverage shall be no less than that provided by Insurance Services Office, Inc. (ISO) forms CG 20 10 07 04, CG 20 37 07 04, and, with respect to the Architect and the Architect's consultants, and the Construction Manager and the Construction Manager's consultants, CG 20 32 07 04.

§ A.3.2 Contractor's Required Insurance Coverage

§ A.3.2.1 The Contractor shall purchase and maintain the types and limits of insurance as defined in EXH-C Owner Insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The Contractor shall maintain the required insurance until the expiration of the period for correction of Work as set forth in Section 12.2.2 of the General Conditions, unless a different duration is stated below:
(If the Contractor is required to maintain insurance for a duration other than the expiration of the period for correction of Work, state the duration.)

§ A.3.2.2 Commercial General Liability

§ A.3.2.2.1 Commercial General Liability insurance for the Project written on an occurrence form with policy limits as defined in EXH-C Owner Insurance providing coverage for claims including

.1 damages because of bodily injury, sickness or disease, including occupational sickness or disease, and death of any person;
.2 personal injury and advertising injury;
.3 damages because of physical damage to or destruction of tangible property, including the loss of use of such property;
.4 bodily injury or property damage arising out of completed operations; and

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.5 the Contractor's indemnity obligations under Section 3.18 of the General Conditions.

§ A.3.2.2.2 The Contractor's Commercial General Liability policy under this Section A.3.2.2 shall not contain an exclusion or restriction of coverage for the following:

.1 Claims by one insured against another insured, if the exclusion or restriction is based solely on the fact that the claimant is an insured, and there would otherwise be coverage for the claim.

.2 Claims for property damage to the Contractor's Work arising out of the products-completed operations hazard where the damaged Work or the Work out of which the damage arises was performed by a Subcontractor.

.3 Claims for bodily injury other than to employees of the insured.

.4 Claims for indemnity under Section 3.18 of the General Conditions arising out of injury to employees of the insured.

.5 Claims or loss excluded under a prior work endorsement or other similar exclusionary language.

.6 Claims or loss due to physical damage under a prior injury endorsement or similar exclusionary language.

.7 Claims related to residential, multi-family, or other habitational projects, if the Work is to be performed on such a project.

.8 Claims related to roofing, if the Work involves roofing.

.9 Claims related to exterior insulation finish systems (EIFS), synthetic stucco or similar exterior coatings or surfaces, if the Work involves such coatings or surfaces.

.10 Claims related to earth subsidence or movement, where the Work involves such hazards.

.11 Claims related to explosion, collapse and underground hazards, where the Work involves such hazards.

§ A.3.2.3 Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Contractor, with policy limits as defined in EXH-C Owner Insurance.

§ A.3.2.4 The Contractor may achieve the required limits and coverage for Commercial General Liability and Automobile Liability through a combination of primary and excess or umbrella liability insurance, provided such primary and excess or umbrella insurance policies result in the same or greater coverage as the coverages required under Section A.3.2.2 and A.3.2.3, and in no event shall any excess or umbrella liability insurance provide narrower coverage than the primary policy. The excess policy shall not require the exhaustion of the underlying limits only through the actual payment by the underlying insurers. Umbrella coverage as defined in EXH-C Owner Insurance.

§ A.3.2.5 Workers' Compensation at statutory limits for Coverage A as defined in EXH-C Owner Insurance.

§ A.3.2.6 Employers' Liability Coverage B as defined in EXH-C Owner Insurance.

§ A.3.2.7 If the Contractor is required to furnish professional services as part of the Work, the Contractor shall procure Professional Liability insurance covering performance of the professional services, with policy limits as defined in EXH-C Owner Insurance.

§ A.3.2.8 Insurance for the use or operation of manned or unmanned aircraft, if the Work requires such activities, with policy limits as defined in EXH-C Owner Insurance.

(Paragraphs deleted)

§ A.3.3 Contractor's Other Insurance Coverage

§ A.3.3.1 Insurance selected and described in this Section A.3.3 shall be purchased from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The Contractor shall maintain the required insurance until the expiration of the period for correction of Work as set forth in Section 12.2.2 of the General Conditions, unless a different duration is stated below:

(If the Contractor is required to maintain any of the types of insurance selected below for a duration other than the expiration of the period for correction of Work, state the duration.)

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If Professional Liability insurance is required as part of the Contract, the Contractor shall maintain coverage for one year beyond the date of Substantial Completion.

§ A.3.3.2 The Contractor shall purchase and maintain the types and limits of insurance as defined in EXH-C Owner Insurance.

(Paragraphs deleted)

§ A.3.4 Performance Bond and Payment Bond

The Contractor shall provide surety bonds, from a company or companies lawfully authorized to issue surety bonds in the jurisdiction where the Project is located, as follows:
(Specify type and penal sum of bonds.)

Type	Penal Sum ($0.00)
Payment Bond	$794,730
Performance Bond	$794,730

Payment and Performance Bonds shall be AIA Document A312™, Payment Bond and Performance Bond, or contain provisions identical to AIA Document A312™, current as of the date of this Agreement.

ARTICLE A.4 SPECIAL TERMS AND CONDITIONS

Special terms and conditions that modify this Insurance and Bonds Exhibit, if any, are as follows:

None

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Additions and Deletions Report for
AIA® Document A132® – 2019 Exhibit A

This Additions and Deletions Report, as defined on page 1 of the associated document, reproduces below all text the author has added to the standard form AIA document in order to complete it, as well as any text the author may have added to or deleted from the original AIA text. Added text is shown underlined. Deleted text is indicated with a horizontal line through the original AIA text.

Note: This Additions and Deletions Report is provided for information purposes only and is not incorporated into or constitute any part of the associated AIA document. This Additions and Deletions Report and its associated document were generated simultaneously by AIA software at 14:52:57 CT on 01/30/2024.

PAGE 1

This Insurance and Bonds Exhibit is part of the Agreement, between the Owner and the Contractor, dated the 31st day of January in the year 2024

...

North High School Phase 3 Work Scope 9D Flooring
1500 James Avenue, Minneapolis, MN 55411

...

Minneapolis Public Schools Special School District #1
1250 West Broadway Avenue
Minneapolis, MN 55411

...

Grazzini Brothers & Company 1175 Eagan Industrial Road
Eagan, MN 55121

PAGE 2

§ A.2.3.1 Unless this obligation is placed on the Contractor pursuant to Section A.3.3.2.1, the Owner shall purchase and maintain, from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located, property insurance ~~written on a builder's risk "all-risks" completed value or equivalent~~ policy form and sufficient to cover the total value of the entire Project on a replacement cost basis. The Owner's property insurance coverage shall be no less than the amount of the initial Contract Sum, plus the value of subsequent Modifications and labor performed and materials or equipment supplied by others. The property insurance shall be maintained until Substantial Completion and thereafter as provided in Section A.2.3.1.3, unless otherwise provided in the Contract Documents or otherwise agreed in writing by the parties to this Agreement. This insurance shall include the interests of the Owner, Contractor, Subcontractors, and Sub-subcontractors in the Project as insureds. This insurance shall include the interests of mortgagees as loss payees.

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§ A.3.2.1 The Contractor shall purchase and maintain the ~~following~~ types and limits of insurance as defined in EXH-C Owner Insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The Contractor shall maintain the required insurance until the expiration of the period for correction of Work as set forth in Section 12.2.2 of the General Conditions, unless a different duration is stated below:

...

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§ A.3.2.2.1 Commercial General Liability insurance for the Project written on an occurrence form with policy limits ~~of not less than ($) each occurrence, ($) general aggregate, and ($) aggregate for products-completed operations hazard,~~ as defined in EXH-C Owner Insurance providing coverage for claims including

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§ A.3.2.3 Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Contractor, with policy limits ~~of not less than ($) per accident, for bodily injury, death of any person, and property damage arising out of the ownership, maintenance and use of those motor vehicles along with any other statutorily required automobile coverage.~~as defined in EXH-C Owner Insurance.

§ A.3.2.4 The Contractor may achieve the required limits and coverage for Commercial General Liability and Automobile Liability through a combination of primary and excess or umbrella liability insurance, provided such primary and excess or umbrella insurance policies result in the same or greater coverage as the coverages required under Section A.3.2.2 and A.3.2.3, and in no event shall any excess or umbrella liability insurance provide narrower coverage than the primary policy. The excess policy shall not require the exhaustion of the underlying limits only through the actual payment by the underlying insurers. Umbrella coverage as defined in EXH-C Owner Insurance.

§ A.3.2.5 Workers' Compensation at statutory ~~limits.~~limits for Coverage A as defined in EXH-C Owner Insurance.

§ A.3.2.6 Employers' Liability ~~with policy limits not less than ($) each accident, ($) each employee, and ($) policy limit.~~Coverage B as defined in EXH-C Owner Insurance.

§ A.3.2.7 ~~Jones Act, and the Longshore & Harbor Workers' Compensation Act, as required, if the Work involves hazards arising from work on or near navigable waterways, including vessels and docks~~ If the Contractor is required to furnish professional services as part of the Work, the Contractor shall procure Professional Liability insurance covering performance of the professional services, with policy limits as defined in EXH-C Owner Insurance.

§ A.3.2.8 ~~If the Contractor is required to furnish professional services as part of the Work, the Contractor shall procure Professional Liability insurance covering performance of the professional services, with policy limits of not less than ($) per claim and ($) in the aggregate.~~Insurance for the use or operation of manned or unmanned aircraft, if the Work requires such activities, with policy limits as defined in EXH-C Owner Insurance.

~~§ A.3.2.9 If the Work involves the transport, dissemination, use, or release of pollutants, the Contractor shall procure Pollution Liability insurance, with policy limits of not less than ($) per claim and ($) in the aggregate.~~

~~§ A.3.2.10 Coverage under Sections A.3.2.8 and A.3.2.9 may be procured through a Combined Professional Liability and Pollution Liability insurance policy, with combined policy limits of not less than ($) per claim and ($) in the aggregate.~~

~~§ A.3.2.11 Insurance for maritime liability risks associated with the operation of a vessel, if the Work requires such activities, with policy limits of not less than ($) per claim and ($) in the aggregate.~~

~~§ A.3.2.12 Insurance for the use or operation of manned or unmanned aircraft, if the Work requires such activities, with policy limits of not less than ($) per claim and ($) in the aggregate.~~

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If Professional Liability insurance is required as part of the Contract, the Contractor shall maintain coverage for one year beyond the date of Substantial Completion.

§ A.3.3.2 The Contractor shall purchase and maintain the ~~following~~ types and limits of insurance ~~in accordance with Section A.3.3.1.~~as defined in EXH-C Owner Insurance.

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~~*(Select the types of insurance the Contractor is required to purchase and maintain by placing an X in the box(es) next to the description(s) of selected insurance. Where policy limits are provided, include the policy limit in the appropriate fill point.)*~~

~~[–] § A.3.3.2.1 If there is only one Contractor performing the Work on the Project, property insurance of the same type and scope satisfying the requirements identified in Section A.2.3, which, if selected in this section A.3.3.2.1, relieves the Owner of the responsibility to purchase and maintain such insurance except insurance required by Section A.2.3.1.3 and Section A.2.3.3. The Contractor shall comply with all obligations of the Owner under Section A.2.3 except to the extent provided below. The Contractor shall disclose to the Owner the amount of any deductible, and the Owner shall be responsible for losses within the deductible. Upon request, the Contractor shall provide the Owner with a copy of the property insurance policy or policies required. The Owner shall adjust and settle the loss with the insurer and be the trustee of the proceeds of the property insurance in accordance with Article 11 of the General Conditions unless otherwise set forth below:~~
~~*(Where the Contractor's obligation to provide property insurance differs from the Owner's obligations as described under Section A.2.3, indicate such differences in the space below. Additionally, if a party other than the Owner will be responsible for adjusting and settling a loss with the insurer and acting as the trustee of the proceeds of property insurance in accordance with Article 11 of the General Conditions, indicate the responsible party below.)*~~

~~[–] § A.3.3.2.2 Railroad Protective Liability Insurance, with policy limits of not less than ($) per claim and ($) in the aggregate, for Work within fifty (50) feet of railroad property.~~

~~[–] § A.3.3.2.3 Asbestos Abatement Liability Insurance, with policy limits of not less than ($) per claim and ($) in the aggregate, for liability arising from the encapsulation, removal, handling, storage, transportation, and disposal of asbestos-containing materials.~~

~~[–] § A.3.3.2.4 Insurance for physical damage to property while it is in storage and in transit to the construction site on an "all-risks" completed value form.~~

~~[–] § A.3.3.2.5 Property insurance on an "all-risks" completed value form, covering property owned by the Contractor and used on the Project, including scaffolding and other equipment.~~

~~[–] § A.3.3.2.6 Other Insurance~~
~~*(List below any other insurance coverage to be provided by the Contractor and any applicable limits.)*~~

~~Coverage~~	~~Limits~~

§ A.3.4 Performance Bond and Payment Bond

...

Payment Bond	$794,730
Performance Bond	$794,730

...

None

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MINNEAPOLIS PUBLIC SCHOOLS

Exhibit B – Project Charter

FY21 North High School Phase 3 21NORTCTE

Work Scope 9D Flooring

This work scope includes all flooring work for the Phase 3 renovations at North High School. Phase 3 is focused on the auditorium childcare area and the kitchen and serving area at North High School.

Contract Sum

The Contract Sum shall be $794,730

Alternates

Item	Price	Status
Alt#1: Toilets D140 & D240	$108,300	Rejected
Alt#2: Toilets D106 & D206	$108,300	Rejected
Alt#3: 2nd Floor Auditorium Classrooms	$16,450	Rejected
Alt#4: Auditorium Seating	$0	Accepted

EXHIBIT C Owner Insurance

Insurance Requirements

1. CONSULTANT'S INSURANCE – to be used with AIA B101-2017, AIA C103-2015, or similar non-contractor consultants:
   The Consultant shall at its own expense maintain in effect at all times during the performance of the Work under the Agreement at least the following coverage and limits of insurance:

   a. Worker's Compensation and Employer's Liability Insurance

      i. Coverage A is statutory.

      ii. Coverage B
      $500,000 Each Accident
      $500,000 Each Employee
      $500,000 Policy Limit (Disease)

   b. Comprehensive General Liability Insurance *

General Aggregate	$1,000,000
Products/Completed Operations Aggregate	$1,000,000
Per Occurrence	$1,000,000
Medical Payments	$10,000

   * The Owner should be named as an additional insured for Comprehensive General Liability Insurance.

   c. Automobile Insurance

Per Occurrence	$1,000,000
PIP	Basic
Underinsured Motorist	$1,000,000
Uninsured Motorist	$1,000,000

   d. Professional Liability Insurance

      i. Per Claim $2,000,000

ii. For projects with an estimated construction Contract Sum of over $10,000,000 or major structural work an aggregate is required as follows:
Aggregate $4,000,000

e. Umbrella Liability Insurance

i. Per Occurrence $2,000,000

ii. For projects with an estimated construction Contract Sum of over $10,000,000 or major structural work an aggregate is required as follows:
Aggregate $2,000,000

f. Manned or Unmanned Aircraft Coverage (if used)

i. Per Claim $1,000,000

ii. Aggregate $1,000,000

For specialty consultants used for commissioning activities, studies, asbestos surveys and security, items A, B, C and F shall apply.

Special Asbestos Abatement Liability Insurance is required for Asbestos Abatement Contractors. The limits are $1,500,000 per claim, for liability arising from the encapsulation, removal, handling, storage, transportation, and disposal of asbestos-containing materials.

2. CONSULTANT'S OBLIGATIONS

Consultant shall not violate or knowingly permit any violation of any conditions or terms of the policies of insurance required to be carried under the terms hereof and shall endeavor to satisfy the requirements of the insurance companies issuing them. In the event Consultant neglects, refuses or fails to provide or maintain any of the insurance required to be carried under the Agreement, or if such insurance is canceled for any reason, the Owner or the Owner's lender(s) shall have the right, but not the duty, to procure or maintain the same.

In the event the Owner or the Owner's lender(s) do procure or maintain such insurance, the Owner or the Owner's lender(s) shall have, in additional to any and all other available remedies, the right to recover from the Consultant (including the right of set-off against sums otherwise due the Consultant) all of the costs associated with procuring or maintaining such insurance.

3. PROFESSIONAL LIABILITY INSURANCE

   a. Professional Liability Coverage of $2,000,000 shall be maintained for one (1) year from the date of Substantial Completion. If the Consultant discontinues its business and if directed by Owner in writing, Consultant shall purchase such insurance in such amount for an extended discovery period beyond the one (1) year after the date of Substantial Completion, with the premium cost to be a reimbursable expense paid by the Owner. The limit of liability for such policy may not be reduced below $2,000,000 without the Owner giving its prior, written consent. All policies of insurance that Consultant is required under the terms of this Exhibit C Owner's Insurance to secure and maintain shall bear the endorsement "Not to be canceled until sixty (60) calendar days after Owner has received a written notice from insurer as evidence by a return receipt of registered or certified mail."

   b. The Owner shall not be responsible for obtaining or paying premiums or other expenses in connection with insurance required to be carried under the Agreement or normally carried by the Consultant's consultants, and the obligation to obtain such insurance and to pay such premiums and other expenses shall be solely that of the Consultant.

   c. The Consultant shall bear all the costs of any and all deductible amounts under any insurance policies required to be carried under the Agreement and shall remain solely and fully liable for the full amount of any claim or item not compensated by insurance (to the extent that any amount resulted from damages that arose out of the Consultant's sole negligence.)

4. COVERAGE

   The coverage's referred to above are set forth in full in the respective policy forms, and the foregoing descriptions of such policies are not intended to be complete.

5. GENERALLY

   a. The Consultant thereby represents and warrants to the Owner that, as of the date of the execution of the Agreement, the Consultant is not aware of any claims or potential claims which have been made, filed or threatened against any of the insurance or for damages covered by any of the insurance required to be carried under the Agreement that would affect the Consultant's ability to provide the insurance coverage required by this agreement.

b. It is understood that the provisions in the Agreement requiring the Consultant to carry insurance shall not be construed as in any manner waiving or restricting the liability of the Consultant as to any obligations imposed under the Agreement, including, but not limited to, obligations imposed under the provisions of Article 11 of the AIA A201-2017 General Conditions.

Insurance requirements for Contractors

1. CONTRACTOR'S INSURANCE – to be used with AIA A101-2017
   The Contractor shall at its own expense maintain in effect at all times during the performance of the Work under the Agreement at least the following coverage and limits of insurance:

   a. Commercial General Liability

      i. General Aggregate $1,500,000

      ii. Products/Completed Operations Aggregate $1,500,000

      iii. Per Occurrence $1,500,000

      The Owner shall be named as additional insured for Commercial General Liability Insurance

   b. Automobile Insurance

      i. Per Occurrence $1,000,000

      ii. PIP Basic

      iii. Underinsured Motorist $1,000,000

      iv. Uninsured Motorist $1,000,000

   c. Workers Compensation

      i. Coverage A is statutory.

      ii. Coverage B $500,000 Each Accident

      iii. $500,000 Each Employee

d. Professional Liability (if the Contractor is hiring professionals)

   i. Per Claim $2,000,000

   For Projects with an estimated construction cost of over $10,000,000 or major structural work, additional Aggregate coverage of $4,000,000 is required.

e. Manned or Unmanned Aircraft Coverage (if used)

   i. Per Claim $1,000,000

   ii. Aggregate $1,000,000

f. Property Insurance

   i. Per Claim $1,000,000

   ii. Aggregate $1,000,000

   This insurance is only required for materials stored offsite and not incorporated into the project at delivery. For material stored on site, no additional insurance is required.

g. Builders "all risk" Insurance

   i. Per Claim $2,000,000

   ii. Aggregate $4,000,000

   This insurance is only required for additions exceeding $10,000,000. Renovations to existing schools are not required to have builders all risk insurance.

h. Umbrella Liability

   i. Aggregate limit $5,000,000

   This insurance is required only for projects larger than $10,000,000 in total construction costs.

MINNEAPOLIS PUBLIC SCHOOLS

Exhibit D – Project Schedule

FY21 North High School Phase 3. Work Scope 9D Flooring

MPS Project Number: 21NORTCTE
Project Name: North High School Phase 3 Renovations
School: North High School
Address: 1500 James Avenue, Minneapolis, MN 55411
OP#: 24-2405

Description

Phase 3 renovations include auditorium, childcare and kitchen renovation at North High School.

Schedule

The overall schedule for the project is

Last Day of School: June 14, 2024
Last Day for Staff: June 17, 2024
Juneteenth Holiday: June 19, 2024 (All MPS Buildings Closed)
Construction Commences: April 1, 2024
Childcare Area: Start April 1, 2024. Substantial Completion: August 16, 2024
Auditorium: Start June 17, 2024. Substantial Completion: November 30, 2024
Kitchen and Serving area: Start June 17, 2024. Substantial Completion: August 16, 2024
First day of School: September 3, 2024
Close-out Documents no later than 45 days past date of Substantial Completion

Substantial Completion

The Work will be substantially complete on the dates provided above.

FY21 North High School Renovations-Bid Pack 4 Work Scope 06-A Carpentry

Contract Sum: $1,896,610

Contractor: Kellington Construction Inc.

Project Name and Number

North High School
1500 James Avenue N
Minneapolis, MN 55411
Minneapolis Public Schools Project Number
OP25-2512

Description

Perform carpentry work in accordance with Work Scope 06-A for the North High School Phase 4 renovations

Contract Sum details

Item	Price	Status
Base Bid	$1,860,750	accepted
Alt #1: Health Office	$211,950	rejected
Alt #2: Athletic and Counseling Offices	$156,640	rejected
Alt #3: Electrical panel replacements	$0	accepted
Alt #4: AHU-41 replacement	$11,995	accepted
Alt #5: Direct digital controls	$23,865	accepted

Contract Documents

AIA Document A132-2019
AIA Document A132 Exhibit A-2019
Exhibit B – Project Charter
Exhibit C – Owner Insurance
Exhibit D – Project Schedule
AIA Document A232-2019

AIA® Document A132® – 2019

Standard Form of Agreement Between Owner and Contractor, Construction Manager as Adviser Edition

AGREEMENT made as of the first__ day of _February_____ in the year 2025_
(In words, indicate day, month, and year.)

BETWEEN the Owner:
(Name, legal status, address, and other information)

Minneapolis Public Schools Special School District #1
1250 West Broadway Avenue
Minneapolis, MN 55411

and the Contractor:
(Name, legal status, address, and other information)

Kellington Construction, Inc
807 Broadway St. NE Ste 185
Minneapolis, MN 55413

for the following Project:
(Name, location, and detailed description)

North High School Phase 4 Work Scope 06-A Carpentry
1500 James Avenue
Minneapolis, MN 55411

The Construction Manager:
(Name, legal status, address, and other information)

Kraus-Anderson Construction Company
501 South 8th Street
Minneapolis, MN 55405

The Architect:
(Name, legal status, address, and other information)

LSE Architects
1401 Glenwood Avenue
Minneapolis, MN 55405

The Owner and Contractor agree as follows.

ADDITIONS AND DELETIONS:
The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

This document is intended to be used in conjunction with AIA Documents A232™–2019, General Conditions of the Contract for Construction, Construction Manager as Adviser Edition; B132™–2019, Standard Form of Agreement Between Owner and Architect, Construction Manager as Adviser Edition; and C132™–2019, Standard Form of Agreement Between Owner and Construction Manager as Adviser. AIA Document A232™–2019 is adopted in this document by reference. Do not use with other general conditions unless this document is modified.

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TABLE OF ARTICLES

1 THE CONTRACT DOCUMENTS

2 THE WORK OF THIS CONTRACT

3 DATE OF COMMENCEMENT AND DATES OF SUBSTANTIAL COMPLETION

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6 DISPUTE RESOLUTION

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8 MISCELLANEOUS PROVISIONS

9 ENUMERATION OF CONTRACT DOCUMENTS

EXHIBIT A INSURANCE AND BONDS
EXHIBIT B DETERMINATION OF THE COST OF THE WORK

ARTICLE 1 THE CONTRACT DOCUMENTS

The Contract Documents consist of this Agreement, Conditions of the Contract (General, Supplementary, and other Conditions), Drawings, Specifications, Addenda issued prior to execution of this Agreement, other documents ("Contract" or "Contract Documents") listed in this Agreement, and Modifications issued after execution of this Agreement, all of which form the Contract, and are as fully a part of the Contract as if attached to this Agreement or repeated herein. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations, or agreements, either written or oral. An enumeration of the Contract Documents, other than Modifications, appears in Article 9.

§ 1.2 In the event that there are inconsistencies between any of the Project Contract Documents, all Contract Documents shall be construed together and shall be read with a purpose and intent to provide that the Contractor shall commit to fully complete its Project Work and services with the greater degree of commitment as referenced in the Contract Documents, including the plans and specifications, to work diligently to ensure completion of the Project in a timely and workmanlike manner and at the earliest stated times provided for in Project schedules, as they may be revised, and to ensure that Contractor, and all of its Subcontractors and suppliers complete the Project on schedule and within Project Contract Price, subject to approved change orders.

§ 1.3 Contractor acknowledges that it has had full, fair, and adequate opportunity to review all of the Project bidding and Contract Documents, that it has fully satisfied itself as to the scope and requirements of the Project, that it has fully and fairly investigated all Project site conditions and circumstances and Contract Documents, including any potential difficulties or interferences present in the same, that it has had the opportunity to ask questions during the bidding phase and that it has received adequate answers to any such questions, that it has had the opportunity to attend and fairly participate in all pre-bid conferences and pre-construction conferences, and that it has required the same of all of its Subcontractors.

ARTICLE 2 THE WORK OF THIS CONTRACT

The Contractor shall fully execute the Work described in the Contract Documents, except as specifically indicated in the Contract Documents to be the responsibility of others.

ARTICLE 3 DATE OF COMMENCEMENT AND DATES OF SUBSTANTIAL COMPLETION

§ 3.1 The date of commencement of the Work shall be:
(Check one of the following boxes.)

[ ] The date of this Agreement.

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[X] A date set forth in a notice to proceed issued by the Owner.

[ ] Established as follows:
(Insert a date or a means to determine the date of commencement of the Work.)

If a date of commencement of the Work is not selected, then the date of commencement shall be the date of this Agreement.

§ 3.2 The Contract Time shall be measured from the date of commencement of the Work.

§ 3.3 Substantial Completion of the Project or Portions Thereof
§ 3.3.1 Subject to adjustments of the Contract Time as provided in the Contract Documents, the date of Substantial Completion of the Work of all of the Contractors for the Project will be:
(Insert the date of Substantial Completion of the Work of all Contractors for the Project.)

Defined in EXH-D Project Schedule

§ 3.3.2 Subject to adjustments of the Contract Time as provided in the Contract Documents, if portions of the Work of all of the Contractors for the Project are to be completed prior to Substantial Completion of the entire Work of all of the Contractors for the Project, the Contractors shall achieve Substantial Completion of such portions by the following dates defined in EXH-D Project Schedule. Such portions of the Work not completed as defined in EXH-D Project Schedule shall be subject to liquidated damages as set forth in Article 4.5.

(Table deleted)
(Table deleted)
(Paragraphs deleted)
§ 3.4.3 If the Contractor fails to substantially complete the Work of this Contract, or portions thereof, as provided in this Section 3.4, liquidated damages, if any, shall be assessed as set forth in Section 4.5.

ARTICLE 4 CONTRACT SUM
§ 4.1 The Owner shall pay the Contractor the Contract Sum in current funds for the Contractor's performance of the
(Paragraphs deleted)
Contract as defined in EXH-B Project Charter, subject to additions and deductions as provided in the Contract Documents.
§ 4.2 Stipulated Sum
§ 4.2.1 The Contract Sum shall be one million, eight hundred ninety-six thousand, six hundred ten dollars ($ 1,896,610), subject to additions and deductions as provided in the Contract Documents.

§ 4.2.2 Alternates
§ 4.2.2.1 Alternates, if any, included in the Contract Sum are defined in EXH-B Project Charter.
(Table deleted)
§ 4.2.2.2 Subject to the conditions noted in EXH-B Project Charter, alternates may be accepted by the Owner following execution of this Agreement. Upon acceptance, the Owner shall issue a Modification to this Agreement.
(Paragraphs deleted)
(Table deleted)
§ 4.2.3 Allowances, if any, included in the Contract Sum are defined in EXH-B Project Charter.
(Identify each allowance.)

Item	Price

§ 4.2.4 Unit prices, if any are defined in EXH-B Project Charter.

(Table deleted)

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§ 4.3 Allowances, if any, included in the Contract Sum are defined in EXH-B Project Charter.

(Paragraph deleted)
(Table deleted)
(Paragraphs deleted)
§ 4.4 Unit prices, if any, are defined in EXH-B Project Charter.

(Paragraphs deleted)
(Table deleted)
(Paragraphs deleted)
(Table deleted)
(Paragraphs deleted)
(Table deleted)
(Paragraphs deleted)
(Table deleted)
(Paragraphs deleted)
§ 4.5 Liquidated damages, if any:
(Insert terms and conditions for liquidated damages, if any, to be assessed in accordance with Section 3.4.)

Contractor and Owner recognize that time is of the essence for the Project and the Owner will suffer financial loss if the Work is not completed in the time specified in the Contract Documents. The parties also recognize the delays, expenses, and difficulties involved in proving in a legal proceeding the actual loss suffered by the Owner if the Work is not completed on time. Accordingly, instead of requiring such proof, the Owner and Contractor agree that as liquidated damages for delay (but not as penalty), Contractor shall pay Owner One Thousand Dollars ($1,000.00) per calendar day for each day that expires after the time specified for Substantial Completion in EXH-D Project Schedule until such time the Work is determined to be substantially complete by the Owner.

After Substantial Completion, if Contractor neglects, refuses, or fails to complete the remaining Work within the Contract Time specified in the Contract Documents, the Contractor shall pay the Owner One Thousand Dollars ($1,000.00) per day that expires after the time specified in the Contract Documents for Final Completion and readiness for Final Payment until the Work is completed.

§ 4.6 Other:
(Insert provisions for bonus, cost savings or other incentives, if any, that might result in a change to the Contract Sum.)

None

ARTICLE 5 PAYMENTS

§ 5.1 Progress Payments

§ 5.1.1 Based upon Applications for Payment submitted to the Construction Manager by the Contractor, and Certificates for Payment issued by the Construction Manager and Architect and approval by the Owner's Representative, the Owner shall make progress payments on account of the Contract Sum, to the Contractor, as provided below and elsewhere in the Contract Documents.

§ 5.1.2 The period covered by each Application for Payment shall be one calendar month ending on the last day of the month.

§ 5.1.3 When an Application for Payment is received by the Construction Manager, payment of the amount certified shall be made by the Owner not later than forty-five (45) days after the Construction Manager receives the Application for Payment. Unless expressly otherwise agreed in this Contract, payments and payment disputes shall be governed by the Prompt Payment of Local Government Bills, Minnesota Statutes, Section 471.425 ("Prompt Payment Act").
(Federal, state or local laws may require payment within a certain period of time.)

§ 5.1.4 Progress Payments Where the Contract Sum is Based on a Stipulated Sum

§ 5.1.4.1 Each Application for Payment shall be based on the most recent schedule of values submitted by the Contractor on AIA G702 Application and Certificate for Payment in accordance with the Contract Documents. The schedule of

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values shall allocate the entire Contract Sum among the various portions of the Work. The schedule of values shall be prepared in such form, and supported by such data to substantiate its accuracy, as the Construction Manager and Architect may require. This schedule of values shall be used as a basis for reviewing the Contractor's Applications for Payment.

§ 5.1.4.2 Applications for Payment shall show the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment.

§ 5.1.4.3 In accordance with AIA Document A232™–2019, General Conditions of the Contract for Construction, Construction Manager as Adviser Edition, as modified and subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

§ 5.1.4.3.1 The amount of each progress payment shall first include:

.1 That portion of the Contract Sum properly allocable to completed Work;

.2 That portion of the Contract Sum properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction, or, if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing; and

.3 That portion of Construction Change Directives that the Architect determines, in the Architect's professional judgment, to be reasonably justified.

§ 5.1.4.3.2 The amount of each progress payment shall then be reduced by:

.1 The aggregate of any amounts previously paid by the Owner;

.2 The amount, if any, for Work that remains uncorrected and for which the Architect has previously withheld a Certificate for Payment as provided in Article 9 of AIA Document A232–2019;

.3 Any amount for which the Contractor does not intend to pay a Subcontractor or material supplier, unless the Work has been performed by others the Contractor intends to pay;

.4 For Work performed or defects discovered since the last payment application, any amount for which the Architect may withhold payment, or nullify a Certificate of Payment in whole or in part, as provided in Article 9 of AIA Document A232–2019; and

.5 Retainage withheld pursuant to Section 5.1.7.

(Paragraphs deleted)

§ 5.1.7 Retainage

§ 5.1.7.1 For each progress payment made prior to when the Work of this Contract is substantially complete, the Owner may withhold the following amount, as retainage, from the payment otherwise due:
(Insert a percentage or amount to be withheld as retainage from each Application for Payment. The amount of retainage may be limited by governing law.)

Five Percent (5%)

§ 5.1.7.1.1 The following items are not subject to retainage:
(Insert any items not subject to the withholding of retainage, such as general conditions, insurance, etc.)

For major items installed into the Work, the Contractor may request full payment for the items to ensure prompt delivery and fabrication. Such items shall be recommended by the Architect and approved by the Owner as not requiring retainage. Prompt payment for the items shall be documented by the Contractor to the Owner in the subsequent payment application by submitting a full lien release for the items. Major items may include mechanical units with long lead times, structural systems with long lead times, critical path systems or items, etc. Major items will be discussed and defined by Owner, Architect, Construction Manager and Contractor.

§ 5.1.7.2 Reduction or limitation of retainage, if any, shall be as follows:
(If the retainage established in Section 5.1.7.1 is to be modified prior to when the entire Work of this Contract is substantially complete, including modifications for completion of portions of the Work as provided in Section 3.4.2, insert provisions for such modifications.)

Prior to Substantial Completion and at the discretion of the Owner, retainage may be reduced. If the Work has been fifty percent (50%) completed as determined by the Architect and is satisfactory to the Owner, then ninety percent (90%) of the

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retained amount may be released to the Contractor for completed Work (with ten percent (10%) of the total retained by the Owner).

§ 5.1.7.3 Except as set forth in this Section 5.1.7.3, when the Work of this Contract is substantially complete, the Contractor may submit an Application for Payment that includes the retainage withheld from prior Applications for Payment pursuant to this Section 5.1.7. The Application for Payment submitted when the Work of this Contract is substantially complete shall not include retainage as follows:
(Insert any other conditions for release of retainage when the Work of this Contract is substantially complete, or upon Substantial Completion of the Work of all Contractors on the Project or portions thereof.)

Upon Substantial Completion, additional retainage may be returned to the Contractor as recommended by the Architect and Construction Manager and approved by the Owner to an amount sufficient to satisfactorily complete the Work. Retainage release will comply with Minnesota Statutes, Section 15.72 after Substantial Completion and punch list acceptance by the Owner.

§ 5.2 Final Payment

§ 5.2.1 Final Payment Where the Contract Sum is Based on a Stipulated Sum

§ 5.2.1.1 Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Contractor when

.1 the Contractor has fully performed the Contract except for the Contractor's responsibility to correct Work as provided in Article 12 of AIA Document A232–2019, and to satisfy other requirements, if any, which extend beyond final payment;

.2 a final Certificate for Payment or Project Certificate for Payment has been issued by the Architect; and

.3 all lien waivers and IC134 forms have been delivered to the Owner.

§ 5.2.1.2 The Owner's final payment to the Contractor shall be made no later than forty-five (45) days after the issuance of the Architect's final Certificate for Payment or Project Certificate for Payment, or as follows:

§ 5.2.2 Final Payment Where the Contract Sum is Based on the Cost of the Work with or without a Guaranteed Maximum Price

§ 5.2.2.1 Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Contractor when

.1 the Contractor has fully performed the Contract except for the Contractor's responsibility to correct Work as provided in Article 12 of AIA Document A232–2019, and to satisfy other requirements, if any, which extend beyond final payment;

.2 the Contractor has submitted a final accounting for the Cost of the Work, pursuant to Exhibit B, Determination of the Cost of the Work and a final Application for Payment; and

.3 a final Certificate for Payment or Project Certificate for Payment has been issued by the Architect in accordance with Exhibit B, Determination of the Cost of the Work.

§ 5.2.2.2 The Owner's final payment to the Contractor shall be made no later than 30 days after the issuance of the final Certificate for Payment or Project Certificate for Payment, or as follows:

§ 5.3 Payments due and unpaid under the Contract shall bear interest from the date payment is due at the rate stated below.
(Insert rate of interest agreed upon, if any.)

Zero %

ARTICLE 6 DISPUTE RESOLUTION

§ 6.1 Initial Decision Maker

The Architect will serve as Initial Decision Maker pursuant to Article 15 of AIA Document
(Paragraphs deleted)
A232–2019.

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§ 6.1.1 Mediation

The Owner or the Contractor may request mediation of any Claim submitted to the Initial Decision Maker before the decision becomes final and binding. The mediation shall be governed by the Construction Industry Mediation Rules of the American Arbitration Association in effect at the date of this contract. The request for mediation shall be made in writing by the party requesting mediation and the other party of this contract. The Owner and Contractor shall participate in mediation in good faith. The mediation shall be concluded within 60 days of the request. Mediation is not a condition precedent to commencing litigation. If litigation is commenced, the Owner and Contractor agree to mediate before any dispositive motion or trial.

§ 6.2 Binding Dispute Resolution

For any Claim subject to, but not resolved by, mediation pursuant to Article 15 of AIA Document A232–2019, the method of binding dispute resolution shall be as follows:
(Check the appropriate box.)

[ ] Arbitration pursuant to Article 15 of AIA Document A232–2019.

[X] Litigation in a state or federal court of competent jurisdiction located in Hennepin County, Minnesota.

[ ] Other: *(Specify)*

If the Owner and Contractor do not select a method of binding dispute resolution, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, Claims will be resolved by litigation in a court of competent jurisdiction.

ARTICLE 7 TERMINATION OR SUSPENSION

§ 7.1 Where the Contract Sum is a Stipulated Sum

§ 7.1.1 The Contract may be terminated by the Owner or the Contractor as provided in Article 14 of AIA Document A232–2019.

§ 7.1.1.1 If the Contract is terminated for the Owner's convenience in accordance with Article 14 of AIA Document A232–2019, then the Owner shall pay the Contractor a termination fee as follows:
(Insert the amount of, or method for determining, the fee, if any, payable to the Contractor following a termination for the Owner's convenience.)

Termination fee will be based on the percentage of Work completed and any materials purchased or in production at the time of termination. Said fee and justification shall be provided to the Owner by the Contractor within ten (10) days' notice of the termination.

§ 7.1.2 The Work may be suspended by the Owner as provided in Article 14 of AIA Document A232–2019.

(Paragraphs deleted)

ARTICLE 8 MISCELLANEOUS PROVISIONS

§ 8.1 Where reference is made in this Agreement to a provision of AIA Document A232–2019 or another Contract Document, the reference refers to that provision as amended or supplemented by other provisions of the Contract Documents.

§ 8.2 The Owner's representative:
(Name, address, email address, and other information)

Curtis Hartog, PE, Executive Director
Minneapolis Public Schools, SSD#1
Capital Planning, Construction & Maintenance
1250 West Broadway Avenue, Minneapolis, MN 55411

§ 8.3 The Contractor's representative:

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(Name, address, email address, and other information)

Reed Lewis
CEO
Kellington Construction, Inc
807 Broadway St. NE Ste 185
Minneapolis, MN 55413

§ 8.4 Neither the Owner's nor the Contractor's representative shall be changed without ten days' prior notice to the other party.

§ 8.5 Record Keeping—Availability and Retention
Pursuant to Minnesota Statutes, Section 16C.05, subd. 5, Contractor agrees that the books, records, documents and accounting procedures and practices of Contractor, that are relevant to the Contract or transaction, are subject to examination by the Owner, the Owner's auditor, and the state auditor for a minimum of six (6) years. Contractor shall maintain such records for a minimum of six (6) years after final payment.

§ 8.6 Data Practices
Pursuant to Minnesota Statutes, Section 13.05, subd. 11, all of the data created, collected, received, stored, used, maintained, or disseminated by Contractor in performing this contract is subject to the requirements of the Minnesota Government Data Practices Act ("MGDPA"), Minnesota Statutes Chapter 13, and Contractor must comply with those requirements as if it were a government entity. The remedies in Minnesota Statutes, Section 13.08 apply to Contractor. Contractor does not have a duty to provide access to public data to the public if the public data are available from the Owner, except as required by the terms of this contract.

§ 8.7 Non-Discrimination
Pursuant to Minnesota Statutes, Section 181.59, the Contractor will take affirmative action to ensure that applicants are selected, and that employees are treated during employment, without regard to their race, color, creed, religion, national origin, sex, sexual orientation, marital status, status with regard to public assistance, membership or activity in a local civil rights commission, disability or age. The Contractor agrees to be bound by the provisions of Minnesota Statutes, Section 181.59, that prohibits certain discriminatory practices and the terms of said section are incorporated into this contract.

§ 8.8 Prompt Payment to Subcontractors
In accordance with the Prompt Payment Act, each Prime Contractor must pay any subcontractor within ten (10) days of the Prime Contractor's receipt of payment from the municipality for undisputed services provided by the subcontractor. The Subcontract must require the Prime Contractor to pay interest of 1-1/2 percent per month or any part of a month to the subcontractor on any undisputed amount not paid on time to the subcontractor. The minimum monthly interest penalty payment for an unpaid balance of $100 or more is $10. For an unpaid balance of less than $100, the Prime Contractor shall pay the actual penalty due to the subcontractor. A subcontractor who prevails in a civil action to collect interest penalties from a Prime Contractor must be awarded its costs and disbursements, including attorney's fees, incurred in bringing the action.

§ 8.9 Prevailing Wage
Contractor agrees that all laborers or mechanics working on the Project shall receive at least the prevailing wage rate in accordance with Minnesota Statutes Section 177.42, *et seq*. Contractor agrees further that it will incorporate any and all necessary contract language in its agreements with any subcontractors to allow Contractor to monitor and enforce the prevailing wage requirement for subcontractors of any tier.

§ 8.5 Insurance and Bonds
§ 8.5.1 The Owner and the Contractor shall purchase and maintain insurance as set forth EXH-C Owner Insurance.

§ 8.5.2 The Contractor shall provide bonds as set forth in AIA Document A132™–2019, Exhibit A, and elsewhere in the Contract Documents.

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§ 8.6 Notice in electronic format, pursuant to Article 1 of AIA Document A232–2019, may be given in accordance with AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, if completed, or as otherwise set forth below:
(If other than in accordance with AIA Document E203–2013, insert requirements for delivering notice in electronic format such as name, title, and email address of the recipient and whether and how the system will be required to generate a read receipt for the transmission.)

email to Owner's representative identified in Section 8.2

§ 8.7 Relationship of the Parties
Where the Contract is based on the Cost of the Work plus the Contractor's Fee, with or without a Guaranteed Maximum Price, the Contractor accepts the relationship of trust and confidence established by this Agreement and covenants with the Owner to cooperate with the Architect and exercise the Contractor's skill and judgment in furthering the interests of the Owner; to furnish efficient business administration and supervision; to furnish at all times an adequate supply of workers and materials; and to perform the Work in an expeditious and economical manner consistent with the Owner's interests. The Owner agrees to furnish and approve, in a timely manner, information required by the Contractor and to make payments to the Contractor in accordance with the requirements of the Contract Documents.

§ 8.8 Other provisions:

Owner prohibits Contractor from using the Work in any marketing material or business development practice. Contractor is prohibited from communication with any news outlet or public without Owner's written approval.

Floor plans, designs, wiring, safety and security measures shall be kept confidential by the Contractor, the Subcontractors, the Sub-Subcontractors (of any tier) during and after completion of the Work.

ARTICLE 9 ENUMERATION OF CONTRACT DOCUMENTS

§ 9.1 This Agreement is comprised of the following documents:

.1 AIA Document A132™–2019, Standard Form of Agreement Between Owner and Contractor, Construction Manager as Adviser Edition

.2 AIA Document A132™–2019, Exhibit A, Insurance and Bonds Exhibit

.3 AIA Document A232™–2019, General Conditions of the Contract for Construction, Construction Manager as Adviser Edition

.4 AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, dated as indicated below:
(Insert the date of the E203-2013 incorporated into this Agreement.)

Not Applicable

.5 Drawings

Number	Title	Date
139	North High School Renovations & CTE Center Vol 1 of 2	November 13, 2024
209	North High School Renovations & CTE Center Vol 2 of 2	November 13, 2024

.6 Specifications

Section	Title	Date	Pages
All Specifications	North High School Renovations and CTE Center Bid Package 4	November 13, 2024	1414

.7 Addenda, if any:

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Number	Date	Pages
1	December 2, 2024	70
2	December 9, 2024	165

Portions of Addenda relating to bidding or proposal requirements are not part of the Contract Documents unless the bidding or proposal requirements are also enumerated in this Article 9.

.8 Other Exhibits:

EXH-B Project Charter
EXH-C Owner Insurance
EXH-D Project Schedule
(Check all boxes that apply and include appropriate information identifying the exhibit where required.)

[ ]
(Paragraphs deleted)

[ ] Supplementary and other Conditions of the Contract:

Document	Title	Date	Pages

.9 Other documents, if any, listed below:
(List here any additional documents that are intended to form part of the Contract Documents. AIA Document A232–2019 provides that the advertisement or invitation to bid, Instructions to Bidders, sample forms, the Contractor's bid or proposal, portions of Addenda relating to bidding or proposal requirements, and other information furnished by the Owner in anticipation of receiving bids or proposals, are not part of the Contract Documents unless enumerated in this Agreement. Any such documents should be listed here only if intended to be part of the Contract Documents.)

Contractors Bid Documents

This Agreement is entered into as of the day and year first written above.

OWNER *(Signature)*	**CONTRACTOR** *(Signature)*
Tom Parent, Sr Operations Officer	Jeffrey Moore, Project Manager
(Printed name and title)	*(Printed name and title)*

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Additions and Deletions Report for
AIA® Document A132® – 2019

This Additions and Deletions Report, as defined on page 1 of the associated document, reproduces below all text the author has added to the standard form AIA document in order to complete it, as well as any text the author may have added to or deleted from the original AIA text. Added text is shown underlined. Deleted text is indicated with a horizontal line through the original AIA text.

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PAGE 1

AGREEMENT made as of the first___day of _February_____in the year 2025_

...

Minneapolis Public Schools Special School District #1
1250 West Broadway Avenue
Minneapolis, MN 55411

...

Kellington Construction, Inc
807 Broadway St. NE Ste 185
Minneapolis, MN 55413

...

North High School Phase 4 Work Scope 06-A Carpentry
1500 James Avenue
Minneapolis, MN 55411

...

Kraus-Anderson Construction Company
501 South 8th Street
Minneapolis, MN 55405

...

LSE Architects
1401 Glenwood Avenue
Minneapolis, MN 55405

PAGE 2

The Contract Documents consist of this Agreement, Conditions of the Contract (General, Supplementary, and other Conditions), Drawings, Specifications, Addenda issued prior to execution of this Agreement, other documents ("Contract" or "Contract Documents") listed in this Agreement, and Modifications issued after execution of this Agreement, all of which form the Contract, and are as fully a part of the Contract as if attached to this Agreement or repeated herein. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations, or agreements, either written or oral. An enumeration of the Contract Documents, other than Modifications, appears in Article 9.

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§ 1.2 In the event that there are inconsistencies between any of the Project Contract Documents, all Contract Documents shall be construed together and shall be read with a purpose and intent to provide that the Contractor shall commit to fully complete its Project Work and services with the greater degree of commitment as referenced in the Contract Documents, including the plans and specifications, to work diligently to ensure completion of the Project in a timely and workmanlike manner and at the earliest stated times provided for in Project schedules, as they may be revised, and to ensure that Contractor, and all of its Subcontractors and suppliers complete the Project on schedule and within Project Contract Price, subject to approved change orders.

§ 1.3 Contractor acknowledges that it has had full, fair, and adequate opportunity to review all of the Project bidding and Contract Documents, that it has fully satisfied itself as to the scope and requirements of the Project, that it has fully and fairly investigated all Project site conditions and circumstances and Contract Documents, including any potential difficulties or interferences present in the same, that it has had the opportunity to ask questions during the bidding phase and that it has received adequate answers to any such questions, that it has had the opportunity to attend and fairly participate in all pre-bid conferences and pre-construction conferences, and that it has required the same of all of its Subcontractors.

PAGE 3

[**X**] A date set forth in a notice to proceed issued by the Owner.

...

Defined in EXH-D Project Schedule

§ 3.3.2 Subject to adjustments of the Contract Time as provided in the Contract Documents, if portions of the Work of all of the Contractors for the Project are to be completed prior to Substantial Completion of the entire Work of all of the Contractors for the Project, the Contractors shall achieve Substantial Completion of such portions by the following ~~dates:~~dates defined in EXH-D Project Schedule. Such portions of the Work not completed as defined in EXH-D Project Schedule shall be subject to liquidated damages as set forth in Article 4.5.

~~**Portion of Work** **Substantial Completion Date**~~

~~**§ 3.4 When the Work of this Contract, or any Portion Thereof, is Substantially Complete**~~
~~**§ 3.4.1** Subject to adjustments of the Contract Time as provided in the Contract Documents, the Contractor shall substantially complete the entire Work of this Contract:~~
~~*(Check one of the following boxes and complete the necessary information.)*~~

~~[–] Not later than (–) calendar days from the date of commencement of the Work.~~

~~[–] By the following date:~~

~~**§ 3.4.2** Subject to adjustments of the Contract Time as provided in the Contract Documents, if portions of the Work of this Contract are to be substantially complete prior to when the entire Work of this Contract shall be substantially complete, the Contractor shall substantially complete such portions by the following dates:~~

~~**Portion of Work** **Date to be substantially complete**~~

...

§ 4.1 The Owner shall pay the Contractor the Contract Sum in current funds for the Contractor's performance of the ~~Contract. The Contract Sum shall be one of the following:~~
~~*(Check the appropriate box.)*~~

~~[–] Stipulated Sum, in accordance with Section 4.2 below~~

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[–] Cost of the Work plus the Contractor's Fee, in accordance with Section 4.3 below

[–] Cost of the Work plus the Contractor's Fee with a Guaranteed Maximum Price, in accordance with Section 4.4 below

(Based on the selection above, complete Section 4.2, 4.3 or 4.4 below.)
Contract as defined in EXH-B Project Charter, subject to additions and deductions as provided in the Contract Documents.

...

§ 4.2.1 The Contract Sum shall be one million, eight hundred ninety-six thousand, six hundred ten dollars ($ 1,896,610), subject to additions and deductions as provided in the Contract Documents.

...

§ 4.2.2.1 Alternates, if any, included in the Contract Sum:
Sum are defined in EXH-B Project Charter.

Item	Price

§ 4.2.2.2 Subject to the conditions noted below, the following in EXH-B Project Charter, alternates may be accepted by the Owner following execution of this Agreement. Upon acceptance, the Owner shall issue a Modification to this Agreement.
(Insert below each alternate and the conditions that must be met for the Owner to accept the alternate.)

Item	Price	Conditions for Acceptance

§ 4.2.3 Allowances, if any, included in the Contract Sum:Sum are defined in EXH-B Project Charter.

...

§ 4.2.4 Unit prices, if any:
(Identify the item and state the unit price, and quantity limitations, if any, to which the unit price will be applicable.)any are defined in EXH-B Project Charter.

Item	Units and Limitations	Price per Unit ($0.00)

§ 4.3 Cost of the Work Plus Contractor's Fee without a Guaranteed Maximum PriceAllowances, if any, included in the Contract Sum are defined in EXH-B Project Charter.
§ 4.3.1 The Cost of the Work is as defined in Exhibit B, Determination of the Cost of the Work.

§ 4.3.2 The Contractor's Fee:
(State a lump sum, percentage of Cost of the Work or other provision for determining the Contractor's Fee.)

§ 4.3.3 The method of adjustment of the Contractor's Fee for changes in the Work:

§ 4.3.4 Limitations, if any, on a Subcontractor's overhead and profit for increases in the cost of its portion of the Work:

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~~§ 4.3.5 Rental rates for Contractor-owned equipment shall not exceed __ percent (__%) of the standard rental rate paid at the place of the Project.~~

~~§ 4.3.6 Unit prices, if any:~~
~~*(Identify the item and state the unit price and quantity limitations, if any, to which the unit price will be applicable.)*~~

~~Item~~	~~Units and Limitations~~	~~Price per Unit ($0.00)~~

~~§ 4.3.7 The Contractor shall prepare and submit to the Construction Manager, within 14 days of executing this Agreement, a written Control Estimate for the Owner's review and approval. The Control Estimate shall include the items in Section B.1 of Exhibit B, Determination of the Cost of the Work.~~

~~§ 4.4 Cost of the Work Plus Contractor's Fee with a Guaranteed Maximum Price~~Unit prices, if any, are defined in EXH-B Project Charter.
~~§ 4.4.1 The Cost of the Work is as defined in Exhibit B, Determination of the Cost of the Work.~~

~~§ 4.4.2 The Contractor's Fee:~~
~~*(State a lump sum, percentage of Cost of the Work or other provision for determining the Contractor's Fee.)*~~

~~§ 4.4.3 The method of adjustment of the Contractor's Fee for changes in the Work:~~

~~§ 4.4.4 Limitations, if any, on a Subcontractor's overhead and profit for increases in the cost of its portion of the Work:~~

~~§ 4.4.5 Rental rates for Contractor-owned equipment shall not exceed __ percent (__%) of the standard rental rate paid at the place of the Project.~~

~~§ 4.4.6 Unit Prices, if any:~~
~~*(Identify the item and state the unit price and quantity limitations, if any, to which the unit price will be applicable.)*~~

~~Item~~	~~Units and Limitations~~	~~Price per Unit ($0.00)~~

~~§ 4.4.7 Guaranteed Maximum Price~~
~~§ 4.4.7.1 The Contract Sum is guaranteed by the Contractor not to exceed __ ($__), subject to additions and deductions by Change Order as provided in the Contract Documents. This maximum sum is referred to in the Contract Documents as the Guaranteed Maximum Price. Costs which would cause the Guaranteed Maximum Price to be exceeded shall be paid by the Contractor without reimbursement by the Owner.~~

~~§ 4.4.7.2 Alternates~~
~~§ 4.4.7.2.1 Alternates, if any, included in the Guaranteed Maximum Price:~~

~~Item~~	~~Price~~

~~§ 4.4.7.2.2 Subject to the conditions noted below, the following alternates may be accepted by the Owner following execution of this Agreement. Upon acceptance, the Owner shall issue a Modification to this Agreement.~~
~~*(Insert below each alternate and the conditions that must be met for the Owner to accept the alternate.)*~~

~~Item~~	~~Price~~	~~Conditions for Acceptance~~

~~§ 4.4.7.3 Allowances, if any, included in the Guaranteed Maximum Price:~~
~~*(Identify each allowance.)*~~

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~~Item~~ ~~Price~~

~~§ 4.4.7.4 Assumptions, if any, upon which the Guaranteed Maximum Price is based:~~
~~*(Identify each assumption.)*~~

~~§ 4.4.8 To the extent that the Contract Documents are anticipated to require further development, the Guaranteed Maximum Price includes the costs attributable to such further development consistent with the Contract Documents and reasonably inferable therefrom. Such further development does not include changes in scope, systems, kinds and quality of materials, finishes, or equipment, all of which, if required, shall be incorporated by Change Order.~~

~~§ 4.4.9 The Owner shall authorize preparation of revisions to the Contract Documents that incorporate the agreed-upon assumptions contained in Section 4.4.7.4. The Owner shall promptly furnish such revised Contract Documents to the Contractor. The Contractor shall notify the Owner and Architect of any inconsistencies between the agreed-upon assumptions contained in Section 4.4.7.4 and the revised Contract Documents.~~

PAGE 4

Contractor and Owner recognize that time is of the essence for the Project and the Owner will suffer financial loss if the Work is not completed in the time specified in the Contract Documents. The parties also recognize the delays, expenses, and difficulties involved in proving in a legal proceeding the actual loss suffered by the Owner if the Work is not completed on time. Accordingly, instead of requiring such proof, the Owner and Contractor agree that as liquidated damages for delay (but not as penalty), Contractor shall pay Owner One Thousand Dollars ($1,000.00) per calendar day for each day that expires after the time specified for Substantial Completion in EXH-D Project Schedule until such time the Work is determined to be substantially complete by the Owner.

After Substantial Completion, if Contractor neglects, refuses, or fails to complete the remaining Work within the Contract Time specified in the Contract Documents, the Contractor shall pay the Owner One Thousand Dollars ($1,000.00) per day that expires after the time specified in the Contract Documents for Final Completion and readiness for Final Payment until the Work is completed.

...

None

...

§ 5.1.1 Based upon Applications for Payment submitted to the Construction Manager by the Contractor, and Certificates for Payment issued by the Construction Manager and ~~Architect,~~ Architect and approval by the Owner's Representative, the Owner shall make progress payments on account of the Contract Sum, to the Contractor, as provided below and elsewhere in the Contract Documents.

§ 5.1.2 The period covered by each Application for Payment shall be one calendar month ending on the last day of the ~~month, or as follows:~~
month.

§ 5.1.3 ~~Provided that~~ When an Application for Payment is received by the Construction ~~Manager not later than the day of a month, the Owner shall make payment of the amount certified to the Contractor not later than the day of the month. If an Application for Payment is received by the Construction Manager after the application date fixed above, payment of the amount certified~~ Manager, payment of the amount certified shall be made by the Owner not later than forty-five (45) days after the Construction Manager receives the Application for Payment. Unless expressly otherwise agreed in this Contract, payments and payment disputes shall be governed by the Prompt Payment of Local Government Bills, Minnesota Statutes, Section 471.425 ("Prompt Payment Act").

...

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§ 5.1.4.1 Each Application for Payment shall be based on the most recent schedule of values submitted by the Contractor on AIA G702 Application and Certificate for Payment in accordance with the Contract Documents. The schedule of values shall allocate the entire Contract Sum among the various portions of the Work. The schedule of values shall be prepared in such form, and supported by such data to substantiate its accuracy, as the Construction Manager and Architect may require. This schedule of values shall be used as a basis for reviewing the Contractor's Applications for Payment.
PAGE 5

§ 5.1.4.3 In accordance with AIA Document A232™–2019, General Conditions of the Contract for Construction, Construction Manager as Adviser Edition, as modified and subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

...

~~**§ 5.1.5 Progress Payments Where the Contract Sum is Based on the Cost of the Work without a Guaranteed Maximum Price**~~

~~**§ 5.1.5.1** With each Application for Payment, the Contractor shall submit the cost control information required in Exhibit B, Determination of the Cost of the Work, along with payrolls, petty cash accounts, receipted invoices, or invoices with check vouchers attached, and any other evidence required by the Owner, Construction Manager or Architect to demonstrate that payments already made by the Contractor on account of the Cost of the Work equal or exceed progress payments already received by the Contractor, plus payrolls for the period covered by the present Application for Payment, less that portion of the payments attributable to the Contractor's Fee.~~

~~**§ 5.1.5.2** Applications for Payment shall show the Cost of the Work actually incurred by the Contractor through the end of the period covered by the Application for Payment and for which the Contractor has made or intends to make actual payment prior to the next Application for Payment.~~

~~**§ 5.1.5.3** In accordance with AIA Document A232–2019 and subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:~~

~~**§ 5.1.5.3.1** The amount of each progress payment shall first include:~~

- ~~**.1** The Cost of the Work as described in Exhibit B, Determination of the Cost of the Work;~~
- ~~**.2** That portion of Construction Change Directives that the Architect determines, in the Architect's professional judgment, to be reasonably justified; and~~
- ~~**.3** The Contractor's Fee computed upon the Cost of the Work described in the preceding Section 5.1.5.3.1.1 at the rate stated in Section 4.3.2; or if the Contractor's Fee is stated as a fixed sum in Section 4.3.2 an amount which bears the same ratio to that fixed-sum Fee as the Cost of the Work included in Section 5.1.5.3.1.1 bears to a reasonable estimate of the probable Cost of the Work upon its completion.~~

~~**§ 5.1.5.3.2** The amount of each progress payment shall then be reduced by:~~

- ~~**.1** The aggregate of any amounts previously paid by the Owner;~~
- ~~**.2** The amount, if any, for Work that remains uncorrected and for which the Architect has previously withheld a Certificate for Payment as provided in Article 9 of AIA Document A232–2019;~~
- ~~**.3** Any amount for which the Contractor does not intend to pay a Subcontractor or material supplier, unless the Work has been performed by others the Contractor intends to pay;~~
- ~~**.4** For Work performed or defects discovered since the last payment application, any amount for which the Architect may withhold payment, or nullify a Certificate of Payment in whole or in part, as provided in Article 9 of AIA Document A232–2019;~~
- ~~**.5** The shortfall, if any, indicated by the Contractor in the documentation required by Section 5.1.5.1 to substantiate prior Applications for Payment, or resulting from errors subsequently discovered by the Owner's auditors in such documentation; and~~
- ~~**.6** Retainage withheld pursuant to Section 5.1.7.~~

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§ 5.1.5.4 The Owner, Construction Manager and Contractor shall agree upon a mutually acceptable procedure for review and approval of payments to Subcontractors and the percentage of retainage held on Subcontracts, and the Contractor shall execute subcontracts in accordance with those agreements.

§ 5.1.5.5 In taking action on the Contractor's Applications for Payment, the Construction Manager and Architect shall be entitled to rely on the accuracy and completeness of the information furnished by the Contractor, and such action shall not be deemed to be a representation that (1) the Construction Manager and Architect have made a detailed examination, audit or arithmetic verification of the documentation submitted in accordance with Article 5 or other supporting data; (2) that the Construction Manager and Architect have made exhaustive or continuous on-site inspections; or (3) that the Construction Manager and Architect have made examinations to ascertain how or for what purposes the Contractor has used amounts previously paid on account of the Contract. Such examinations, audits and verifications, if required by the Owner, will be performed by the Owner's auditors acting in the sole interest of the Owner.

§ 5.1.5.6 Except with the Owner's prior approval, the Contractor shall not make advance payments to suppliers for materials or equipment which have not been delivered and stored at the site.

§ 5.1.5.7 If final completion of the Work is materially delayed through no fault of the Contractor, then the Owner shall pay the Contractor any additional amounts in accordance with Article 9 of AIA Document A232–2019.

§ 5.1.6 Progress Payments Where the Contract Sum is Based on the Cost of the Work with a Guaranteed Maximum Price

§ 5.1.6.1 With each Application for Payment, the Contractor shall submit payrolls, petty cash accounts, receipted invoices or invoices with check vouchers attached, and any other evidence required by the Owner, Construction Manager or Architect to demonstrate that payments already made by the Contractor on account of the Cost of the Work equal or exceed progress payments already received by the Contractor plus payrolls for the period covered by the present Application for Payment, less that portion of the progress payments attributable to the Contractor's Fee.

§ 5.1.6.2 Each Application for Payment shall be based on the most recent schedule of values submitted by the Contractor in accordance with the Contract Documents. The schedule of values shall allocate the entire Guaranteed Maximum Price among: (1) the various portions of the Work; (2) any contingency for costs that are included in the Guaranteed Maximum Price but not otherwise allocated to another line item or included in a Change Order; and (3) the Contractor's Fee.

§ 5.1.6.2.1 The schedule of values shall be prepared in such form, and supported by such data to substantiate its accuracy, as the Construction Manager and Architect may require. This schedule of values shall be used as a basis for reviewing the Contractor's Applications for Payment.

§ 5.1.6.2.2 The allocation of the Guaranteed Maximum Price under this Section 5.1.6.2 shall not constitute a separate guaranteed maximum price for the Cost of the Work of each individual line item in the schedule of values.

§ 5.1.6.2.3 When the Contractor allocates costs from a contingency to another line item in the schedule of values, the Contractor shall submit supporting documentation to the Architect and Construction Manager.

§ 5.1.6.3 Applications for Payment shall show the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment. The percentage of completion shall be the lesser of (1) the percentage of that portion of the Work which has actually been completed; or (2) the percentage obtained by dividing (a) the expense that has actually been incurred by the Contractor on account of that portion of the Work and for which the Contractor has made payment or intends to make payment prior to the next Application for Payment by (b) the share of the Guaranteed Maximum Price allocated to that portion of the Work in the schedule of values.

§ 5.1.6.4 In accordance with AIA Document A232–2019, and subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

§ 5.1.6.4.1 The amount of each progress payment shall first include:

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.1 That portion of the Guaranteed Maximum Price properly allocable to completed Work as determined by multiplying the percentage of completion of each portion of the Work by the share of the Guaranteed Maximum Price allocated to that portion of the Work in the most recent schedule of values;

.2 That portion of the Guaranteed Maximum Price properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction or, if approved in writing in advance by the Owner, suitably stored off the site at a location agreed upon in writing;

.3 That portion of Construction Change Directives that the Architect determines, in the Architect's professional judgment, to be reasonably justified; and

.4 The Contractor's Fee, computed upon the Cost of the Work described in the preceding Sections 5.1.6.4.1.1 and 5.1.6.4.1.2 at the rate stated in Section 4.4.2 or, if the Contractor's Fee is stated as a fixed sum in that Section, an amount that bears the same ratio to that fixed-sum fee as the Cost of the Work included in Sections 5.1.6.4.1.1 and 5.1.6.4.1.2 bears to a reasonable estimate of the probable Cost of the Work upon its completion.

§ 5.1.6.4.2 The amount of each progress payment shall then be reduced by:

.1 The aggregate of any amounts previously paid by the Owner;

.2 The amount, if any, for Work that remains uncorrected and for which the Architect has previously withheld a Certificate for Payment as provided in Article 9 of AIA Document A232–2019;

.3 Any amount for which the Contractor does not intend to pay a Subcontractor or material supplier, unless the Work has been performed by others the Contractor intends to pay;

.4 For Work performed or defects discovered since the last payment application, any amount for which the Architect may withhold payment, or nullify a Certificate of Payment in whole or in part, as provided in Article 9 of AIA Document A232–2019;

.5 The shortfall, if any, indicated by the Contractor in the documentation required by Section 5.1.6.1 to substantiate prior Applications for Payment, or resulting from errors subsequently discovered by the Owner's auditors in such documentation; and

.6 Retainage withheld pursuant to Section 5.1.7.

§ 5.1.6.5 The Owner and the Contractor shall agree upon a mutually acceptable procedure for review and approval of payments to Subcontractors and the percentage of retainage held on Subcontracts, and the Contractor shall execute subcontracts in accordance with those agreements.

§ 5.1.6.6 In taking action on the Contractor's Applications for Payment, the Construction Manager and Architect shall be entitled to rely on the accuracy and completeness of the information furnished by the Contractor and such action shall not be deemed to be a representation that (1) the Construction Manager or Architect have made a detailed examination, audit, or arithmetic verification of the documentation submitted in accordance with Section 5.1.6.1 or other supporting data; (2) that the Construction Manager or Architect have made exhaustive or continuous on-site inspections; or (3) that the Construction Manager or Architect have made examinations to ascertain how or for what purposes the Contractor has used amounts previously paid on account of the Contract. Such examinations, audits, and verifications, if required by the Owner, will be performed by the Owner's auditors acting in the sole interest of the Owner.

§ 5.1.6.7 Except with the Owner's prior approval, the Contractor shall not make advance payments to suppliers for materials or equipment which have not been delivered and stored at the site.

§ 5.1.6.8 If final completion of the Work is materially delayed through no fault of the Contractor, then the Owner shall pay the Contractor any additional amounts in accordance with Article 9 of AIA Document A232-2019.

...

Five Percent (5%)

...

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For major items installed into the Work, the Contractor may request full payment for the items to ensure prompt delivery and fabrication. Such items shall be recommended by the Architect and approved by the Owner as not requiring retainage. Prompt payment for the items shall be documented by the Contractor to the Owner in the subsequent payment application by submitting a full lien release for the items. Major items may include mechanical units with long lead times, structural systems with long lead times, critical path systems or items, etc. Major items will be discussed and defined by Owner, Architect, Construction Manager and Contractor.

...

Prior to Substantial Completion and at the discretion of the Owner, retainage may be reduced. If the Work has been fifty percent (50%) completed as determined by the Architect and is satisfactory to the Owner, then ninety percent (90%) of the retained amount may be released to the Contractor for completed Work (with ten percent (10%) of the total retained by the Owner).

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Upon Substantial Completion, additional retainage may be returned to the Contractor as recommended by the Architect and Construction Manager and approved by the Owner to an amount sufficient to satisfactorily complete the Work. Retainage release will comply with Minnesota Statutes, Section 15.72 after Substantial Completion and punch list acceptance by the Owner.

...

.1 the Contractor has fully performed the Contract except for the Contractor's responsibility to correct Work as provided in Article 12 of AIA Document A232–2019, and to satisfy other requirements, if any, which extend beyond final payment; ~~and~~

.2 a final Certificate for Payment or Project Certificate for Payment has been issued by ~~the Architect.~~the Architect; and

.3 all lien waivers and IC134 forms have been delivered to the Owner.

§ 5.2.1.2 The Owner's final payment to the Contractor shall be made no later than ~~30~~ forty-five (45) days after the issuance of the Architect's final Certificate for Payment or Project Certificate for Payment, or as follows:

...

§ 5.3 Payments due and unpaid under the Contract shall bear interest from the date payment is due at the rate stated ~~below, or in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located.~~below.

...

Zero %

...

The Architect will serve as Initial Decision Maker pursuant to Article 15 of AIA Document ~~A232–2019, unless the parties appoint below another individual, not a party to this Agreement, to serve as Initial Decision Maker.~~
~~*(If the parties mutually agree, insert the name, address and other contact information of the Initial Decision Maker, if other than the Architect.)*~~

A232–2019.

§ 6.1.1 Mediation

The Owner or the Contractor may request mediation of any Claim submitted to the Initial Decision Maker before the decision becomes final and binding. The mediation shall be governed by the Construction Industry Mediation Rules of the American Arbitration Association in effect at the date of this contract. The request for mediation shall be made in

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writing by the party requesting mediation and the other party of this contract. The Owner and Contractor shall participate in mediation in good faith. The mediation shall be concluded within 60 days of the request. Mediation is not a condition precedent to commencing litigation. If litigation is commenced, the Owner and Contractor agree to mediate before any dispositive motion or trial.

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[ ] ~~Litigation in a court of competent jurisdiction.~~ [X] Litigation in a state or federal court of competent jurisdiction located in Hennepin County, Minnesota.

...

Termination fee will be based on the percentage of Work completed and any materials purchased or in production at the time of termination. Said fee and justification shall be provided to the Owner by the Contractor within ten (10) days' notice of the termination.

...

~~**§ 7.2 Where the Contract Sum is Based on the Cost of the Work with or without a Guaranteed Maximum Price**~~

~~**§ 7.2.1 Termination**~~

~~**§ 7.2.1.1** The Contract may be terminated by the Owner or the Contractor as provided in Article 14 of AIA Document A232–2019.~~

~~**§ 7.2.1.2 Termination by the Owner for Cause**~~

~~**§ 7.2.1.2.1** If the Owner terminates the Contract for cause as provided in Article 14 of AIA Document A232–2019, the Owner shall then only pay the Contractor an amount as follows:~~

- ~~**.1** Take the Cost of the Work incurred by the Contractor to the date of termination;~~
- ~~**.2** Add the Contractor's Fee, computed upon the Cost of the Work to the date of termination at the rate stated in Section 4.3.2 or 4.4.2, as applicable, or, if the Contractor's Fee is stated as a fixed sum in that Section, an amount that bears the same ratio to that fixed-sum Fee as the Cost of the Work at the time of termination bears to a reasonable estimate of the probable Cost of the Work upon its completion;~~
- ~~**.3** Subtract the aggregate of previous payments made by the Owner; and~~
- ~~**.4** Subtract the costs and damages incurred, or to be incurred, by the Owner under Article 14 of AIA Document A232–2019.~~

~~**§ 7.2.1.2.2** When the Contract Sum is based on the Cost of the Work with a Guaranteed Maximum Price, if the Owner terminates the Contract for cause as provided in Article 14 of AIA Document A232-2019, the amount, if any, to be paid to the Contractor under Article 14 of AIA Document A232-2019 shall not cause the Guaranteed Maximum Price to be exceeded, nor shall it exceed the amount calculated in Section 7.2.1.2.1.~~

~~**§ 7.2.1.2.3** The Owner shall also pay the Contractor fair compensation, either by purchase or rental at the election of the Owner, for any equipment owned by the Contractor that the Owner elects to retain and that is not otherwise included in the Cost of the Work under Section 7.2.1.2.1.1. To the extent that the Owner elects to take legal assignment of subcontracts and purchase orders (including rental agreements), the Contractor shall, as a condition of receiving the payments referred to in this Article 7, execute and deliver all such papers and take all such steps, including the legal assignment of such subcontracts and other contractual rights of the Contractor, as the Owner may require for the purpose of fully vesting in the Owner the rights and benefits of the Contractor under such subcontracts or purchase orders. All Subcontracts, purchase orders and rental agreements entered into by the Contractor will contain provisions allowing for assignment to the Owner as described above.~~

~~**§ 7.2.1.3 Termination by the Owner for Convenience**~~

~~If the Owner terminates the Contract for convenience in accordance with Article 14 of AIA Document A232–2019, then the Owner shall pay the Contractor a termination fee as follows:~~

~~*(Insert the amount of or method for determining the fee, if any, payable to the Contractor following a termination for the Owner's convenience.)*~~

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~~**§ 7.3 Suspension**~~

~~The Work may be suspended by the Owner as provided in Article 14 of AIA Document A232–2019; in such case, the Contract Sum and Contract Time shall be increased as provided in Article 14 of AIA Document A232–2019, except that the term "profit" shall be understood to mean the Contractor's Fee as described in Section 4.3.2 or 4.4.2, as applicable, of this Agreement.~~

...

Curtis Hartog, PE, Executive Director
Minneapolis Public Schools, SSD#1
Capital Planning, Construction & Maintenance
1250 West Broadway Avenue, Minneapolis, MN 55411
PAGE 8

Reed Lewis
CEO
Kellington Construction, Inc
807 Broadway St. NE Ste 185
Minneapolis, MN 55413

...

§ 8.5 Record Keeping—Availability and Retention

Pursuant to Minnesota Statutes, Section 16C.05, subd. 5, Contractor agrees that the books, records, documents and accounting procedures and practices of Contractor, that are relevant to the Contract or transaction, are subject to examination by the Owner, the Owner's auditor, and the state auditor for a minimum of six (6) years. Contractor shall maintain such records for a minimum of six (6) years after final payment.

§ 8.6 Data Practices

Pursuant to Minnesota Statutes, Section 13.05, subd. 11, all of the data created, collected, received, stored, used, maintained, or disseminated by Contractor in performing this contract is subject to the requirements of the Minnesota Government Data Practices Act ("MGDPA"), Minnesota Statutes Chapter 13, and Contractor must comply with those requirements as if it were a government entity. The remedies in Minnesota Statutes, Section 13.08 apply to Contractor. Contractor does not have a duty to provide access to public data to the public if the public data are available from the Owner, except as required by the terms of this contract.

§ 8.7 Non-Discrimination

Pursuant to Minnesota Statutes, Section 181.59, the Contractor will take affirmative action to ensure that applicants are selected, and that employees are treated during employment, without regard to their race, color, creed, religion, national origin, sex, sexual orientation, marital status, status with regard to public assistance, membership or activity in a local civil rights commission, disability or age. The Contractor agrees to be bound by the provisions of Minnesota Statutes, Section 181.59, that prohibits certain discriminatory practices and the terms of said section are incorporated into this contract.

§ 8.8 Prompt Payment to Subcontractors

In accordance with the Prompt Payment Act, each Prime Contractor must pay any subcontractor within ten (10) days of the Prime Contractor's receipt of payment from the municipality for undisputed services provided by the subcontractor. The Subcontract must require the Prime Contractor to pay interest of 1-1/2 percent per month or any part of a month to the subcontractor on any undisputed amount not paid on time to the subcontractor. The minimum monthly interest penalty payment for an unpaid balance of $100 or more is $10. For an unpaid balance of less than $100, the Prime Contractor shall pay the actual penalty due to the subcontractor. A subcontractor who prevails in a civil action to collect interest penalties from a Prime Contractor must be awarded its costs and disbursements, including attorney's fees, incurred in bringing the action.

§ 8.9 Prevailing Wage

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Contractor agrees that all laborers or mechanics working on the Project shall receive at least the prevailing wage rate in accordance with Minnesota Statutes Section 177.42, *et seq*. Contractor agrees further that it will incorporate any and all necessary contract language in its agreements with any subcontractors to allow Contractor to monitor and enforce the prevailing wage requirement for subcontractors of any tier.

§ 8.5.1 The Owner and the Contractor shall purchase and maintain insurance as set forth ~~in AIA Document A132™–2019, Standard Form of Agreement Between Owner and Contractor, Construction Manager as Adviser Edition, Exhibit A, Insurance and Bonds, and elsewhere in the Contract Documents.~~EXH-C Owner Insurance.

PAGE 9

§ 8.6 Notice in electronic format, pursuant to Article 1 of AIA Document A232–2019, may be given in accordance with ~~a building information modeling exhibit,~~ AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, if completed, or as otherwise set forth below:
(If other than in accordance with ~~a building information modeling exhibit,~~ AIA Document E203–2013, insert requirements for delivering notice in electronic format such as name, title, and email address of the recipient and whether and how the system will be required to generate a read receipt for the transmission.)

email to Owner's representative identified in Section 8.2

...

Owner prohibits Contractor from using the Work in any marketing material or business development practice. Contractor is prohibited from communication with any news outlet or public without Owner's written approval.

Floor plans, designs, wiring, safety and security measures shall be kept confidential by the Contractor, the Subcontractors, the Sub-Subcontractors (of any tier) during and after completion of the Work.

...

.4 ~~Building Information Modeling Exhibit, if completed:~~AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, dated as indicated below:
(Insert the date of the E203-2013 incorporated into this Agreement.)

Not Applicable

...

139		North High School Renovations & CTE Center Vol 1 of 2	November 13, 2024
209		North High School Renovations & CTE Center Vol 2 of 2	November 13, 2024

...

	All Specifications	North High School Renovations and CTE Center Bid Package 4	November 13, 2024	1414

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1	December 2, 2024	70
2	December 9, 2024	165

...

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EXH-B Project Charter
EXH-C Owner Insurance
EXH-D Project Schedule
(Check all boxes that apply and include appropriate information identifying the exhibit where required.)

~~*[ ] AIA Document A132™ 2019, Exhibit B, Determination of the Cost of the Work*~~

[ ] ~~AIA Document E235™ 2019, Sustainable Projects Exhibit, Construction Manager as Adviser Edition, dated as indicated below:~~
~~*(Insert the date of the E235-2019 incorporated into this Agreement.)*~~

~~[ ] The Sustainability Plan:~~

~~Title~~	~~Date~~	~~Pages~~

...

Contractors Bid Documents

...

Tom Parent, Sr Operations Officer

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Certification of Document's Authenticity

AIA® Document D401™ – 2003

I, , hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with its associated Additions and Deletions Report and this certification at 10:51:22 CT on 02/03/2025 under Order No. 4104251278 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document A132™ – 2019, Standard Form of Agreement Between Owner and Contractor, Construction Manager as Adviser Edition, other than those additions and deletions shown in the associated Additions and Deletions Report.



(Signed)

Curtis Hartog, Executive Director

(Title)

2/3/2025

(Dated)

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AIA® Document A132® – 2019 Exhibit A

Insurance and Bonds

This Insurance and Bonds Exhibit is part of the Agreement, between the Owner and the Contractor, dated the _first_ day of _February____ in the year _2025
(In words, indicate day, month, and year.)

for the following **PROJECT**:
(Name and location or address)

North High School Phase 4 Work Scope 06-A Carpentry
1500 James Avenue, Minneapolis, MN 55411

THE OWNER:
(Name, legal status, and address)

Minneapolis Public Schools Special School District #1
1250 West Broadway Avenue
Minneapolis, MN 55411

THE CONTRACTOR:
(Name, legal status, and address)

Kellington Construction, Inc
807 Broadway St NE Ste 185
Minneapolis, MN 55413

TABLE OF ARTICLES

A.1 GENERAL

A.2 OWNER'S INSURANCE

A.3 CONTRACTOR'S INSURANCE AND BONDS

A.4 SPECIAL TERMS AND CONDITIONS

ARTICLE A.1 GENERAL

The Owner and Contractor shall purchase and maintain insurance, and provide bonds, as set forth in this Exhibit. As used in this Exhibit, the term General Conditions refers to AIA Document A232™–2019, General Conditions of the Contract for Construction.

ARTICLE A.2 OWNER'S INSURANCE

§ A.2.1 General

Prior to commencement of the Work, the Owner shall secure the insurance, and provide evidence of the coverage, required under this Article A.2 and, upon the Contractor's request, provide a copy of the property insurance policy or policies required by Section A.2.3. The copy of the policy or policies provided shall contain all applicable conditions, definitions, exclusions, and endorsements.

§ A.2.2 Liability Insurance

The Owner shall be responsible for purchasing and maintaining the Owner's usual general liability insurance.

ADDITIONS AND DELETIONS:
The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

This document is intended to be used in conjunction with AIA Document A232™–2019, General Conditions of the Contract for Construction. Article 11 of A232™–2019 contains additional insurance provisions

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§ A.2.3 Required Property Insurance

§ A.2.3.1 Unless this obligation is placed on the Contractor pursuant to Section A.3.3.2.1, the Owner shall purchase and maintain, from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located, property insurance policy form and sufficient to cover the total value of the entire Project on a replacement cost basis. The Owner's property insurance coverage shall be no less than the amount of the initial Contract Sum, plus the value of subsequent Modifications and labor performed and materials or equipment supplied by others. The property insurance shall be maintained until Substantial Completion and thereafter as provided in Section A.2.3.1.3, unless otherwise provided in the Contract Documents or otherwise agreed in writing by the parties to this Agreement. This insurance shall include the interests of the Owner, Contractor, Subcontractors, and Sub-subcontractors in the Project as insureds. This insurance shall include the interests of mortgagees as loss payees.

§ A.2.3.1.1 Causes of Loss. The insurance required by this Section A.2.3.1 shall provide coverage for direct physical loss or damage, and shall not exclude the risks of fire, explosion, theft, vandalism, malicious mischief, collapse, earthquake, flood, or windstorm. The insurance shall also provide coverage for ensuing loss or resulting damage from error, omission, or deficiency in construction methods, design, specifications, workmanship, or materials. Sub-limits, if any, are as follows:
(Indicate below the cause of loss and any applicable sub-limit.)

Causes of Loss	Sub-Limit

§ A.2.3.1.2 Specific Required Coverages. The insurance required by this Section A.2.3.1 shall provide coverage for loss or damage to false work and other temporary structures, and to building systems from testing and startup. The insurance shall also cover debris removal, including demolition occasioned by enforcement of any applicable legal requirements, and reasonable compensation for the Architect's, Construction Manager's, and Contractor's services and expenses required as a result of such insured loss, including claim preparation expenses. Sub-limits, if any, are as follows:
(Indicate below type of coverage and any applicable sub-limit for specific required coverages.)

Coverage	Sub-Limit

§ A.2.3.1.3 Unless the parties agree otherwise, upon Substantial Completion, the Owner shall continue the insurance required by Section A.2.3.1 or, if necessary, replace the insurance policy required under Section A.2.3.1 with property insurance written for the total value of the Project that shall remain in effect until expiration of the period for correction of the Work set forth in Section 12.2.2 of the General Conditions.

§ A.2.3.1.4 Deductibles and Self-Insured Retentions. If the insurance required by this Section A.2.3 is subject to deductibles or self-insured retentions, the Owner shall be responsible for all loss not covered because of such deductibles or retentions.

§ A.2.3.2 Occupancy or Use Prior to Substantial Completion. The Owner's occupancy or use of any completed or partially completed portion of the Work prior to Substantial Completion shall not commence until the insurance company or companies providing the insurance under Section A.2.3.1 have consented in writing to the continuance of coverage. The Owner and the Contractor shall take no action with respect to partial occupancy or use that would cause cancellation, lapse, or reduction of insurance, unless they agree otherwise in writing.

§ A.2.3.3 Insurance for Existing Structures

If the Work involves remodeling an existing structure or constructing an addition to an existing structure, the Owner shall purchase and maintain, until the expiration of the period for correction of Work as set forth in Section 12.2.2 of the General Conditions, "all-risks" property insurance, on a replacement cost basis, protecting the existing structure against direct physical loss or damage from the causes of loss identified in Section A.2.3.1, notwithstanding the undertaking of the Work. The Owner shall be responsible for all co-insurance penalties.

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§ A.2.4 Optional Extended Property Insurance.
The Owner shall purchase and maintain the insurance selected and described below.
(Select the types of insurance the Owner is required to purchase and maintain by placing an X in the box(es) next to the description(s) of selected insurance. For each type of insurance selected, indicate applicable limits of coverage or other conditions in the fill point below the selected item.)

[ ] **§ A.2.4.1 Loss of Use, Business Interruption, and Delay in Completion Insurance**, to reimburse the Owner for loss of use of the Owner's property, or the inability to conduct normal operations due to a covered cause of loss.

[ ] **§ A.2.4.2 Ordinance or Law Insurance**, for the reasonable and necessary costs to satisfy the minimum requirements of the enforcement of any law or ordinance regulating the demolition, construction, repair, replacement or use of the Project.

[ ] **§ A.2.4.3 Expediting Cost Insurance**, for the reasonable and necessary costs for the temporary repair of damage to insured property, and to expedite the permanent repair or replacement of the damaged property.

[ ] **§ A.2.4.4 Extra Expense Insurance**, to provide reimbursement of the reasonable and necessary excess costs incurred during the period of restoration or repair of the damaged property that are over and above the total costs that would normally have been incurred during the same period of time had no loss or damage occurred.

[ ] **§ A.2.4.5 Civil Authority Insurance**, for losses or costs arising from an order of a civil authority prohibiting access to the Project, provided such order is the direct result of physical damage covered under the required property insurance.

[ ] **§ A.2.4.6 Ingress/Egress Insurance**, for loss due to the necessary interruption of the insured's business due to physical prevention of ingress to, or egress from, the Project as a direct result of physical damage.

[ ] **§ A.2.4.7 Soft Costs Insurance**, to reimburse the Owner for costs due to the delay of completion of the Work, arising out of physical loss or damage covered by the required property insurance: including construction loan fees; leasing and marketing expenses; additional fees, including those of architects, engineers, consultants, attorneys and accountants, needed for the completion of the construction, repairs, or reconstruction; and carrying costs such as property taxes, building permits, additional interest on loans, realty taxes, and insurance premiums over and above normal expenses.

§ A.2.5 Other Optional Insurance.
The Owner shall purchase and maintain the insurance selected below.
(Select the types of insurance the Owner is required to purchase and maintain by placing an X in the box(es) next to the description(s) of selected insurance.)

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[ ] **§ A.2.5.1 Cyber Security Insurance** for loss to the Owner due to data security and privacy breach, including costs of investigating a potential or actual breach of confidential or private information. *(Indicate applicable limits of coverage or other conditions in the fill point below.)*

[ ] **§ A.2.5.2 Other Insurance**
(List below any other insurance coverage to be provided by the Owner and any applicable limits.)

Coverage	Limits

ARTICLE A.3 CONTRACTOR'S INSURANCE AND BONDS

§ A.3.1 General

§ A.3.1.1 Certificates of Insurance. The Contractor shall provide certificates of insurance acceptable to the Owner evidencing compliance with the requirements in this Article A.3 at the following times: (1) prior to commencement of the Work; (2) upon renewal or replacement of each required policy of insurance; and (3) upon the Owner's written request. An additional certificate evidencing continuation of commercial liability coverage, including coverage for completed operations, shall be submitted with the final Application for Payment and thereafter upon renewal or replacement of such coverage until the expiration of the periods required by Section A.3.2.1 and Section A.3.3.1. The certificates will show the Owner as an additional insured on the Contractor's Commercial General Liability and excess or umbrella liability policy or policies.

§ A.3.1.2 Deductibles and Self-Insured Retentions. The Contractor shall disclose to the Owner any deductible or self-insured retentions applicable to any insurance required to be provided by the Contractor.

§ A.3.1.3 Additional Insured Obligations. To the fullest extent permitted by law, the Contractor shall cause the commercial general liability coverage to include (1) the Owner, the Architect and the Architect's consultants, and the Construction Manager and the Construction Manager's consultants, as additional insureds for claims caused in whole or in part by the Contractor's negligent acts or omissions during the Contractor's operations; and (2) the Owner as an additional insured for claims caused in whole or in part by the Contractor's negligent acts or omissions for which loss occurs during completed operations. The additional insured coverage shall be primary and non-contributory to any of the Owner's general liability insurance policies and shall apply to both ongoing and completed operations. To the extent commercially available, the additional insured coverage shall be no less than that provided by Insurance Services Office, Inc. (ISO) forms CG 20 10 07 04, CG 20 37 07 04, and, with respect to the Architect and the Architect's consultants, and the Construction Manager and the Construction Manager's consultants, CG 20 32 07 04.

§ A.3.2 Contractor's Required Insurance Coverage

§ A.3.2.1 The Contractor shall purchase and maintain the types and limits of insurance as defined in EXH-C Owner Insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The Contractor shall maintain the required insurance until the expiration of the period for correction of Work as set forth in Section 12.2.2 of the General Conditions, unless a different duration is stated below:
(If the Contractor is required to maintain insurance for a duration other than the expiration of the period for correction of Work, state the duration.)

§ A.3.2.2 Commercial General Liability

§ A.3.2.2.1 Commercial General Liability insurance for the Project written on an occurrence form with policy limits as defined in EXH-C Owner Insurance providing coverage for claims including

.1 damages because of bodily injury, sickness or disease, including occupational sickness or disease, and death of any person;
.2 personal injury and advertising injury;
.3 damages because of physical damage to or destruction of tangible property, including the loss of use of such property;
.4 bodily injury or property damage arising out of completed operations; and

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.5 the Contractor's indemnity obligations under Section 3.18 of the General Conditions.

§ A.3.2.2.2 The Contractor's Commercial General Liability policy under this Section A.3.2.2 shall not contain an exclusion or restriction of coverage for the following:

.1 Claims by one insured against another insured, if the exclusion or restriction is based solely on the fact that the claimant is an insured, and there would otherwise be coverage for the claim.

.2 Claims for property damage to the Contractor's Work arising out of the products-completed operations hazard where the damaged Work or the Work out of which the damage arises was performed by a Subcontractor.

.3 Claims for bodily injury other than to employees of the insured.

.4 Claims for indemnity under Section 3.18 of the General Conditions arising out of injury to employees of the insured.

.5 Claims or loss excluded under a prior work endorsement or other similar exclusionary language.

.6 Claims or loss due to physical damage under a prior injury endorsement or similar exclusionary language.

.7 Claims related to residential, multi-family, or other habitational projects, if the Work is to be performed on such a project.

.8 Claims related to roofing, if the Work involves roofing.

.9 Claims related to exterior insulation finish systems (EIFS), synthetic stucco or similar exterior coatings or surfaces, if the Work involves such coatings or surfaces.

.10 Claims related to earth subsidence or movement, where the Work involves such hazards.

.11 Claims related to explosion, collapse and underground hazards, where the Work involves such hazards.

§ A.3.2.3 Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Contractor, with policy limits as defined in EXH-C Owner Insurance.

§ A.3.2.4 The Contractor may achieve the required limits and coverage for Commercial General Liability and Automobile Liability through a combination of primary and excess or umbrella liability insurance, provided such primary and excess or umbrella insurance policies result in the same or greater coverage as the coverages required under Section A.3.2.2 and A.3.2.3, and in no event shall any excess or umbrella liability insurance provide narrower coverage than the primary policy. The excess policy shall not require the exhaustion of the underlying limits only through the actual payment by the underlying insurers. Umbrella coverage as defined in EXH-C Owner Insurance.

§ A.3.2.5 Workers' Compensation at statutory limits for Coverage A as defined in EXH-C Owner Insurance.

§ A.3.2.6 Employers' Liability Coverage B as defined in EXH-C Owner Insurance.

§ A.3.2.7 If the Contractor is required to furnish professional services as part of the Work, the Contractor shall procure Professional Liability insurance covering performance of the professional services, with policy limits as defined in EXH-C Owner Insurance.

§ A.3.2.8 Insurance for the use or operation of manned or unmanned aircraft, if the Work requires such activities, with policy limits as defined in EXH-C Owner Insurance.

(Paragraphs deleted)

§ A.3.3 Contractor's Other Insurance Coverage

§ A.3.3.1 Insurance selected and described in this Section A.3.3 shall be purchased from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The Contractor shall maintain the required insurance until the expiration of the period for correction of Work as set forth in Section 12.2.2 of the General Conditions, unless a different duration is stated below:

(If the Contractor is required to maintain any of the types of insurance selected below for a duration other than the expiration of the period for correction of Work, state the duration.)

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If Professional Liability insurance is required as part of the Contract, the Contractor shall maintain coverage for one year beyond the date of Substantial Completion.

§ A.3.3.2 The Contractor shall purchase and maintain the types and limits of insurance as defined in EXH-C Owner Insurance.

(Paragraphs deleted)

§ A.3.4 Performance Bond and Payment Bond

The Contractor shall provide surety bonds, from a company or companies lawfully authorized to issue surety bonds in the jurisdiction where the Project is located, as follows:
(Specify type and penal sum of bonds.)

Type	Penal Sum ($0.00)
Payment Bond	$1,896,610
Performance Bond	$1,896,610

Payment and Performance Bonds shall be AIA Document A312™, Payment Bond and Performance Bond, or contain provisions identical to AIA Document A312™, current as of the date of this Agreement.

ARTICLE A.4 SPECIAL TERMS AND CONDITIONS

Special terms and conditions that modify this Insurance and Bonds Exhibit, if any, are as follows:

None

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Additions and Deletions Report for

AIA® Document A132® – 2019 Exhibit A

This Additions and Deletions Report, as defined on page 1 of the associated document, reproduces below all text the author has added to the standard form AIA document in order to complete it, as well as any text the author may have added to or deleted from the original AIA text. Added text is shown underlined. Deleted text is indicated with a horizontal line through the original AIA text.

Note: This Additions and Deletions Report is provided for information purposes only and is not incorporated into or constitute any part of the associated AIA document. This Additions and Deletions Report and its associated document were generated simultaneously by AIA software at 10:52:05 CT on 02/03/2025.

PAGE 1

This Insurance and Bonds Exhibit is part of the Agreement, between the Owner and the Contractor, dated the _first_ day of _February_____in the year _2025

...

North High School Phase 4 Work Scope 06-A Carpentry
1500 James Avenue, Minneapolis, MN 55411

...

Minneapolis Public Schools Special School District #1
1250 West Broadway Avenue
Minneapolis, MN 55411

...

Kellington Construction, Inc
807 Broadway St NE Ste 185
Minneapolis, MN 55413

PAGE 2

§ A.2.3.1 Unless this obligation is placed on the Contractor pursuant to Section A.3.3.2.1, the Owner shall purchase and maintain, from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located, property insurance ~~written on a builder's risk "all-risks" completed value or equivalent~~ policy form and sufficient to cover the total value of the entire Project on a replacement cost basis. The Owner's property insurance coverage shall be no less than the amount of the initial Contract Sum, plus the value of subsequent Modifications and labor performed and materials or equipment supplied by others. The property insurance shall be maintained until Substantial Completion and thereafter as provided in Section A.2.3.1.3, unless otherwise provided in the Contract Documents or otherwise agreed in writing by the parties to this Agreement. This insurance shall include the interests of the Owner, Contractor, Subcontractors, and Sub-subcontractors in the Project as insureds. This insurance shall include the interests of mortgagees as loss payees.

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§ A.3.2.1 The Contractor shall purchase and maintain the ~~following~~ types and limits of insurance as defined in EXH-C Owner Insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The Contractor shall maintain the required insurance until the expiration of the period for correction of Work as set forth in Section 12.2.2 of the General Conditions, unless a different duration is stated below:

...

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§ A.3.2.2.1 Commercial General Liability insurance for the Project written on an occurrence form with policy limits ~~of not less than ($) each occurrence, ($) general aggregate, and ($) aggregate for products-completed operations hazard,~~ as defined in EXH-C Owner Insurance providing coverage for claims including

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§ A.3.2.3 Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Contractor, with policy limits ~~of not less than ($) per accident, for bodily injury, death of any person, and property damage arising out of the ownership, maintenance and use of those motor vehicles along with any other statutorily required automobile coverage.~~as defined in EXH-C Owner Insurance.

§ A.3.2.4 The Contractor may achieve the required limits and coverage for Commercial General Liability and Automobile Liability through a combination of primary and excess or umbrella liability insurance, provided such primary and excess or umbrella insurance policies result in the same or greater coverage as the coverages required under Section A.3.2.2 and A.3.2.3, and in no event shall any excess or umbrella liability insurance provide narrower coverage than the primary policy. The excess policy shall not require the exhaustion of the underlying limits only through the actual payment by the underlying insurers. Umbrella coverage as defined in EXH-C Owner Insurance.

§ A.3.2.5 Workers' Compensation at statutory ~~limits.~~limits for Coverage A as defined in EXH-C Owner Insurance.

§ A.3.2.6 Employers' Liability ~~with policy limits not less than ($) each accident, ($) each employee, and ($) policy limit.~~Coverage B as defined in EXH-C Owner Insurance.

§ A.3.2.7 ~~Jones Act, and the Longshore & Harbor Workers' Compensation Act, as required, if the Work involves hazards arising from work on or near navigable waterways, including vessels and docks~~ If the Contractor is required to furnish professional services as part of the Work, the Contractor shall procure Professional Liability insurance covering performance of the professional services, with policy limits as defined in EXH-C Owner Insurance.

§ A.3.2.8 ~~If the Contractor is required to furnish professional services as part of the Work, the Contractor shall procure Professional Liability insurance covering performance of the professional services, with policy limits of not less than ($) per claim and ($) in the aggregate.~~Insurance for the use or operation of manned or unmanned aircraft, if the Work requires such activities, with policy limits as defined in EXH-C Owner Insurance.

~~**§ A.3.2.9** If the Work involves the transport, dissemination, use, or release of pollutants, the Contractor shall procure Pollution Liability insurance, with policy limits of not less than ($) per claim and ($) in the aggregate.~~

~~**§ A.3.2.10** Coverage under Sections A.3.2.8 and A.3.2.9 may be procured through a Combined Professional Liability and Pollution Liability insurance policy, with combined policy limits of not less than ($) per claim and ($) in the aggregate.~~

~~**§ A.3.2.11** Insurance for maritime liability risks associated with the operation of a vessel, if the Work requires such activities, with policy limits of not less than ($) per claim and ($) in the aggregate.~~

~~**§ A.3.2.12** Insurance for the use or operation of manned or unmanned aircraft, if the Work requires such activities, with policy limits of not less than ($) per claim and ($) in the aggregate.~~

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If Professional Liability insurance is required as part of the Contract, the Contractor shall maintain coverage for one year beyond the date of Substantial Completion.

§ A.3.3.2 The Contractor shall purchase and maintain the ~~following~~ types and limits of insurance ~~in accordance with Section A.3.3.1.~~as defined in EXH-C Owner Insurance.

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(Select the types of insurance the Contractor is required to purchase and maintain by placing an X in the box(es) next to the description(s) of selected insurance. Where policy limits are provided, include the policy limit in the appropriate fill point.)

[–] **§ A.3.3.2.1** If there is only one Contractor performing the Work on the Project, property insurance of the same type and scope satisfying the requirements identified in Section A.2.3, which, if selected in this section A.3.3.2.1, relieves the Owner of the responsibility to purchase and maintain such insurance except insurance required by Section A.2.3.1.3 and Section A.2.3.3. The Contractor shall comply with all obligations of the Owner under Section A.2.3 except to the extent provided below. The Contractor shall disclose to the Owner the amount of any deductible, and the Owner shall be responsible for losses within the deductible. Upon request, the Contractor shall provide the Owner with a copy of the property insurance policy or policies required. The Owner shall adjust and settle the loss with the insurer and be the trustee of the proceeds of the property insurance in accordance with Article 11 of the General Conditions unless otherwise set forth below:
(Where the Contractor's obligation to provide property insurance differs from the Owner's obligations as described under Section A.2.3, indicate such differences in the space below. Additionally, if a party other than the Owner will be responsible for adjusting and settling a loss with the insurer and acting as the trustee of the proceeds of property insurance in accordance with Article 11 of the General Conditions, indicate the responsible party below.)

[–] **§ A.3.3.2.2 Railroad Protective Liability Insurance**, with policy limits of not less than ($) per claim and ($) in the aggregate, for Work within fifty (50) feet of railroad property.

[–] **§ A.3.3.2.3 Asbestos Abatement Liability Insurance**, with policy limits of not less than ($) per claim and ($) in the aggregate, for liability arising from the encapsulation, removal, handling, storage, transportation, and disposal of asbestos-containing materials.

[–] **§ A.3.3.2.4** Insurance for physical damage to property while it is in storage and in transit to the construction site on an "all-risks" completed value form.

[–] **§ A.3.3.2.5** Property insurance on an "all-risks" completed value form, covering property owned by the Contractor and used on the Project, including scaffolding and other equipment.

[–] **§ A.3.3.2.6 Other Insurance**
(List below any other insurance coverage to be provided by the Contractor and any applicable limits.)

Coverage	**Limits**

§ A.3.4 Performance Bond and Payment Bond

...

Payment Bond	$1,896,610
Performance Bond	$1,896,610

...

None

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AIA® Document A232® – 2019

General Conditions of the Contract for Construction, *Construction Manager as Adviser Edition*

for the following PROJECT:
(Name, and location or address)

North High School Phase 4 Work Scope 06-A Carpentry
1500 James Avenue, Minneapolis, MN 55411

THE CONSTRUCTION MANAGER:
(Name, legal status, and address)

Kraus-Anderson Construction Company
501 South 8th Street, Minneapolis, MN 55404

THE OWNER:
(Name, legal status, and address)

Minneapolis Public Schools Special School District #1
1250 West Broadway Avenue
Minneapolis, MN 55411

THE ARCHITECT:
(Name, legal status, and address)

LSE Architects 1401 Glenwood Avenue
Minneapolis, MN 55405

ADDITIONS AND DELETIONS:
The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

This document is intended to be used in conjunction with AIA Documents A132™–2019, Standard Form of Agreement Between Owner and Contractor, Construction Manager as Adviser Edition; B132™–2019, Standard Form of Agreement Between Owner and Architect, Construction Manager as Adviser Edition; and C132™–2019, Standard Form of Agreement Between Owner and Construction Manager as Adviser.

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ARTICLE 1 GENERAL PROVISIONS

§ 1.1 Basic Definitions

§ 1.1.1 The Contract Documents. The Contract Documents are enumerated in the Agreement between the Owner and Contractor (hereinafter the Agreement) and consist of the Agreement, Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, Addenda issued prior to execution of the Contract, other documents listed in the Agreement, and Modifications issued after execution of the Contract. A Modification is (1) a written amendment to the Contract signed by both parties, (2) a Change Order, (3) a Construction Change Directive, or (4) a written order for a minor change in the Work issued by the Architect. Unless specifically enumerated in the Agreement, the Contract Documents do not include the advertisement or invitation to bid, Instructions to Bidders, sample forms, other information furnished by the Owner in anticipation of receiving bids or proposals, the Contractor's bid or proposal, or portions of addenda relating to bidding or proposal requirements.

§ 1.1.1.1 Notwithstanding the foregoing, it is understood and agreed that the Owner is an intended third-party beneficiary of all contracts between the Contractor and Subcontractors or suppliers who provide labor and/or materials for the Work.

§ 1.1.2 The Contract. The Contract Documents form the Contract for Construction. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations, or agreements, either written or oral. The Contract may be amended or modified only by a Modification. The Contract Documents shall not be construed to create a contractual relationship of any kind (1) between the Contractor and the Architect or the Architect's consultants, (2) between the Owner and the Construction Manager or the Construction Manager's consultants, (3) between the Owner and the Architect or the Architect's consultants, (4) between the Contractor and the Construction Manager or the Construction Manager's consultants, (5) between the Owner and a Subcontractor or Sub-subcontractor (6) between the Construction Manager and the Architect, or (7) between any persons or entities other than the Owner and Contractor. The Construction Manager and Architect shall, however, be entitled to performance and enforcement of obligations under the Contract intended to facilitate performance of their duties.

§ 1.1.3 The Work. The term "Work" means the construction and services required by the Contract Documents, whether completed or partially completed, and includes all other labor, materials, equipment, and services provided or to be provided by the Contractor to fulfill the Contractor's obligations. The Work may constitute the whole or a part of the Project.

§ 1.1.4 The Project. The Project is the total construction of which the Work performed under the Contract Documents may be the whole or a part and which may include construction by other Contractors, and by the Owner's own forces and Separate Contractors.

§ 1.1.5 Contractors. Contractors are persons or entities, other than the Contractor or Separate Contractors, who perform Work under contracts with the Owner that are administered by the Architect and Construction Manager.

§ 1.1.6 Separate Contractors. Separate Contractors are persons or entities who perform construction under separate contracts with the Owner not administered by the Architect and Construction Manager.

§ 1.1.7 The Drawings. The Drawings are the graphic and pictorial portions of the Contract Documents showing the design, location and dimensions of the Work, generally including plans, elevations, sections, details, schedules, and diagrams.

§ 1.1.8 The Specifications. The Specifications are that portion of the Contract Documents consisting of the written requirements for materials, equipment, systems, standards and workmanship for the Work, and performance of related services.

§ 1.1.9 Instruments of Service. Instruments of Service are representations, in any medium of expression now known or later developed, of the tangible and intangible creative work performed by the Architect and the Architect's consultants under their respective professional services agreements. Instruments of Service may include, without limitation, studies, surveys, models, sketches, drawings, specifications, and other similar materials.

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§ 1.1.10 Initial Decision Maker. The Initial Decision Maker is the person identified in the Agreement to render initial decisions on Claims in accordance with Section 15.2. The Architect will serve as the Initial Decision Maker pursuant to Section 15.2 of AIA Document A232–2019.

§ 1.2 Correlation and Intent of the Contract Documents

§ 1.2.1 The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work by the Contractor. The Contract Documents are complementary, and what is required by one shall be as binding as if required by all; performance by the Contractor shall be required only to the extent consistent with the Contract Documents and reasonably inferable from them as being necessary to produce the intended results.

§ 1.2.1.1 The invalidity of any provision of the Contract Documents shall not invalidate the Contract or its remaining provisions. In such case the Contract Documents shall be construed, to the fullest extent permitted by law, to give effect to the parties' intentions and purposes in executing the Contract.

§ 1.2.2 Organization of the Specifications into divisions, sections and articles, and arrangement of Drawings shall not control the Contractor in dividing the Work among Subcontractors or in establishing the extent of Work to be performed by any trade.

§ 1.2.3 Unless otherwise stated in the Contract Documents, words that have well-known technical or construction industry meanings are used in the Contract Documents in accordance with such recognized meanings.

§ 1.3 Capitalization

Terms capitalized in these General Conditions include those that are (1) specifically defined, (2) the titles of numbered articles, or (3) the titles of other documents published by the American Institute of Architects.

§ 1.4 Interpretation

In the interest of brevity the Contract Documents frequently omit modifying words such as "all" and "any" and articles such as "the" and "an," but the fact that a modifier or an article is absent from one statement and appears in another is not intended to affect the interpretation of either statement.

§ 1.4.1 In the case of inconsistency between Drawings and Specifications or within Contract Documents not clarified by Addenda, the better quality or greater quantity of Work shall be provided in accordance with the Architect's interpretation.

§ 1.5 Ownership and Use of Drawings, Specifications, and Other Instruments of Service

§ 1.5.1 The Architect and the Architect's consultants shall be deemed the authors and owners of their respective Instruments of Service, including the Drawings and Specifications, and retain all common law, statutory, and other reserved rights in their Instruments of Service, including copyrights. The Contractor, Subcontractors, sub-subcontractors, and suppliers shall not own or claim a copyright in the Instruments of Service. Submittal or distribution to meet official regulatory requirements or for other purposes in connection with the Project is not to be construed as publication in derogation of the Architect's or Architect's consultants' reserved rights. The Owner retains rights to the Instruments of Service pursuant to Article 7 of AIA Document B101-2017.

§ 1.5.2 The Contractor, Subcontractors, Sub-subcontractors, and suppliers are authorized to use and reproduce the Instruments of Service provided to them, subject to any protocols established pursuant to Sections 1.7 and 1.8, solely and exclusively for execution of the Work. All copies made under this authorization shall bear the copyright notice, if any, shown on the Instruments of Service. The Contractor, Subcontractors, Sub-subcontractors, and suppliers may not use the Instruments of Service on other projects or for additions to the Project outside the scope of the Work without the specific written consent of the Owner, Architect, and the Architect's consultants.

§ 1.5.3 The Architect shall furnish to the Contractor a version of the Instruments of Service in electronic form for the sole purpose of the construction of the Project for which the Instruments of Service were created.

§ 1.6 Notice

§ 1.6.1 Except as otherwise provided in Section 1.6.2, where the Contract Documents require one party to notify or give notice to the other party, such notice shall be provided in writing to the designated representative of the party to

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whom the notice is addressed and shall be deemed to have been duly served if delivered in person, by mail, by courier, or by electronic transmission if a method for electronic transmission is set forth in the Agreement.

§ 1.6.2 Notice of Claims as provided in Section 15.1.3 shall be provided in writing and shall be deemed to have been duly served only if delivered to the designated representative of the party to whom the notice is addressed by certified or registered mail, or by courier providing proof of delivery.

§ 1.7 Digital Data Use and Transmission

The parties shall agree upon protocols governing the transmission and use of Instruments of Service or any other information or documentation in digital form. The parties may use AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit or other form, to establish the protocols for the development, use, transmission, and exchange of digital data.

§ 1.8 Building Information Models Use and Reliance

Any use of, or reliance on, all or a portion of a building information model without agreement to protocols governing the use of, and reliance on, the information contained in the model and without having those protocols set forth in AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, and the requisite AIA Document G202™–2013, Project Building Information Modeling Protocol Form or other form, shall be at the using or relying party's sole risk and without liability to the other party and its contractors or consultants, the authors of, or contributors to, the building information model, and each of their agents and employees.

ARTICLE 2 OWNER

§ 2.1 General

§ 2.1.1 The Owner is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The Owner shall designate in writing a representative who shall have express authority to bind the Owner with respect to all matters requiring the Owner's approval or authorization in accordance with Owner's Delegation of Authority Policy, a copy of which will be provided at Contractor's request. Except as otherwise provided in Section 4.2.1, the Construction Manager and the Architect do not have such authority. The term "Owner" means the Owner or the Owner's authorized representative.

(Paragraph deleted)

§ 2.2 Evidence of the Owner's Financial Arrangements

§ 2.2.1 Prior to commencement of the Work, and upon written request by the Contractor, the Owner shall furnish to the Contractor reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Contract. The Contractor shall have no obligation to commence the Work until the Owner provides such evidence. If commencement of the Work is delayed under this Section 2.2.1, the Contract Time shall be extended appropriately.

§ 2.2.2 Following commencement of the Work and upon written request by the Contractor, the Owner shall furnish to the Contractor reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Contract only if (1) the Owner fails to make payments to the Contractor as the Contract Documents require; (2) the Contractor identifies in writing a reasonable concern regarding the Owner's ability to make payment when due; or (3) a change in the Work materially changes the Contract Sum. If the Owner fails to provide such evidence, as required, within fourteen days of the Contractor's request, the Contractor may immediately stop the Work and, in that event, shall notify the Owner that the Work has stopped. However, if the request is made because a change in the Work materially changes the Contract Sum under (3) above, the Contractor may immediately stop only that portion of the Work affected by the change until reasonable evidence is provided. If the Work is stopped under this Section 2.2.2, the Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable costs of shutdown, delay and start-up, plus interest as provided in the Contract Documents.

§ 2.2.3 After the Owner furnishes evidence of financial arrangements under this Section 2.2, the Owner shall not materially vary such financial arrangements without prior notice to the Contractor.

§ 2.2.4 Where the Owner has designated information furnished under this Section 2.2 as "confidential," the Contractor shall keep the information confidential and shall not disclose it to any other person. However, the Contractor may disclose "confidential" information, after seven (7) days' notice to the Owner, where disclosure is required by law, including a subpoena or other form of compulsory legal process issued by a court or governmental entity, or by court

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or arbitrator(s) order. The Contractor may also disclose "confidential" information to its employees, consultants, sureties, Subcontractors and their employees, Sub-subcontractors, and others who need to know the content of such information solely and exclusively for the Project and who agree to maintain the confidentiality of such information.

§ 2.3 Information and Services Required of the Owner

§ 2.3.1 Except for permits and fees that are the responsibility of the Contractor under the Contract Documents, including those required under Section 3.7.1, the Owner shall secure and pay for necessary approvals, easements, assessments and charges required for construction, use or occupancy of permanent structures or for permanent changes in existing facilities. Unless otherwise provided under the Contract Documents, the Owner, assisted by the Construction Manager, shall secure and pay for the building permit.

§ 2.3.2 The Owner shall retain an architect lawfully licensed to practice architecture, or an entity lawfully practicing architecture, in the jurisdiction where the Project is located. That person or entity is identified as the Architect in the Agreement and is referred to throughout the Contract Documents as if singular in number.

§ 2.3.3 The Owner shall retain a construction manager adviser lawfully practicing construction management in the jurisdiction where the Project is located. That person or entity is identified as the Construction Manager in the Agreement and is referred to throughout the Contract Documents as if singular in number.

§ 2.3.4 If the employment of the Construction Manager or Architect terminates, the Owner shall employ a successor construction manager or architect to whom the Contractor has no reasonable objection and whose status under the Contract Documents shall be that of the Construction Manager or Architect, respectively.

§ 2.3.5 If requested by the Contractor and reasonably required for the Project, the Owner shall furnish surveys describing physical characteristics, legal limitations and utility locations for the site of the Project, and a written legal description of the site. The Contractor shall exercise proper precautions relating to the safe performance of the Work.

§ 2.3.6 The Owner shall furnish information or services required of the Owner by the Contract Documents with reasonable promptness. The Owner shall also furnish any other information or services under the Owner's control and relevant to the Contractor's performance of the Work with reasonable promptness after receiving the Contractor's written request for such information or services. The Contractor is responsible for the timeliness of, or interference caused by, Subcontractors, Sub-subcontractors (of any tier), and others directly or indirectly under contract to the Contractor.

§ 2.3.7 Unless otherwise provided in the Contract Documents, the Owner shall furnish to the Contractor one copy of the Contract Documents for purposes of making reproductions pursuant to Section 1.5.2.

§ 2.3.8 The Owner shall forward all communications to the Contractor through the Construction Manager. Other communication shall be made as set forth in Section 4.2.6.

§ 2.4 Owner's Right to Stop the Work

If the Contractor fails to correct Work that is not in accordance with the requirements of the Contract Documents as required by Section 12.2 or repeatedly fails to carry out Work in accordance with the Contract Documents, the Owner may issue a written order to the Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, the right of the Owner to stop the Work shall not give rise to a duty on the part of the Owner to exercise this right for the benefit of the Contractor or any other person or entity, except to the extent required by Section 6.1.3.

§ 2.5 Owner's Right to Carry Out the Work

If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within a three-business-day (3) period after receipt of notice from the Owner to commence and continue correction of such default or neglect with diligence and promptness, the Owner may, without prejudice to other remedies the Owner may have, correct such default or neglect. Such action by the Owner and amounts charged to the Contractor are both subject to review by the Construction Manager and prior approval of the Architect, and the Construction Manager or Architect may, pursuant to Section 9.5.1, withhold or nullify a Certificate for Payment in whole or in part, to the extent reasonably necessary to reimburse the Owner for the reasonable cost of correcting such deficiencies, including Owner's expenses and compensation for the Construction Manager's and Architect's and their respective consultants'

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additional services and expenses made necessary by such default, neglect, or failure. If current and future payments are not sufficient to cover such amounts, the Contractor shall pay the difference to the Owner within ten (10) days following written request for payment delivered by the Owner to the Contractor. If the Contractor disagrees with the actions of the Owner or the Architect, or the amounts claimed as costs to the Owner, the Contractor may file a Claim pursuant to Article 15.

ARTICLE 3 CONTRACTOR

§ 3.1 General

§ 3.1.1 The Contractor is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The Contractor shall be lawfully licensed, if required in the jurisdiction where the Project is located. The Contractor shall designate in writing a representative who shall have express authority to bind the Contractor with respect to all matters under this Contract. The term "Contractor" means the Contractor or the Contractor's authorized representative.

§ 3.1.2 The Contractor shall perform the Work in accordance with the Contract Documents.

§ 3.1.3 The Contractor shall hire a professional utilities locator to investigate and verify all private utility locations prior to excavation and cutting into of existing Work. The Contractor is responsible for locating, terminating, and reinstallation of all private utilities. Private site utilities may not be in the Drawings and Project Manual and as such, verification of private utilities is the sole responsibility of the Contractor. Costs associated with moving and repairing of unknown and undocumented utilities will be by appropriate Change Order. The Contractor shall comply with Gopher State One Call, or other public utility service locator to locate all public utilities prior to any work on the site. This shall not relieve Contractor from obligations under Article 3.

§ 3.1.4 The Contractor shall not be relieved of its obligations to perform the Work in accordance with the Contract Documents either by activities or duties of the Construction Manager or Architect in their administration of the Contract, or by tests, inspections or approvals required or performed by persons or entities other than the Contractor.

§ 3.2 Review of Contract Documents and Field Conditions by Contractor

§ 3.2.1 The Contractor shall carefully study and compare the Contract Documents with each other and with information furnished by the Owner pursuant to Section 2.2.3, and shall immediately report to the Architect and Construction Manager errors, inconsistencies, or omissions discovered. The Contractor shall not be liable to the Owner or Architect for damage resulting from errors, inconsistencies, or omissions in the Contract Document unless the Contractor recognized such error, inconsistency, or omission and knowingly failed to report it to the Architect. If the Contractor performs any construction activity knowing or believing it involves a recognized error, inconsistency, or omission in the Contract Documents without such notice to the Architect, the Contractor shall assume full responsibility for such performance and shall bear the attributable costs for correction and shall bear responsibility for any additional costs, delays, and damages resulting from such failure to immediately report any such errors, inconsistencies, or omissions which the Contractor may discover. By executing the Contract, the Contractor represents that the Contractor has reviewed and understands the Contract Documents, has visited the Site and is familiar with local conditions under which the Work is to be performed, has correlated personal observations with the requirements of the Contract Documents, and has notified the Architect of and obtained clarification of any discrepancies which have become apparent during the bidding or proposal period.

§ 3.2.1.1 The Contractor shall take field measurements and verify field conditions and shall carefully compare such field measurements and conditions and other information known to the Contractor with the Contract Documents before commencing activities. Errors, inconsistencies, or omissions discovered shall be reported to the Architect immediately in writing.

§ 3.2.1.2 The Contractor shall carefully study and compare the Contract Documents with existing conditions at the job site and shall immediately report in writing to the Architect any error, inconsistency, or omission which the Contractor may discover or any materials, systems, procedures, or methods of construction, either shown on the Drawings or specified, which the Contractor has reason to believe are incorrect, inadequate, obsolete, unsuitable for the purpose intended or which the Contractor has reason to believe would constitute or result in a violation of the Contractor's warranty under Section 3.5 or applicable law. The Contractor shall not proceed with any work in such areas until written instructions are received from the Architect.

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§ 3.2.2 The Contractor shall perform the Work in accordance with the Contract Documents and submittals accepted pursuant to Section 3.12.

§ 3.2.3 The Owner shall be entitled to deduct from the Contract Sum amounts paid to the Architect for the Architect to evaluate and respond to the Contractor's requests for interpretation or information where such information was available to the Contractor from a careful study and comparison of the Contract Documents, Filed Conditions, Owner Provided Information, Contractor Prepared Coordination Drawings, or prior Project Correspondence or Documentation.

§ 3.2.4 If the Contractor believes that any portions of the Contract Documents do not comply with applicable laws, statutes, ordinances, building codes, and rules and regulations, or any orders by code enforcement officials or the Owner or its designees acting in the capacity of building code inspectors or Referenced Standards, the Contractor must promptly notify the Owner and the Architect of the non-compliance as provided in Section 3.2.6 and request direction before proceeding with the affected Work.

§ 3.2.5 The Contractor must promptly notify the Owner and the Architect in writing of any apparent errors, inconsistencies, omissions, ambiguities, construction impracticalities or code violations discovered as a result of the Contractor's review of the Contract Documents including any differences between actual and indicated dimensions, locations and descriptions, and must give the Owner and the Architect timely notice in writing of same and of any corrections, clarifications, additional Drawings or Specifications, or other information required to define the Work in greater detail or to permit the proper progress of the Work. The Contractor must provide similar notice with respect to any variance between its review of the Site and physical data and Site conditions observed.

§ 3.2.6 If the Contractor performs any Work involving an apparent error, inconsistency, ambiguity, construction impracticality, omission or code violation in the Contract Documents of which the Contractor is aware, or which could reasonably have been discovered by the review required by Section 3.2, without prompt written notice to the Owner and the Architect and request for correction, clarification or additional information, as appropriate, the Contractor does so at its own risk and expense and all Claims relating thereafter are specifically waived.

§ 3.3 Supervision and Construction Procedures

§ 3.3.1 The Contractor shall supervise and direct the Work, using the Contractor's best skill and attention. The Contractor shall be solely responsible for, and have control over, construction means, methods, techniques, sequences, and procedures, and for coordinating all portions of the Work under the Contract. If the Contract Documents give specific instructions concerning construction means, methods, techniques, sequences, or procedures, the Contractor shall evaluate the jobsite safety thereof and shall be solely responsible for the jobsite safety of such means, methods, techniques, sequences, or procedures. If the Contractor determines that such means, methods, techniques, sequences or procedures may not be safe, the Contractor shall give timely notice to the Owner, the Construction Manager, and the Architect, and shall propose alternative means, methods, techniques, sequences, or procedures. The Architect shall evaluate the proposed alternative solely for conformance with the design intent for the completed construction. The Construction Manager shall review the proposed alternative for sequencing, constructability, and coordination impacts on the other Contractors. Unless the Architect or the Construction Manager objects to the Contractor's proposed alternative, the Contractor shall perform the Work using its alternative means, methods, techniques, sequences, or procedures.

§ 3.3.2 The Contractor shall be responsible to the Owner for acts and omissions of the Contractor's employees, Subcontractors and their agents and employees, and other persons or entities performing portions of the Work for, or on behalf of, the Contractor or any of its Subcontractors.

§ 3.3.3 The Contractor shall be responsible for inspection of portions of the Project already performed to determine that such portions are in proper condition to receive subsequent Work.

§ 3.3.4 The Contractor shall at all times staff the Project adequately to allow the Project to be managed and completed in a timely and professional manner. The Contractor shall have competent supervision on the job during work hours and readily available at all times upon call.

§ 3.3.5 The Contractor shall at all times make reasonable provisions to protect any Work performed by any separate contractors, adjacent property, and the existing building (if any) from damage due to the Work or due to the weather.

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§ 3.3.6 The Owner or its approved representative (heretofore referred to as Owner's Representative) shall have access to the Work site and all Work. No supervision or inspection by the Owner or the Owner's Representative, nor the authority to act, nor any other actions taken by the Owner's Representative shall relieve the Contractor of any of its obligations under the Contract Documents or give rise to any duty on the part of the Owner.

§ 3.3.7 The Contract shall take appropriate precautions to ensure that the Work does not materially disrupt any ongoing operation by the Owner at the Project (if any) except to the extent any such disruption is a necessary result of performing a particular portion of the Work, in which case the Contractor shall provide the Owner with reasonable advanced written notice and shall take all commercially reasonable measures to minimize the impact on the Owner and the Owner's operations.

§ 3.4 Labor and Materials

§ 3.4.1 Unless otherwise provided in the Contract Documents, the Contractor shall provide and pay for labor, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation, and other facilities and services necessary for proper execution and completion of the Work, whether temporary or permanent and whether or not incorporated or to be incorporated in the Work. Should the Contract Documents require Work to be performed after regular working hours or should the Contractor elect to perform Work after regular working hours, the additional cost of such Work shall be borne by the Contractor.

§ 3.4.2 Except in the case of minor changes in the Work approved by the Architect in accordance with Section 3.12.8 or ordered by the Architect in accordance with Section 7.4, the Contractor may make substitutions only with the consent of the Owner, after evaluation by the Architect, in consultation with the Construction Manager, and in accordance with a Change Order or Construction Change Directive.

§ 3.4.3 The Contractor shall enforce strict discipline and good order among the Contractor's employees and other persons carrying out the Work. The Contractor shall not permit employment of unfit persons or persons not properly skilled in tasks assigned to them.

§ 3.4.4 The Contractor shall be responsible for all additional costs incurred to incorporate into the Project substitute materials, products, or equipment approved by Owner during the bidding period.

§ 3.4.5 In the event of a Change related to substitute or additional materials, and which shall comply with Article 7, the Contractor shall exercise reasonable efforts, consistent with the provisions of the Contract Documents to obtain the maximum available case discounts on all materials, provided that, in doing so, the Contractor shall not accept or use materials for incorporation into the Project which are of a type or quality not reasonably contemplated under the terms of the Contract Documents.

§ 3.4.6 After award of the Contract, a request for substitution of a material, product, or piece of equipment at no change in the Contract Sum will not be approved by the Owner or the Architect, unless the specified item is no longer manufactured, the specified item is unavailable as a result of an act of government such as a declaration of a national emergency, or delivery of the specified items is substantially delayed as a result of labor disputes affecting the manufacturer, unusual delay in transportation, or any other cause beyond control of the Contractor or a Subcontractor or material supplier which the Architect determines justified the delay. Requests will not be approved where the delay in delivery results from failure to promptly place subcontracts and material orders. Requests for substitution shall be submitted in writing to the Architect and shall clearly describe the proposed substitution, state the reason for the unavailability of a specified item and be accompanied by such additional data and information as may be necessary in the discretion of the Owner and the Architect to establish the acceptability of the proposed substitute.

§ 3.4.7 The Owner shall be entitled to deduct from the Contract Sum amounts paid to the Architect to evaluate the Contractor's proposed Substitutions and for changes made to the Contract Documents as a result of Owner's acceptance of such Substitutions.

§ 3.5 Warranty

§ 3.5.1 The Contractor warrants to the Owner, Construction Manager, and Architect that materials and equipment furnished under the Contract will be of good quality and new unless the Contract Documents require or permit otherwise. The Contractor further warrants that the Work will conform to the requirements of the Contract Documents

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and will be free from defects, except for those inherent in the quality of the Work the Contract Documents require or permit. Work, materials, or equipment not conforming to these requirements may be considered defective. The Contractor's warranty excludes remedy for damage or defect caused by abuse, alterations to the Work not executed by the Contractor, improper or insufficient maintenance, improper operation, or normal wear and tear and normal usage. If required by the Construction Manager or Architect, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment.

§ 3.5.2 All material, equipment, or other special warranties required by the Contract Documents shall be issued in the name of the Owner, or shall be transferable to the Owner, and shall commence in accordance with Section 9.8.4. The Contractor shall arrange for the Owner to have the benefit of and right to enforce all warranties by Subcontractors, Sub-subcontractors, suppliers, and manufacturers.

§ 3.5.3 Manufacturers' warranties and warranties by other shall not relieve the Contractor of any of its responsibilities.

§ 3.5.4 The Contractor's general warranty and any additional or special warranties are not limited by the Contractor's obligations to specifically correct defective or nonconforming Work as provided in Article 12, nor are they limited by any other remedies provided in the Contract Documents. The Contractor shall also be liable for any damage to property or persons (including death) including consequential and direct damages relating to any breach of the Contractor's general warranty or any additional or special warranties required by the Contract Documents.

§ 3.5.5 The Contractor must furnish all special warranties required by the Contract Documents to the Owner no later than Substantial Completion. The Owner may require additional special warranties in connection with the approval of "Or-Equals" or Substitutions, Allowance items, Work that is defective or nonconforming, or the acceptance of nonconforming Work pursuant to Article 12.

§ 3.6 Taxes

The Contractor shall pay sales, consumer, use and similar taxes for the Work or portions thereof provided by the Contractor that are legally enacted when bids are received or negotiations concluded, whether or not yet effective or merely scheduled to go into effect.

§ 3.7 Permits, Fees, Notices, and Compliance with Laws

§ 3.7.1 Unless otherwise provided in the Contract Documents, the Owner, assisted by the Construction Manager, shall secure and pay for the building permit. The Contractor shall secure and pay for other permits, fees, licenses, and inspections by government agencies necessary for proper execution and completion of the Work that are customarily secured after execution of the Contract and legally required at the time bids are received or negotiations concluded. The Contractor shall be responsible for the Sewer Access (SAC) and Water Access (WAC) fees for the Project. The Contractor shall pay the SAC/WAC costs to the authorities having jurisdiction from the Allowance in the Base Bid for such charges as defined in the Construction Documents.

§ 3.7.2 The Contractor shall comply with and give notices required by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities applicable to performance of the Work.

§ 3.7.3 If the Contractor performs Work knowing or believing it to be contrary to applicable laws, statutes, ordinances, building codes, rules and regulations, or lawful orders of public authorities, without such notice to the Architect and Owner, the Contractor shall assume full responsibility for such Work and shall bear the attributable costs, delays, and damages resulting from such failure to immediately notify the Architect and Owner of any such violation..

§ 3.7.4 Concealed or Unknown Conditions. If the Contractor encounters conditions at the site that are (1) subsurface or otherwise concealed physical conditions that differ materially from those indicated in the Contract Documents or (2) unknown physical conditions of an unusual nature that differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents, the Contractor shall promptly provide notice to the Owner, Construction Manager, and the Architect before conditions are disturbed and in no event later than ten (10) days after first observance of the conditions. The Architect and Construction Manager will promptly investigate such conditions and, if the Architect, in consultation with the Construction Manager, determines that they differ materially and cause an increase or decrease in the Contractor's cost of, or time required for, performance of any part of the Work, will recommend that an equitable adjustment be made in the Contract Sum or Contract Time, or both. If the Architect, in consultation with the Construction Manager,

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determines that the conditions at the site are not materially different from those indicated in the Contract Documents and that no change in the terms of the Contract is justified, the Architect shall promptly notify the Owner, Construction Manager, and Contractor, stating the reasons. If the Owner or Contractor disputes the Architect's determination or recommendation, either party may submit a Claim as provided in Article 15.

§ 3.7.5 If, in the course of the Work, the Contractor encounters human remains or recognizes the existence of burial markers, archaeological sites or wetlands not indicated in the Contract Documents, the Contractor shall immediately suspend any operations that would affect them and shall notify the Owner, Construction Manager, and Architect. Upon receipt of such notice, the Owner shall promptly take any action necessary to obtain governmental authorization required to resume the operations. The Contractor shall continue to suspend such operations until otherwise instructed by the Owner but shall continue with all other operations that do not affect those remains or features. Requests for adjustments in the Contract Sum and Contract Time arising from the existence of such remains or features may be made as provided in Article 15.

§ 3.8 Allowances

§ 3.8.1 The Contractor shall include in the Contract Sum all allowances stated in the Contract Documents. Items covered by allowances shall be supplied for such amounts and by such persons or entities as the Owner may direct, but the Contractor shall not be required to employ persons or entities to whom the Contractor has reasonable objection.

§ 3.8.2 Unless otherwise provided in the Contract Documents:

- **.1** allowances shall cover the cost to the Contractor of materials and equipment delivered at the site and all required taxes, less applicable trade discounts;
- **.2** Contractor's costs for unloading and handling at the site, labor, installation costs, overhead, profit, and other expenses contemplated for stated allowance amounts shall be included in the Contract Sum but not in the allowances; and
- **.3** whenever costs are more than or less than allowances, the Contract Sum shall be adjusted accordingly by Change Order. The amount of the Change Order shall reflect (1) the difference between actual costs and the allowances under Section 3.8.2.1 and (2) changes in Contractor's costs under Section 3.8.2.2.

§ 3.8.3 Materials and equipment under an allowance shall be selected by the Owner with reasonable promptness.

§ 3.9 Superintendent

§ 3.9.1 The Contractor shall employ a competent superintendent and necessary assistants who shall be in attendance at the Project site during performance of the Work, including that performed by all Subcontractors. The superintendent shall represent the Contractor, and communications given to the superintendent shall be as binding as if given to the Contractor. Important communications including and not limited to communications regarding design changes, alterations, substitutions, clarifications, cost changes, etc. shall be confirmed in writing by the Contractor. Other communications shall be similarly confirmed on written request in each case.

§ 3.9.2 The Contractor, as soon as practicable after award of the Contract, shall notify the Owner and Architect, through the Construction Manager, of the name and qualifications of a proposed superintendent. Within 14 days of receipt of the information, the Construction Manager may notify the Contractor, stating whether the Owner, the Construction Manager, or the Architect (1) has reasonable objection to the proposed superintendent or (2) require additional time for review. Failure of the Construction Manager to provide notice within the 14-day period shall constitute notice of no reasonable objection.

§ 3.9.3 The Contractor shall not employ a proposed superintendent or any other management personnel to whom the Owner, Construction Manager, or Architect has made reasonable and timely objection. The Contractor shall not change the superintendent without the Owner's consent, which shall not unreasonably be withheld or delayed.

§ 3.9.4 If requested by the Owner, the Contractor shall replace the superintendent at no additional cost to the Owner. No other change in this position shall be made without notice to and written consent of the Owner.

§ 3.10 Contractor's Construction and Submittal Schedules

§ 3.10.1 The Contractor, promptly after being awarded the Contract, shall submit for the Owner's and Architect's information, and the Construction Manager's use in developing the Project schedule, a Contractor's construction schedule for the Work. The schedule shall contain detail appropriate for the Project, including (1) the date of

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commencement of the Work, interim schedule milestone dates, critical path schedule milestones, major construction milestones, including and not limited to Civil, Demolition, Structural, Mechanical, Electrical, and Plumbing, and the date of Substantial Completion; (2) an apportionment of the Work by construction activity; and (3) the time required for completion of each portion of the Work. The schedule shall provide for the orderly progression of the Work to completion and shall not exceed time limits current under the Contract Documents. The schedule shall be revised at appropriate intervals as required by the conditions of the Work and Project. The Contractor shall cooperate with the Construction Manager in scheduling and performing the Contractor's Work to avoid conflict with, and as to cause no delay in, the work or activities of other Contractors, or the construction or operations of the Owner's own forces or Separate Contractors.

§ 3.10.2 The Contractor, promptly after being awarded the Contract and thereafter as necessary to maintain a current submittal schedule, shall submit a submittal schedule for the Construction Manager's and Architect's approval. The Architect and Construction Manager's approval shall not be unreasonably delayed or withheld. The submittal schedule shall (1) be coordinated with the Contractor's construction schedule, and (2) allow the Construction Manager and Architect reasonable time to review submittals. If the Contractor fails to submit a submittal schedule, or fails to provide submittals in accordance with the approved submittal schedule, the Contractor shall not be entitled to any increase in Contract Sum or extension of Contract Time based on the time required for review of submittals.

§ 3.10.3 The Contractor shall participate with other Contractors, the Construction Manager, and the Owner in reviewing and coordinating all schedules for incorporation into the Project schedule that is prepared by the Construction Manager. The Contractor shall make revisions to the construction schedule and submittal schedule as deemed necessary by the Construction Manager to conform to the Project schedule.

§ 3.10.4 The Contractor shall perform the Work in general accordance with the most recent schedules submitted to and accepted in writing by the Owner, Construction Manager, and Architect, and incorporated into the approved Project schedule.

§ 3.11 Documents and Samples at the Site

§ 3.11.1 The Contractor shall make available, at the Project site, one record copy of the Contract Documents, including Change Orders, Construction Change Directives, and other Modifications, in good order and updated daily to indicate field changes and selections made during construction, and in addition accepted and approved Shop Drawings, Product Data, Samples, and similar required submittals. These shall be in electronic form or paper copy, available to the Construction Manager, Architect, and Owner as required to complete routine inspections by Architect, Construction Manager and Owner prior to any approval of payments to the Contractor, and delivered to the Construction Manager for submittal to the Owner upon completion of the Work. The Architect and Contractor must verify that all "as-built" Drawings, Specifications, Addenda, Change Orders, and other Modifications are up-to-date before Contractor's Application for Payment is acceptable and before the Owner incurs any duty to pay Contractor in accordance with the Contract. The record documents shall be a separate set of documents labeled "Record Documents" and used only for record purposes and kept clean and undamaged.

§ 3.11.2 No review or receipt of such records by the Architect or Owner shall be considered a waiver of any deviation from the Contract Documents or approved shop drawings, or any way relieve the Contractor from its responsibility to perform the Work in accordance with the Contract Documents.

§ 3.12 Shop Drawings, Product Data, and Samples

§ 3.12.1 Shop Drawings are drawings, diagrams, schedules, and other data specially prepared for the Work by the Contractor or a Subcontractor, Sub-subcontractor, manufacturer, supplier, or distributor to illustrate some portion of the Work.

§ 3.12.2 Product Data are illustrations, standard schedules, performance charts, instructions, brochures, diagrams, and other information furnished by the Contractor to illustrate materials or equipment for some portion of the Work.

§ 3.12.3 Samples are physical examples that illustrate materials, equipment, or workmanship, and establish standards by which the Work will be judged.

§ 3.12.4 Shop Drawings, Product Data, Samples, and similar submittals are not Contract Documents. Their purpose is to demonstrate how the Contractor proposes to conform to the information given and the design concept expressed in the Contract Documents for those portions of the Work for which the Contract Documents require submittals. Review

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by the Architect and Construction Manager is subject to the limitations of Sections 4.2.10 through 4.2.12. Informational submittals upon which the Construction Manager and Architect are not expected to take responsive action may be so identified in the Contract Documents. Submittals that are not required by the Contract Documents may be returned by the Construction Manager or Architect without action.

§ 3.12.5 The Contractor shall review for compliance with the Contract Documents, approve, and submit to the Construction Manager, Shop Drawings, Product Data, Samples, and similar submittals required by the Contract Documents, in accordance with the Project submittal schedule approved by the Construction Manager and Architect or, in the absence of an approved Project submittal schedule, with reasonable promptness and in such sequence as to cause no delay in the Work or in the activities of other Contractors, Separate Contractors, or the Owner's own forces. The Contractor shall cooperate with the Construction Manager in the coordination of the Contractor's Shop Drawings, Product Data, Samples, and similar submittals with related documents submitted by other Contractors. The Contractor must provide the Owner and the Architect with copies of all submittals made to regulatory agencies.

§ 3.12.6 By submitting Shop Drawings, Product Data, Samples, and similar submittals, the Contractor represents to the Owner, Construction Manager, and Architect, that the Contractor has (1) reviewed and approved them, (2) determined and verified materials, field measurements and field construction criteria related thereto, or will do so, and (3) checked and coordinated the information contained within such submittals with the requirements of the Work and of the Contract Documents.

§ 3.12.7 The Contractor shall perform no portion of the Work for which the Contract Documents require submittal and review of Shop Drawings, Product Data, Samples, or similar submittals, until the respective submittal has been reviewed and accepted by the Architect. The Contractor must correct at its cost, and without any adjustment in Contract Time, any Work the correction of which is required due to the Contractor's failure to obtain approval of a submittal required to have been obtained prior to proceeding with the Work, including, but not limited to, correction of any conflicts in the Work resulting from such failure.

§ 3.12.8 The Work shall be in accordance with accepted submittals except that the Contractor shall not be relieved of responsibility for deviations from the requirements of the Contract Documents by the Architect's acceptance of Shop Drawings, Product Data, Samples, or similar submittals, unless the Contractor has specifically notified the Construction Manager and Architect of such deviation at the time of submittal and (1) the Architect has given written acceptance to the specific deviation as a minor change in the Work, or (2) a Change Order or Construction Change Directive has been issued authorizing the deviation. The Contractor shall not be relieved of responsibility for errors or omissions in Shop Drawings, Product Data, Samples, or similar submittals, by the Architect's acceptance thereof.

§ 3.12.9 The Contractor shall direct specific attention, in writing or on resubmitted Shop Drawings, Product Data, Samples, or similar submittals, to revisions other than those requested by the Construction Manager and Architect on previous submittals. In the absence of such notice, the Architect's acceptance of a resubmission shall not apply to such revisions.

§ 3.12.10 The Contractor shall not be required to provide professional services that constitute the practice of architecture or engineering unless such services are specifically required by the Contract Documents for a portion of the Work or unless the Contractor needs to provide such services in order to carry out the Contractor's responsibilities for construction means, methods, techniques, sequences, and procedures. The Contractor shall not be required to provide professional services in violation of applicable law.

§ 3.12.10.1 If professional design services or certifications by a design professional related to systems, materials, or equipment are specifically required of the Contractor by the Contract Documents, the Owner and the Architect will specify all performance and design criteria that such services must satisfy. The Contractor shall be entitled to rely upon the adequacy and accuracy of the performance and design criteria provided in the Contract Documents. The Contractor shall cause such services or certifications to be provided by an appropriately licensed design professional, whose signature and seal shall appear on all drawings, calculations, specifications, certifications, Shop Drawings, and other submittals prepared by such professional. Shop Drawings, and other submittals related to the Work, designed or certified by such professional, if prepared by others, shall bear such professional's written approval when submitted to the Architect. The Owner, the Architect, and the Construction Manager shall be entitled to rely upon the adequacy and accuracy of the services, certifications, and approvals performed or provided by such design professionals, provided the Owner and Architect have specified to the Contractor the performance and design criteria that such services must

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satisfy. Pursuant to this Section 3.12.10, the Architect will review and approve or take other appropriate action on submittals only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Construction Manager shall review submittals for sequencing, constructability, and coordination impacts on other Contractors.

§ 3.12.10.2 If the Contract Documents require the Contractor's design professional to certify that the Work has been performed in accordance with the design criteria, the Contractor shall furnish such certifications to the Construction Manager and Architect at the time and in the form specified by the Architect.

§ 3.13 Use of Site

§ 3.13.1 The Contractor shall confine operations at the site to areas permitted by applicable laws, statutes, ordinances, codes, rules and regulations, lawful orders of public authorities, and the Contract Documents and shall not unreasonably encumber the site with materials or equipment.

§ 3.13.2 The Contractor shall coordinate the Contractor's operations with, and secure the approval of, the Construction Manager before using any portion of the site.

§ 3.13.3 Except as may be specifically provided in the Contract Documents, the Contractor shall provide all necessary temporary facilities, including power, water, sanitation, scaffolding, storage, and security. If Owner makes any such facilities available to Contractor, it is without representation or warranty as to their adequacy for Contractor's use, and Contractor shall indemnify, defend, and hold Owner harmless from and against any claims arising out of Contractor's use of such facilities.

§ 3.14 Cutting and Patching

§ 3.14.1 The Contractor shall be responsible for cutting, fitting, or patching required to complete the Work or to make its parts fit together properly. All areas requiring cutting, fitting, or patching shall be restored to the condition existing prior to the cutting, fitting, or patching, unless otherwise required by the Contract Documents.

§ 3.14.2 The Contractor shall not damage or endanger a portion of the Work or fully or partially completed construction of the Owner, Separate Contractors, or of other Contractors by cutting, patching, or otherwise altering such construction, or by excavation. The Contractor shall not cut or otherwise alter construction by the Owner, Separate Contractors, or by other Contractors except with written consent of the Construction Manager, Owner, and such other Contractors or Separate Contractors. Consent shall not be unreasonably withheld. The Contractor shall hire a professional utilities locator to verify locations of all public and private utilities prior to initiating any cutting work. The Contractor shall not unreasonably withhold, from the Separate Contractors, other Contractors, or the Owner, its consent to cutting or otherwise altering the Work.

§ 3.15 Cleaning Up

§ 3.15.1 The Contractor shall keep the premises and surrounding area continuously free from accumulation of waste materials and rubbish caused by operations under the Contract. At completion of the Work, the Contractor shall remove from and about the Project waste materials, rubbish, Contractor-generated waste materials, the Contractor's generated hazardous waste materials, the Contractor's tools, construction equipment, machinery, and surplus materials from and about the Project.

§ 3.15.2 If the Contractor fails to clean up as provided in the Contract Documents, the Owner, or Construction Manager with the Owner's approval, may do so and the Owner shall be entitled to reimbursement from the Contractor.

§ 3.16 Access to Work

The Contractor shall provide the Owner, Construction Manager, and Architect with access to the Work in preparation and progress wherever located.

§ 3.17 Royalties, Patents and Copyrights

The Contractor shall pay all royalties and license fees. The Contractor shall defend suits or claims for infringement of copyrights and patent rights and shall hold the Owner, Construction Manager, and Architect harmless from loss on account thereof, but shall not be responsible for defense or loss when a particular design, process, or product of a particular manufacturer or manufacturers is required by the Contract Documents, or where the copyright violations are contained in Drawings, Specifications, or other documents prepared by the Owner, Architect, or Construction

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Manager. However, if an infringement of a copyright or patent is discovered by, or made known to, the Contractor, the Contractor shall be responsible for the loss unless the information is promptly furnished to the Architect through the Construction Manager.

§ 3.18 Indemnification

§ 3.18.1 To the fullest extent permitted by law, the Contractor shall indemnify, defend and hold harmless the Owner, Construction Manager, Architect, Construction Manager's and Architect's consultants, and agents and employees of any of them from and against claims, damages, losses, and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), but only to the extent caused by the negligent acts or omissions of the Contractor, a Subcontractor, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss, or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity which would otherwise exist as to a party or person described in this Section 3.18. The Contractor, furthermore, agrees to obtain, maintain, and pay for such general liability coverage and endorsements (including product and completed operations coverage) as will ensure the provisions of this Section 3.18.1. The Contractor agrees to reimburse the Owner, its agents and employees for all costs and disbursements, including attorneys' fees, paid or incurred to enforce the provisions of this Section 3.18.1.

§ 3.18.2 In claims against any person or entity indemnified under this Section 3.18 by an employee of the Contractor, a Subcontractor, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, the indemnification obligation under Section 3.18.1 shall not be limited by a limitation on amount or type of damages, compensation, or benefits payable by or for the Contractor or a Subcontractor under workers' compensation acts, disability benefit acts, or other employee benefit acts.

§ 3.18.3 To the fullest extent permitted by law and without limiting any other indemnification obligations of the Contractor, except to the extent caused by the uncured failure of the Owner to make payment when due and owing, the Contractor shall indemnify and defend the Owner, its officers, directors, assigns, lenders, agents, and employees from any liens, charges (including attorneys' fees) or encumbrances (including but not limited to mechanic's and materialmen's liens or bond claims) arising out of or in connection with the performance of the Work by Contractor, its Subcontractors, or its material suppliers. Upon request of the Owner, the Contractor shall within sixty (60) days remove any liens filed against the Owner or its property. If the Contractor fails to do so, the Owner is authorized by the Contractor to remove or satisfy any such liens, and the Contractor shall pay to the Owner all costs and damages incurred by the Owner to do so, including attorneys' fees.

ARTICLE 4 ARCHITECT AND CONSTRUCTION MANAGER

§ 4.1 General

§ 4.1.1 The Architect is the person or entity retained by the Owner pursuant to Section 2.3.2 and identified as such in the Agreement.

§ 4.1.2 The Construction Manager is the person or entity retained by the Owner pursuant to Section 2.3.3 and identified as such in the Agreement.

§ 4.1.3 Duties, responsibilities, and limitations of authority of the Construction Manager and Architect as set forth in the Contract Documents shall not be restricted, modified, or extended without written consent of the Owner, Construction Manager, Architect, and Contractor. Consent shall not be unreasonably withheld.

§ 4.2 Administration of the Contract

§ 4.2.1 The Construction Manager and Architect will provide administration of the Contract as described in the Contract Documents and will be the Owner's consultants (1) during construction; (2) until final payment is due; and (3) with the Owner's concurrence, from time to time during the correction period described in Section 12.2. The Architect and Construction Manager will advise and consult with the Owner. The Construction Manager and Architect will have authority to act on behalf of the Owner only to the extent provided in the Contract Documents, unless otherwise modified in writing in accordance with other provisions of the Contract.

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§ 4.2.2 The Architect will visit the site at intervals appropriate to the stage of construction, or as otherwise agreed with the Owner, to become generally familiar with the progress and quality of the Work completed, to endeavor to guard the Owner against defects and deficiencies in the Work, and to determine in general if the Work is being performed in a manner indicating that the Work, when completed, will be in accordance with the Contract Documents. However, the Architect will not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. On the basis of the site visits, the Architect will keep the Owner and the Construction Manager reasonably informed about the progress and quality of the portion of the Work completed, and promptly report to the Owner and Construction Manager known deviations from the Contract Documents and defects and deficiencies observed in the Work.

§ 4.2.2.2 The Contractor shall reimburse the Owner for compensation paid to the Architect for additional site visits made necessary by fault, neglect, or request of the Contractor.

§ 4.2.3 The Construction Manager shall provide one or more representatives who shall be in attendance at the Project site whenever the Work is being performed. The Construction Manager will determine in general if the Work observed is being performed in accordance with the Contract Documents, will keep the Owner and Architect reasonably informed of the progress of the Work, and will promptly report to the Owner and Architect known deviations from the Contract Documents and the most recent Project schedule, and defects and deficiencies observed in the Work.

§ 4.2.4 The Construction Manager will schedule and coordinate the activities of the Contractor and other Contractors in accordance with the latest approved Project schedule.

§ 4.2.5 The Construction Manager, except to the extent required by Section 4.2.4, and Architect will not have control over, charge of, or responsibility for, the construction means, methods, techniques, sequences or procedures, or for the safety precautions and programs in connection with the Work, since these are solely the Contractor's rights and responsibilities under the Contract Documents, and neither will be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. Neither the Construction Manager nor the Architect will have control over or charge of, or be responsible for acts or omissions of, the Contractor, Subcontractors, or their agents or employees, or of any other persons or entities performing portions of the Work.

§ 4.2.6 Communications. The Owner shall communicate with the Contractor and the Construction Manager's consultants through the Construction Manager about matters arising out of or relating to the Contract Documents. The Owner and Construction Manager shall include the Architect in all communications that relate to or affect the Architect's services or professional responsibilities. The Owner shall promptly notify the Architect of the substance of any direct communications between the Owner and the Construction Manager otherwise relating to the Project. Communications by and with the Architect's consultants shall be through the Architect. Communications by and with Subcontractors and suppliers shall be through the Contractor. Communications by and with other Contractors shall be through the Construction Manager. Communications by and with the Owner's own forces and Separate Contractors shall be through the Owner unless otherwise provided. The Contract Documents may specify other communication protocols. The Owner may require the Architect, Construction Manager and the Contractor to comply with Owner requirements in regards to public communications and site signage.

§ 4.2.7 The Construction Manager and Architect will review and certify all Applications for Payment by the Contractor, in accordance with the provisions of Article 9.

§ 4.2.8 The Architect and Construction Manager have authority to reject Work that does not conform to the Contract Documents, and will notify each other about the rejection. Whenever the Construction Manager considers it necessary or advisable for implementation of the intent of the Contract Documents, the Construction Manager will have authority to require additional inspection or testing of the Work in accordance with Sections 13.4.2 and 13.4.3, upon written authorization of the Owner, whether or not the Work is fabricated, installed or completed. The foregoing authority of the Construction Manager will be subject to the provisions of Sections 4.2.18 through 4.2.20 inclusive, with respect to interpretations and decisions of the Architect. However, neither the Architect's nor the Construction Manager's authority to act under this Section 4.2.8 nor a decision made by either of them in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect or the Construction Manager to the Contractor, Subcontractors, suppliers, their agents or employees, or other persons performing any of the Work.

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§ 4.2.9 Utilizing the submittal schedule provided by the Contractor, the Construction Manager shall prepare, and revise as necessary, a Project submittal schedule incorporating information from other Contractors, the Owner, Owner's consultants, Owner's Separate Contractors and vendors, governmental agencies, and participants in the Project under the management of the Construction Manager. The Project submittal schedule and any revisions shall be submitted to the Architect for approval.

§ 4.2.10 The Construction Manager will receive and promptly review for conformance with the submittal requirements of the Contract Documents, all submittals from the Contractor such as Shop Drawings, Product Data, and Samples. Where there are other Contractors, the Construction Manager will also check and coordinate the information contained within each submittal received from the Contractor and other Contractors, and transmit to the Architect those recommended for approval. By submitting Shop Drawings, Product Data, Samples, and similar submittals, the Construction Manager represents to the Owner and Architect that the Construction Manager has reviewed and recommended them for approval. The Construction Manager's actions will be taken in accordance with the Project submittal schedule approved by the Architect or, in the absence of an approved Project submittal schedule, with reasonable promptness while allowing sufficient time to permit adequate review by the Architect.

§ 4.2.11 The Architect will, and the Owner may, review and approve, or take other appropriate action upon, the Contractor's submittals such as Shop Drawings, Product Data, and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Architect's or Owner's action will be taken with such reasonable promptness as to cause no delay in the Work or in the activities of the Owner, Contractor or separate contractors, while allowing sufficient time in the Architect's professional judgment to permit adequate review. Upon the Architect's or the Owner's completed review, the Architect shall transmit its submittal review to the Construction Manager.

§ 4.2.12 Review of the Contractor's submittals by the Construction Manager and Architect is not conducted for the purpose of determining the accuracy and completeness of other details such as dimensions and quantities, or for substantiating instructions for installation or performance of equipment or systems, all of which remain the responsibility of the Contractor as required by the Contract Documents. The Construction Manager and Architect's review of the Contractor's submittals shall not relieve the Contractor of the obligations under Sections 3.3, 3.5, and 3.12. The Construction Manager and Architect's review shall not constitute approval of safety precautions or of any construction means, methods, techniques, sequences, or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

§ 4.2.13 The Construction Manager will prepare Change Orders and Construction Change Directives.

§ 4.2.14 The Construction Manager and the Architect will take appropriate action on Change Orders or Construction Change Directives in accordance with Article 7, and the Architect will have authority to order minor changes in the Work as provided in Section 7.4. The Architect, in consultation with the Construction Manager, will investigate and make determinations and recommendations regarding concealed and unknown conditions as provided in Section 3.7.4.

§ 4.2.15 Utilizing the documents provided by the Contractor, the Construction Manager will maintain at the site for the Owner one copy of all Contract Documents, approved Shop Drawings, Product Data, Samples, and similar required submittals, in good order and marked currently to record all changes and selections made during construction. These will be available to the Architect and the Contractor, and will be delivered to the Owner upon completion of the Project.

§ 4.2.16 The Construction Manager will assist the Architect in conducting inspections to determine the date or dates of Substantial Completion and the date of final completion; issue Certificates of Substantial Completion in conjunction with the Architect pursuant to Section 9.8; and receive and forward to the Owner written warranties and related documents required by the Contract and assembled by the Contractor pursuant to Section 9.10. The Construction Manager will forward to the Architect a final Application and Certificate for Payment or final Project Application and Project Certificate for Payment upon the Contractor's compliance with the requirements of the Contract Documents.

§ 4.2.17 If the Owner and Architect agree, the Architect will provide one or more Project representatives to assist in carrying out the Architect's responsibilities at the site. The Owner shall notify the Construction Manager of any change in the duties, responsibilities and limitations of authority of the Project representatives.

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§ 4.2.18 The Architect will interpret and decide matters concerning performance under the requirements of, the Contract Documents on written request of the Construction Manager, Owner, or Contractor through the Construction Manager. The Architect's response to such requests will be made with reasonable promptness and within any time limits agreed upon. If no agreement is made concerning the time within which interpretations required of the Architect shall be furnished in compliance with this Section 4.2.18, then delay shall not be recognized on account of failure by the Architect to furnish such interpretations until fifteen (15) days after written request is made to them.

§ 4.2.19 Architect's decisions on matters relating to aesthetic effect will be final if consistent with the intent expressed in the Contract Documents.

§ 4.2.20 Architect will review and respond to requests for information about the Contract Documents. The Architect's response to such requests will be made in writing within any time limits agreed upon or otherwise with reasonable promptness. If appropriate, the Architect will prepare and issue supplemental Drawings and Specifications in response to the requests for information.

(Paragraph deleted)

ARTICLE 5 SUBCONTRACTORS

§ 5.1 Definitions

§ 5.1.1 A Subcontractor is a person or entity who has a direct contract with the Contractor to perform a portion of the Work at the site. The term "Subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Subcontractor or an authorized representative of the Subcontractor. The term "Subcontractor" does not include other Contractors or Separate Contractors or the subcontractors of other Contractors or Separate Contractors.

§ 5.1.2 A Sub-subcontractor is a person or entity who has a direct or indirect contract with a Subcontractor to perform a portion of the Work at the site. The term "Sub-subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Sub-subcontractor or an authorized representative of the Sub-subcontractor.

§ 5.2 Award of Subcontracts and Other Contracts for Portions of the Work

§ 5.2.1 Unless otherwise stated in the Contract Documents, the Contractor, as soon as practicable after award of the Contract, shall notify in writing the Construction Manager, for review by the Owner, Construction Manager and Architect, of the persons or entities proposed for each principal portion of the Work, including those who are to furnish materials or equipment fabricated to a special design. Within 14 days of receipt of the information, the Construction Manager may notify the Contractor whether the Owner, the Construction Manager or the Architect (1) has reasonable objection to any such proposed person or entity or, (2) requires additional time for review. Failure of the Construction Manager to provide notice within the 14-day period shall constitute notice of no reasonable objection. The Contractor shall not employ any Subcontractor or use any material to which the Architect, Construction Manager or Owner may object. Prior to the employment of any Subcontractor, the Contractor must obtain the Owner's approval of such Subcontractor for the designated portion of the Work.

§ 5.2.2 The Contractor shall not contract with a proposed person or entity to whom the Owner, Construction Manager or Architect has made reasonable and timely objection. The Contractor shall not be required to contract with anyone to whom the Contractor has made reasonable objection.

§ 5.2.3 If the Owner, Construction Manager or Architect has reasonable objection to a person or entity proposed by the Contractor, the Contractor shall propose another to whom the Owner, Construction Manager or Architect has no reasonable objection. The Contract Sum shall be increased or decreased by the difference in cost occasioned by such change, and an appropriate Change Order shall be issued. However, no increase in the Contract Sum or Contract Time shall be allowed for such change unless the Contractor has acted promptly and responsively in submitting names as required. Notwithstanding the foregoing, the Contractor shall have a continuing duty to the Owner, Construction Manager and Architect to find and propose such persons or entities as shall not result in material increase in the Contract Sum, or a material decrease in the quality of Work contemplated under the Contract Documents.

§ 5.2.4 The Contractor shall not substitute a Subcontractor, person, or entity for one previously selected if the Owner, Construction Manager or Architect makes reasonable objection to such substitution. Any proposed substitution of a Subcontractor, person, or entity for one previously selected shall be made in a separate writing to the Owner, Construction Manager and Architect. No substitution shall be deemed approved/accepted without written

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confirmation from the Owner, Construction Manager and Architect. Neither acceptance of, nor objection to a Subcontractor or Sub-subcontractor, material supplier, or other person or organization by the Owner, Construction Manager and Architect shall limit the responsibility of the Contractor to furnish materials, products, equipment, and services in conformance with the requirements of the Contract Documents.

§ 5.3 Subcontractual Relations

§ 5.3.1 By appropriate written agreement, the Contractor shall require each Subcontractor, to the extent of the Work to be performed by the Subcontractor, to be bound to the Contractor by terms of the Contract Documents, and to assume toward the Contractor all the obligations and responsibilities, including the responsibility for safety of the Subcontractor's Work, that the Contractor, by these Contract Documents, assumes toward the Owner, Construction Manager and Architect. Each subcontract agreement shall preserve and protect the rights of the Owner, Construction Manager and Architect under the Contract Documents with respect to the Work to be performed by the Subcontractor so that subcontracting thereof will not prejudice such rights, and shall allow to the Subcontractor, unless specifically provided otherwise in the subcontract agreement, the benefit of all rights, remedies, and redress against the Contractor that the Contractor, by the Contract Documents, has against the Owner. Where appropriate, the Contractor shall require each Subcontractor to enter into similar agreements with Sub-subcontractors. The Contractor shall make available to each proposed Subcontractor, prior to the execution of the subcontract agreement, copies of the Contract Documents to which the Subcontractor will be bound, and, upon written request of the Subcontractor, identify to the Subcontractor terms and conditions of the proposed subcontract agreement that may be at variance with the Contract Documents. Subcontractors shall similarly make copies of applicable portions of such documents available to their respective proposed Sub-subcontractors.

§ 5.3.2 The Contractor is responsible for the performance of, the actions of, the timeliness of, or interference caused by, Subcontractors, Sub-subcontractors (of any tier), and others directly or indirectly under contract to the Contractor.

§ 5.4 Contingent Assignment of Subcontracts

§ 5.4.1 Each subcontract agreement for a portion of the Work is assigned by the Contractor to the Owner, provided that

.1 assignment is effective only after termination of the Contract by the Owner for cause pursuant to Section 14.2 and only for those subcontract agreements that the Owner accepts by notifying the Subcontractor and Contractor; and

.2 assignment is subject to the prior rights of the surety, if any, obligated under bond relating to the Contract.

When the Owner accepts the assignment of a subcontract agreement, the Owner assumes the Contractor's rights and obligations under the subcontract.

§ 5.4.2 Upon such assignment, if the Work has been suspended for more than 30 days, the Subcontractor's compensation shall be equitably adjusted for increases in cost resulting from the suspension.

§ 5.4.3 Upon assignment to the Owner under this Section 5.4, the Owner may further assign the subcontract to a successor Contractor or other entity. If the Owner assigns the subcontract to a successor Contractor or other entity, the Owner shall nevertheless remain legally responsible for all of the successor Contractor's obligations under the subcontract.

ARTICLE 6 CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTORS

§ 6.1 Owner's Right to Perform Construction with Own Forces and to Award Other Contracts

§ 6.1.1 The Owner reserves the right to perform construction or operations related to the Project with the Owner's own forces, and with Separate Contractors retained under Conditions of the Contract substantially similar to those of this Contract, including those provisions of the Conditions of the Contract related to insurance and waiver of subrogation.

§ 6.1.2 When the Owner performs construction or operations with the Owner's own forces or Separate Contractors, the Owner shall provide for coordination of such forces and Separate Contractors with the Work of the Contractor, who shall cooperate with them.

§ 6.1.3 Unless otherwise provided in the Contract Documents, when the Owner performs construction or operations related to the Project with the Owner's own forces or with Separate Contractors, the Owner or its Separate Contractors

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shall have the same obligations and rights that the Contractor has under the Conditions of the Contract, including, without excluding others, those stated in Article 3, this Article 6, and Articles 10, 11, and 12.

§ 6.2 Mutual Responsibility

§ 6.2.1 The Contractor shall afford the Owner's own forces, Separate Contractors, Construction Manager and other Contractors reasonable opportunity for introduction and storage of their materials and equipment and performance of their activities, and shall connect and coordinate the Contractor's construction and operations with theirs as required by the Contract Documents.

§ 6.2.2 If part of the Contractor's Work depends for proper execution or results upon construction or operations by the Owner's own forces, Separate Contractors or other Contractors, the Contractor shall, prior to proceeding with that portion of the Work, promptly notify the Construction Manager and Architect of apparent discrepancies or defects in the construction or operations by the Owner or Separate Contractor or other Contractors that would render it unsuitable for proper execution and results of the Contractor's Work. Failure of the Contractor to notify the Construction Manager and the Architect of apparent discrepancies or defects prior to proceeding with the Work shall constitute an acknowledgment that the Owner's or Separate Contractor's or other Contractors' completed or partially completed construction is fit and proper to receive the Contractor's Work. The Contractor shall not be responsible for discrepancies or defects in the construction or operations by the Owner or Separate Contractors or other Contractors that are not reasonably discoverable.

§ 6.2.3 Costs caused by delays or by improperly timed activities or defective construction shall be borne by the party responsible therefor.

§ 6.2.4 The Contractor shall promptly remedy damage that the Contractor wrongfully causes to completed or partially completed construction, or to property of the Owner, Separate Contractors, or other Contractors as provided in Section 10.2.5.

§ 6.2.5 Claims and other disputes and matters in question between the Contractor and a separate contractor shall be subject to the provisions of Article 15 provided the separate contractor has reciprocal obligations.

§ 6.2.6 The Owner, Separate Contractors, and other Contractors shall have the same responsibilities for cutting and patching as are described for the Contractor in Section 3.14.

§ 6.3 Owner's Right to Clean Up

If a dispute arises among the Contractor, Separate Contractors, other Contractors, and the Owner as to the responsibility under their respective contracts for maintaining the premises and surrounding area free from waste materials and rubbish as described in Section 3.15, the Owner may clean up allocate the cost among those responsible as the Architect determines to be just..

ARTICLE 7 CHANGES IN THE WORK

§ 7.1 General

§ 7.1.1 Changes in the Work may be accomplished after execution of the Contract, and without invalidating the Contract, by Change Order, Construction Change Directive or order for a minor change in the Work, subject to the limitations stated in this Article 7 and elsewhere in the Contract Documents.

§ 7.1.2 A Change Order shall be based upon agreement among the Owner, Construction Manager, Architect and Contractor. A Construction Change Directive requires agreement by the Owner, Construction Manager and Architect and may or may not be agreed to by the Contractor.

§ 7.1.3 Changes in the Work shall be performed under applicable provisions of the Contract Documents. The Contractor shall proceed promptly with changes in the Work, unless otherwise provided in the Change Order, Construction Change Directive, or order for a minor change in the Work.

§ 7.1.4 The amount of credit to be allowed by the Contractor to the Owner for any deletion or change which results in a net decrease in the Contract Sum will be the amount of the actual net cost as confirmed by the Architect after consultation with the Owner and Construction Manager. When both additions and credits covering related Work or

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substitutions are involved in any one change, the allowance for both overhead and profit shall be figured on the basis of the net increase or decrease, if any, with respect to that change.

§ 7.1.5 In Section 7.3.6, the allowance for the combined overhead and profit included in the total cost to the Owner shall be based on the following schedule:

.1 For the Contractor, for Work performed by the Contractor's own forces, ten percent (10%) of the cost;

.2 For the Contractor, for Work performed by the Contractor's Subcontractor, five percent (5%) of the amount due the Subcontractor;

.3 For each Subcontractor or Sub-subcontractor involved for Work performed by the Subcontractor's or Sub-subcontractor's own forces, ten percent (10%) of the cost;

.4 For each Subcontractor for Work performed by the Subcontractor's Sub-subcontractor, five percent (5%) of the amount due the Subcontractor;

.5 Costs to which overhead and profit is to be applied shall be determined in accordance with Section 7.3.6;

.6 In order to facilitate checking of quotations for extras or credits, all proposals, expect those so minor that their propriety can be seen by inspection, shall be accompanied by a complete itemization of costs, including labor, materials and subcontracts. Labor and materials shall be itemized in the manner prescribed above. Where major cost items are subcontracts, they shall be itemized also. In no case will a change involving over $500 be approved without such itemization.

§ 7.2 Change Orders and Change Proposals

§ 7.2.1 A Change Order is a written instrument prepared by the Construction Manager and signed by the Owner, Construction Manager, Architect, and Contractor, stating their agreement upon all of the following:

.1 The change in the Work;

.2 The amount of the adjustment, if any, in the Contract Sum; and

.3 The extent of the adjustment, if any, in the Contract Time.

§ 7.2.2 Change Order shall be prepared on AIA Document G731.

§ 7.2.3 The Contractor must submit Change Proposals covering a contemplated Change Order within ten (10) days after request of the Owner, or the Architect or within ten (10) days of the event, or Contractor's discovery of a condition, whichever is earlier, giving rise to the Contractor's claim for a change in the Contract Sum or Contract Time. No increase in the Contract Sum or extension of the Contract Time will be allowed the Contractor for the cost or time involved in making Change Proposals. Change Proposals will define or confirm in detail the Work which is proposed to be added, deleted, or changed and must include any adjustment which the Contractor believes to be necessary in (i) the Contract Sum, or (ii) the Contract Time. Any proposed adjustment must include detailed documentation including, but not limited to: cost, properly itemized and supported by sufficient substantiating data to permit evaluation including cost of labor, materials, supplies and equipment, rental cost of machinery and equipment, additional bond cost, plus a fixed fee for profit and overhead (which includes office overhead and Site-specific overhead and general conditions) of ten percent (10%) if the Work is performed by the Contractor, or five percent (5%) if the Work is performed by a Subcontractor or Sub-subcontractor. The Subcontractor's or Sub-subcontractor's overhead and profit in turn must not exceed a total aggregate of ten percent (10%). Change Proposals will be binding upon the Contractor and may be accepted or rejected by the Owner in its discretion. The Owner may, at its option, instruct the Contractor through a Construction Change Directive to proceed with the Work involved in the Change Proposal in accordance with Section 7.3 without accepting the Change Proposal in its entirety.

§ 7.2.4 If the Owner determines that a Change Proposal is appropriate, the Architect will prepare and submit a request for a Change Order or Contract Amendment providing for an appropriate adjustment in the Contract Sum or Contract Time, or both, for further action by the Owner. No such change is effective until the Owner and Architect sign the Change Order.

§ 7.3 Construction Change Directives

§ 7.3.1 A Construction Change Directive is a written order prepared by the Construction Manager and signed by the Owner, Construction Manager and Architect, directing a change in the Work prior to agreement on adjustment, if any, in the Contract Sum or Contract Time, or both. The Owner may by Construction Change Directive, without

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invalidating the Contract, order changes in the Work within the general scope of the Contract consisting of additions, deletions, or other revisions, the Contract Sum and Contract Time being adjusted accordingly.

§ 7.3.2 A Construction Change Directive shall be used in the absence of total agreement on the terms of a Change Order.

§ 7.3.3 If the Construction Change Directive provides for an adjustment to the Contract Sum, the adjustment shall be based on one of the following methods:

.1 Mutual acceptance of a lump sum properly itemized and supported by sufficient substantiating data to permit evaluation;

.2 Unit prices stated in the Contract Documents or subsequently agreed upon;

.3 Cost to be determined in a manner agreed upon by the parties and a mutually acceptable fixed or percentage fee; or

.4 As provided in Section 7.3.4.

§ 7.3.4 If the Contractor does not respond promptly or disagrees with the method for adjustment in the Contract Sum, the Owner and the Construction Manager shall determine the adjustment on the basis of reasonable expenditures and savings of those performing the Work attributable to the change, including, in case of an increase in the Contract Sum, an amount for overhead and profit as set forth in the Agreement, or if no such amount is set forth in the Agreement, a reasonable amount. In such case, and also under Section 7.3.3.3, the Contractor shall keep and present, in such form as the Construction Manager may prescribe, an itemized accounting together with appropriate supporting data. Unless otherwise provided in the Contract Documents, costs for the purposes of this Section 7.3.4 shall be limited to the following:

.1 Costs of labor, including applicable payroll taxes, fringe benefits required by agreement or custom, workers' compensation insurance, and other employee costs approved by the Construction Manager and Architect;

.2 Costs of materials, supplies, and equipment, including cost of transportation, whether incorporated or consumed;

.3 Rental costs of machinery and equipment, exclusive of hand tools, whether rented from the Contractor or others (at rates approved by the Owner);

.4 Costs of premiums for all bonds and insurance, permit fees, and sales, use, or similar taxes, directly related to the change; and

.5 Costs of supervision and field office personnel directly attributable to the change.

§ 7.3.5 If the Contractor disagrees with the adjustment in the Contract Time, the Contractor may make a Claim in accordance with applicable provisions of Article 15.

§ 7.3.6 Upon receipt of a Construction Change Directive, the Contractor shall promptly proceed with the change in the Work involved and advise the Construction Manager of the Contractor's agreement or disagreement with the method, if any, provided in the Construction Change Directive for determining the proposed adjustment in the Contract Sum or Contract Time.

§ 7.3.7 A Construction Change Directive signed by the Contractor indicates the Contractor's agreement therewith, including adjustment in Contract Sum and Contract Time or the method for determining them. Such agreement shall be effective immediately.

§ 7.3.8 The amount of credit to be allowed by the Contractor to the Owner for a deletion or change that results in a net decrease in the Contract Sum shall be actual net cost as confirmed by the Construction Manager and Architect. When both additions and credits covering related Work or substitutions are involved in a change, the allowance for overhead and profit shall be figured on the basis of net increase, if any, with respect to that change.

§ 7.3.9 Pending final determination of the total cost of a Construction Change Directive to the Owner, the Contractor may request payment for Work completed under the Construction Change Directive in Applications for Payment up to and not exceeding $25,000. The Construction Manager and Architect will make an interim determination for purposes of monthly certification for payment for those costs and certify for payment the amount that the Construction Manager and Architect determine to be reasonably justified. The interim determination of cost shall adjust the Contract Sum on

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the same basis as a Change Order, subject to the right of either party to disagree and assert a Claim in accordance with Article 15.

§ 7.3.10 When the Owner and Contractor agree with a determination made by the Construction Manager and Architect concerning the adjustments in the Contract Sum and Contract Time, or otherwise reach agreement upon the adjustments, such agreement shall be effective immediately and the Construction Manager shall prepare a Change Order. Change Orders may be issued for all or any part of a Construction Change Directive.

§ 7.4 Minor Changes in the Work

The Architect may order minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. The Architect's order for minor changes shall be in writing and approved by the Owner. If the Contractor believes that the proposed minor change in the Work will affect the Contract Sum or Contract Time, the Contractor shall notify the Construction Manager and shall not proceed to implement the change in the Work. If the Contractor performs the Work set forth in the Architect's order for a minor change without prior notice to the Construction Manager that such change will affect the Contract Sum or Contract Time, the Contractor waives any adjustment to the Contract Sum or extension of the Contract Time.

ARTICLE 8 TIME

§ 8.1 Definitions

§ 8.1.1 Unless otherwise provided, Contract Time is the period of time, including authorized adjustments, allotted in the Contract Documents for Substantial Completion of the Work.

§ 8.1.2 The date of commencement of the Work is the date established in the Agreement. The date shall not be postponed by the failure to act of the Contractor or of persons or entities for whom the Contractor is responsible.

§ 8.1.3 The date of Substantial Completion is the date certified by the Architect in accordance with Section 9.8.

§ 8.1.4 The term "day" shall mean calendar day of 24 hours beginning at 12:00 midnight. Calendar days as stated in the Contract Documents, shall include all days of a seven (7) day week including Saturdays, Sundays, and holidays. The term "Milestone Date" is, in each instance, the date established in the Contract Documents for the Substantial completion of all or a designated portion of the Work.

§ 8.2 Progress and Completion

§ 8.2.1 Time limits stated in the Contract Documents are of the essence of the Contract. By executing the Agreement, the Contractor confirms that the Contract Time is a reasonable period for performing the Work.

§ 8.2.2 The Contractor shall not knowingly, except by agreement or instruction of the Owner in writing, commence the Work prior to the effective date of insurance required to be furnished by the Contractor and Owner.

§ 8.2.3 The Contractor shall proceed expeditiously with adequate forces and shall achieve Substantial Completion within the Contract Time and shall achieve specific contractual Milestone Dates (if any), Substantial Completion and final Completion within the time stated in the Contract Documents.

§ 8.2.4 Contractor understands and agrees that all Work must be performed in an orderly and closely coordinated sequence so that the dates for Substantial Completion, Final Completion, and Milestone Dates (if any) may be met by the Contractor.

§ 8.2.5 Timely final completion of the Project is of critical importance to the Owner. The Contractor agrees that it shall substantially complete all Work under the Contract documents within the time established herein and that it shall finally complete the Work in the detail required and in the time required by the Contract Documents.

§ 8.2.6 To the extent that the Contract Documents contain or provide for specific contractual Milestone Dates in addition to Final and Substantial Completion dates, such dates shall be adhered to and shall be the last acceptable dates for those milestones and completions, unless modified by the Owner.

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§ 8.2.7 Notwithstanding anything to the contrary contained in the Contract Documents, in the event that any Contractor fails, or appears likely, in the reasonable opinion of the Owner and Construction Manager, to fail to complete a critical portion of their Work on time or to complete any dates for Substantial Completion, Final Completion, or Milestone Dates as evidenced by the latest update of the CPM Schedule Report, the Owner shall have the right to select and require Contractor's performance under any or all of the following operations:

.1 Require the Contractor to substantiate their capability to get back on schedule within two (2) days;

.2 Require the Contractor, at no additional cost to the Owner, to increase their work force, work overtime and/or extra shifts and do whatever else is required by the Owner until the Contractor gets back on schedule as established by the CPM Schedule Report (including any updates thereto);

.3 Withhold progress payments or portions thereof until such time as the contractor returns to schedule, but only related to Substantial Completion or Final Completion;

.4 Contact or visit the factory, plant, or distribution center whose production or delivery schedule may be critical to the scheduled completion of a portion of the contract work and expedite such production delivery at Contractor's expense; or

.5 Require the Contractor to complete, in detail, and submit weekly a Short Interval Schedule (SIS) showing: (1) planning for the next two weeks; (2) work completed for the previous week; (3) sufficient detail to evaluate daily milestone (if any) and manpower/equipment loading, and shall identify/tie into the monthly updated CPM Schedule Report.

Any costs incurred by the Contractor in fulfilling the option(s) selected by the Owner shall be at the Contractor's expense.

§ 8.3 Delays and Extensions of Time

§ 8.3.1 If the Contractor is delayed at any time in the progress of the Work by (1) an act or neglect of the Owner, Architect, Construction Manager, or an employee of any of them, or of the Owner's own forces, Separate Contractors, or other Contractors; (2) by changes ordered in the Work; (3) by labor disputes, fire, unusual delay in deliveries, unavoidable casualties, adverse weather conditions documented in accordance with Section 15.1.6.2, or other causes beyond the Contractor's control; or (4) by other causes that the Contractor asserts and the Architect, based on the recommendation of the Construction Manager, determines justify delay, then subject to the conditions hereinafter set forth, the Contract Time shall be extended by Change Order for such reasonable time as the Architect may determine. Requests for extensions of time for causes enumerated above will be considered by the Architect subject to the following:

.1 Only those conditions enumerated above over which the Contractor has no control will be considered. The burden of proof to substantiate the claim for an extension shall rest with the Contractor, including evidence that the cause was beyond their control. It shall be deemed the Contractor has control over the supply of labor, materials, equipment, methods, techniques, and over their Subcontractors and suppliers;

.2 In the event of Changes in the Work, any consideration for a time extension will be made only at the time of authorizing the changes, and no later than when the Change Order is prepared, and only if the Change Order significantly affects the time and progress of the entire Work. For changes which do not affect the entire Work, time extension may be granted only for the area, phase, unit, or element affected by the change, if due to a valid reason for a time extension;

.3 Any unusual delay in deliveries will not be considered unless it is solely due to transportation issues wholly outside of Contractor's, Subcontractor's, Sub-subcontractor's or Supplier's control. An extension of time will not be granted for delays in deliveries where said delivery was not properly scheduled or when orders were not promptly and properly placed;

.4 With respect to a claim for an extension of time as a result of climatic conditions, the Contractor shall recognize the location of the site and the existence, as normal, or variations from "average" conditions. Foul weather in itself will not be a valid reason for a time extension. Requests for time extensions because of delay resulting from weather extremes will not be considered unless a substantial variation from usual weather conditions occurs for a significant period of time, during phases of the Work when operation necessarily were suspended to a significant degree when they would otherwise have been in progress. In considering the time extension, the weather conditions both before and after the period in which the delay is claimed will be evaluated with credit given to Owner for unseasonably favorable weather;

.5 Delays resulting from a labor dispute will not result in a time extension of a longer period than the dispute, plus a reasonable time for mobilization if justified and necessary as approved by the

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Architect, and may be less depending on the impact of the dispute, including what operations were suspended or curtailed;

.6 No time extension will be granted as a result of improper scheduling or for failure to have shop drawings or samples submitted in ample time for review under a reasonable and agreed upon schedule; or

.7 Delays by Subcontractors or suppliers will not be considered justification for a time extension, except for the same valid reasons and conditions enumerated under Section 8.3.1.

§ 8.3.2 Claims relating to time shall be made in accordance with applicable provisions of Article 15.

§ 8.3.3 This Section 8.3 does not preclude recovery of damages for delay by either party under other provisions of the Contract Documents.

§ 8.3.4 The Contractor shall be responsible for all Owner incurred costs associated with a Contractor related to delay in completion of the Project. These costs may include, but are not limited to, Owner staff overtime, Consultant additional fees, additional testing, and/or additional rental or storage costs. A Change Order or Construction Change Directive will be issued to cover these costs. If a Change Order is not agreed to by the Contractor, the Owner, after presenting documentation to the Contractor, may deduct these amounts without a Change Order from the Contract Sum.

ARTICLE 9 PAYMENTS AND COMPLETION

§ 9.1 Contract Sum

§ 9.1.1 The Contract Sum is stated in the Agreement and, including authorized adjustments, is the total amount payable by the Owner to the Contractor for performance of the Work under the Contract Documents.

§ 9.1.2 If unit prices are stated in the Contract Documents or subsequently agreed upon, and if quantities originally contemplated are materially changed so that application of such unit prices to the actual quantities causes substantial inequity to the Owner or Contractor, the applicable unit prices shall be equitably adjusted.

§ 9.2 Schedule of Values

Before the first Application for Payment, the Contractor shall submit to the Architect and Construction Manager a schedule of values allocated to various portions of the Work, prepared in the form, and supported by the data to substantiate its accuracy, required by the Construction Manager and the Architect. The schedule, unless objected to by the Construction Manager or Architect, shall be used as a basis for reviewing the Contractor's Applications for Payment. The Construction Manager shall forward to the Architect the Contractor's schedule of values. Any changes to the schedule of values shall be submitted to the Construction Manager and supported by such data to substantiate its accuracy as the Construction Manager and the Architect may require, and unless objected to by the Construction Manager or the Architect, shall be used as a basis for reviewing the Contractor's subsequent Applications for Payment. The Contractor, after receipt of Notice to Proceed, shall meet with the Owner, Construction Manager and the Architect for the purpose of reviewing the Project CPM Schedule and the Contract Schedule of Values. The Contractor shall develop a CPM Schedule for completing their portion of the Work, in conjunction with all other Contractors or Bid Packages, at the Pre-Construction Meeting(s). The Schedule of Values is to be broken down into specification sections and by labor and materials.

§ 9.3 Applications for Payment

§ 9.3.1 At least fifteen days before the date established for each progress payment, the Contractor shall submit to the Construction Manager an itemized Application for Payment for operations completed in accordance with the Schedule of Values. Such application shall be notarized and supported by all data substantiating the Contractor's right to payment that the Owner, Construction Manager or Architect require, such as copies of requisitions, and releases of waivers of lien from Subcontractors and material suppliers, and reflecting retainage if provided for elsewhere in the Contract Documents. The form of Application for Payment shall be a notarized AIA Document G732–2019, Application and Certificate for Payment, supported by AIA Document G703–1992, Continuation Sheet.

§ 9.3.1.1 As provided in Section 7.3.9, such applications may include requests for payment on account of changes in the Work that have been properly authorized by Construction Change Directives, or by interim determinations of the Construction Manager and Architect, but not yet included in Change Orders.

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§ 9.3.1.2 Such applications shall not include requests for payment of amounts the Contractor does not intend to pay a Subcontractor or supplier because of a dispute or other reason, unless such Work has been performed by others whom the Contractor intends to pay.

§ 9.3.1.3 Following certification of the Application for Payment by the Architect and Construction Manager, the Owner shall pay ninety-five percent (95%) of its value, retaining five percent (5%) until Final Completion.

§ 9.3.1.4 Contractor shall provide lien waivers for itself for the current payment application and for Subcontractors, Sub-subcontractors, and suppliers for the previous payment application before the Contractor has earned or has the right to receive payment for the specific items of work or materials covered by the lien waivers. All lien waivers shall be provided in the form required by the Owner. This Section 9.3.1.4 shall not limit other obligations of the Contractor contained elsewhere to provide lien waivers.

§ 9.3.2 Unless otherwise provided in the Contract Documents, payments shall be made on account of materials and equipment delivered and suitably stored at the site for subsequent incorporation in the Work. If approved in advance by the Owner, payment may similarly be made for materials and equipment suitably stored off the site at a location agreed upon in writing. Payment for materials and equipment stored on or off the site shall be conditioned upon compliance by the Contractor with procedures satisfactory to the Owner to establish the Owner's title to such materials and equipment or otherwise protect the Owner's interest, and shall include the costs of applicable insurance, storage, and transportation to the site, for such materials and equipment stored off the site.

§ 9.3.3 The Contractor warrants that title to all Work covered by an Application for Payment will pass to the Owner no later than the time of payment. The Contractor further warrants that upon submittal of an Application for Payment all Work for which Certificates for Payment have been previously issued and payments received from the Owner shall, to the best of the Contractor's knowledge, information, and belief, be free and clear of liens, claims, security interests, or encumbrances, in favor of the Contractor, Subcontractors, suppliers, or other persons or entities that provided labor, materials and equipment relating to the Work.

§ 9.3.4 In each Application for Payment, the Contractor shall certify as follows:

> "That there are no known mechanics' or materialmen's liens or stop notice claims outstanding by the application or any of its subcontractors of any tier, or any of the applicant's or subcontractor's material suppliers, or laborers at the date of this application, that all due and payable bills with respect to the Work have been paid or are included in the amount requested in current application, and that, except for such bills, not paid by Owner, but so included, there is no known basis for the filing of any mechanics' or materialmen's liens or stop notice claims on the Work, and that waivers from Contractor, its subcontractors of any tier, or any of the applicant's or subcontractor's material suppliers and laborers have been obtained in such form as to constitute an effective waiver of liens or stop notice claims, under the laws of the State of Minnesota to the extent of payments made by Owner to Contractor."

Notwithstanding the foregoing Section 9.3.4, Contractor acknowledges its obligation to provide a Payment Bond in accordance with the Contract Documents, and that Contractor's failure to pay any of its Subcontractors, Sub-subcontractors, suppliers, or laborers will be resolved through a claim under the Payment Bond.

§ 9.4 Certificates for Payment

§ 9.4.1 Where there is only one Contractor, the Construction Manager will, within seven days after the Construction Manager's receipt of the Contractor's Application for Payment, review the Application, certify the amount the Construction Manager determines is due the Contractor, and forward the Contractor's Application and Certificate for Payment to the Architect. Within seven days after the Architect receives the Contractor's Application for Payment from the Construction Manager, the Architect will either (1) issue to the Owner a Certificate for Payment, in the full amount of the Application for Payment, with a copy to the Construction Manager; or (2) issue to the Owner a Certificate for Payment for such amount as the Architect determines is properly due, and notify the Construction Manager and Owner of the Architect's reasons for withholding certification in part as provided in Section 9.5.1; or (3) withhold certification of the entire Application for Payment, and notify the Construction Manager and Owner of the Architect's reason for withholding certification in whole as provided in Section 9.5.1. The Construction Manager will promptly forward to the Contractor the Architect's notice of withholding certification.

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§ 9.4.2 Where there is more than one Contractor performing portions of the Project, the Construction Manager will, within seven days after the Construction Manager receives all of the Contractors' Applications for Payment: (1) review the Applications and certify the amount the Construction Manager determines is due each of the Contractors; (2) prepare a Summary of Contractors' Applications for Payment by combining information from each Contractor's application with information from similar applications for progress payments from the other Contractors; (3) prepare a Project Application and Certificate for Payment; (4) certify the amount the Construction Manager determines is due all Contractors; and (5) forward the Summary of Contractors' Applications for Payment and Project Application and Certificate for Payment to the Architect.

§ 9.4.2.1 Within seven days after the Architect receives the Project Application and Project Certificate for Payment and the Summary of Contractors' Applications for Payment from the Construction Manager, the Architect will either (1) issue to the Owner a Project Certificate for Payment, with a copy to the Construction Manager; or (2) issue to the Owner a Project Certificate for Payment for such amount as the Architect determines is properly due, and notify the Construction Manager and Owner of the Architect's reasons for withholding certification in part as provided in Section 9.5.1; or (3) withhold certification of the entire Project Application for Payment, and notify the Construction Manager and Owner of the Architect's reason for withholding certification in whole as provided in Section 9.5.1. The Construction Manager will promptly forward the Architect's notice of withholding certification to the Contractors.

§ 9.4.3 The Construction Manager's certification of an Application for Payment or, in the case of more than one Contractor, a Project Application and Certificate for Payment, shall be based upon the Construction Manager's evaluation of the Work and the data in the Application or Applications for Payment. The Construction Manager's certification will constitute a representation that, to the best of the Construction Manager's knowledge, information, and belief, the Work has progressed to the point indicated, the quality of the Work is in accordance with the Contract Documents, and that the Contractor is, or Contractors are, entitled to payment in the amount certified.

§ 9.4.4 The Architect's issuance of a Certificate for Payment or, in the case of more than one Contractor, Project Application and Certificate for Payment, shall be based upon the Architect's evaluation of the Work, the recommendation of the Construction Manager, and data in the Application for Payment or Project Application for Payment. The Architect's certification will constitute a representation that, to the best of the Architect's knowledge, information, and belief, the Work has progressed to the point indicated, the quality of the Work is in accordance with the Contract Documents, and that the Contractor is, or Contractors are, entitled to payment in the amount certified.

§ 9.4.5 The representations made pursuant to Sections 9.4.3 and 9.4.4 are subject to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, to results of subsequent tests and inspections, to correction of minor deviations from the Contract Documents prior to completion, and to specific qualifications expressed by the Construction Manager or Architect.

§ 9.4.6 The issuance of a Certificate for Payment or a Project Certificate for Payment will not be a representation that the Construction Manager or Architect has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work; (2) reviewed construction means, methods, techniques, sequences, or procedures; (3) reviewed copies of requisitions received from Subcontractors and suppliers and other data requested by the Owner to substantiate the Contractor's right to payment; or (4) made examination to ascertain how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

§ 9.5 Decisions to Withhold Certification

§ 9.5.1 The Construction Manager or Architect may withhold a Certificate for Payment or Project Certificate for Payment in whole or in part, to the extent reasonably necessary to protect the Owner, if in the Construction Manager's or Architect's opinion the representations to the Owner required by Section 9.4.3 and 9.4.4 cannot be made. If the Construction Manager or Architect is unable to certify payment in the amount of the Application, the Construction Manager will notify the Contractor and Owner as provided in Section 9.4.1 and 9.4.2. If the Contractor, Construction Manager and Architect cannot agree on a revised amount, the Architect will promptly issue a Certificate for Payment or a Project Certificate for Payment for the amount for which the Architect is able to make such representations to the Owner. The Construction Manager or Architect may also withhold a Certificate for Payment or, because of subsequently discovered evidence, may nullify the whole or a part of a Certificate for Payment or Project Certificate for Payment previously issued, to such extent as may be necessary in the Construction Manager's or Architect's opinion to protect the Owner from loss for which the Contractor is responsible, including loss resulting from the acts and omissions described in Section 3.3.2 because of

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.1 defective Work not remedied;
.2 third party claims filed or reasonable evidence indicating probable filing of such claims, unless security acceptable to the Owner is provided by the Contractor;
.3 failure of the Contractor to make payments properly to Subcontractors or suppliers for labor, materials or equipment;
.4 reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Sum;
.5 damage to the Owner or a Separate Contractor or other Contractor;
.6 reasonable evidence that the Work will not be completed within the Contract Time, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay; or
.7 repeated failure to carry out the Work in accordance with the Contract Documents.

§ 9.5.2 When either party disputes the Architect's decision regarding a Certificate for Payment under Section 9.5.1, in whole or in part, that party may submit a Claim in accordance with Article 15.

§ 9.5.3 When the reasons for withholding certification are removed, certification will be made for amounts previously withheld.

§ 9.5.4 If the Architect or Construction Manager withholds certification for payment under Section 9.5.1, the Owner may, at its sole option, issue joint checks to the Contractor and to any Subcontractor or supplier to whom the Contractor failed to make payment for Work properly performed or material or equipment suitably delivered. If the Owner makes payments by joint check, the Owner shall notify the Architect and the Construction Manager, and both will reflect such payment on the next Certificate for Payment.

§ 9.6 Progress Payments

§ 9.6.1 After the Architect has issued a Certificate for Payment or Project Certificate for Payment, the Owner shall make payment within thirty (30) days of receipt by Owner of Certificate of Payment in the manner and within the time provided in the Contract Documents, and shall so notify the Construction Manager and Architect.

§ 9.6.2 The Contractor shall pay each Subcontractor, no later than seven days after receipt of payment from the Owner, the amount to which the Subcontractor is entitled, reflecting percentages actually retained from payments to the Contractor on account of the Subcontractor's portion of the Work. The Contractor shall, by appropriate agreement with each Subcontractor, require each Subcontractor to make payments to Sub-subcontractors in a similar manner. Per Minnesota Statutes, Section 471.425, within ten (10) days of Contractor's receipt of payment from Owner, the Contractor must pay any Subcontractor for any undisputed services provided by the Subcontractor. The Contractor shall pay interest of one and one-half percent (1-1/2%) per month, or any part of a month, to the Subcontractor on any undisputed amount not paid on time to the subcontractor. The minimum monthly interest penalty payment for an unpaid balance of $100 or more is $10.00. For an unpaid balance of less than $100, the Contractor shall pay the actual interest penalty due to the Subcontractor. Contractor is advised that by reason of Minnesota Statutes, Section 471.425, subd. 4a, if a Subcontractor prevails in a civil action to collect interest penalties from a prime contractor, the Subcontractor must be awarded its costs and disbursements, including attorneys' fees incurred in bringing the action.

§ 9.6.3 The Construction Manager will, on request, furnish to a Subcontractor, if practicable, information regarding percentages of completion or amounts applied for by the Contractor and action taken thereon by the Owner, Construction Manager and Architect on account of portions of the Work done by such Subcontractor.

§ 9.6.4 The Owner has the right to request written evidence from the Contractor that the Contractor has properly paid Subcontractors and suppliers amounts paid by the Owner to the Contractor for subcontracted Work. If the Contractor fails to furnish such evidence within seven days, the Owner shall have the right to contact Subcontractors and suppliers to ascertain whether they have been properly paid. Neither the Owner, Construction Manager nor Architect shall have an obligation to pay, or to see to the payment of money to, a Subcontractor or supplier, except as may otherwise be required by law.

§ 9.6.5 The Contractor's payments to material and equipment suppliers shall be treated in a manner similar to that provided in Sections 9.6.2, 9.6.3 and 9.6.4.

§ 9.6.6 A Certificate for Payment, a progress payment, or partial or entire use or occupancy of the Project by the Owner shall not constitute acceptance of Work not in accordance with the Contract Documents.

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§ 9.6.7 Unless the Contractor provides the Owner with a payment bond in the full penal sum of the Contract Sum, payments received by the Contractor for Work properly performed by Subcontractors or provided by suppliers shall be held by the Contractor for those Subcontractors or suppliers who performed Work or furnished materials, or both, under contract with the Contractor for which payment was made by the Owner. Nothing contained herein shall require money to be placed in a separate account and not commingled with money of the Contractor, create any fiduciary liability or tort liability on the part of the Contractor for breach of trust, or entitle any person or entity to an award of punitive damages against the Contractor for breach of the requirements of this provision.

§ 9.6.8 Provided the Owner has fulfilled its payment obligations under the Contract Documents, the Contractor shall defend and indemnify the Owner from all loss, liability, damage or expense, including reasonable attorney's fees and litigation expenses, arising out of any lien claim or other claim for payment by any Subcontractor or supplier of any tier. Upon receipt of notice of a lien claim or other claim for payment, the Owner shall notify the Contractor. If approved by the applicable court, when required, the Contractor may substitute a surety bond for the property against which the lien or other claim for payment has been asserted.

§ 9.7 Failure of Payment

If the Construction Manager and Architect do not issue a Certificate for Payment or a Project Certificate for Payment, through no fault of the Contractor, within fourteen days after the Construction Manager's receipt of the Contractor's Application for Payment, or if the Owner does not pay the Contractor within thirty (30) days after the date established in the Contract Documents, the amount certified by the Construction Manager and Architect then the Contractor may, upon ten (10) additional days' notice to the Owner, Construction Manager and Architect, stop the Work until payment of the amount owing has been received. The Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable costs of shutdown, delay and start-up which shall be accomplished as provided in Article 7.

§ 9.8 Substantial Completion

§ 9.8.1 Substantial Completion is the stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Contract Documents so the Owner can occupy or utilize the Work for its intended use and when the Architect issues a Certificate of Substantial Completion.

§ 9.8.2 When the Contractor considers that the Work, or a portion thereof which the Owner agrees to accept separately, is substantially complete, the Contractor shall notify the Construction Manager, and the Contractor and Construction Manager shall jointly prepare and submit to the Architect a comprehensive list of items to be completed or corrected. The Contractor shall proceed promptly to complete and correct items on the list. Failure to include an item on such list does not alter the responsibility of the Contractor to complete all Work in accordance with the Contract Documents. Upon receipt of the Contractor's list, the Architect, assisted by the Construction Manager, will make an inspection to determine whether the Work or designated portion thereof is substantially complete. If the Architect's inspection discloses any item, whether or not included on the Contractor's list, which is not in accordance with the requirements of the Contract documents, the Contractor shall, before issuance of the Certificate of Substantial Completion, complete or correct such item, upon notification by the Architect. The Contractor shall then submit a request for another inspection by the Architect, assisted by the Construction Manager, to determine Substantial Completion. When the Work or designated portion thereof is substantially complete, the Architect will prepare a Certificate of Substantial Completion which shall establish the date of Substantial Completion, shall establish responsibilities of the Owner and Contractor for security, maintenance, heat, utilities, damage to the Work and insurance, and shall fix the time within which the Contractor shall finish all items on the list accompanying the Certificate. Warranties required by the Contract Document shall commence on the date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion.

§ 9.8.3 Upon receipt of the list, the Architect, assisted by the Construction Manager, will make an inspection to determine whether the Work or designated portion thereof is substantially complete. If the Architect's inspection discloses any item, whether or not included on the list, which is not sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work or designated portion thereof for its intended use, the Contractor shall, before issuance of the Certificate of Substantial Completion, complete or correct such item upon notification by the Architect. In such case, the Contractor shall then submit a request for another inspection by the Architect, assisted by the Construction Manager, to determine Substantial Completion.

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§ 9.8.4 When the Architect, assisted by the Construction Manager, determines that the Work of all of the Contractors, or designated portion thereof, is substantially complete, the Construction Manager will prepare, and the Construction Manager and Architect shall execute, a Certificate of Substantial Completion that shall establish the date of Substantial Completion; establish responsibilities of the Owner and Contractor for security, maintenance, heat, utilities, damage to the Work and insurance; and fix the time within which the Contractor shall finish all items on the list accompanying the Certificate. Warranties required by the Contract Documents shall commence on the date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion.

§ 9.8.5 The Certificate of Substantial Completion shall be submitted to the Owner and Contractor for their written acceptance of responsibilities assigned to them in the Certificate. Upon such acceptance, and consent of surety if any, the Owner shall make payment of retainage applying to the Work or designated portion thereof. Such payment shall be adjusted for Work that is incomplete or not in accordance with the requirements of the Contract Documents.

§ 9.8.6 Upon Substantial completion of the Work or designated portion thereof and upon application by the Contractor and certification by the Architect, the Owner shall make payment, reflecting adjustment in retainage, pursuant to Minnesota Statutes, Section 15.72, for such Work or portion thereof as provided in the Contract Documents.

§ 9.8.7 The Architect, assisted by the Construction Manager, shall make one (1) inspection for Substantial Completion and Final Completion in accordance with the AIA Document B101–2017 Owner Architect Agreement. If additional inspections are required due to the Contractor's failure to complete previously listed corrective or uncompleted work, the Architect's expense for conducting such re-inspections and related time in processing, reviewing, and revision of requirements shall be charged to the Contractor and such payment shall be accomplished by a deductive Change Order to the Contractor.

§ 9.9 Partial Occupancy or Use

§ 9.9.1 The Owner may occupy or use any completed or partially completed portion of the Work at any stage when such portion is designated by separate agreement with the Contractor, provided such occupancy or use is consented to by the insurer and authorized by public authorities having jurisdiction over the Project. Such partial occupancy or use may commence whether or not the portion is substantially complete, provided the Owner and Contractor have accepted in writing the responsibilities assigned to each of them for payments, retainage if any, security, maintenance, heat, utilities, damage to the Work and insurance, and have agreed in writing concerning the period for correction of the Work and commencement of warranties required by the Contract Documents. When the Contractor considers a portion substantially complete, the Contractor and Construction Manager shall jointly prepare and submit a list to the Architect as provided under Section 9.8.2. Consent of the Contractor to partial occupancy or use shall not be unreasonably withheld. The stage of the progress of the Work shall be determined by written agreement between the Owner and Contractor or, if no agreement is reached, by decision of the Architect after consultation with the Construction Manager.

§ 9.9.2 Immediately prior to such partial occupancy or use, the Owner, Construction Manager, Contractor, and Architect shall jointly inspect the area to be occupied or portion of the Work to be used in order to determine and record the condition of the Work.

§ 9.9.3 Unless otherwise agreed upon, partial occupancy or use of a portion or portions of the Work shall not constitute acceptance of Work not complying with the requirements of the Contract Documents.

§ 9.10 Final Completion and Final Payment

§ 9.10.1 Upon completion of the Work, the Contractor shall forward to the Construction Manager a notice that the Work is ready for final inspection and acceptance, and shall also forward to the Construction Manager a final Contractor's Application for Payment. Upon receipt, the Construction Manager shall perform an inspection to confirm the completion of Work of the Contractor. The Construction Manager shall make recommendations to the Architect when the Work of all of the Contractors is ready for final inspection, and shall then forward the Contractors' notices and Application for Payment or Project Application for Payment, to the Architect, who will promptly make such inspection. When the Architect finds the Work acceptable under the Contract Documents and the Contract fully performed, the Construction Manager and Architect will promptly issue a final Certificate for Payment or Project Certificate for Payment stating that to the best of their knowledge, information and belief, and on the basis of their observations, on-site visits and inspections, the Work has been completed in accordance with the Contract Documents

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and that the entire balance found to be due the Contractor and noted in the final Certificate is due and payable. The Construction Manager's and Architect's final Certificate for Payment or Project Certificate for Payment will constitute a further representation that conditions listed in Section 9.10.2 as precedent to the Contractor's being entitled to final payment have been fulfilled.

§ 9.10.2 Neither final payment nor any remaining retained percentage shall become due until the Contractor submits to the Architect through the Construction Manager (1) an affidavit that payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which the Owner or the Owner's property might be responsible or encumbered (less amounts withheld by Owner) have been paid or otherwise satisfied, (2) a certificate evidencing that insurance required by the Contract Documents to remain in force after final payment is currently in effect and will not be cancelled or allowed to expire until at least (60) days' prior written notice has been given to the Owner, (3) a written statement that the Contractor knows of no reason that the insurance will not be renewable to cover the period required by the Contract Documents, (4) consent of surety, if any, to final payment (5) documentation of any special warranties, such as manufacturers' warranties or specific Subcontractor warranties, including a summary listing all applicable warranties both standard and extended, itemized by specification section and included at the front of the Operation and Maintenance manuals, and (6) other data establishing payment or satisfaction of obligations, such as receipts and releases and waivers of liens, claims, security interests, or encumbrances arising out of the Contract, to the extent and in such form as may be designated by the Owner. If a Subcontractor refuses to furnish a release or waiver required by the Owner, the Contractor may furnish a bond satisfactory to the Owner to indemnify the Owner against such lien, claim, security interest, or encumbrance. If a lien, claim, security interest, or encumbrance remains unsatisfied after payments are made, the Contractor shall refund to the Owner all money that the Owner may be compelled to pay in discharging the lien, claim, security interest, or encumbrance, including all costs and reasonable attorneys' fees.

§ 9.10.3 If, after Substantial Completion of the Work, final completion thereof is materially delayed through no fault of the Contractor or by issuance of Change Orders affecting final completion, and the Construction Manager and Architect so confirm, the Owner shall, upon application by the Contractor and certification by the Construction Manager and Architect, and without terminating the Contract, make payment of the balance due for that portion of the Work fully completed, corrected, and accepted. If the remaining balance for Work not fully completed or corrected is less than retainage stipulated in the Contract Documents, and if bonds have been furnished, the written consent of the surety to payment of the balance due for that portion of the Work fully completed and accepted shall be submitted by the Contractor to the Architect through the Construction Manager prior to certification of such payment. Such payment shall be made under terms and conditions governing final payment, except that it shall not constitute a waiver of Claims.

§ 9.10.4 The making of final payment shall constitute a waiver of Claims by the Owner except those arising from

- **.1** liens, Claims, security interests, or encumbrances arising out of the Contract and unsettled;
- **.2** failure of the Work to comply with the requirements of the Contract Documents;
- **.3** terms of special warranties required by the Contract Documents; or
- **.4** audits performed by the Owner, if permitted by the Contract Documents, after final payment.

§ 9.10.5 Acceptance of final payment by the Contractor, a Subcontractor, or a supplier, shall constitute a waiver of claims by that payee except those previously made in writing and identified by that payee as unsettled at the time of final Application for Payment.

§ 9.11 Damages for Delay

§ 9.11.1 The Contractor shall be responsible for damages incurred by the Owner and any other separate contractors for delay resulting from the Contractor's failure to complete the Work within the contract Time or resulting from the progress of the Work failing to substantially conform to the Project Construction Schedule. These damages are not included in liquidated damages and represent additional direct costs incurred by the Owner for the delay. These damages may include Owner incurred costs for temporary classrooms, temporary facilities, moving of programs, etc.

ARTICLE 10 PROTECTION OF PERSONS AND PROPERTY

§ 10.1 Safety Precautions and Programs

§ 10.1.1 The Contractor shall be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the performance of the Contract. The Contractor shall submit the Contractor's safety program to the Construction Manager for review and coordination with the safety programs of other Contractors. The Construction Manager's responsibilities for review and coordination of safety programs shall not extend to direct control over or charge of the acts or omissions of the Contractors, Subcontractors, agents or employees of the

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Contractors or Subcontractors, or any other persons performing portions of the Work and not directly employed by the Construction Manager.

§ 10.1.2 The Contractor shall comply with all applicable laws and regulations. Notwithstanding any language to the contrary, the Owner shall not have any responsibility for job site inspections or safety recommendations. Any inspections or observations by the Owner, Construction Manager or the Architect are solely for the benefit of the Owner and shall not create any duties or obligations to anyone else.

§ 10.2 Safety of Persons and Property

§ 10.2.1 The Contractor shall take reasonable precautions for safety of, and shall provide reasonable protection to prevent damage, injury, or loss to

- **.1** employees on the Work and other persons who may be affected thereby;
- **.2** the Work and materials and equipment to be incorporated therein, whether in storage on or off the site, under care, custody, or control of the Contractor, a Subcontractor, or a Sub-subcontractor;
- **.3** other property at the site or adjacent thereto, such as trees, shrubs, lawns, walks, pavements, roadways, structures, and utilities not designated for removal, relocation, or replacement in the course of construction; and
- **.4** construction or operations by the Owner, Separate Contractors, or other Contractors.

§ 10.2.2 The Contractor shall comply with, and give notices required by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities, bearing on safety of persons or property or their protection from damage, injury, or loss.

§ 10.2.3 The Contractor shall implement, erect, and maintain, as required by existing conditions and performance of the Contract, reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards; promulgating safety regulations; and notifying the owners and users of adjacent sites and utilities of the safeguards.

§ 10.2.4 When use or storage of explosives or other hazardous materials or equipment or unusual methods are necessary for execution of the Work, the Contractor shall exercise utmost care and carry on such activities under supervision of properly qualified personnel.

§ 10.2.5 The Contractor shall promptly remedy damage and loss (other than damage or loss insured under property insurance required by the Contract Documents) to property referred to in Sections 10.2.1.2, 10.2.1.3 and 10.2.1.4 caused in whole or in part by the Contractor, a Subcontractor, a Sub-subcontractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable and for which the Contractor is responsible under Sections 10.2.1.2, 10.2.1.3 and 10.2.1.4. The Contractor may make a Claim for the cost to remedy the damage or loss to the extent such damage or loss is attributable to acts or omissions of the Owner, Construction Manager or Architect or anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable, and not attributable to the fault or negligence of the Contractor. The foregoing obligations of the Contractor are in addition to the Contractor's obligations under Section 3.18.

§ 10.2.6 The Contractor shall designate a responsible member of the Contractor's organization at the site whose duty shall be the prevention of accidents. This person shall be the Contractor's superintendent unless otherwise designated by the Contractor in writing to the Owner, Construction Manager and Architect.

§ 10.2.7 The Contractor shall not permit any part of the construction or site to be loaded so as to cause damage or create an unsafe condition.

§ 10.2.8 Injury or Damage to Person or Property

If either party suffers injury or damages to person or property because of an act or omission of the other party, of any of the other party's employees or agents, or of others for whose acts such party is legally responsible, notice of the injury or damage, whether or not insured, shall be given to the other party within a reasonable time not exceeding ten (10) days after first observance. The notice shall provide sufficient detail to enable the other party to investigate the matter. If a Claim for additional cost or time related to this Claim is to be asserted, it shall be filed as provided in Sections 15.1.4 and 15.1.5.

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§ 10.3 Hazardous Materials

§ 10.3.1 In the event the Contractor encounters on the site material reasonably believed to be asbestos or polychlorinated biphenyl (PCB) which has not been rendered harmless, the Contractor shall immediately stop Work in the area affected and report the condition to the Owner, Construction Manager and Architect in writing. The Work in the affected area shall not thereafter be resumed except by written agreement of the Owner and Contractor if in fact the material is asbestos or polychlorinated biphenyl (PCB) and has not been rendered harmless. The Work in the affected area shall be resumed in the absence of asbestos or polychlorinated biphenyl (PCB), or when it has been rendered harmless, by written agreement of the Owner and Contractor.

.1 Except where otherwise stated in the Contract Documents, no hazardous material work of any nature shall be performed by the Contractor pursuant to this Contract.

.2 The term "hazardous materials" includes, but is not limited to, asbestos, toxic chemicals, acids, alkalis, irritants, contaminants, or other pollutants, together with any other waste, material, substance, pollutants, or contaminant, all or a portion of which is or would be designated as hazardous waste or substance under applicable local, state, or federal laws, ordinances, codes, rules, or regulations.

§ 10.3.2 To the fullest extent permitted by law, the Owner shall indemnify and hold harmless the Contractor, Construction Manager, Architect, their consultants, and agents and employees of any of them from and against claims, damages, losses, and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work on Owner's property if in fact the material is asbestos or polychlorinated biphenyl (PCB) and has not been rendered harmless, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), including loss of use resulting therefrom, but only to the extent caused in whole or in part by negligent acts or omissions of the Owner, anyone directly or indirectly employed by the Owner, or anyone for whose acts the Owner may be liable, regardless of whether or not such claim, damage, loss, or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity which would otherwise exist as to a party or person described in this Subparagraph 10.3.2.

§ 10.3.3 If reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a material or substance encountered on the site by the contractor, the Contractor shall, upon recognizing the condition, immediately stop Work on Owner's property and report the condition to the Owner, Construction Manager and Architect in writing. The Owner, Construction Manager, Contractor, and Architect shall then proceed in the same manner described in Subparagraph 10.3.1.

(Paragraph deleted)

§ 10.3.5 The Contractor shall reimburse the Owner for the cost and expense the Owner incurs (1) for remediation of hazardous materials or substances the Contractor brings to the site and negligently handles, or (2) where the Contractor fails to perform its obligations under Section 10.3.1, except to the extent that the cost and expense are due to the Owner's fault or negligence. Owner shall be responsible for obtaining the services of a licensed laboratory to verify a presence or absence of the material or substance reported by the Contractor and, in the event such material or substance is found to be present, to verify that it has been rendered harmless.

§ 10.3.6 Regulations concerning the availability of information and employee training in the use and handling of "hazardous substances" and "harmful physical agents", as set forth in the Employee Right-to-Know Act of 1983, Minnesota Statutes, Sections 182.65 to 182.676 are incorporated herein by reference as if fully set forth herein.

§ 10.3.7 The Contractor shall furnish three Material Safety Data Sheets to the Owner for each material used in the Work that is classified by the Employee Right-to-Know Act of 1983 as a "hazardous substance" or a "harmful physical agent."

§ 10.3.8 The Contractor shall label, in generally accepted and/or standardized fashion, all containers on the work site containing "hazardous substances" or as "harmful physical agents." This shall include factory containers and all subsequent containers used in the Work.

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§ 10.4 Emergencies

In an emergency affecting safety of persons or property, the Contractor shall act to prevent threatened damage, injury, or loss. Additional compensation or extension of time claimed by the Contractor on account of an emergency shall be determined as provided in Article 15 and Article 7.

ARTICLE 11 INSURANCE AND BONDS

§ 11.1 Contractor's Insurance and Bonds

§ 11.1.1 The Contractor shall purchase and maintain insurance of the types and limits of liability, containing the endorsements, and subject to the terms and conditions, as described in the Agreement, in EXH-C Owner Insurance or elsewhere in the Contract Documents. The Contractor shall purchase and maintain the required insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located and which carry a Best's rating of A- or higher or are otherwise acceptable to the Owner. The Owner, Construction Manager and Construction Manager's consultants, and the Architect and Architect's consultants, shall be named as additional insureds under the Contractor's commercial general liability policy or as otherwise described in the Contract Documents.

§ 11.1.2 The Contractor shall provide surety bonds of the types, for such penal sums, and subject to such terms and conditions as required by the Contract Documents. The Contractor shall purchase and maintain the required bonds from a company or companies lawfully authorized to issue surety bonds in the jurisdiction where the Project is located.

§ 11.1.3 Upon the request of any person or entity appearing to be a potential beneficiary of bonds covering payment of obligations arising under the Contract, the Contractor shall promptly furnish a copy of the bonds or shall authorize a copy to be furnished. The Contractor shall furnish Certificates of Insurance acceptable to the Owner which shall specifically set forth evidence of all coverage required by Article 11 and EXH-C Owner Insurance and shall be filed with the Owner and Construction Manager prior to commencement of the Work and thereafter upon renewal or replacement of each required policy of insurance.

The Contractor shall not allow insurance required by this Agreement to lapse, be canceled, reduced in limits or coverage, non-renewed, or materially changed or have restrictive modifications added during the life of this Agreement, including the periods of required coverage. The Contractor shall furnish to the Owner and Construction Manager copies of any endorsements that are subsequently issued amending coverage and limits.

If any of the foregoing insurance coverages are required to remain in force after final payment and are reasonably available, all additional certificates evidencing continuation of such coverage shall be submitted with the final Application for Payment. Information concerning reduction of coverage shall be furnished by the Contractor with reasonable promptness in accordance with the Contractor's information and belief.

§ 11.1.3.1 Acceptable insurance certificates are AIA Document G705, CICC of Minnesota Form 701, and/or ACORD form of the American Insurance Institute.

Failure of the Owner to collect certificates does not void the requirements to obtain insurance.

The acceptance of any certificate of insurance by the Owner shall not relieve or decrease the liability of the Contractor hereunder. It is to be understood the Owner, Construction Manager and Architect do not in any way represent that the insurance specified in these articles are sufficient or adequate to protect the Contractor's interest or liabilities, but are merely minimum requirements.

The Contractor shall furnish to the Owner copies of any endorsements that are subsequently issued amending coverage and limits.

§ 11.1.4 In the event the Contractor fails to procure or maintain any insurance coverage required under this Agreement, the Owner may purchase such coverage and deduct the cost thereof from any monies due to the Contractor, or terminate this Agreement under Paragraph 14.2. The Contractor shall be liable to the Owner for providing all coverage, defense, and payments that would have been provided by any insurance that the Contractor failed to procure and maintain as required by the Contract Documents.

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§ 11.1.5 Compliance by the Contractor with the foregoing insurance requirements shall not relieve it from liability for amounts in excess of the limits of insurance.

§ 11.1.6 The Contractor and any of its Subcontractors, Sub-subcontractors, agents and employees, and any separate contractors described in Article 6, if any, and any of their subcontractors, sub-subcontractors, agents and employees shall waive any of their subrogation rights on their Workers Compensation Policy in favor of the Owner, Construction Manager and Architect. The policies shall provide such waivers of subrogation by endorsement or otherwise. A waiver of subrogation shall be effective as to a person or entity even though that person or entity would otherwise have a duty of indemnification, contractual, or otherwise, did not pay the insurance premium directly or indirectly, and whether or not the person or entity had an insurable interest.

§ 11.2 Owner's Insurance

§ 11.2.1 The Owner shall purchase and maintain insurance of the types and limits of liability, containing the endorsements, and subject to the terms and conditions, as described in the Agreement or elsewhere in the Contract Documents. The Owner shall purchase and maintain the required insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The Owner may self-insure and maintain the Owner's usual liability insurance. Optionally, the Owner may purchase and maintain other insurance for self-protection against claims which may arise from operations under the Contract. The Contractor shall not be responsible for purchasing and maintaining this optional Owner's liability insurance unless specifically required by the Contract Documents.

§ 11.2.2 Failure to Purchase Required Property Insurance. If the Owner fails to purchase and maintain the required property insurance, with all of the coverages and in the amounts described in the Agreement or elsewhere in the Contract Documents, the Owner shall inform both the Contractor and the Construction Manager, separately and in writing, prior to commencement of the Work. Upon receipt of notice from the Owner, the Contractor may delay commencement of the Work and may obtain insurance that will protect the interests of the Contractor, Subcontractors, and Sub-Subcontractors in the Work. When the failure to provide coverage has been cured or resolved, the Contract Sum and Contract Time shall be equitably adjusted. In the event the Owner fails to procure coverage, the Owner waives all rights against the Contractor, Subcontractors, and Sub-subcontractors to the extent the loss to the Owner would have been covered by the insurance to have been procured by the Owner. The cost of the insurance shall be charged to the Owner by a Change Order. If the Owner does not provide written notice, and the Contractor is damaged by the failure or neglect of the Owner to purchase or maintain the required insurance, the Owner shall reimburse the Contractor for all reasonable costs and damages attributable thereto.

§ 11.2.3 Notice of Cancellation or Expiration of Owner's Required Property Insurance. Within three (3) business days of the date the Owner becomes aware of an impending or actual cancellation or expiration of any property insurance required by the Contract Documents, the Owner shall provide notice directly to the Contractor, and separately to the Construction Manager, of such impending or actual cancellation or expiration. Unless the lapse in coverage arises from an act or omission of the Contractor: (1) the Contractor, upon receipt of notice from the Owner, shall have the right to stop the Work until the lapse in coverage has been cured by the procurement of replacement coverage by either the Owner or the Contractor; (2) the Contract Time and Contract Sum shall be equitably adjusted; and (3) the Owner waives all rights against the Contractor, Subcontractors, and Sub-subcontractors to the extent any loss to the Owner would have been covered by the insurance had it not expired or been cancelled. If the Contractor purchases replacement coverage, the cost of the insurance shall be charged to the Owner by an appropriate Change Order. The furnishing of notice by the Owner shall not relieve the Owner of any contractual obligation to provide required insurance.

§ 11.3 Waivers of Subrogation

§ 11.3.1 The Owner and Contractor waive all rights against (1) each other and any of their subcontractors, sub-subcontractors, agents, and employees, each of the other; (2) the Construction Manager and Construction Manager's consultants; (3) the Architect and Architect's consultants; (4) other Contractors and any of their subcontractors, sub-subcontractors, agents, and employees; and (5) Separate Contractors, if any, and any of their subcontractors, sub-subcontractors, agents, and employees, for damages caused by fire, or other causes of loss, to the extent those losses are covered by property insurance required by the Agreement or other property insurance applicable to the Project, except such rights as they have to proceeds of such insurance. The Owner or Contractor, as appropriate, shall require similar written waivers in favor of the individuals and entities identified above from the Construction Manager, Construction Manager's consultants, Architect, Architect's consultants, other Contractors,

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Separate Contractors, subcontractors, and sub-subcontractors. The policies of insurance purchased and maintained by each person or entity agreeing to waive claims pursuant to this Section 11.3.1 shall not prohibit this waiver of subrogation. This waiver of subrogation shall be effective as to a person or entity (1) even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, (2) even though that person or entity did not pay the insurance premium directly or indirectly, or (3) whether or not the person or entity had an insurable interest in the damaged property.

(Paragraph deleted)

§ 11.4 Loss of Use, Business Interruption, and Delay in Completion Insurance

The Owner, at the Owner's option, may purchase and maintain insurance that will protect the Owner against loss of use of the Owner's property, or the inability to conduct normal operations, due to fire or other causes of loss. The Owner waives all rights of action against the Contractor, Architect, and Construction Manager for loss of use of the Owner's property, due to fire or other hazards however caused.

§ 11.5 Adjustment and Settlement of Insured Loss

§ 11.5.1 A loss insured under the property insurance required by the Agreement shall be adjusted by the Owner as fiduciary and made payable to the Owner as fiduciary for the insureds, as their interests may appear, subject to requirements of any applicable mortgagee clause and of Section 11.5.2. The Owner shall pay the Construction Manager, Architect and Contractor their just shares of insurance proceeds received by the Owner, and by appropriate agreements the Construction Manager, Architect and Contractor shall make payments to their consultants and Subcontractors in similar manner.

§ 11.5.2 Prior to settlement of an insured loss, the Owner shall notify the Contractor of the terms of the proposed settlement as well as the proposed allocation of the insurance proceeds. The Contractor shall have 14 days from receipt of notice to object to the proposed settlement or allocation of the proceeds. If the Contractor does not object, the Owner shall settle the loss and the Contractor shall be bound by the settlement and allocation. Upon receipt, the Owner shall make the appropriate distributions. Thereafter, if no other agreement is made or the Owner does not terminate the Contract for convenience, the Owner and Contractor shall execute a Change Order for reconstruction of the damaged or destroyed Work in the amount allocated for that purpose. If the Contractor timely objects to either the terms of the proposed settlement or the allocation of the proceeds, the Owner may proceed to settle the insured loss, and any dispute between the Owner and Contractor arising out of the settlement or allocation of the proceeds shall be resolved pursuant to Article 15. Pending resolution of any dispute, the Owner may issue a Construction Change Directive for the reconstruction of the damaged or destroyed Work.

§ 11.6 Bonds

§ 11.6.1 Contractor shall furnish a Performance Bond and a Payment Bond to the Owner in the amount of one hundred percent (100%) of the Contract Sum and issued by a Surety Company authorized to do business in the State of Minnesota, rated "A" or better, and approved by the Owner. The Performance Bond shall be in accordance with Minnesota Statutory requirements, and shall be in the form included in the Project Manual. The Bonds shall allow for any additions or deductions to the Contract Sum.

§ 11.6.2 In order to be acceptable as a surety, Contractor's bonding company bust hold a "Certificate of Authority acceptable to the U.S. Treasury Department and be listed in the Department's current publication of "Bond Qualifiers" with underwriting limitations not less than ten percent (10%) above the Contract Sum.

§ 11.6.3 The surety of the Bonds shall be by a corporate surety company authorized to do business in the state in which Work is being performed under this Contract and acceptable to the Owner. The conditions of the bonds shall meet requirements of the statutes of the state where Work is being performed and all other applicable provisions of state law.

§ 11.6.4 The Contractor shall furnish two (2) originals of the Bonds to the Owner, with copies to the Architect and Construction Manager, within ten (10) days after notification of award and before execution of the Contract. Failure to do so shall constitute a violation of terms of the proposal and provide grounds for forfeiture of bid security.

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ARTICLE 12 UNCOVERING AND CORRECTION OF WORK

§ 12.1 Uncovering of Work

§ 12.1.1 If a portion of the Work is covered contrary to the Construction Manager's or Architect's request or to requirements specifically expressed in the Contract Documents, it must, if requested in writing by either, be uncovered for their examination and be replaced at the Contractor's expense without change in the Contract Time.

§ 12.1.2 If a portion of the Work has been covered that the Construction Manager or Architect has not specifically requested to examine prior to its being covered, the Construction Manager or Architect may request to see such Work and it shall be uncovered by the Contractor. If such Work is in accordance with the Contract Documents, the Contractor shall be entitled to an equitable adjustment to the Contract Sum and Contract Time as may be appropriate. If such Work is not in accordance with the Contract Documents, the costs of uncovering the Work, and the cost of correction, shall be at the Contractor's expense.

§ 12.2 Correction of Work

§ 12.2.1 Before Substantial Completion

The Contractor shall promptly correct Work rejected by the Construction Manager or Architect or failing to conform to the requirements of the Contract Documents, discovered before Substantial Completion, and whether or not fabricated, installed or completed. The Contractor shall bear costs of correcting such rejected Work, including additional testing and inspections, the cost of uncovering and replacement, and compensation for the Construction Manager's and Architect's services and expenses made necessary thereby.

§ 12.2.2 After Substantial Completion

(Paragraphs deleted)

§ 12.2.2.1 If within one year after the date of Substantial Completion of the Work or designated portion thereof, or after the date for commencement of warranties established under Section 9.9.1, or by terms of any applicable special warranty required by the Contract Documents, any of the Work is found to be not in accordance with the requirements of the Contract Documents, the Contractor shall correct it promptly (and any other property damaged or removed in effecting the correction) after receipt of notice from the Owner, Construction Manager or Architect to do so, unless the Owner has previously given the Contractor a written acceptance of such condition. The Owner, Construction Manager or Architect shall give such notice promptly after discovery of the condition. This period of one year shall be extended with respect to portions of Work first performed after Substantial completion by the period of time between Substantial completion and the actual performance of the Work. This obligation under this Subparagraph 12.2.2.1 shall survive acceptance of the Work under the contract and termination of the Contract. The Owner, Construction Manager or Architect shall give such notice promptly after discovery of the condition. The expiration of the above one year or any other specified time period, or any other period prescribed by the law, shall not relieve the Contractor of the obligation form the expense to correct any latent defect in the work or deficiencies which are not readily ascertained, including but not limited to, defective materials and quality of work performed, defects attributable to material substitutions for special materials, substandard performance or otherwise not in compliance with the Contract Documents. Such latent defects or deficiencies shall be corrected as provided in this Paragraph 12.2. Following the correction or replacement of any of the Work, as above specified, the Contractor shall correct any defects or deficiencies in the corrected or replaced materials and workmanship which is found within one year after the date of correction or replacement.

§ 12.2.3 The Contractor shall remove from the site portions of the Work that are not in accordance with the requirements of the Contract Documents and are neither corrected by the Contractor nor accepted by the Owner.

§ 12.2.4 If the Contractor fails to correct nonconforming Work within a reasonable time, the Owner may correct it in accordance with Paragraph 2.4. If the Contractor does not proceed with correction of such nonconforming Work within a reasonable time fixed by written notice from the Architect or Construction Manager, the Owner may correct or remove it and store the salvageable materials or equipment all at the Contractor's expense. If the Contractor does not pay costs of such removal and storage within ten (10) days after written notice, the Owner may upon ten (10) additional days' written notice sell such materials and equipment at auction or at private sale and shall account for the proceeds thereof, after deducting costs and damages that should have been borne by the Contractor, the Contract Sum shall be reduced by the deficiency. If payments then or thereafter due the Contractor are not sufficient to cover such amount, the Contractor shall pay the difference to the Owner.

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§ 12.2.5 The Contractor shall bear the cost of correcting destroyed or damaged construction whether completed or partially completed, of the Owner or separate contractors caused by the Contractor's correction or removal of Work which is not in accordance with the requirements of the Contract Documents.

§ 12.2.6 Nothing contained in this Section 12.2 shall be construed to establish a period of limitation with respect to other obligations the Contractor has under the Contract Documents. Establishment of the one-year period for correction of Work as described in Section 12.2.2 relates only to the specific obligation of the Contractor to correct the Work, and has no relationship to the time within which the obligation to comply with the Contract Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Contractor's liability with respect to the Contractor's obligations other than specifically to correct the Work.

§ 12.3 Acceptance of Nonconforming Work

If the Owner prefers to accept Work that is not in accordance with the requirements of the Contract Documents, the Owner may do so instead of requiring its removal and correction, in which case the Contract Sum will be reduced as appropriate and equitable. Such adjustment shall be effected whether or not final payment has been made.

ARTICLE 13 MISCELLANEOUS PROVISIONS

§ 13.1 Governing Law

The Contract shall be governed by the law of the place where the Project is located excluding that jurisdiction's choice of law rules. If the parties have selected arbitration as the method of binding dispute resolution, the Federal Arbitration Act shall govern Section 15.4.

§ 13.2 Successors and Assigns

§ 13.2.1 The Owner and Contractor respectively bind themselves, their partners, successors, assigns, and legal representatives to covenants, agreements, and obligations contained in the Contract Documents. Except as provided in Section 13.2.2, neither party to the Contract shall assign the Contract as a whole without written consent of the other. If either party attempts to make an assignment without such consent, that party shall nevertheless remain legally responsible for all obligations under the Contract.

§ 13.2.2 The Owner may, without consent of the Contractor, assign the Contract to a lender providing construction financing for the Project, if the lender assumes the Owner's rights and obligations under the Contract Documents. The Contractor shall execute all consents reasonably required to facilitate the assignment.

§ 13.3 Rights and Remedies

§ 13.3.1 Duties and obligations imposed by the Contract Documents and rights and remedies available thereunder shall be in addition to and not a limitation of duties, obligations, rights, and remedies otherwise imposed or available by law.

§ 13.3.2 No action or failure to act by the Owner, Construction Manager, Architect, or Contractor shall constitute a waiver of a right or duty afforded them under the Contract, nor shall such action or failure to act constitute approval of or acquiescence in a breach thereunder, except as may be specifically agreed upon in writing.

§ 13.4 Tests and Inspections

§ 13.4.1 Tests, inspections, and approvals of portions of the Work shall be made as required by the Contract Documents and by applicable laws, statutes, ordinances, codes, rules, and regulations or lawful orders of public authorities. The Owner, Construction Manager or Architect shall make arrangements for such tests, inspections, and approvals with an independent testing laboratory or entity acceptable to the Owner, or with the appropriate public authority. Timely notice shall be given to the Construction Manager and Architect of when and where tests and inspections are to be made so that the Construction Manager and Architect may observe such procedures. The Owner shall bear costs of tests, inspections, or approvals that do not become requirements until after bids are received or negotiations concluded. The Owner shall directly arrange and pay for tests, inspections, or approvals where building codes or applicable laws or regulations so require.

§ 13.4.2 If the Construction Manager, Architect, Owner, or public authorities having jurisdiction determine that portions of the Work require additional testing, inspection, or approval not included under Section 13.4.1, the Construction Manager and Architect will, upon written authorization from the Owner, instruct the Contractor to make arrangements for such additional testing, inspection, or approval, by an entity acceptable to the Owner, and the

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Contractor shall give a minimum of two (2) working days' notice to the Construction Manager and Architect of when and where tests and inspections are to be made so that the Construction Manager and Architect may observe procedures. The Owner shall bear such costs, except as provided in Section 13.4.3.

§ 13.4.3 If procedures for testing, inspection, or approval under Sections 13.4.1 and 13.4.2 reveal failure of the portions of the Work to comply with requirements established by the Contract Documents, all costs made necessary by such failure, including those of repeated procedures and compensation for the Construction Manager's and Architect's services and expenses, shall be at the Contractor's expense.

§ 13.4.4 Required certificates of testing, inspection, or approval shall, unless otherwise required by the Contract Documents, be secured by the Contractor and promptly delivered to the Construction Manager for transmittal to the Architect.

§ 13.4.5 If the Construction Manager or Architect is to observe tests, inspections, or approvals required by the Contract Documents, the Construction Manager or Architect will do so promptly and, where practicable, at the normal place of testing.

§ 13.4.6 Tests or inspections conducted pursuant to the Contract Documents shall be made promptly to avoid unreasonable delay in the Work.

§ 13.5 Interest

All payments to the Contractor shall be governed by the Prompt Payment of Local Government Bills, Minnesota Statutes, Section 471.125 ("Prompt Payment Act") and Article 5 of the A132–2019 Agreement on this Project.

§ 13.6 Non-Discrimination

§ 13.6.1 All contracts between the Owner and companies providing goods and services under the Contract Documents shall contain the following equal opportunity and civil right clause:

> "During the performance of this Agreement, the provider agrees to the following: No contractor, material supplier, vendor, or other person shall on the basis of sex, race, creed, color, religion, national origin, age, marital status, sexual orientation, or disability be excluded from full employment rights in, participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program, service, or activity under the provisions of any and all applicable Federal and State laws against discrimination, including the Minnesota Human Rights Act and the Civil Rights Act of 1964."

Upon request, the Contractor shall furnish all information and reports required by the Owner, or by the rules and regulations of investigation to ascertain compliance with all applicable rules and regulations. The Contractor shall also comply with any applicable licensing requirements of the Minnesota Department of Human Services in employment of personnel.

The Contractor acknowledges that the violation of the above-stated paragraph is a misdemeanor pursuant to Minnesota Statutes, Section 181.59.

This Agreement may be cancelled or terminated by the Owner or any other person authorized to grant the contracts for employment under this Agreement, and all money due, or to become due under this Agreement may be forfeited for a second or any subsequent violation of the non-discriminatory terms stated above.

§ 13.6.2 During the completion of the work and all other services required by the Contract Documents, the Contractor agrees that no contractor, material supplier, vendor, or other person shall, on the basis of sex, race, creed, color, religion, national origin, age, marital status, sexual orientation, or disability be excluded from full employment rights in participation in, be denied the benefits of, or be otherwise subjected to discrimination under the provisions of any and all applicable Federal and State laws against discrimination, including the Minnesota Human Rights Act and the Civil Rights Act of 1964. Upon request, the Architect, Construction Manager and Contractor shall furnish all information and reports required by the Owner, or by the rules and regulations of investigation to ascertain compliance with all applicable rules and regulations. The Contractor shall also comply with any applicable licensing requirements of the Minnesota Department of Human Services in employment of personnel.

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Contractor acknowledges that the violation of the above-states paragraph is a misdemeanor pursuant to Minnesota Statutes Section 181.59.

The Contract Documents may be cancelled or terminated by the Owner or any other person authorized to grant the contracts for employment under this Agreement, and all money due, or to become due under the Agreement may be forfeited for a second or any subsequent violation of the non-discriminatory terms stated above.

§ 13.7 No action or failure to act by the Owner shall constitute a waiver of a right or duty afforded the Owner under the Contract Documents, nor shall such action or failure to act constitute approval of or acquiescence of the Owner in a breach of the Contract Documents, except as may be specifically agreed in writing. None of the approval of any Application for Payment, the making of any payment, the giving of any approval or consent, the use or occupancy of the Work, or any part thereof, the making of final payment, or any other action or inaction on the part of the Owner, Construction Manager or Architect shall constitute a waiver of claims by or rights of the Owner or an acceptance of any Work that is not in accordance with the Contract Documents. The Contractor shall not be relieved from its obligations to perform the Work in accordance with the Contract Documents either by the activities or duties of the representations of the Owner, Construction Manager or Architect, or by inspections, tests, or approvals required or performed by the Owner, Construction Manager or Architect or anyone else.

ARTICLE 14 TERMINATION OR SUSPENSION OF THE CONTRACT

§ 14.1 Termination by the Contractor

§ 14.1.1 The Contractor may terminate the Contract if the Work is stopped for a period of 30 consecutive days through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, their agents or employees, or any other persons or entities performing portions of the Work, for any of the following reasons:

.1 Issuance of an order of a court or other public authority having jurisdiction that requires all Work to be stopped;

.2 An act of government, such as a declaration of national emergency, that requires all Work to be stopped;

.3 Because the Construction Manager has not certified or the Architect has not issued a Certificate for Payment and has not notified the Contractor of the reason for withholding certification as provided in Section 9.4, or because the Owner has not made payment on a Certificate for Payment within the time stated in the Contract Documents; or

.4 The Owner has failed to furnish to the Contractor reasonable evidence as required by Section 2.2.

§ 14.1.2 The Contractor may terminate the Contract if, through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, their agents or employees, or any other persons or entities performing portions of the Work, repeated suspensions, delays, or interruptions of the entire Work by the Owner as described in Section 14.3, constitute in the aggregate more than 100 percent of the total number of days scheduled for completion, or 120 days in any 365-day period, whichever is less.

§ 14.1.3 If one of the reasons described in Section 14.1.1 or 14.1.2 exists, the Contractor may, upon seven days' notice to the Owner, Construction Manager and Architect, terminate the Contract and recover from the Owner payment for Work executed, as well as reasonable overhead and profit on Work not executed, and costs incurred by reason of such termination.

§ 14.1.4 If the Work is stopped for a period of 60 consecutive days through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, or their agents or employees, or any other persons performing portions of the Work because the Owner has repeatedly failed to fulfill the Owner's obligations under the Contract Documents with respect to matters important to the progress of the Work, the Contractor may, upon seven additional days' notice to the Owner, Construction Manager and Architect, terminate the Contract and recover from the Owner as provided in Section 14.1.3.

§ 14.1.5 No Right to Stop Work for Non-Payment

The Contractor has no right to stop Work as a consequence of non-payment. In the event of any disagreement between the Contractor and Owner involving the Contractor's entitlement to payment, the Contractor's only remedy is to file a Claim in accordance with Article 15. The Contractor must diligently proceed with the Work pending resolution of the Claim. If, however, an Application for Payment has been approved for payment by the Owner, and the Owner fails to make payment within sixty (60) days of the approval for payment by the Owner, the Contractor may upon ten (10)

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days written notice to the Owner, stop work if payment is not made by the Owner within ten (10) days following the notice.

§ 14.2 Termination by the Owner for Cause

§ 14.2.1 The Owner may terminate the Contract if the Contractor

.1 repeatedly refuses or fails to supply enough properly skilled workers or proper materials;

.2 fails to make payment to Subcontractors or suppliers in accordance with the respective agreements between the Contractor and the Subcontractors or suppliers;

.3 repeatedly disregards applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of a public authority; or

.4 otherwise is guilty of substantial breach of a provision of the Contract Documents.

§ 14.2.2 When any of the reasons described in Section 14.2.1 exist, after consultation with the Construction Manager, and upon certification by the Architect that sufficient cause exists to justify such action, the Owner may, without prejudice to any other rights or remedies of the Owner and after giving the Contractor and the Contractor's surety, if any, seven days' notice, terminate employment of the Contractor and may, subject to any prior rights of the surety:

.1 Exclude the Contractor from the site and take possession of all materials, equipment, tools, and construction equipment and machinery thereon owned by the Contractor;

.2 Accept assignment of subcontracts pursuant to Section 5.4; and

.3 Finish the Work by whatever reasonable method the Owner may deem expedient. Upon written request of the Contractor, the Owner shall furnish to the Contractor a detailed accounting of the costs incurred by the Owner in finishing the Work.

§ 14.2.3 When the Owner terminates the Contract for one of the reasons stated in Section 14.2.1, the Contractor shall not be entitled to receive further payment until the Work is finished.

§ 14.2.4 If the unpaid balance of the Contract Sum exceeds costs of finishing the Work, including compensation for the Construction Manager's and Architect's services and expenses made necessary thereby, and other damages incurred by the Owner and not expressly waived, such excess shall be paid to the Contractor. If such costs and damages exceed the unpaid balance, the Contractor shall pay the difference to the Owner. The amount to be paid to the Contractor or Owner, as the case may be, shall, upon application, be certified by the Initial Decision Maker after consultation with the Construction Manager, and this obligation for payment shall survive termination of the Contract.

§ 14.3 Suspension by the Owner for Convenience

§ 14.3.1 The Owner may, without cause, order the Contractor in writing to suspend, delay or interrupt the Work, in whole or in part for such period of time as the Owner may determine.

§ 14.3.2 The Contract Sum and the Contract Time shall be adjusted for increases or decreases in the cost and time caused by suspension, delay, or interruption under Section 14.3.1. Adjustment of the Contract Sum shall include reasonable profit. No adjustment shall be made to the extent:

.1 that performance is, was, or would have been, so suspended, delayed, or interrupted, by another cause for which the Contractor is responsible; or

.2 that an equitable adjustment is made or denied under another provision of this Contract.

§ 14.4 Termination by the Owner for Convenience

§ 14.4.1 The Owner may, at any time, terminate the Contract for the Owner's convenience and without cause.

§ 14.4.2 Upon receipt of notice from the Owner of such termination for the Owner's convenience, the Contractor shall

.1 cease operations as directed by the Owner in the notice;

.2 take actions necessary, or that the Owner may direct, for the protection and preservation of the Work; and

.3 except for Work directed to be performed prior to the effective date of termination stated in the notice, terminate all existing subcontracts and purchase orders and enter into no further subcontracts and purchase orders.

(Paragraph deleted)

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ARTICLE 15 CLAIMS AND DISPUTES

§ 15.1 Claims

§ 15.1.1 Definition. A Claim is a demand or assertion by the Contractor seeking, as a matter of right, payment of money, a change in the Contract Time, or other relief with respect to the terms of the Contract. The responsibility to substantiate Claims shall rest with the Contractor. Nothing in this paragraph 15.1.1 is intended to apply to or in any way limit the Owner's right to make Claims related to or arising out of the Contract. This Section 15.1.1 does not require the Owner to file a Claim in order to impose liquidated damages in accordance with the Contract Documents.

§ 15.1.2 Time Limits on Claims

The Owner and Contractor shall commence all Claims and causes of action against the other and arising out of or related to the Contract, whether in contract, tort, breach of warranty or otherwise, in accordance with the requirements of the binding dispute resolution method selected in the Agreement and within the period specified by applicable law, but in any case not more than 10 years after the date of Substantial Completion of the Work. The Owner and Contractor waive all Claims and causes of action not commenced in accordance with this Section 15.1.2.

§ 15.1.3 Notice of Claims

§ 15.1.3.1 Claims by Contractor, where the condition giving rise to the Claim is first discovered prior to expiration of the period for correction of the Work set forth in Section 12.2.2, shall be initiated by written notice to the Owner and to the Initial Decision Maker with a copy sent to the Construction Manager and Architect, if the Architect is not serving as the Initial Decision Maker. Claims by the Contractor under this Section 15.1.3.1 shall be initiated within ten (10) days after occurrence of the event giving rise to such Claim or within ten (10) days after the Contractor first recognizes the condition giving rise to the Claim, whichever is later. Any additional Claim made after and relating to the initial Claim has been implemented by Change Order will not be considered unless submitted in a timely manner. As a condition to making a claim for additional costs, the Contractor shall maintain and produce accurate records to substantiate all additional costs actually incurred. If a Claim for actual costs is approved, the Owner shall pay the Contractor actual costs incurred, plus either (a) ten percent (10%) for overhead and profit for work performed by the Contractor, or (b) five percent (5%) overhead and profit for work performed by a Subcontractor, as applicable.

§ 15.1.3.2 Claims by either the Owner or Contractor, where the condition giving rise to the Claim is first discovered after expiration of the period for correction of the Work set forth in Section 12.2.2, shall be initiated by written notice to the other party. In such event, no decision by the Initial Decision Maker is required.

§ 15.1.4 Continuing Contract Performance

§ 15.1.4.1 Pending final resolution of a Claim, except as otherwise agreed in writing or as provided in Section 9.7 and Article 14, the Contractor shall proceed diligently with performance of the Contract and the Owner shall continue to make payments in accordance with the Contract Documents. Subject to Paragraph 15.1.5, no such continuing performance by the Contractor, nor payment by the Owner shall be deemed a waiver of, or to otherwise impair any such Claim.

§ 15.1.4.2 The Contract Sum and Contract Time shall be adjusted in accordance with the Initial Decision Maker's decision, subject to the right of either party to proceed in accordance with this Article 15. The Architect will issue Certificates for Payment in accordance with the decision of the Initial Decision Maker.

§ 15.1.5 Claims for Additional Cost. If the Contractor wishes to make a Claim for an increase in the Contract Sum, notice as provided in Section 15.1.3 shall be given before proceeding to execute the portion of the Work that is the subject of the Claim. Prior notice is not required for Claims relating to an emergency endangering life or property arising under Section 10.4.

§ 15.1.6 Claims for Additional Time

§ 15.1.6.1 If the Contractor wishes to make a Claim for any increase in the Contract Time, notice as provided in Section 15.1.3 shall be given. The Contractor's Claim shall include an estimate of cost and of probable effect of delay on progress of the Work. In the case of a continuing delay only one Claim is necessary.

§ 15.1.6.2 If adverse weather conditions are the basis for a Claim for additional time, such Claim shall be documented by data substantiating that weather conditions were abnormal for the period of time, could not have been reasonably anticipated and had an adverse effect on the scheduled construction.

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(Paragraphs deleted)

§ 15.2 Initial Decision

§ 15.2.1 Claims, excluding those where the condition giving rise to the Claim is first discovered after expiration of the period for correction of the Work set forth in Section 12.2.2 or arising under Sections 10.3, 10.4, and 11.5, shall be referred to the Initial Decision Maker for initial decision. The Architect will serve as the Initial Decision Maker, unless otherwise indicated in the Agreement. Except for those Claims excluded by this Section 15.2.1, an initial decision shall be required as a condition precedent to mediation of any Claim. If an initial decision has not been rendered within 30 days after the Claim has been referred to the Initial Decision Maker, the party asserting the Claim may demand mediation and binding dispute resolution without a decision having been rendered. Unless the Initial Decision Maker and all affected parties agree, the Initial Decision Maker will not decide disputes between the Contractor and persons or entities other than the Owner.

§ 15.2.2 The Initial Decision Maker will review Claims and within ten days of the receipt of a Claim take one or more of the following actions: (1) request additional supporting data from the claimant or a response with supporting data from the other party, (2) reject the Claim in whole or in part, (3) approve the Claim, (4) suggest a compromise, or (5) advise the parties that the Initial Decision Maker is unable to resolve the Claim if the Initial Decision Maker lacks sufficient information to evaluate the merits of the Claim or if the Initial Decision Maker concludes that, in the Initial Decision Maker's sole discretion, it would be inappropriate for the Initial Decision Maker to resolve the Claim.

§ 15.2.3 In evaluating Claims, the Initial Decision Maker may, but shall not be obligated to, consult with or seek information from either party or from persons with special knowledge or expertise who may assist the Initial Decision Maker in rendering a decision. The Initial Decision Maker may request the Owner to authorize retention of such persons at the Owner's expense.

§ 15.2.4 If the Initial Decision Maker requests a party to provide a response to a Claim or to furnish additional supporting data, such party shall respond, within ten days after receipt of the request, and shall either (1) provide a response on the requested supporting data, (2) advise the Initial Decision Maker when the response or supporting data will be furnished, or (3) advise the Initial Decision Maker that no supporting data will be furnished. Upon receipt of the response or supporting data, if any, the Initial Decision Maker will either reject or approve the Claim in whole or in part.

§ 15.2.5 The Initial Decision Maker will render an initial decision approving or rejecting the Claim, or indicating that the Initial Decision Maker is unable to resolve the Claim. This initial decision shall (1) be in writing; (2) state the reasons therefor; and (3) notify the parties, the Construction Manager, and the Architect, if the Architect is not serving as the Initial Decision Maker, of any change in the Contract Sum or Contract Time or both. The initial decision shall be final and binding on the parties but subject to mediation and, if the parties fail to resolve their dispute through mediation, to binding dispute resolution.

§ 15.2.6 In the event of a Claim against the Contractor, the Owner may, but is not obligated to notify the surety, if any, of the nature and amount of the Claim. If the Claim relates to a possibility of a Contractor's default, the Owner may, but is not obligated to notify the surety and initiate a Claim on the performance bond.

(Paragraphs deleted)

§ 15.3 Mediation

§ 15.3.1 Any claim, dispute or other matter in question or arising out of or related to the Contract shall be subject to mediation. Mediation is not a condition precedent to commencing litigation, but if litigation is commenced before mediation is held, the Parties agree to mediate before any dispositive motions or trial.

§ 15.3.2 The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located unless another location is mutually agreed upon. Agreements reached in mediation and ratified by the Owner's Council shall be enforceable as settlement agreements in any court having jurisdiction thereof.

(Paragraphs deleted)

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AIA® Document A232® – 2019

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PAGE 1

North High School Phase 4 Work Scope 06-A Carpentry
1500 James Avenue, Minneapolis, MN 55411

...

Kraus-Anderson Construction Company
501 South 8th Street, Minneapolis, MN 55404

...

Minneapolis Public Schools Special School District #1
1250 West Broadway Avenue
Minneapolis, MN 55411

...

LSE Architects 1401 Glenwood Avenue
Minneapolis, MN 55405

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§ 1.1.1.1 Notwithstanding the foregoing, it is understood and agreed that the Owner is an intended third-party beneficiary of all contracts between the Contractor and Subcontractors or suppliers who provide labor and/or materials for the Work.

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§ 1.1.10 Initial Decision Maker. The Initial Decision Maker is the person identified in the Agreement to render initial decisions on Claims in accordance with Section 15.2. The ~~Initial Decision Maker shall not show partiality to the Owner or Contractor and shall not be liable for results of interpretations or decisions rendered in good faith.~~Architect will serve as the Initial Decision Maker pursuant to Section 15.2 of AIA Document A232–2019.

...

§ 1.2.1 The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work by the Contractor. The Contract Documents are complementary, and what is required by one shall be as binding as if required by all; performance by the Contractor shall be required only to the extent consistent with the Contract Documents and reasonably inferable from them as being necessary to produce the ~~indicated~~ intended results.

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§ 1.2.1.1 The invalidity of any provision of the Contract Documents shall not invalidate the Contract or its remaining provisions. ~~If it is determined that any provision of the Contract Documents violates any law, or is otherwise invalid or unenforceable, then that provision shall be revised to the extent necessary to make that provision legal and enforceable.~~ In such case the Contract Documents shall be construed, to the fullest extent permitted by law, to give effect to the parties' intentions and purposes in executing the Contract.

...

§ 1.4.1 In the case of inconsistency between Drawings and Specifications or within Contract Documents not clarified by Addenda, the better quality or greater quantity of Work shall be provided in accordance with the Architect's interpretation.

§ 1.5.1 The Architect and the Architect's consultants shall be deemed the authors and owners of their respective Instruments of Service, including the Drawings and Specifications, and retain all common law, statutory, and other reserved rights in their Instruments of Service, including copyrights. The Contractor, Subcontractors, sub-subcontractors, and suppliers shall not own or claim a copyright in the Instruments of Service. Submittal or distribution to meet official regulatory requirements or for other purposes in connection with the Project is not to be construed as publication in derogation of the Architect's or Architect's consultants' reserved rights. The Owner retains rights to the Instruments of Service pursuant to Article 7 of AIA Document B101-2017.

...

§ 1.5.3 The Architect shall furnish to the Contractor a version of the Instruments of Service in electronic form for the sole purpose of the construction of the Project for which the Instruments of Service were created.

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The parties shall agree upon ~~written~~ protocols governing the transmission and use ~~of, and reliance on,~~ of Instruments of Service or any other information or documentation in digital form. The parties may use AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit or other form, to establish the protocols for the development, use, transmission, and exchange of digital data.

...

Any use of, or reliance on, all or a portion of a building information model without agreement to ~~written~~ protocols governing the use of, and reliance on, the information contained in the model and without having those protocols set forth in AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, and the requisite AIA Document G202™–2013, Project Building Information Modeling Protocol Form or other form, shall be at the using or relying party's sole risk and without liability to the other party and its contractors or consultants, the authors of, or contributors to, the building information model, and each of their agents and employees.

...

§ 2.1.1 The Owner is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The Owner shall designate in writing a representative who shall have express authority to bind the Owner with respect to all matters requiring the Owner's approval or ~~authorization.~~ authorization in accordance with Owner's Delegation of Authority Policy, a copy of which will be provided at Contractor's request. Except as otherwise provided in Section 4.2.1, the Construction Manager and the Architect do not have such authority. The term "Owner" means the Owner or the Owner's authorized representative.

~~**§ 2.1.2** The Owner shall furnish to the Contractor, within fifteen days after receipt of a written request, information necessary and relevant for the Contractor to evaluate, give notice of, or enforce mechanic's lien rights. Such information shall include a correct statement of the record legal title to the property on which the Project is located, usually referred to as the site, and the Owner's interest therein.~~

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§ 2.3.5 ~~The~~ If requested by the Contractor and reasonably required for the Project, the Owner shall furnish surveys describing physical characteristics, legal limitations and utility locations for the site of the Project, and a written legal description of the site. The Contractor ~~shall be entitled to rely on the accuracy of information furnished by the Owner but~~ shall exercise proper precautions relating to the safe performance of the Work.

§ 2.3.6 The Owner shall furnish information or services required of the Owner by the Contract Documents with reasonable promptness. The Owner shall also furnish any other information or services under the Owner's control and relevant to the Contractor's performance of the Work with reasonable promptness after receiving the Contractor's written request for such information or services. The Contractor is responsible for the timeliness of, or interference caused by, Subcontractors, Sub-subcontractors (of any tier), and others directly or indirectly under contract to the Contractor.

...

If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within a ~~ten-day~~ three-business-day (3) period after receipt of notice from the Owner to commence and continue correction of such default or neglect with diligence and promptness, the Owner may, without prejudice to other remedies the Owner may have, correct such default or neglect. Such action by the Owner and amounts charged to the Contractor are both subject to review by the Construction Manager and prior approval of the Architect, and the Construction Manager or Architect may, pursuant to Section 9.5.1, withhold or nullify a Certificate for Payment in whole or in part, to the extent reasonably necessary to reimburse the Owner for the reasonable cost of correcting such deficiencies, including Owner's expenses and compensation for the Construction Manager's and Architect's and their respective consultants' additional services and expenses made necessary by such default, neglect, or failure. If current and future payments are not sufficient to cover such amounts, the Contractor shall pay the difference to the ~~Owner.~~ Owner within ten (10) days following written request for payment delivered by the Owner to the Contractor. If the Contractor disagrees with the actions of the Owner or the Architect, or the amounts claimed as costs to the Owner, the Contractor may file a Claim pursuant to Article 15.

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§ 3.1.3 The Contractor shall ~~not be relieved of its obligations to perform the Work in accordance with the Contract Documents either by activities or duties of the Construction Manager or Architect in their administration of the Contract, or by tests, inspections or approvals required or performed by persons or entities other than the Contractor.~~hire a professional utilities locator to investigate and verify all private utility locations prior to excavation and cutting into of existing Work. The Contractor is responsible for locating, terminating, and reinstallation of all private utilities. Private site utilities may not be in the Drawings and Project Manual and as such, verification of private utilities is the sole responsibility of the Contractor. Costs associated with moving and repairing of unknown and undocumented utilities will be by appropriate Change Order. The Contractor shall comply with Gopher State One Call, or other public utility service locator to locate all public utilities prior to any work on the site. This shall not relieve Contractor from obligations under Article 3.

§ 3.1.4 The Contractor shall not be relieved of its obligations to perform the Work in accordance with the Contract Documents either by activities or duties of the Construction Manager or Architect in their administration of the Contract, or by tests, inspections or approvals required or performed by persons or entities other than the Contractor.

...

§ 3.2.1 ~~Execution of the Contract by the Contractor is a representation that the Contractor has visited the site, become generally~~ The Contractor shall carefully study and compare the Contract Documents with each other and with information furnished by the Owner pursuant to Section 2.2.3, and shall immediately report to the Architect and Construction Manager errors, inconsistencies, or omissions discovered. The Contractor shall not be liable to the Owner or Architect for damage resulting from errors, inconsistencies, or omissions in the Contract Document unless the Contractor recognized such error, inconsistency, or omission and knowingly failed to report it to the Architect. If the Contractor performs any construction activity knowing or believing it involves a recognized error, inconsistency, or omission in the Contract Documents without such notice to the Architect, the Contractor shall assume full responsibility for such performance and shall bear the attributable costs for correction and shall bear responsibility for any additional costs, delays, and damages resulting from such failure to immediately report any such errors,

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inconsistencies, or omissions which the Contractor may discover. By executing the Contract, the Contractor represents that the Contractor has reviewed and understands the Contract Documents, has visited the Site and is familiar with local conditions under which the Work is to be performed, ~~and correlated personal observations with requirements of the Contract Documents.~~has correlated personal observations with the requirements of the Contract Documents, and has notified the Architect of and obtained clarification of any discrepancies which have become apparent during the bidding or proposal period.

§ 3.2.1.1 The Contractor shall take field measurements and verify field conditions and shall carefully compare such field measurements and conditions and other information known to the Contractor with the Contract Documents before commencing activities. Errors, inconsistencies, or omissions discovered shall be reported to the Architect immediately in writing.

§ 3.2.1.2 The Contractor shall carefully study and compare the Contract Documents with existing conditions at the job site and shall immediately report in writing to the Architect any error, inconsistency, or omission which the Contractor may discover or any materials, systems, procedures, or methods of construction, either shown on the Drawings or specified, which the Contractor has reason to believe are incorrect, inadequate, obsolete, unsuitable for the purpose intended or which the Contractor has reason to believe would constitute or result in a violation of the Contractor's warranty under Section 3.5 or applicable law. The Contractor shall not proceed with any work in such areas until written instructions are received from the Architect.

§ 3.2.2 ~~Because the Contract Documents are complementary, the Contractor shall, before starting each portion of the Work, carefully study and compare the various Contract Documents relative to that portion of the Work, as well as the information furnished by the Owner pursuant to Section 2.3.5, shall take field measurements of any existing conditions related to that portion of the Work, and shall observe any conditions at the site affecting it. These obligations are for the purpose of facilitating coordination and construction by the Contractor and are not for the purpose of discovering errors, omissions, or inconsistencies in the Contract Documents; however, the Contractor shall promptly report to the Construction Manager and Architect any errors, inconsistencies or omissions discovered by or made known to the Contractor as a request for information submitted to the Construction Manager in such form as the Construction Manager and Architect may require. It is recognized that the Contractor's review is made in the Contractor's capacity as a contractor and not as a licensed design professional, unless otherwise specifically provided in the Contract Documents.~~The Contractor shall perform the Work in accordance with the Contract Documents and submittals accepted pursuant to Section 3.12.

§ 3.2.3 The ~~Contractor is not required to ascertain that the Contract Documents are in accordance with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, but the Contractor shall promptly report to the Construction Manager and Architect any nonconformity discovered by or made known to the Contractor as a request for information submitted to Construction Manager in such form as the Construction Manager and Architect may require.~~Owner shall be entitled to deduct from the Contract Sum amounts paid to the Architect for the Architect to evaluate and respond to the Contractor's requests for interpretation or information where such information was available to the Contractor from a careful study and comparison of the Contract Documents, Filed Conditions, Owner Provided Information, Contractor Prepared Coordination Drawings, or prior Project Correspondence or Documentation.

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§ 3.2.4 If the Contractor believes that ~~additional cost or time is involved because of clarifications or instructions the Architect issues in response to the Contractor's notices or requests for information pursuant to Sections 3.2.2 or 3.2.3, the Contractor shall submit Claims as provided in Article 15. If the Contractor fails to perform the obligations of Sections 3.2.2 or 3.2.3, the Contractor shall pay such costs and damages to the Owner, subject to section 15.1.7, as would have been avoided if the Contractor had performed such obligations. If the Contractor performs those obligations, the Contractor shall not be liable to the Owner or Architect for damages resulting from errors, inconsistencies or omissions in the Contract Documents, for differences between field measurements or conditions and the Contract Documents, or for nonconformities of the Contract Documents to applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities.~~any portions of the Contract Documents do not comply with applicable laws, statutes, ordinances, building codes, and rules and regulations, or any orders by code enforcement officials or the Owner or its designees acting in the capacity of building code inspectors or Referenced Standards, the Contractor must promptly notify the Owner and the Architect of the non-compliance as provided in Section 3.2.6 and request direction before proceeding with the affected Work.

§ 3.2.5 The Contractor must promptly notify the Owner and the Architect in writing of any apparent errors, inconsistencies, omissions, ambiguities, construction impracticalities or code violations discovered as a result of the Contractor's review of the Contract Documents including any differences between actual and indicated dimensions, locations and descriptions, and must give the Owner and the Architect timely notice in writing of same and of any corrections, clarifications, additional Drawings or Specifications, or other information required to define the Work in greater detail or to permit the proper progress of the Work. The Contractor must provide similar notice with respect to any variance between its review of the Site and physical data and Site conditions observed.

§ 3.2.6 If the Contractor performs any Work involving an apparent error, inconsistency, ambiguity, construction impracticality, omission or code violation in the Contract Documents of which the Contractor is aware, or which could reasonably have been discovered by the review required by Section 3.2, without prompt written notice to the Owner and the Architect and request for correction, clarification or additional information, as appropriate, the Contractor does so at its own risk and expense and all Claims relating thereafter are specifically waived.

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§ 3.3.4 The Contractor shall at all times staff the Project adequately to allow the Project to be managed and completed in a timely and professional manner. The Contractor shall have competent supervision on the job during work hours and readily available at all times upon call.

§ 3.3.5 The Contractor shall at all times make reasonable provisions to protect any Work performed by any separate contractors, adjacent property, and the existing building (if any) from damage due to the Work or due to the weather.

§ 3.3.6 The Owner or its approved representative (heretofore referred to as Owner's Representative) shall have access to the Work site and all Work. No supervision or inspection by the Owner or the Owner's Representative, nor the authority to act, nor any other actions taken by the Owner's Representative shall relieve the Contractor of any of its obligations under the Contract Documents or give rise to any duty on the part of the Owner.

§ 3.3.7 The Contract shall take appropriate precautions to ensure that the Work does not materially disrupt any ongoing operation by the Owner at the Project (if any) except to the extent any such disruption is a necessary result of performing a particular portion of the Work, in which case the Contractor shall provide the Owner with reasonable advanced written notice and shall take all commercially reasonable measures to minimize the impact on the Owner and the Owner's operations.

§ 3.4.1 Unless otherwise provided in the Contract Documents, the Contractor shall provide and pay for labor, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation, and other facilities and services necessary for proper execution and completion of the Work, whether temporary or permanent and whether or not incorporated or to be incorporated in the Work. Should the Contract Documents require Work to be performed after regular working hours or should the Contractor elect to perform Work after regular working hours, the additional cost of such Work shall be borne by the Contractor.

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§ 3.4.4 The Contractor shall be responsible for all additional costs incurred to incorporate into the Project substitute materials, products, or equipment approved by Owner during the bidding period.

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§ 3.4.5 In the event of a Change related to substitute or additional materials, and which shall comply with Article 7, the Contractor shall exercise reasonable efforts, consistent with the provisions of the Contract Documents to obtain the maximum available case discounts on all materials, provided that, in doing so, the Contractor shall not accept or use materials for incorporation into the Project which are of a type or quality not reasonably contemplated under the terms of the Contract Documents.

§ 3.4.6 After award of the Contract, a request for substitution of a material, product, or piece of equipment at no change in the Contract Sum will not be approved by the Owner or the Architect, unless the specified item is no longer manufactured, the specified item is unavailable as a result of an act of government such as a declaration of a national emergency, or delivery of the specified items is substantially delayed as a result of labor disputes affecting the manufacturer, unusual delay in transportation, or any other cause beyond control of the Contractor or a Subcontractor or material supplier which the Architect determines justified the delay. Requests will not be approved where the delay in delivery results from failure to promptly place subcontracts and material orders. Requests for substitution shall be submitted in writing to the Architect and shall clearly describe the proposed substitution, state the reason for the unavailability of a specified item and be accompanied by such additional data and information as may be necessary in the discretion of the Owner and the Architect to establish the acceptability of the proposed substitute.

§ 3.4.7 The Owner shall be entitled to deduct from the Contract Sum amounts paid to the Architect to evaluate the Contractor's proposed Substitutions and for changes made to the Contract Documents as a result of Owner's acceptance of such Substitutions.

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§ 3.5.2 All material, equipment, or other special warranties required by the Contract Documents shall be issued in the name of the Owner, or shall be transferable to the Owner, and shall commence in accordance with Section 9.8.4. The Contractor shall arrange for the Owner to have the benefit of and right to enforce all warranties by Subcontractors, Sub-subcontractors, suppliers, and manufacturers.

§ 3.5.3 Manufacturers' warranties and warranties by other shall not relieve the Contractor of any of its responsibilities.

§ 3.5.4 The Contractor's general warranty and any additional or special warranties are not limited by the Contractor's obligations to specifically correct defective or nonconforming Work as provided in Article 12, nor are they limited by any other remedies provided in the Contract Documents. The Contractor shall also be liable for any damage to property or persons (including death) including consequential and direct damages relating to any breach of the Contractor's general warranty or any additional or special warranties required by the Contract Documents.

§ 3.5.5 The Contractor must furnish all special warranties required by the Contract Documents to the Owner no later than Substantial Completion. The Owner may require additional special warranties in connection with the approval of "Or-Equals" or Substitutions, Allowance items, Work that is defective or nonconforming, or the acceptance of nonconforming Work pursuant to Article 12.

...

§ 3.7.1 Unless otherwise provided in the Contract Documents, the Owner, assisted by the Construction Manager, shall secure and pay for the building permit. The Contractor shall secure and pay for other permits, fees, licenses, and inspections by government agencies necessary for proper execution and completion of the Work that are customarily secured after execution of the Contract and legally required at the time bids are received or negotiations concluded. The Contractor shall be responsible for the Sewer Access (SAC) and Water Access (WAC) fees for the Project. The Contractor shall pay the SAC/WAC costs to the authorities having jurisdiction from the Allowance in the Base Bid for such charges as defined in the Construction Documents.

...

§ 3.7.3 If the Contractor performs Work knowing or believing it to be contrary to applicable laws, statutes, ordinances, building codes, rules and regulations, or lawful orders of public authorities, without such notice to the Architect and Owner, the Contractor shall assume ~~appropriate~~ full responsibility for such Work and shall bear the ~~costs attributable~~

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~~to correction.~~attributable costs, delays, and damages resulting from such failure to immediately notify the Architect and Owner of any such violation..

§ 3.7.4 Concealed or Unknown Conditions. If the Contractor encounters conditions at the site that are (1) subsurface or otherwise concealed physical conditions that differ materially from those indicated in the Contract Documents or (2) unknown physical conditions of an unusual nature that differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents, the Contractor shall promptly provide notice to the Owner, Construction Manager, and the Architect before conditions are disturbed and in no event later than ~~14~~ ten (10) days after first observance of the conditions. The Architect and Construction Manager will promptly investigate such conditions and, if the Architect, in consultation with the Construction Manager, determines that they differ materially and cause an increase or decrease in the Contractor's cost of, or time required for, performance of any part of the Work, will recommend that an equitable adjustment be made in the Contract Sum or Contract Time, or both. If the Architect, in consultation with the Construction Manager, determines that the conditions at the site are not materially different from those indicated in the Contract Documents and that no change in the terms of the Contract is justified, the Architect shall promptly notify the Owner, Construction Manager, and Contractor, stating the reasons. If the Owner or Contractor disputes the Architect's determination or recommendation, either party may submit a Claim as provided in Article 15.
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§ 3.9.1 The Contractor shall employ a competent superintendent and necessary assistants who shall be in attendance at the Project site during performance of the ~~Work.~~ Work, including that performed by all Subcontractors. The superintendent shall represent the Contractor, and communications given to the superintendent shall be as binding as if given to the Contractor. Important communications including and not limited to communications regarding design changes, alterations, substitutions, clarifications, cost changes, etc. shall be confirmed in writing by the Contractor. Other communications shall be similarly confirmed on written request in each case.

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§ 3.9.3 The Contractor shall not employ a proposed superintendent or any other management personnel to whom the Owner, Construction Manager, or Architect has made reasonable and timely objection. The Contractor shall not change the superintendent without the Owner's consent, which shall not unreasonably be withheld or delayed.

§ 3.9.4 If requested by the Owner, the Contractor shall replace the superintendent at no additional cost to the Owner. No other change in this position shall be made without notice to and written consent of the Owner.

...

§ 3.10.1 The Contractor, promptly after being awarded the Contract, shall submit for the Owner's and Architect's information, and the Construction Manager's use in developing the Project schedule, a Contractor's construction schedule for the Work. The schedule shall contain detail appropriate for the Project, including (1) the date of commencement of the Work, interim schedule milestone dates, critical path schedule milestones, major construction milestones, including and not limited to Civil, Demolition, Structural, Mechanical, Electrical, and Plumbing, and the date of Substantial Completion; (2) an apportionment of the Work by construction activity; and (3) the time required for completion of each portion of the Work. The schedule shall provide for the orderly progression of the Work to completion and shall not exceed time limits current under the Contract Documents. The schedule shall be revised at appropriate intervals as required by the conditions of the Work and Project. The Contractor shall cooperate with the Construction Manager in scheduling and performing the Contractor's Work to avoid conflict with, and as to cause no delay in, the work or activities of other Contractors, or the construction or operations of the Owner's own forces or Separate Contractors.
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§ 3.10.4 The Contractor shall perform the Work in general accordance with the most recent schedules submitted to and accepted in writing by the Owner, Construction Manager, and Architect, and incorporated into the approved Project schedule.

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~~The Contractor shall make available, at the Project site, the Contract Documents, including Change Orders, Construction Change Directives, and other Modifications, in good order and marked currently to indicate field changes and selections made during construction, and the approved Shop Drawings, Product Data, Samples, and similar required submittals. These shall be in electronic form or paper copy, available to the Construction Manager, Architect, and Owner, and delivered to the Construction Manager for submittal to the Owner upon completion of the Work as a record of the Work as constructed.~~**§ 3.11.1** The Contractor shall make available, at the Project site, one record copy of the Contract Documents, including Change Orders, Construction Change Directives, and other Modifications, in good order and updated daily to indicate field changes and selections made during construction, and in addition accepted and approved Shop Drawings, Product Data, Samples, and similar required submittals. These shall be in electronic form or paper copy, available to the Construction Manager, Architect, and Owner as required to complete routine inspections by Architect, Construction Manager and Owner prior to any approval of payments to the Contractor, and delivered to the Construction Manager for submittal to the Owner upon completion of the Work. The Architect and Contractor must verify that all "as-built" Drawings, Specifications, Addenda, Change Orders, and other Modifications are up-to-date before Contractor's Application for Payment is acceptable and before the Owner incurs any duty to pay Contractor in accordance with the Contract. The record documents shall be a separate set of documents labeled "Record Documents" and used only for record purposes and kept clean and undamaged.

§ 3.11.2 No review or receipt of such records by the Architect or Owner shall be considered a waiver of any deviation from the Contract Documents or approved shop drawings, or any way relieve the Contractor from its responsibility to perform the Work in accordance with the Contract Documents.

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§ 3.12.5 The Contractor shall review for compliance with the Contract Documents, approve, and submit to the Construction Manager, Shop Drawings, Product Data, Samples, and similar submittals required by the Contract Documents, in accordance with the Project submittal schedule approved by the Construction Manager and Architect or, in the absence of an approved Project submittal schedule, with reasonable promptness and in such sequence as to cause no delay in the Work or in the activities of other Contractors, Separate Contractors, or the Owner's own forces. The Contractor shall cooperate with the Construction Manager in the coordination of the Contractor's Shop Drawings, Product Data, Samples, and similar submittals with related documents submitted by other Contractors. The Contractor must provide the Owner and the Architect with copies of all submittals made to regulatory agencies.

...

§ 3.12.7 The Contractor shall perform no portion of the Work for which the Contract Documents require submittal and review of Shop Drawings, Product Data, Samples, or similar submittals, until the respective submittal has been reviewed and ~~approved by the Architect.~~accepted by the Architect. The Contractor must correct at its cost, and without any adjustment in Contract Time, any Work the correction of which is required due to the Contractor's failure to obtain approval of a submittal required to have been obtained prior to proceeding with the Work, including, but not limited to, correction of any conflicts in the Work resulting from such failure.

§ 3.12.8 The Work shall be in accordance with ~~approved~~ accepted submittals except that the Contractor shall not be relieved of responsibility for deviations from the requirements of the Contract Documents by the Architect's ~~approval~~ acceptance of Shop Drawings, Product Data, Samples, or similar submittals, unless the Contractor has specifically notified the Construction Manager and Architect of such deviation at the time of submittal and (1) the Architect has given written ~~approval~~ acceptance to the specific deviation as a minor change in the Work, or (2) a Change Order or Construction Change Directive has been issued authorizing the deviation. The Contractor shall not be relieved of responsibility for errors or omissions in Shop Drawings, Product Data, Samples, or similar submittals, by the Architect's ~~approval~~ acceptance thereof.

§ 3.12.9 The Contractor shall direct specific attention, in writing or on resubmitted Shop Drawings, Product Data, Samples, or similar submittals, to revisions other than those requested by the Construction Manager and Architect on previous submittals. In the absence of such notice, the Architect's ~~approval~~ acceptance of a resubmission shall not apply to such revisions.

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§ 3.13.3 Except as may be specifically provided in the Contract Documents, the Contractor shall provide all necessary temporary facilities, including power, water, sanitation, scaffolding, storage, and security. If Owner makes any such

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facilities available to Contractor, it is without representation or warranty as to their adequacy for Contractor's use, and Contractor shall indemnify, defend, and hold Owner harmless from and against any claims arising out of Contractor's use of such facilities.

...

§ 3.14.2 The Contractor shall not damage or endanger a portion of the Work or fully or partially completed construction of the Owner, Separate Contractors, or of other Contractors by cutting, patching, or otherwise altering such construction, or by excavation. The Contractor shall not cut or otherwise alter construction by the Owner, Separate Contractors, or by other Contractors except with written consent of the Construction Manager, Owner, and such other Contractors or Separate Contractors. Consent shall not be unreasonably withheld. The Contractor shall hire a professional utilities locator to verify locations of all public and private utilities prior to initiating any cutting work. The Contractor shall not unreasonably withhold, from the Separate Contractors, other Contractors, or the Owner, its consent to cutting or otherwise altering the Work.

...

§ 3.15.1 The Contractor shall keep the premises and surrounding area continuously free from accumulation of waste materials and rubbish caused by operations under the Contract. At completion of the Work, the Contractor shall remove from and about the Project waste materials, rubbish, Contractor-generated waste materials, the Contractor's generated hazardous waste materials, the Contractor's tools, construction equipment, machinery, and surplus materials from and about the Project.

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§ 3.18.1 To the fullest extent permitted by law, the Contractor shall ~~indemnify~~ indemnify, defend and hold harmless the Owner, Construction Manager, Architect, Construction Manager's and Architect's consultants, and agents and employees of any of them from and against claims, damages, losses, and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), but only to the extent caused by the negligent acts or omissions of the Contractor, a Subcontractor, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss, or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity ~~that~~ which would otherwise exist as to a party or person described in this Section 3.18. The Contractor, furthermore, agrees to obtain, maintain, and pay for such general liability coverage and endorsements (including product and completed operations coverage) as will ensure the provisions of this Section 3.18.1. The Contractor agrees to reimburse the Owner, its agents and employees for all costs and disbursements, including attorneys' fees, paid or incurred to enforce the provisions of this Section 3.18.1.

...

§ 3.18.3 To the fullest extent permitted by law and without limiting any other indemnification obligations of the Contractor, except to the extent caused by the uncured failure of the Owner to make payment when due and owing, the Contractor shall indemnify and defend the Owner, its officers, directors, assigns, lenders, agents, and employees from any liens, charges (including attorneys' fees) or encumbrances (including but not limited to mechanic's and materialmen's liens or bond claims) arising out of or in connection with the performance of the Work by Contractor, its Subcontractors, or its material suppliers. Upon request of the Owner, the Contractor shall within sixty (60) days remove any liens filed against the Owner or its property. If the Contractor fails to do so, the Owner is authorized by the Contractor to remove or satisfy any such liens, and the Contractor shall pay to the Owner all costs and damages incurred by the Owner to do so, including attorneys' fees.

...

§ 4.2.1 The Construction Manager and Architect will provide administration of the Contract as described in the Contract Documents and will be the Owner's ~~representatives during construction until the date the Architect issues the final Certificate for Payment.~~ consultants (1) during construction; (2) until final payment is due; and (3) with the

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Owner's concurrence, from time to time during the correction period described in Section 12.2. The Architect and Construction Manager will advise and consult with the Owner. The Construction Manager and Architect will have authority to act on behalf of the Owner only to the extent provided in the Contract ~~Documents.~~Documents, unless otherwise modified in writing in accordance with other provisions of the Contract.

§ 4.2.2 The Architect will visit the site at intervals appropriate to the stage of construction, or as otherwise agreed with the Owner, to become generally familiar with the progress and quality of the ~~portion of the Work completed,~~ Work completed, to endeavor to guard the Owner against defects and deficiencies in the Work, and to determine in general if the Work ~~observed~~ is being performed in a manner indicating that the Work, when ~~fully~~ completed, will be in accordance with the Contract Documents. However, the Architect will not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. On the basis of the site visits, the Architect will keep the Owner and the Construction Manager reasonably informed about the progress and quality of the portion of the Work completed, and promptly report to the Owner and Construction Manager known deviations from the Contract Documents and defects and deficiencies observed in the Work.

§ 4.2.2.2 The Contractor shall reimburse the Owner for compensation paid to the Architect for additional site visits made necessary by fault, neglect, or request of the Contractor.
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§ 4.2.6 Communications. The Owner shall communicate with the Contractor and the Construction Manager's consultants through the Construction Manager about matters arising out of or relating to the Contract Documents. The Owner and Construction Manager shall include the Architect in all communications that relate to or affect the Architect's services or professional responsibilities. The Owner shall promptly notify the Architect of the substance of any direct communications between the Owner and the Construction Manager otherwise relating to the Project. Communications by and with the Architect's consultants shall be through the Architect. Communications by and with Subcontractors and suppliers shall be through the Contractor. Communications by and with other Contractors shall be through the Construction Manager. Communications by and with the Owner's own forces and Separate Contractors shall be through the ~~Owner.~~ Owner unless otherwise provided. The Contract Documents may specify other communication protocols. The Owner may require the Architect, Construction Manager and the Contractor to comply with Owner requirements in regards to public communications and site signage.

...

§ 4.2.8 The Architect and Construction Manager have authority to reject Work that does not conform to the Contract Documents, and will notify each other about the rejection. Whenever the Construction Manager considers it necessary or ~~advisable,~~ advisable for implementation of the intent of the Contract Documents, the Construction Manager will have authority to require additional inspection or testing of the Work in accordance with Sections 13.4.2 and 13.4.3, upon written authorization of the Owner, whether or not the Work is fabricated, installed or completed. The foregoing authority of the Construction Manager will be subject to the provisions of Sections 4.2.18 through 4.2.20 inclusive, with respect to interpretations and decisions of the Architect. However, neither the Architect's nor the Construction Manager's authority to act under this Section 4.2.8 nor a decision made by either of them in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect or the Construction Manager to the Contractor, Subcontractors, suppliers, their agents or employees, or other persons performing any of the Work.
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§ 4.2.11 The Architect ~~will~~ will, and the Owner may, review and approve, or take other appropriate action upon, the Contractor's submittals such as Shop Drawings, Product Data, and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Architect's ~~action will be taken in accordance with the submittal schedule approved by the Architect or, in the absence of an approved submittal schedule, with reasonable promptness~~ or Owner's action will be taken with such reasonable promptness as to cause no delay in the Work or in the activities of the Owner, Contractor or separate contractors, while allowing sufficient time in the Architect's professional judgment to permit adequate review. Upon the Architect's or the Owner's completed review, the Architect shall transmit its submittal review to the Construction Manager.
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§ 4.2.18 The Architect will interpret and decide matters concerning performance ~~under, and~~ under the requirements of, the Contract Documents on written request of the Construction Manager, Owner, or Contractor through the Construction Manager. The Architect's response to such requests will be made ~~in writing within any time limits agreed upon or otherwise with reasonable promptness.~~ with reasonable promptness and within any time limits agreed upon. If no agreement is made concerning the time within which interpretations required of the Architect shall be furnished in compliance with this Section 4.2.18, then delay shall not be recognized on account of failure by the Architect to furnish such interpretations until fifteen (15) days after written request is made to them.

§ 4.2.19 ~~Interpretations and decisions of the Architect will be consistent with the intent of, and reasonably inferable from, the Contract Documents and will be in writing or in the form of drawings. When making such interpretations and decisions, the Architect will endeavor to secure faithful performance by both Owner and Contractor, will not show partiality to either, and will not be liable for results of interpretations or decisions so rendered in good faith.~~Architect's decisions on matters relating to aesthetic effect will be final if consistent with the intent expressed in the Contract Documents.

§ 4.2.20 ~~The Architect's decisions on matters relating to aesthetic effect will be final if consistent with the intent expressed in the Contract Documents.~~Architect will review and respond to requests for information about the Contract Documents. The Architect's response to such requests will be made in writing within any time limits agreed upon or otherwise with reasonable promptness. If appropriate, the Architect will prepare and issue supplemental Drawings and Specifications in response to the requests for information.

~~**§ 4.2.21** The Construction Manager will receive and review requests for information from the Contractor, and forward each request for information to the Architect, with the Construction Manager's recommendation. The Architect will review and respond in writing, through the Construction Manager, to requests for information about the Contract Documents. The Construction Manager's recommendation and the Architect's response to each request will be made in writing within any time limits agreed upon or otherwise with reasonable promptness. If appropriate, the Architect will prepare and issue supplemental Drawings and Specifications in response to the requests for information.~~

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§ 5.2.1 Unless otherwise stated in the Contract Documents, the Contractor, as soon as practicable after award of the Contract, shall notify in writing the Construction Manager, for review by the Owner, Construction Manager and Architect, of the persons or entities proposed for each principal portion of the Work, including those who are to furnish materials or equipment fabricated to a special design. Within 14 days of receipt of the information, the Construction Manager may notify the Contractor whether the Owner, the Construction Manager or the Architect (1) has reasonable objection to any such proposed person or entity or, (2) requires additional time for review. Failure of the Construction Manager to provide notice within the 14-day period shall constitute notice of no reasonable objection. The Contractor shall not employ any Subcontractor or use any material to which the Architect, Construction Manager or Owner may object. Prior to the employment of any Subcontractor, the Contractor must obtain the Owner's approval of such Subcontractor for the designated portion of the Work.

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§ 5.2.3 If the Owner, Construction Manager or Architect has reasonable objection to a person or entity proposed by the Contractor, the Contractor shall propose another to whom the Owner, Construction Manager or Architect has no reasonable objection. ~~If the proposed but rejected Subcontractor was reasonably capable of performing the Work, the Contract Sum and Contract Time~~ The Contract Sum shall be increased or decreased by the ~~difference, if any,~~ difference in cost occasioned by such change, and an appropriate Change Order shall be ~~issued before commencement of the substitute Subcontractor's Work.~~ issued. However, no increase in the Contract Sum or Contract Time shall be allowed for such change unless the Contractor has acted promptly and responsively in submitting names as required. Notwithstanding the foregoing, the Contractor shall have a continuing duty to the Owner, Construction Manager and Architect to find and propose such persons or entities as shall not result in material increase in the Contract Sum, or a material decrease in the quality of Work contemplated under the Contract Documents.

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§ 5.2.4 The Contractor shall not substitute a Subcontractor, person, or entity for one previously selected if the Owner, Construction Manager or Architect makes reasonable objection to such substitution. Any proposed substitution of a Subcontractor, person, or entity for one previously selected shall be made in a separate writing to the Owner, Construction Manager and Architect. No substitution shall be deemed approved/accepted without written confirmation from the Owner, Construction Manager and Architect. Neither acceptance of, nor objection to a Subcontractor or Sub-subcontractor, material supplier, or other person or organization by the Owner, Construction Manager and Architect shall limit the responsibility of the Contractor to furnish materials, products, equipment, and services in conformance with the requirements of the Contract Documents.

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~~By appropriate written agreement, the Contractor shall require each Subcontractor, to the extent of the Work to be performed by the Subcontractor, to be bound to the Contractor by terms of the Contract Documents, and to assume toward the Contractor all the obligations and responsibilities, including the responsibility for safety of the Subcontractor's Work, that the Contractor, by these Contract Documents, assumes toward the Owner, Construction Manager and Architect. Each subcontract agreement shall preserve and protect the rights of the Owner, Construction Manager and Architect under the Contract Documents with respect to the Work to be performed by the Subcontractor so that subcontracting thereof will not prejudice such rights, and shall allow to the Subcontractor, unless specifically provided otherwise in the subcontract agreement, the benefit of all rights, remedies, and redress against the Contractor that the Contractor, by the Contract Documents, has against the Owner. Where appropriate, the Contractor shall require each Subcontractor to enter into similar agreements with Sub-subcontractors. The Contractor shall make available to each proposed Subcontractor, prior to the execution of the subcontract agreement, copies of the Contract Documents to which the Subcontractor will be bound, and, upon written request of the Subcontractor, identify to the Subcontractor terms and conditions of the proposed subcontract agreement that may be at variance with the Contract Documents. Subcontractors will similarly make copies of applicable portions of such documents available to their respective proposed Sub-subcontractors.~~**§ 5.3.1** By appropriate written agreement, the Contractor shall require each Subcontractor, to the extent of the Work to be performed by the Subcontractor, to be bound to the Contractor by terms of the Contract Documents, and to assume toward the Contractor all the obligations and responsibilities, including the responsibility for safety of the Subcontractor's Work, that the Contractor, by these Contract Documents, assumes toward the Owner, Construction Manager and Architect. Each subcontract agreement shall preserve and protect the rights of the Owner, Construction Manager and Architect under the Contract Documents with respect to the Work to be performed by the Subcontractor so that subcontracting thereof will not prejudice such rights, and shall allow to the Subcontractor, unless specifically provided otherwise in the subcontract agreement, the benefit of all rights, remedies, and redress against the Contractor that the Contractor, by the Contract Documents, has against the Owner. Where appropriate, the Contractor shall require each Subcontractor to enter into similar agreements with Sub-subcontractors. The Contractor shall make available to each proposed Subcontractor, prior to the execution of the subcontract agreement, copies of the Contract Documents to which the Subcontractor will be bound, and, upon written request of the Subcontractor, identify to the Subcontractor terms and conditions of the proposed subcontract agreement that may be at variance with the Contract Documents. Subcontractors shall similarly make copies of applicable portions of such documents available to their respective proposed Sub-subcontractors.

§ 5.3.2 The Contractor is responsible for the performance of, the actions of, the timeliness of, or interference caused by, Subcontractors, Sub-subcontractors (of any tier), and others directly or indirectly under contract to the Contractor.

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§ 6.2.2 If part of the Contractor's Work depends for proper execution or results upon construction or operations by the Owner's own forces, Separate Contractors or other Contractors, the Contractor shall, prior to proceeding with that portion of the Work, promptly notify the Construction Manager and Architect of apparent discrepancies or defects in the construction or operations by the Owner or Separate Contractor or other Contractors that would render it unsuitable for proper execution and results of the Contractor's Work. Failure of the Contractor to notify the Construction Manager and the Architect of apparent discrepancies or defects prior to proceeding with the Work shall constitute an acknowledgment that the Owner's or Separate Contractor's or other Contractors' completed or partially completed construction is fit and proper to receive the Contractor's Work. The Contractor shall not be responsible for discrepancies or defects in the construction or operations by the Owner or Separate Contractors or other Contractors that are not ~~apparent.~~reasonably discoverable.

§ 6.2.3 ~~The Contractor shall reimburse the Owner for costs the Owner incurs, including costs that are payable to a Separate Contractors or to other Contractors, because of the Contractor's delays, improperly timed activities or~~

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~~defective construction. The Owner shall be responsible to the Contractor for costs the Contractor incurs because of delays, improperly timed activities, damage to the Work or defective construction by the Owner's own forces, Separate Contractors, or other Contractors.~~Costs caused by delays or by improperly timed activities or defective construction shall be borne by the party responsible therefor.

...

§ 6.2.5 ~~The Owner, Separate Contractors, and other Contractors shall have the same responsibilities for cutting and patching as are described for the Contractor in Section 3.14.~~Claims and other disputes and matters in question between the Contractor and a separate contractor shall be subject to the provisions of Article 15 provided the separate contractor has reciprocal obligations.

§ 6.2.6 The Owner, Separate Contractors, and other Contractors shall have the same responsibilities for cutting and patching as are described for the Contractor in Section 3.14.

...

If a dispute arises among the Contractor, Separate Contractors, other Contractors, and the Owner as to the responsibility under their respective contracts for maintaining the premises and surrounding area free from waste materials and ~~rubbish, the Owner may clean up and the Construction Manager, with notice to the Architect, will allocate the cost among those responsible.~~rubbish as described in Section 3.15, the Owner may clean up allocate the cost among those responsible as the Architect determines to be just..

...

§ 7.1.2 A Change Order shall be based upon agreement among the Owner, Construction Manager, Architect and Contractor. A Construction Change Directive requires agreement by the Owner, Construction Manager and Architect and may or may not be agreed to by the Contractor. ~~An order for a minor change in the Work may be issued by the Architect alone.~~

...

§ 7.1.4 The amount of credit to be allowed by the Contractor to the Owner for any deletion or change which results in a net decrease in the Contract Sum will be the amount of the actual net cost as confirmed by the Architect after consultation with the Owner and Construction Manager. When both additions and credits covering related Work or substitutions are involved in any one change, the allowance for both overhead and profit shall be figured on the basis of the net increase or decrease, if any, with respect to that change.

§ 7.1.5 In Section 7.3.6, the allowance for the combined overhead and profit included in the total cost to the Owner shall be based on the following schedule:

.1 For the Contractor, for Work performed by the Contractor's own forces, ten percent (10%) of the cost;

.2 For the Contractor, for Work performed by the Contractor's Subcontractor, five percent (5%) of the amount due the Subcontractor;

.3 For each Subcontractor or Sub-subcontractor involved for Work performed by the Subcontractor's or Sub-subcontractor's own forces, ten percent (10%) of the cost;

.4 For each Subcontractor for Work performed by the Subcontractor's Sub-subcontractor, five percent (5%) of the amount due the Subcontractor;

.5 Costs to which overhead and profit is to be applied shall be determined in accordance with Section 7.3.6;

.6 In order to facilitate checking of quotations for extras or credits, all proposals, expect those so minor that their propriety can be seen by inspection, shall be accompanied by a complete itemization of costs, including labor, materials and subcontracts. Labor and materials shall be itemized in the manner prescribed above. Where major cost items are subcontracts, they shall be itemized also. In no case will a change involving over $500 be approved without such itemization.

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§ 7.2 Change Orders and Change Proposals

~~A Change Order is a written instrument prepared by the Construction Manager and signed by the Owner, Construction Manager, Architect, and Contractor, stating their agreement upon all of the following:~~**§ 7.2.1** A Change Order is a written instrument prepared by the Construction Manager and signed by the Owner, Construction Manager, Architect, and Contractor, stating their agreement upon all of the following:

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.3 The extent of the adjustment, if any, in the Contract Time.

§ 7.2.2 Change Order shall be prepared on AIA Document G731.

§ 7.2.3 The Contractor must submit Change Proposals covering a contemplated Change Order within ten (10) days after request of the Owner, or the Architect or within ten (10) days of the event, or Contractor's discovery of a condition, whichever is earlier, giving rise to the Contractor's claim for a change in the Contract Sum or Contract Time. No increase in the Contract Sum or extension of the Contract Time will be allowed the Contractor for the cost or time involved in making Change Proposals. Change Proposals will define or confirm in detail the Work which is proposed to be added, deleted, or changed and must include any adjustment which the Contractor believes to be necessary in (i) the Contract Sum, or (ii) the Contract Time. Any proposed adjustment must include detailed documentation including, but not limited to: cost, properly itemized and supported by sufficient substantiating data to permit evaluation including cost of labor, materials, supplies and equipment, rental cost of machinery and equipment, additional bond cost, plus a fixed fee for profit and overhead (which includes office overhead and Site-specific overhead and general conditions) of ten percent (10%) if the Work is performed by the Contractor, or five percent (5%) if the Work is performed by a Subcontractor or Sub-subcontractor. The Subcontractor's or Sub-subcontractor's overhead and profit in turn must not exceed a total aggregate of ten percent (10%). Change Proposals will be binding upon the Contractor and may be accepted or rejected by the Owner in its discretion. The Owner may, at its option, instruct the Contractor through a Construction Change Directive to proceed with the Work involved in the Change Proposal in accordance with Section 7.3 without accepting the Change Proposal in its entirety.

§ 7.2.4 If the Owner determines that a Change Proposal is appropriate, the Architect will prepare and submit a request for a Change Order or Contract Amendment providing for an appropriate adjustment in the Contract Sum or Contract Time, or both, for further action by the Owner. No such change is effective until the Owner and Architect sign the Change Order.

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§ 7.3.4 If the Contractor does not respond promptly or disagrees with the method for adjustment in the Contract Sum, the Owner and the Construction Manager shall determine the adjustment on the basis of reasonable expenditures and savings of those performing the Work attributable to the change, including, in case of an increase in the Contract Sum, an amount for overhead and profit as set forth in the Agreement, or if no such amount is set forth in the Agreement, a reasonable amount. In such case, and also under Section 7.3.3.3, the Contractor shall keep and present, in such form as the Construction Manager may prescribe, an itemized accounting together with appropriate supporting data. Unless otherwise provided in the Contract Documents, costs for the purposes of this Section 7.3.4 shall be limited to the following:

...

.3 Rental costs of machinery and equipment, exclusive of hand tools, whether rented from the Contractor or ~~others;~~others (at rates approved by the Owner);

...

§ 7.3.7 A Construction Change Directive signed by the Contractor indicates the Contractor's agreement therewith, including adjustment in Contract Sum and Contract Time or the method for determining them. Such agreement shall be effective ~~immediately and shall be recorded as a Change Order.~~immediately.

...

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§ 7.3.9 Pending final determination of the total cost of a Construction Change Directive to the Owner, the Contractor may request payment for Work completed under the Construction Change Directive in Applications for ~~Payment.~~ Payment up to and not exceeding $25,000. The Construction Manager and Architect will make an interim determination for purposes of monthly certification for payment for those costs and certify for payment the amount that the Construction Manager and Architect determine to be reasonably justified. The interim determination of cost shall adjust the Contract Sum on the same basis as a Change Order, subject to the right of either party to disagree and assert a Claim in accordance with Article 15.

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The Architect may order minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. The Architect's order for minor changes shall be in ~~writing.~~ writing and approved by the Owner. If the Contractor believes that the proposed minor change in the Work will affect the Contract Sum or Contract Time, the Contractor shall notify the Construction Manager and shall not proceed to implement the change in the Work. If the Contractor performs the Work set forth in the Architect's order for a minor change without prior notice to the Construction Manager that such change will affect the Contract Sum or Contract Time, the Contractor waives any adjustment to the Contract Sum or extension of the Contract Time.

...

§ 8.1.2 The date of commencement of the Work is the date established in the Agreement. The date shall not be postponed by the failure to act of the Contractor or of persons or entities for whom the Contractor is responsible.

...

§ 8.1.4 The term "day" ~~as used in the Contract Documents shall mean calendar day unless otherwise specifically defined.~~shall mean calendar day of 24 hours beginning at 12:00 midnight. Calendar days as stated in the Contract Documents, shall include all days of a seven (7) day week including Saturdays, Sundays, and holidays. The term "Milestone Date" is, in each instance, the date established in the Contract Documents for the Substantial completion of all or a designated portion of the Work.

...

§ 8.2.3 The Contractor shall proceed expeditiously with adequate forces and shall achieve Substantial Completion within the Contract ~~Time.~~Time and shall achieve specific contractual Milestone Dates (if any), Substantial Completion and final Completion within the time stated in the Contract Documents.

§ 8.2.4 Contractor understands and agrees that all Work must be performed in an orderly and closely coordinated sequence so that the dates for Substantial Completion, Final Completion, and Milestone Dates (if any) may be met by the Contractor.

§ 8.2.5 Timely final completion of the Project is of critical importance to the Owner. The Contractor agrees that it shall substantially complete all Work under the Contract documents within the time established herein and that it shall finally complete the Work in the detail required and in the time required by the Contract Documents.

§ 8.2.6 To the extent that the Contract Documents contain or provide for specific contractual Milestone Dates in addition to Final and Substantial Completion dates, such dates shall be adhered to and shall be the last acceptable dates for those milestones and completions, unless modified by the Owner.

§ 8.2.7 Notwithstanding anything to the contrary contained in the Contract Documents, in the event that any Contractor fails, or appears likely, in the reasonable opinion of the Owner and Construction Manager, to fail to complete a critical portion of their Work on time or to complete any dates for Substantial Completion, Final Completion, or Milestone Dates as evidenced by the latest update of the CPM Schedule Report, the Owner shall have the right to select and require Contractor's performance under any or all of the following operations:

.1 Require the Contractor to substantiate their capability to get back on schedule within two (2) days;

.2 Require the Contractor, at no additional cost to the Owner, to increase their work force, work overtime and/or extra shifts and do whatever else is required by the Owner until the Contractor gets

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back on schedule as established by the CPM Schedule Report (including any updates thereto);

.3 Withhold progress payments or portions thereof until such time as the contractor returns to schedule, but only related to Substantial Completion or Final Completion;

.4 Contact or visit the factory, plant, or distribution center whose production or delivery schedule may be critical to the scheduled completion of a portion of the contract work and expedite such production delivery at Contractor's expense; or

.5 Require the Contractor to complete, in detail, and submit weekly a Short Interval Schedule (SIS) showing: (1) planning for the next two weeks; (2) work completed for the previous week; (3) sufficient detail to evaluate daily milestone (if any) and manpower/equipment loading, and shall identify/tie into the monthly updated CPM Schedule Report.

Any costs incurred by the Contractor in fulfilling the option(s) selected by the Owner shall be at the Contractor's expense.

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§ 8.3.1 If the Contractor is delayed at any time in the ~~commencement or~~ progress of the Work by (1) an act or neglect of the Owner, Architect, Construction Manager, or an employee of any of them, or of the Owner's own forces, Separate Contractors, or other Contractors; (2) by changes ordered in the Work; (3) by labor disputes, fire, unusual delay in deliveries, unavoidable casualties, adverse weather conditions documented in accordance with Section 15.1.6.2, or other causes beyond the Contractor's control; ~~(4) by delay authorized by the Owner pending mediation and binding dispute resolution; or (5)~~ or (4) by other causes that the Contractor asserts and the Architect, based on the recommendation of the Construction Manager, determines justify delay, then subject to the conditions hereinafter set forth, the Contract Time shall be extended by Change Order for such reasonable time as the Architect may determine. Requests for extensions of time for causes enumerated above will be considered by the Architect subject to the following:

.1 Only those conditions enumerated above over which the Contractor has no control will be considered. The burden of proof to substantiate the claim for an extension shall rest with the Contractor, including evidence that the cause was beyond their control. It shall be deemed the Contractor has control over the supply of labor, materials, equipment, methods, techniques, and over their Subcontractors and suppliers;

.2 In the event of Changes in the Work, any consideration for a time extension will be made only at the time of authorizing the changes, and no later than when the Change Order is prepared, and only if the Change Order significantly affects the time and progress of the entire Work. For changes which do not affect the entire Work, time extension may be granted only for the area, phase, unit, or element affected by the change, if due to a valid reason for a time extension;

.3 Any unusual delay in deliveries will not be considered unless it is solely due to transportation issues wholly outside of Contractor's, Subcontractor's, Sub-subcontractor's or Supplier's control. An extension of time will not be granted for delays in deliveries where said delivery was not properly scheduled or when orders were not promptly and properly placed;

.4 With respect to a claim for an extension of time as a result of climatic conditions, the Contractor shall recognize the location of the site and the existence, as normal, or variations from "average" conditions. Foul weather in itself will not be a valid reason for a time extension. Requests for time extensions because of delay resulting from weather extremes will not be considered unless a substantial variation from usual weather conditions occurs for a significant period of time, during phases of the Work when operation necessarily were suspended to a significant degree when they would otherwise have been in progress. In considering the time extension, the weather conditions both before and after the period in which the delay is claimed will be evaluated with credit given to Owner for unseasonably favorable weather;

.5 Delays resulting from a labor dispute will not result in a time extension of a longer period than the dispute, plus a reasonable time for mobilization if justified and necessary as approved by the Architect, and may be less depending on the impact of the dispute, including what operations were suspended or curtailed;

.6 No time extension will be granted as a result of improper scheduling or for failure to have shop drawings or samples submitted in ample time for review under a reasonable and agreed upon schedule; or

.7 Delays by Subcontractors or suppliers will not be considered justification for a time extension, except for the same valid reasons and conditions enumerated under Section 8.3.1.

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§ 8.3.4 The Contractor shall be responsible for all Owner incurred costs associated with a Contractor related to delay in completion of the Project. These costs may include, but are not limited to, Owner staff overtime, Consultant additional fees, additional testing, and/or additional rental or storage costs. A Change Order or Construction Change Directive will be issued to cover these costs. If a Change Order is not agreed to by the Contractor, the Owner, after presenting documentation to the Contractor, may deduct these amounts without a Change Order from the Contract Sum.

...

~~Where the Contract is based on a stipulated sum or Guaranteed Maximum Price, the Contractor shall submit a schedule of values to the Construction Manager, before the first Application for Payment, allocating the entire Contract Sum to the various portions of the Work. The schedule of values shall be~~ Before the first Application for Payment, the Contractor shall submit to the Architect and Construction Manager a schedule of values allocated to various portions of the Work, prepared in the form, and supported by the data to substantiate its accuracy, required by the Construction Manager and the Architect. ~~This~~ The schedule, unless objected to by the Construction Manager or Architect, shall be used as a basis for reviewing the Contractor's Applications for Payment. The Construction Manager shall forward to the Architect the Contractor's schedule of values. Any changes to the schedule of values shall be submitted to the Construction Manager and supported by such data to substantiate its accuracy as the Construction Manager and the Architect may require, and unless objected to by the Construction Manager or the Architect, shall be used as a basis for reviewing the Contractor's subsequent Applications for Payment. The Contractor, after receipt of Notice to Proceed, shall meet with the Owner, Construction Manager and the Architect for the purpose of reviewing the Project CPM Schedule and the Contract Schedule of Values. The Contractor shall develop a CPM Schedule for completing their portion of the Work, in conjunction with all other Contractors or Bid Packages, at the Pre-Construction Meeting(s). The Schedule of Values is to be broken down into specification sections and by labor and materials.

...

§ 9.3.1 At least fifteen days before the date established for each progress payment, the Contractor shall submit to the Construction Manager an itemized Application for Payment ~~prepared in accordance with the schedule of values, if required under Section 9.2, for completed portions of the Work. The application shall be notarized, if required,~~ for operations completed in accordance with the Schedule of Values. Such application shall be notarized and supported by all data substantiating the Contractor's right to payment that the Owner, Construction Manager or Architect require, such as copies of requisitions, and releases of waivers of lien from Subcontractors and ~~suppliers, and shall reflect retainage if provided for in the Contract Documents.~~material suppliers, and reflecting retainage if provided for elsewhere in the Contract Documents. The form of Application for Payment shall be a notarized AIA Document G732–2019, Application and Certificate for Payment, supported by AIA Document G703–1992, Continuation Sheet.

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§ 9.3.1.2 ~~Applications for Payment~~ Such applications shall not include requests for payment ~~for portions of the Work for which the~~ of amounts the Contractor does not intend to pay a Subcontractor ~~or supplier,~~ or supplier because of a dispute or other reason, unless such Work has been performed by others whom the Contractor intends to pay.

§ 9.3.1.3 Following certification of the Application for Payment by the Architect and Construction Manager, the Owner shall pay ninety-five percent (95%) of its value, retaining five percent (5%) until Final Completion.

§ 9.3.1.4 Contractor shall provide lien waivers for itself for the current payment application and for Subcontractors, Sub-subcontractors, and suppliers for the previous payment application before the Contractor has earned or has the right to receive payment for the specific items of work or materials covered by the lien waivers. All lien waivers shall be provided in the form required by the Owner. This Section 9.3.1.4 shall not limit other obligations of the Contractor contained elsewhere to provide lien waivers.

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§ 9.3.4 In each Application for Payment, the Contractor shall certify as follows:

"That there are no known mechanics' or materialmen's liens or stop notice claims outstanding by the application or any of its subcontractors of any tier, or any of the applicant's or subcontractor's material suppliers, or laborers at the date of this application, that all due and payable bills with respect to the Work have been paid or are included in the amount requested in current application, and that, except for such bills, not paid by Owner, but so included, there is no known basis for the filing of any mechanics' or materialmen's liens or stop notice claims on the Work, and that waivers from Contractor, its subcontractors of any tier, or any of the applicant's or subcontractor's material suppliers and laborers have been obtained in such form as to constitute an effective waiver of liens or stop notice claims, under the laws of the State of Minnesota to the extent of payments made by Owner to Contractor."

Notwithstanding the foregoing Section 9.3.4, Contractor acknowledges its obligation to provide a Payment Bond in accordance with the Contract Documents, and that Contractor's failure to pay any of its Subcontractors, Sub-subcontractors, suppliers, or laborers will be resolved through a claim under the Payment Bond.

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§ 9.6.1 After the Architect has issued a Certificate for Payment or Project Certificate for Payment, the Owner shall make payment within thirty (30) days of receipt by Owner of Certificate of Payment in the manner and within the time provided in the Contract Documents, and shall so notify the Construction Manager and Architect.

§ 9.6.2 The Contractor shall pay each Subcontractor, no later than seven days after receipt of payment from the Owner, the amount to which the Subcontractor is entitled, reflecting percentages actually retained from payments to the Contractor on account of the Subcontractor's portion of the Work. The Contractor shall, by appropriate agreement with each Subcontractor, require each Subcontractor to make payments to Sub-subcontractors in a similar manner. Per Minnesota Statutes, Section 471.425, within ten (10) days of Contractor's receipt of payment from Owner, the Contractor must pay any Subcontractor for any undisputed services provided by the Subcontractor. The Contractor shall pay interest of one and one-half percent (1-1/2%) per month, or any part of a month, to the Subcontractor on any undisputed amount not paid on time to the subcontractor. The minimum monthly interest penalty payment for an unpaid balance of $100 or more is $10.00. For an unpaid balance of less than $100, the Contractor shall pay the actual interest penalty due to the Subcontractor. Contractor is advised that by reason of Minnesota Statutes, Section 471.425, subd. 4a, if a Subcontractor prevails in a civil action to collect interest penalties from a prime contractor, the Subcontractor must be awarded its costs and disbursements, including attorneys' fees incurred in bringing the action.

...

§ 9.6.5 The Contractor's payments to material and equipment suppliers shall be treated in a manner similar to that provided in Sections 9.6.2, 9.6.3 and 9.6.4.

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If the Construction Manager and Architect do not issue a Certificate for Payment or a Project Certificate for Payment, through no fault of the Contractor, within fourteen days after the Construction Manager's receipt of the Contractor's Application for Payment, or if the Owner does not pay the Contractor within ~~seven~~ thirty (30) days after the date established in the Contract Documents, the amount certified by the Construction Manager and Architect ~~or awarded by binding dispute resolution,~~ then the Contractor may, upon ~~seven~~ ten (10) additional days' notice to the Owner, Construction Manager and Architect, stop the Work until payment of the amount owing has been received. The Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable costs of shutdown, delay and ~~start-up, plus interest as provided for in the Contract Documents.~~start-up which shall be accomplished as provided in Article 7.

...

§ 9.8.1 Substantial Completion is the stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Contract Documents so the Owner can occupy or utilize the Work for its intended ~~use.~~use and when the Architect issues a Certificate of Substantial Completion.

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§ 9.8.2 When the Contractor considers that the Work, or a portion thereof which the Owner agrees to accept separately, is substantially complete, the Contractor shall notify the Construction Manager, and the Contractor and Construction Manager shall jointly prepare and submit to the Architect a comprehensive list of items to be completed or ~~corrected prior to final payment.~~ corrected. The Contractor shall proceed promptly to complete and correct items on the list. Failure to include an item on such list does not alter the responsibility of the Contractor to complete all Work in accordance with the Contract Documents. Upon receipt of the Contractor's list, the Architect, assisted by the Construction Manager, will make an inspection to determine whether the Work or designated portion thereof is substantially complete. If the Architect's inspection discloses any item, whether or not included on the Contractor's list, which is not in accordance with the requirements of the Contract documents, the Contractor shall, before issuance of the Certificate of Substantial Completion, complete or correct such item, upon notification by the Architect. The Contractor shall then submit a request for another inspection by the Architect, assisted by the Construction Manager, to determine Substantial Completion. When the Work or designated portion thereof is substantially complete, the Architect will prepare a Certificate of Substantial Completion which shall establish the date of Substantial Completion, shall establish responsibilities of the Owner and Contractor for security, maintenance, heat, utilities, damage to the Work and insurance, and shall fix the time within which the Contractor shall finish all items on the list accompanying the Certificate. Warranties required by the Contract Document shall commence on the date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion.

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§ 9.8.6 Upon Substantial completion of the Work or designated portion thereof and upon application by the Contractor and certification by the Architect, the Owner shall make payment, reflecting adjustment in retainage, pursuant to Minnesota Statutes, Section 15.72, for such Work or portion thereof as provided in the Contract Documents.

§ 9.8.7 The Architect, assisted by the Construction Manager, shall make one (1) inspection for Substantial Completion and Final Completion in accordance with the AIA Document B101–2017 Owner Architect Agreement. If additional inspections are required due to the Contractor's failure to complete previously listed corrective or uncompleted work, the Architect's expense for conducting such re-inspections and related time in processing, reviewing, and revision of requirements shall be charged to the Contractor and such payment shall be accomplished by a deductive Change Order to the Contractor.

...

§ 9.10.1 Upon completion of the Work, the Contractor shall forward to the Construction Manager a notice that the Work is ready for final inspection and acceptance, and shall also forward to the Construction Manager a final Contractor's Application for Payment. Upon receipt, the Construction Manager shall perform an inspection to confirm the completion of Work of the Contractor. The Construction Manager shall make recommendations to the Architect when the Work of all of the Contractors is ready for final inspection, and shall then forward the Contractors' notices and Application for Payment or Project Application for Payment, to the Architect, who will promptly make such inspection. When the Architect finds the Work acceptable under the Contract Documents and the Contract fully performed, the Construction Manager and Architect will promptly issue a final Certificate for Payment or Project Certificate for Payment stating that to the best of their knowledge, information and belief, and on the basis of their observations, on-site visits and inspections, the Work has been completed in accordance with the Contract Documents and that the entire balance found to be due the Contractor and noted in the final Certificate is due and payable. The Construction Manager's and Architect's final Certificate for Payment or Project Certificate for Payment will constitute a further representation that conditions listed in Section 9.10.2 as precedent to the Contractor's being entitled to final payment have been fulfilled.

§ 9.10.2 Neither final payment nor any remaining retained percentage shall become due until the Contractor submits to the Architect through the Construction Manager (1) an affidavit that payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which the Owner or the Owner's property might be responsible or encumbered (less amounts withheld by Owner) have been paid or otherwise satisfied, (2) a certificate evidencing that insurance required by the Contract Documents to remain in force after final payment is currently in ~~effect,~~ effect and will not be cancelled or allowed to expire until at least (60) days' prior written notice has been given to the Owner, (3) a written statement that the Contractor knows of no reason that the insurance will not be renewable to cover the period required by the Contract Documents, (4) consent of surety, if any, to final payment (5) documentation of any special

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warranties, such as manufacturers' warranties or specific Subcontractor warranties, ~~and (6), if required by the Owner,~~ including a summary listing all applicable warranties both standard and extended, itemized by specification section and included at the front of the Operation and Maintenance manuals, and (6) other data establishing payment or satisfaction of obligations, such as receipts and releases and waivers of liens, claims, security interests, or encumbrances arising out of the Contract, to the extent and in such form as may be designated by the Owner. If a Subcontractor refuses to furnish a release or waiver required by the Owner, the Contractor may furnish a bond satisfactory to the Owner to indemnify the Owner against such lien, claim, security interest, or encumbrance. If a lien, claim, security interest, or encumbrance remains unsatisfied after payments are made, the Contractor shall refund to the Owner all money that the Owner may be compelled to pay in discharging the lien, claim, security interest, or encumbrance, including all costs and reasonable attorneys' fees.

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§ 9.11 Damages for Delay

§ 9.11.1 The Contractor shall be responsible for damages incurred by the Owner and any other separate contractors for delay resulting from the Contractor's failure to complete the Work within the contract Time or resulting from the progress of the Work failing to substantially conform to the Project Construction Schedule. These damages are not included in liquidated damages and represent additional direct costs incurred by the Owner for the delay. These damages may include Owner incurred costs for temporary classrooms, temporary facilities, moving of programs, etc.

...

~~The Contractor shall be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the performance of the Contract. The Contractor shall submit the Contractor's safety program to the Construction Manager for review and coordination with the safety programs of other Contractors. The Construction Manager's responsibilities for review and coordination of safety programs shall not extend to direct control over or charge of the acts or omissions of the Contractors, Subcontractors, agents or employees of the Contractors or Subcontractors, or any other persons performing portions of the Work and not directly employed by the Construction Manager.~~**§ 10.1.1** The Contractor shall be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the performance of the Contract. The Contractor shall submit the Contractor's safety program to the Construction Manager for review and coordination with the safety programs of other Contractors. The Construction Manager's responsibilities for review and coordination of safety programs shall not extend to direct control over or charge of the acts or omissions of the Contractors, Subcontractors, agents or employees of the Contractors or Subcontractors, or any other persons performing portions of the Work and not directly employed by the Construction Manager.

§ 10.1.2 The Contractor shall comply with all applicable laws and regulations. Notwithstanding any language to the contrary, the Owner shall not have any responsibility for job site inspections or safety recommendations. Any inspections or observations by the Owner, Construction Manager or the Architect are solely for the benefit of the Owner and shall not create any duties or obligations to anyone else.

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If either party suffers injury or ~~damage~~ damages to person or property because of an act or omission of the other party, of any of the other party's employees or agents, or of others for whose acts such party is legally responsible, notice of the injury or damage, whether or not insured, shall be given to the other party within a reasonable time not exceeding ~~21~~ ten (10) days after ~~discovery.~~ first observance. The notice shall provide sufficient detail to enable the other party to investigate the matter. If a Claim for additional cost or time related to this Claim is to be asserted, it shall be filed as provided in Sections 15.1.4 and 15.1.5.

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§ 10.3.1 ~~The Contractor is responsible for compliance with any requirements included in the Contract Documents regarding hazardous materials or substances. If the Contractor encounters a hazardous material or substance not addressed in the Contract Documents and if reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a material or substance, including but not limited to asbestos or polychlorinated biphenyl (PCB), encountered on the site by the Contractor, the Contractor shall, upon recognizing the condition, immediately stop Work in the affected area and notify~~ In the event the Contractor encounters on the site material reasonably believed to be asbestos or polychlorinated biphenyl (PCB) which has not been rendered harmless,

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the Contractor shall immediately stop Work in the area affected and report the condition to the Owner, Construction Manager and Architect ~~of the condition.~~in writing. The Work in the affected area shall not thereafter be resumed except by written agreement of the Owner and Contractor if in fact the material is asbestos or polychlorinated biphenyl (PCB) and has not been rendered harmless. The Work in the affected area shall be resumed in the absence of asbestos or polychlorinated biphenyl (PCB), or when it has been rendered harmless, by written agreement of the Owner and Contractor.

.1 Except where otherwise stated in the Contract Documents, no hazardous material work of any nature shall be performed by the Contractor pursuant to this Contract.

.2 The term "hazardous materials" includes, but is not limited to, asbestos, toxic chemicals, acids, alkalis, irritants, contaminants, or other pollutants, together with any other waste, material, substance, pollutants, or contaminant, all or a portion of which is or would be designated as hazardous waste or substance under applicable local, state, or federal laws, ordinances, codes, rules, or regulations.

§ 10.3.2 ~~Upon receipt of the Contractor's notice, the Owner shall obtain the services of a licensed laboratory to verify the presence or absence of the material or substance reported by the Contractor and, in the event such material or substance is found to be present, to cause it to be rendered harmless. Unless otherwise required by the Contract Documents, the Owner shall furnish in writing to the Contractor, Construction Manager and Architect the names and qualifications of persons or entities who are to perform tests verifying the presence or absence of the material or substance or who are to perform the task of removal or safe containment of the material or substance. The Contractor, the Construction Manager and the Architect will promptly reply to the Owner in writing stating whether or not any of them has reasonable objection to the persons or entities proposed by the Owner. If the Contractor, Construction Manager or Architect has an objection to a person or entity proposed by the Owner, the Owner shall propose another to whom the Contractor, the Construction Manager and the Architect have no reasonable objection. When the material or substance has been rendered harmless, Work in the affected area shall resume upon written agreement of the Owner and Contractor. By Change Order, the Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable additional costs of shutdown, delay, and start-up.~~To the fullest extent permitted by law, the Owner shall indemnify and hold harmless the Contractor, Construction Manager, Architect, their consultants, and agents and employees of any of them from and against claims, damages, losses, and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work on Owner's property if in fact the material is asbestos or polychlorinated biphenyl (PCB) and has not been rendered harmless, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), including loss of use resulting therefrom, but only to the extent caused in whole or in part by negligent acts or omissions of the Owner, anyone directly or indirectly employed by the Owner, or anyone for whose acts the Owner may be liable, regardless of whether or not such claim, damage, loss, or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity which would otherwise exist as to a party or person described in this Subparagraph 10.3.2.

§ 10.3.3 ~~To the fullest extent permitted by law, the Owner shall indemnify and hold harmless the Contractor, Subcontractors, Construction Manager, Architect, their consultants, and agents and employees of any of them from and against claims, damages, losses, and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work in the affected area if in fact the material or substance presents the risk of bodily injury or death as described in Section 10.3.1 and has not been rendered harmless, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), except to the extent that such damage, loss, or expense is due to the fault or negligence of the party seeking indemnity.~~If reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a material or substance encountered on the site by the contractor, the Contractor shall, upon recognizing the condition, immediately stop Work on Owner's property and report the condition to the Owner, Construction Manager and Architect in writing. The Owner, Construction Manager, Contractor, and Architect shall then proceed in the same manner described in Subparagraph 10.3.1.

§ 10.3.4 ~~The Owner shall not be responsible under this Section 10.3 for hazardous materials or substances the Contractor brings to the site unless such materials or substances are required by the Contract Documents. The Owner shall be responsible for hazardous materials or substances required by the Contract Documents, except to the extent of the Contractor's fault or negligence in the use and handling of such materials or substances.~~

§ 10.3.5 The Contractor shall reimburse the Owner for the cost and expense the Owner incurs (1) for remediation of hazardous materials or substances the Contractor brings to the site and negligently handles, or (2) where the

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Contractor fails to perform its obligations under Section 10.3.1, except to the extent that the cost and expense are due to the Owner's fault or negligence. Owner shall be responsible for obtaining the services of a licensed laboratory to verify a presence or absence of the material or substance reported by the Contractor and, in the event such material or substance is found to be present, to verify that it has been rendered harmless.

§ 10.3.6 ~~If, without negligence on the part of the Contractor, the Contractor is held liable by a government agency for the cost of remediation of a hazardous material or substance solely by reason of performing Work as required by the Contract Documents, the Owner shall reimburse the Contractor for all cost and expense thereby incurred.~~Regulations concerning the availability of information and employee training in the use and handling of "hazardous substances" and "harmful physical agents", as set forth in the Employee Right-to-Know Act of 1983, Minnesota Statutes, Sections 182.65 to 182.676 are incorporated herein by reference as if fully set forth herein.

§ 10.3.7 The Contractor shall furnish three Material Safety Data Sheets to the Owner for each material used in the Work that is classified by the Employee Right-to-Know Act of 1983 as a "hazardous substance" or a "harmful physical agent."

§ 10.3.8 The Contractor shall label, in generally accepted and/or standardized fashion, all containers on the work site containing "hazardous substances" or as "harmful physical agents." This shall include factory containers and all subsequent containers used in the Work.

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In an emergency affecting safety of persons or property, the Contractor shall ~~act, at the Contractor's discretion,~~ act to prevent threatened damage, injury, or loss. Additional compensation or extension of time claimed by the Contractor on account of an emergency shall be determined as provided in Article 15 and Article 7.

...

§ 11.1.1 The Contractor shall purchase and maintain insurance of the types and limits of liability, containing the endorsements, and subject to the terms and conditions, as described in the ~~Agreement~~ Agreement, in EXH-C Owner Insurance or elsewhere in the Contract Documents. The Contractor shall purchase and maintain the required insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is ~~located.~~ located and which carry a Best's rating of A- or higher or are otherwise acceptable to the Owner. The Owner, Construction Manager and Construction Manager's consultants, and the Architect and Architect's consultants, shall be named as additional insureds under the Contractor's commercial general liability policy or as otherwise described in the Contract Documents.

...

§ 11.1.3 Upon the request of any person or entity appearing to be a potential beneficiary of bonds covering payment of obligations arising under the Contract, the Contractor shall promptly furnish a copy of the bonds or shall authorize a copy to be furnished. The Contractor shall furnish Certificates of Insurance acceptable to the Owner which shall specifically set forth evidence of all coverage required by Article 11 and EXH-C Owner Insurance and shall be filed with the Owner and Construction Manager prior to commencement of the Work and thereafter upon renewal or replacement of each required policy of insurance.

The Contractor shall not allow insurance required by this Agreement to lapse, be canceled, reduced in limits or coverage, non-renewed, or materially changed or have restrictive modifications added during the life of this Agreement, including the periods of required coverage. The Contractor shall furnish to the Owner and Construction Manager copies of any endorsements that are subsequently issued amending coverage and limits.

If any of the foregoing insurance coverages are required to remain in force after final payment and are reasonably available, all additional certificates evidencing continuation of such coverage shall be submitted with the final Application for Payment. Information concerning reduction of coverage shall be furnished by the Contractor with reasonable promptness in accordance with the Contractor's information and belief.

§ 11.1.3.1 Acceptable insurance certificates are AIA Document G705, CICC of Minnesota Form 701, and/or ACORD form of the American Insurance Institute.

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Failure of the Owner to collect certificates does not void the requirements to obtain insurance.

The acceptance of any certificate of insurance by the Owner shall not relieve or decrease the liability of the Contractor hereunder. It is to be understood the Owner, Construction Manager and Architect do not in any way represent that the insurance specified in these articles are sufficient or adequate to protect the Contractor's interest or liabilities, but are merely minimum requirements.

The Contractor shall furnish to the Owner copies of any endorsements that are subsequently issued amending coverage and limits.

§ 11.1.4 ~~Notice of Cancellation or Expiration of Contractor's Required Insurance.~~ ~~Within three (3) business days of the date the Contractor becomes aware of an impending or actual cancellation or expiration of any insurance required by the Contract Documents, the Contractor shall provide notice directly to the Owner, and separately to the Construction Manager, of such impending or actual cancellation or expiration. Upon receipt of notice from the Contractor, the Owner shall, unless the lapse in coverage arises from an act or omission of the Owner, have the right to stop the Work until the lapse in coverage has been cured by the procurement of replacement coverage by the Contractor. The furnishing of notice by the Contractor shall not relieve the Contractor of any contractual obligation to provide any required coverage.~~In the event the Contractor fails to procure or maintain any insurance coverage required under this Agreement, the Owner may purchase such coverage and deduct the cost thereof from any monies due to the Contractor, or terminate this Agreement under Paragraph 14.2. The Contractor shall be liable to the Owner for providing all coverage, defense, and payments that would have been provided by any insurance that the Contractor failed to procure and maintain as required by the Contract Documents.

§ 11.1.5 Compliance by the Contractor with the foregoing insurance requirements shall not relieve it from liability for amounts in excess of the limits of insurance.

§ 11.1.6 The Contractor and any of its Subcontractors, Sub-subcontractors, agents and employees, and any separate contractors described in Article 6, if any, and any of their subcontractors, sub-subcontractors, agents and employees shall waive any of their subrogation rights on their Workers Compensation Policy in favor of the Owner, Construction Manager and Architect. The policies shall provide such waivers of subrogation by endorsement or otherwise. A waiver of subrogation shall be effective as to a person or entity even though that person or entity would otherwise have a duty of indemnification, contractual, or otherwise, did not pay the insurance premium directly or indirectly, and whether or not the person or entity had an insurable interest.
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§ 11.2.1 The Owner shall purchase and maintain insurance of the types and limits of liability, containing the endorsements, and subject to the terms and conditions, as described in the Agreement or elsewhere in the Contract Documents. The Owner shall purchase and maintain the required insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The Owner may self-insure and maintain the Owner's usual liability insurance. Optionally, the Owner may purchase and maintain other insurance for self-protection against claims which may arise from operations under the Contract. The Contractor shall not be responsible for purchasing and maintaining this optional Owner's liability insurance unless specifically required by the Contract Documents.
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~~§ 11.3.2~~ ~~If during the Project construction period the Owner insures properties, real or personal or both, at or adjacent to the site by property insurance under policies separate from those insuring the Project, or if after final payment property insurance is to be provided on the completed Project through a policy or policies other than those insuring the Project during the construction period, to the extent permissible by such policies, the Owner waives all rights in accordance with the terms of Section 11.3.1 for damages caused by fire or other causes of loss covered by this separate property insurance.~~

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§ 11.5.2 Prior to settlement of an insured loss, the Owner shall notify the Contractor of the terms of the proposed settlement as well as the proposed allocation of the insurance proceeds. The Contractor shall have 14 days from receipt of notice to object to the proposed settlement or allocation of the proceeds. If the Contractor does not object, the Owner shall settle the loss and the Contractor shall be bound by the settlement and allocation. Upon receipt, the Owner shall ~~deposit the insurance proceeds in a separate account and~~ make the appropriate distributions. Thereafter, if no other agreement is made or the Owner does not terminate the Contract for convenience, the Owner and Contractor shall execute a Change Order for reconstruction of the damaged or destroyed Work in the amount allocated for that purpose. If the Contractor timely objects to either the terms of the proposed settlement or the allocation of the proceeds, the Owner may proceed to settle the insured loss, and any dispute between the Owner and Contractor arising out of the settlement or allocation of the proceeds shall be resolved pursuant to Article 15. Pending resolution of any dispute, the Owner may issue a Construction Change Directive for the reconstruction of the damaged or destroyed Work.

§ 11.6 Bonds

§ 11.6.1 Contractor shall furnish a Performance Bond and a Payment Bond to the Owner in the amount of one hundred percent (100%) of the Contract Sum and issued by a Surety Company authorized to do business in the State of Minnesota, rated "A" or better, and approved by the Owner. The Performance Bond shall be in accordance with Minnesota Statutory requirements, and shall be in the form included in the Project Manual. The Bonds shall allow for any additions or deductions to the Contract Sum.

§ 11.6.2 In order to be acceptable as a surety, Contractor's bonding company bust hold a "Certificate of Authority acceptable to the U.S. Treasury Department and be listed in the Department's current publication of "Bond Qualifiers" with underwriting limitations not less than ten percent (10%) above the Contract Sum.

§ 11.6.3 The surety of the Bonds shall be by a corporate surety company authorized to do business in the state in which Work is being performed under this Contract and acceptable to the Owner. The conditions of the bonds shall meet requirements of the statutes of the state where Work is being performed and all other applicable provisions of state law.

§ 11.6.4 The Contractor shall furnish two (2) originals of the Bonds to the Owner, with copies to the Architect and Construction Manager, within ten (10) days after notification of award and before execution of the Contract. Failure to do so shall constitute a violation of terms of the proposal and provide grounds for forfeiture of bid security.

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The Contractor shall promptly correct Work rejected by the Construction Manager or Architect or failing to conform to the requirements of the Contract Documents, discovered before Substantial Completion, and whether or not fabricated, installed or completed. ~~Costs~~ The Contractor shall bear costs of correcting such rejected Work, including additional testing and inspections, the cost of uncovering and replacement, and compensation for the Construction Manager's and Architect's services and expenses made necessary ~~thereby, shall be at the Contractor's expense.~~thereby.

...

~~**§ 12.2.2.1** In addition to the Contractor's obligations under Section 3.5, if, within one year after the date of Substantial Completion of the Work or designated portion thereof, or after the date for commencement of warranties established under Section 9.9.1, or by terms of any applicable special warranty required by the Contract Documents, any of the Work is found to be not in accordance with the requirements of the Contract Documents, the Contractor shall correct it promptly after receipt of notice from the Owner to do so, unless the Owner has previously given the Contractor a written acceptance of such condition. The Owner shall give such notice promptly after discovery of the condition. During the one-year period for correction of Work, if the Owner fails to notify the Contractor and give the Contractor an opportunity to make the correction, the Owner waives the rights to require correction by the Contractor and to make a claim for breach of warranty. If the Contractor fails to correct nonconforming Work within a reasonable time during that period after receipt of notice from the Owner, Construction Manager or Architect, the Owner may correct it in accordance with Section 2.5.~~

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~~**§ 12.2.2.2** The one-year period for correction of Work shall be extended with respect to portions of Work first performed after Substantial Completion by the period of time between Substantial Completion and the actual completion of that portion of the Work.~~

~~**§ 12.2.2.3** The one-year period for correction of Work shall not be extended by corrective Work performed by the Contractor pursuant to this Section 12.2.~~

§ 12.2.2.1 If within one year after the date of Substantial Completion of the Work or designated portion thereof, or after the date for commencement of warranties established under Section 9.9.1, or by terms of any applicable special warranty required by the Contract Documents, any of the Work is found to be not in accordance with the requirements of the Contract Documents, the Contractor shall correct it promptly (and any other property damaged or removed in effecting the correction) after receipt of notice from the Owner, Construction Manager or Architect to do so, unless the Owner has previously given the Contractor a written acceptance of such condition. The Owner, Construction Manager or Architect shall give such notice promptly after discovery of the condition. This period of one year shall be extended with respect to portions of Work first performed after Substantial completion by the period of time between Substantial completion and the actual performance of the Work. This obligation under this Subparagraph 12.2.2.1 shall survive acceptance of the Work under the contract and termination of the Contract. The Owner, Construction Manager or Architect shall give such notice promptly after discovery of the condition. The expiration of the above one year or any other specified time period, or any other period prescribed by the law, shall not relieve the Contractor of the obligation form the expense to correct any latent defect in the work or deficiencies which are not readily ascertained, including but not limited to, defective materials and quality of work performed, defects attributable to material substitutions for special materials, substandard performance or otherwise not in compliance with the Contract Documents. Such latent defects or deficiencies shall be corrected as provided in this Paragraph 12.2. Following the correction or replacement of any of the Work, as above specified, the Contractor shall correct any defects or deficiencies in the corrected or replaced materials and workmanship which is found within one year after the date of correction or replacement.

§ 12.2.4 ~~The Contractor shall bear the cost of correcting destroyed or damaged construction of the Owner, Separate Contractors, or other Contractors, whether completed or partially completed, caused by the Contractor's correction or removal of Work that is not in accordance with the requirements of the Contract Documents.~~ If the Contractor fails to correct nonconforming Work within a reasonable time, the Owner may correct it in accordance with Paragraph 2.4. If the Contractor does not proceed with correction of such nonconforming Work within a reasonable time fixed by written notice from the Architect or Construction Manager, the Owner may correct or remove it and store the salvageable materials or equipment all at the Contractor's expense. If the Contractor does not pay costs of such removal and storage within ten (10) days after written notice, the Owner may upon ten (10) additional days' written notice sell such materials and equipment at auction or at private sale and shall account for the proceeds thereof, after deducting costs and damages that should have been borne by the Contractor, the Contract Sum shall be reduced by the deficiency. If payments then or thereafter due the Contractor are not sufficient to cover such amount, the Contractor shall pay the difference to the Owner.

§ 12.2.5 ~~Nothing contained in this Section 12.2 shall be construed to establish a period of limitation with respect to other obligations the Contractor has under the Contract Documents. Establishment of the one-year period for correction of Work as described in Section 12.2.2 relates only to the specific obligation of the Contractor to correct the Work, and has no relationship to the time within which the obligation to comply with the Contract Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Contractor's liability with respect to the Contractor's obligations other than specifically to correct the Work.~~ The Contractor shall bear the cost of correcting destroyed or damaged construction whether completed or partially completed, of the Owner or separate contractors caused by the Contractor's correction or removal of Work which is not in accordance with the requirements of the Contract Documents.

§ 12.2.6 Nothing contained in this Section 12.2 shall be construed to establish a period of limitation with respect to other obligations the Contractor has under the Contract Documents. Establishment of the one-year period for correction of Work as described in Section 12.2.2 relates only to the specific obligation of the Contractor to correct the Work, and has no relationship to the time within which the obligation to comply with the Contract Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Contractor's liability with respect to the Contractor's obligations other than specifically to correct the Work.

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§ 13.4.1 Tests, inspections, and approvals of portions of the Work shall be made as required by the Contract Documents and by applicable laws, statutes, ordinances, codes, rules, and regulations or lawful orders of public authorities. ~~Unless otherwise provided, the Contractor~~ The Owner, Construction Manager or Architect shall make arrangements for such tests, inspections, and approvals with an independent testing laboratory or entity acceptable to the Owner, or with the appropriate public ~~authority, and shall bear all related costs of tests, inspections, and approvals. The Contractor shall give the Construction Manager and Architect timely notice~~ authority. Timely notice shall be given to the Construction Manager and Architect of when and where tests and inspections are to be made so that the Construction Manager and Architect may ~~be present for~~ observe such procedures. The Owner shall bear costs of tests, inspections, or approvals that do not become requirements until after bids are received or negotiations concluded. The Owner shall directly arrange and pay for tests, inspections, or approvals where building codes or applicable laws or regulations so require.

§ 13.4.2 If the Construction Manager, Architect, Owner, or public authorities having jurisdiction determine that portions of the Work require additional testing, inspection, or approval not included under Section 13.4.1, the Construction Manager and Architect will, upon written authorization from the Owner, instruct the Contractor to make arrangements for such additional testing, inspection, or approval, by an entity acceptable to the Owner, and the Contractor shall give ~~timely~~ a minimum of two (2) working days' notice to the Construction Manager and Architect of when and where tests and inspections are to be made so that the Construction Manager and Architect may ~~be present for such procedures. Such~~ observe procedures. The Owner shall bear such costs, except as provided in Section ~~13.4.3, shall be at the Owner's expense.~~13.4.3.

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~~Payments due and unpaid under the Contract Documents shall bear interest from the date payment is due at the rate the parties agree upon in writing or, in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located.~~All payments to the Contractor shall be governed by the Prompt Payment of Local Government Bills, Minnesota Statutes, Section 471.125 ("Prompt Payment Act") and Article 5 of the A132–2019 Agreement on this Project.

§ 13.6 Non-Discrimination

§ 13.6.1 All contracts between the Owner and companies providing goods and services under the Contract Documents shall contain the following equal opportunity and civil right clause:

> "During the performance of this Agreement, the provider agrees to the following: No contractor, material supplier, vendor, or other person shall on the basis of sex, race, creed, color, religion, national origin, age, marital status, sexual orientation, or disability be excluded from full employment rights in, participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program, service, or activity under the provisions of any and all applicable Federal and State laws against discrimination, including the Minnesota Human Rights Act and the Civil Rights Act of 1964."

Upon request, the Contractor shall furnish all information and reports required by the Owner, or by the rules and regulations of investigation to ascertain compliance with all applicable rules and regulations. The Contractor shall also comply with any applicable licensing requirements of the Minnesota Department of Human Services in employment of personnel.

The Contractor acknowledges that the violation of the above-stated paragraph is a misdemeanor pursuant to Minnesota Statutes, Section 181.59.

This Agreement may be cancelled or terminated by the Owner or any other person authorized to grant the contracts for employment under this Agreement, and all money due, or to become due under this Agreement may be forfeited for a second or any subsequent violation of the non-discriminatory terms stated above.

§ 13.6.2 During the completion of the work and all other services required by the Contract Documents, the Contractor agrees that no contractor, material supplier, vendor, or other person shall, on the basis of sex, race, creed, color, religion, national origin, age, marital status, sexual orientation, or disability be excluded from full employment rights in participation in, be denied the benefits of, or be otherwise subjected to discrimination under the provisions of any and all applicable Federal and State laws against discrimination, including the Minnesota Human Rights Act and the

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Civil Rights Act of 1964. Upon request, the Architect, Construction Manager and Contractor shall furnish all information and reports required by the Owner, or by the rules and regulations of investigation to ascertain compliance with all applicable rules and regulations. The Contractor shall also comply with any applicable licensing requirements of the Minnesota Department of Human Services in employment of personnel.

Contractor acknowledges that the violation of the above-states paragraph is a misdemeanor pursuant to Minnesota Statutes Section 181.59.

The Contract Documents may be cancelled or terminated by the Owner or any other person authorized to grant the contracts for employment under this Agreement, and all money due, or to become due under the Agreement may be forfeited for a second or any subsequent violation of the non-discriminatory terms stated above.

§ 13.7 No action or failure to act by the Owner shall constitute a waiver of a right or duty afforded the Owner under the Contract Documents, nor shall such action or failure to act constitute approval of or acquiescence of the Owner in a breach of the Contract Documents, except as may be specifically agreed in writing. None of the approval of any Application for Payment, the making of any payment, the giving of any approval or consent, the use or occupancy of the Work, or any part thereof, the making of final payment, or any other action or inaction on the part of the Owner, Construction Manager or Architect shall constitute a waiver of claims by or rights of the Owner or an acceptance of any Work that is not in accordance with the Contract Documents. The Contractor shall not be relieved from its obligations to perform the Work in accordance with the Contract Documents either by the activities or duties of the representations of the Owner, Construction Manager or Architect, or by inspections, tests, or approvals required or performed by the Owner, Construction Manager or Architect or anyone else.

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§ 14.1.5 No Right to Stop Work for Non-Payment

The Contractor has no right to stop Work as a consequence of non-payment. In the event of any disagreement between the Contractor and Owner involving the Contractor's entitlement to payment, the Contractor's only remedy is to file a Claim in accordance with Article 15. The Contractor must diligently proceed with the Work pending resolution of the Claim. If, however, an Application for Payment has been approved for payment by the Owner, and the Owner fails to make payment within sixty (60) days of the approval for payment by the Owner, the Contractor may upon ten (10) days written notice to the Owner, stop work if payment is not made by the Owner within ten (10) days following the notice.

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§ 14.3.2 The Contract Sum and the Contract Time shall be adjusted for increases or decreases in the cost and time caused by suspension, delay, or interruption under Section 14.3.1. Adjustment of the Contract Sum shall include reasonable profit. No adjustment shall be made to the extent:

...

~~**§ 14.4.3** In case of such termination for the Owner's convenience, the Owner shall pay the Contractor for Work properly executed; costs incurred by reason of the termination, including costs attributable to termination of Subcontracts; and the termination fee, if any, set forth in the Agreement.~~

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§ 15.1.1 Definition. A Claim is a demand or assertion by ~~one of the parties~~ the Contractor seeking, as a matter of right, payment of money, a change in the Contract Time, or other relief with respect to the terms ~~of the Contract. The term "Claim" also includes other disputes and matters in question between the Owner and Contractor arising out~~ of ~~or relating to~~ the Contract. The responsibility to substantiate Claims shall rest with ~~the party making the Claim.~~ the Contractor. Nothing in this paragraph 15.1.1 is intended to apply to or in any way limit the Owner's right to make Claims related to or arising out of the Contract. This Section 15.1.1 does not require the Owner to file a Claim in order to impose liquidated damages in accordance with the Contract Documents.

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§ 15.1.3.1 Claims by ~~either the Owner or~~ Contractor, where the condition giving rise to the Claim is first discovered prior to expiration of the period for correction of the Work set forth in Section 12.2.2, shall be initiated by written notice to the ~~other party~~ Owner and to the Initial Decision Maker with a copy sent to the Construction Manager and Architect, if the Architect is not serving as the Initial Decision Maker. Claims by ~~either party~~ the Contractor under this Section 15.1.3.1 shall be initiated within ~~21~~ ten (10) days after occurrence of the event giving rise to such Claim or within ~~21~~ ten (10) days after the ~~claimant~~ Contractor first recognizes the condition giving rise to the Claim, whichever is later. Any additional Claim made after and relating to the initial Claim has been implemented by Change Order will not be considered unless submitted in a timely manner. As a condition to making a claim for additional costs, the Contractor shall maintain and produce accurate records to substantiate all additional costs actually incurred. If a Claim for actual costs is approved, the Owner shall pay the Contractor actual costs incurred, plus either (a) ten percent (10%) for overhead and profit for work performed by the Contractor, or (b) five percent (5%) overhead and profit for work performed by a Subcontractor, as applicable.

§ 15.1.3.2 Claims by either the Owner or Contractor, where the condition giving rise to the Claim is first discovered after expiration of the period for correction of the Work set forth in Section 12.2.2, shall be initiated by written notice to the other party. In such event, no decision by the Initial Decision Maker is required.

...

§ 15.1.4.1 Pending final resolution of a Claim, except as otherwise agreed in writing or as provided in Section 9.7 and Article 14, the Contractor shall proceed diligently with performance of the Contract and the Owner shall continue to make payments in accordance with the Contract Documents. Subject to Paragraph 15.1.5, no such continuing performance by the Contractor, nor payment by the Owner shall be deemed a waiver of, or to otherwise impair any such Claim.

...

§ 15.1.6.1 If the Contractor wishes to make a Claim for ~~an~~ any increase in the Contract Time, notice as provided in Section 15.1.3 shall be given. The Contractor's Claim shall include an estimate of cost and of probable effect of delay on progress of the Work. In the case of a continuing delay only one Claim is necessary.
PAGE 43

~~**§ 15.1.7 Waiver of Claims for Consequential Damages.** The Contractor and Owner waive Claims against each other for consequential damages arising out of or relating to this Contract. This mutual waiver includes~~

- ~~**.1** damages incurred by the Owner for rental expenses, for losses of use, income, profit, financing, business and reputation, and for loss of management or employee productivity or of the services of such persons; and~~
- ~~**.2** damages incurred by the Contractor for principal office expenses including the compensation of personnel stationed there, for losses of financing, business and reputation, and for loss of profit except anticipated profit arising directly from the Work.~~

~~This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination in accordance with Article 14. Nothing contained in this Section 15.1.7 shall be deemed to preclude assessment of liquidated damages, when applicable, in accordance with the requirements of the Contract Documents.~~

...

§ 15.2.6 ~~Either party may file for mediation of an initial decision at any time, subject to the terms of Section 15.2.6.1.~~In the event of a Claim against the Contractor, the Owner may, but is not obligated to notify the surety, if any, of the nature and amount of the Claim. If the Claim relates to a possibility of a Contractor's default, the Owner may, but is not obligated to notify the surety and initiate a Claim on the performance bond.

~~**§ 15.2.6.1** Either party may, within 30 days from the date of receipt of an initial decision, demand in writing that the other party file for mediation. If such a demand is made and the party receiving the demand fails to file for mediation~~

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~~within 30 days of receipt thereof, then both parties waive their rights to mediate or pursue binding dispute resolution proceedings with respect to the initial decision.~~

~~**§ 15.2.7** In the event of a Claim against the Contractor, the Owner may, but is not obligated to, notify the surety, if any, of the nature and amount of the Claim. If the Claim relates to a possibility of a Contractor's default, the Owner may, but is not obligated to, notify the surety and request the surety's assistance in resolving the controversy.~~

~~**§ 15.2.8** If a Claim relates to or is the subject of a mechanic's lien, the party asserting such Claim may proceed in accordance with applicable law to comply with the lien notice or filing deadlines.~~

§ 15.3.1 ~~Claims, disputes, or other matters in controversy~~ Any claim, dispute or other matter in question or arising out of or related to the ~~Contract, except those waived as provided for in Sections 9.10.4, 9.10.5, and 15.1.7, shall be subject to mediation as a condition precedent to binding dispute resolution.~~Contract shall be subject to mediation. Mediation is not a condition precedent to commencing litigation, but if litigation is commenced before mediation is held, the Parties agree to mediate before any dispositive motions or trial.

§ 15.3.2 The parties shall ~~endeavor to resolve their Claims by mediation which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Mediation Procedures in effect on the date of the Agreement. A request for mediation shall be made in writing, delivered to the other party to the Contract, and filed with the person or entity administering the mediation. The request may be made concurrently with the filing of binding dispute resolution proceedings but, in such event, mediation shall proceed in advance of binding dispute resolution proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order. If an arbitration is stayed pursuant to this Section 15.3.2, the parties may nonetheless proceed to the selection of the arbitrator(s) and agree upon a schedule for later proceedings.~~share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located unless another location is mutually agreed upon. Agreements reached in mediation and ratified by the Owner's Council shall be enforceable as settlement agreements in any court having jurisdiction thereof.

~~**§ 15.3.3** Either party may, within 30 days from the date that mediation has been concluded without resolution of the dispute or 60 days after mediation has been demanded without resolution of the dispute, demand in writing that the other party file for binding dispute resolution. If such a demand is made and the party receiving the demand fails to file for binding dispute resolution within 60 days after receipt thereof, then both parties waive their rights to binding dispute resolution proceedings with respect to the initial decision.~~

~~**§ 15.3.4** The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.~~

~~**§ 15.4 Arbitration**~~

~~**§ 15.4.1** If the parties have selected arbitration as the method for binding dispute resolution in the Agreement, any Claim subject to, but not resolved by, mediation shall be subject to arbitration which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Arbitration Rules in effect on the date of the Agreement. The Arbitration shall be conducted in the place where the Project is located, unless another location is mutually agreed upon. A demand for arbitration shall be made in writing, delivered to the other party to the Contract, and filed with the person or entity administering the arbitration. The party filing a notice of demand for arbitration must assert in the demand all Claims then known to that party on which arbitration is permitted to be demanded.~~

~~**§ 15.4.1.1** A demand for arbitration shall be made no earlier than concurrently with the filing of a request for mediation, but in no event shall it be made after the date when the institution of legal or equitable proceedings based on the Claim would be barred by the applicable statute of limitations. For statute of limitations purposes, receipt of a written demand for arbitration by the person or entity administering the arbitration shall constitute the institution of legal or equitable proceedings based on the Claim.~~

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~~**§ 15.4.2** The award rendered by the arbitrator or arbitrators shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.~~

~~**§ 15.4.3** The foregoing agreement to arbitrate and other agreements to arbitrate with an additional person or entity duly consented to by parties to the Agreement, shall be specifically enforceable under applicable law in any court having jurisdiction thereof.~~

~~**§ 15.4.4 Consolidation or Joinder**~~

~~**§ 15.4.4.1** Subject to the rules of the American Arbitration Association or other applicable arbitration rules, either party may consolidate an arbitration conducted under this Agreement with any other arbitration to which it is a party provided that (1) the arbitration agreement governing the other arbitration permits consolidation, (2) the arbitrations to be consolidated substantially involve common questions of law or fact, and (3) the arbitrations employ materially similar procedural rules and methods for selecting arbitrator(s).~~

~~**§ 15.4.4.2** Subject to the rules of the American Arbitration Association or other applicable arbitration rules, either party may include by joinder persons or entities substantially involved in a common question of law or fact whose presence is required if complete relief is to be accorded in arbitration, provided that the party sought to be joined consents in writing to such joinder. Consent to arbitration involving an additional person or entity shall not constitute consent to arbitration of any claim, dispute or other matter in question not described in the written consent.~~

~~**§ 15.4.4.3** The Owner and Contractor grant to any person or entity made a party to an arbitration conducted under this Section 15.4, whether by joinder or consolidation, the same rights of joinder and consolidation as those of the Owner and Contractor under this Agreement.~~

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Certification of Document's Authenticity

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I, , hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with its associated Additions and Deletions Report and this certification at 10:52:44 CT on 02/03/2025 under Order No. 4104251278 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document A232™ – 2019, General Conditions of the Contract for Construction, Construction Manager as Adviser Edition, other than those additions and deletions shown in the associated Additions and Deletions Report.



(Signed)

Curtis Hartog, Executive Director

(Title)

2/3/2025

(Dated)

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Exhibit B – Project Charter

FY21 North High School Renovations-Bid Pack 4

Work Scope 06-A Carpentry

Description

Perform carpentry work in accordance with Work Scope 06-A for the North High School Phase 4 renovations

Contract Sum

The Contract Sum shall be $1,896,610.00

Alternates

Item	Price	Status
Alt #1: Health Office	$211,950	rejected
Alt #2: Athletic and Counseling Offices	$156,640	rejected
Alt #3: Electrical panel replacements	$0	accepted
Alt #4: AHU-41 replacement	$11,995	accepted
Alt #5: Direct digital controls	$23,865	accepted

EXHIBIT C Owner Insurance

Insurance Requirements

1. CONSULTANT'S INSURANCE – to be used with AIA B101-2017, AIA C103-2015, or similar non-contractor consultants:
   The Consultant shall at its own expense maintain in effect at all times during the performance of the Work under the Agreement at least the following coverage and limits of insurance:

   a. Worker's Compensation and Employer's Liability Insurance

      i. Coverage A is statutory.

      ii. Coverage B
      $500,000 Each Accident
      $500,000 Each Employee
      $500,000 Policy Limit (Disease)

   b. Comprehensive General Liability Insurance *

General Aggregate	$1,000,000
Products/Completed Operations Aggregate	$1,000,000
Per Occurrence	$1,000,000
Medical Payments	$10,000

   * The Owner should be named as an additional insured for Comprehensive General Liability Insurance.

   c. Automobile Insurance

Per Occurrence	$1,000,000
PIP	Basic
Underinsured Motorist	$1,000,000
Uninsured Motorist	$1,000,000

   d. Professional Liability Insurance

      i. Per Claim $2,000,000

ii. For projects with an estimated construction Contract Sum of over $10,000,000 or major structural work an aggregate is required as follows:
Aggregate $4,000,000

e. Umbrella Liability Insurance

i. Per Occurrence $2,000,000

ii. For projects with an estimated construction Contract Sum of over $10,000,000 or major structural work an aggregate is required as follows:
Aggregate $2,000,000

f. Manned or Unmanned Aircraft Coverage (if used)

i. Per Claim $1,000,000

ii. Aggregate $1,000,000

For specialty consultants used for commissioning activities, studies, asbestos surveys and security, items A, B, C and F shall apply.

Special Asbestos Abatement Liability Insurance is required for Asbestos Abatement Contractors. The limits are $1,500,000 per claim, for liability arising from the encapsulation, removal, handling, storage, transportation, and disposal of asbestos-containing materials.

2. CONSULTANT'S OBLIGATIONS

Consultant shall not violate or knowingly permit any violation of any conditions or terms of the policies of insurance required to be carried under the terms hereof and shall endeavor to satisfy the requirements of the insurance companies issuing them. In the event Consultant neglects, refuses or fails to provide or maintain any of the insurance required to be carried under the Agreement, or if such insurance is canceled for any reason, the Owner or the Owner's lender(s) shall have the right, but not the duty, to procure or maintain the same.

In the event the Owner or the Owner's lender(s) do procure or maintain such insurance, the Owner or the Owner's lender(s) shall have, in additional to any and all other available remedies, the right to recover from the Consultant (including the right of set-off against sums otherwise due the Consultant) all of the costs associated with procuring or maintaining such insurance.

3. PROFESSIONAL LIABILITY INSURANCE

   a. Professional Liability Coverage of $2,000,000 shall be maintained for one (1) year from the date of Substantial Completion. If the Consultant discontinues its business and if directed by Owner in writing, Consultant shall purchase such insurance in such amount for an extended discovery period beyond the one (1) year after the date of Substantial Completion, with the premium cost to be a reimbursable expense paid by the Owner. The limit of liability for such policy may not be reduced below $2,000,000 without the Owner giving its prior, written consent. All policies of insurance that Consultant is required under the terms of this Exhibit C Owner's Insurance to secure and maintain shall bear the endorsement "Not to be canceled until sixty (60) calendar days after Owner has received a written notice from insurer as evidence by a return receipt of registered or certified mail."

   b. The Owner shall not be responsible for obtaining or paying premiums or other expenses in connection with insurance required to be carried under the Agreement or normally carried by the Consultant's consultants, and the obligation to obtain such insurance and to pay such premiums and other expenses shall be solely that of the Consultant.

   c. The Consultant shall bear all the costs of any and all deductible amounts under any insurance policies required to be carried under the Agreement and shall remain solely and fully liable for the full amount of any claim or item not compensated by insurance (to the extent that any amount resulted from damages that arose out of the Consultant's sole negligence.)

4. COVERAGE
   The coverage's referred to above are set forth in full in the respective policy forms, and the foregoing descriptions of such policies are not intended to be complete.

5. GENERALLY

   a. The Consultant thereby represents and warrants to the Owner that, as of the date of the execution of the Agreement, the Consultant is not aware of any claims or potential claims which have been made, filed or threatened against any of the insurance or for damages covered by any of the insurance required to be carried under the Agreement that would affect the Consultant's ability to provide the insurance coverage required by this agreement.

b. It is understood that the provisions in the Agreement requiring the Consultant to carry insurance shall not be construed as in any manner waiving or restricting the liability of the Consultant as to any obligations imposed under the Agreement, including, but not limited to, obligations imposed under the provisions of Article 11 of the AIA A201-2017 General Conditions.

Insurance requirements for Contractors

1. CONTRACTOR'S INSURANCE – to be used with AIA A101-2017
   The Contractor shall at its own expense maintain in effect at all times during the performance of the Work under the Agreement at least the following coverage and limits of insurance:

   a. Commercial General Liability

      i. General Aggregate $1,500,000

      ii. Products/Completed Operations Aggregate $1,500,000

      iii. Per Occurrence $1,500,000

      The Owner shall be named as additional insured for Commercial General Liability Insurance

   b. Automobile Insurance

      i. Per Occurrence $1,000,000

      ii. PIP Basic

      iii. Underinsured Motorist $1,000,000

      iv. Uninsured Motorist $1,000,000

   c. Workers Compensation

      i. Coverage A is statutory.

      ii. Coverage B $500,000 Each Accident

      iii. $500,000 Each Employee

d. Professional Liability (if the Contractor is hiring professionals)

   i. Per Claim $2,000,000

   For Projects with an estimated construction cost of over $10,000,000 or major structural work, additional Aggregate coverage of $4,000,000 is required.

e. Manned or Unmanned Aircraft Coverage (if used)

   i. Per Claim $1,000,000

   ii. Aggregate $1,000,000

f. Property Insurance

   i. Per Claim $1,000,000

   ii. Aggregate $1,000,000

   This insurance is only required for materials stored offsite and not incorporated into the project at delivery. For material stored on site, no additional insurance is required.

g. Builders “all risk” Insurance

   i. Per Claim $2,000,000

   ii. Aggregate $4,000,000

   This insurance is only required for additions exceeding $10,000,000. Renovations to existing schools are not required to have builders all risk insurance.

h. Umbrella Liability

   i. Aggregate limit $5,000,000

   This insurance is required only for projects larger than $10,000,000 in total construction costs.

Exhibit D – Project Schedule

FY21 North High School Renovations-Bid Pack 4 Work Scope 06-A Carpentry

OP#:25-2512

Description

Perform carpentry work in accordance with Work Scope 06-A for the North High School Phase 4 renovations.

Schedule

Start Construction: On or about March 2025 but within 5 days of notice to proceed as directed by the Construction Manager. Please refer to schedule provided in Specifications.

To be completed in 2025-June 2025 to August 2025

Base Bid Level 1 Area E

Base Bid Level 2 Area F, Area G, Area E

Area D Bathrooms March 2025 – May 2025 and September 2025 to December 2025.

Base Bid Level 2 Area E classrooms March 2025-May 2025

Base Bid Area Level 1 Area C – June 2026-August 2026

Base Bid Level 2 Area G – June 2026-August 2026

Bae Bid Level2 Area D – January 2026-August 2026

Alternate #3 – March 2025 through August 2026

Alternate #4 – June 2025-August 2025

Alternate #5 – June 2025-August 2026

Substantial Completion: August 21, 2026.

Major School Days

Recordkeeping Day – March 28, 2025

Spring Break – March 31 – April 4, 2025

Memorial Day – May 26, 2025

Last Day of School – June 6, 2025

Juneteenth – June 19, 2025

Independence Day – July 4, 2025

Last day for Staff – June 30, 2025

Labor Day – September 1, 2025

First Day of School – September 2, 2025

Rosh Hashanah – September 23, 2025
Yom Kippur – October 2, 2025
MEA – October 16-17, 2025
Recordkeeping Day – November 4, 2025
Thanksgiving – November 26-28, 2025
Winter Break – December 22, 2025 to January 2, 2026
Martin Luther King Day – January 19, 2026
Recordkeeping Day – January 23, 2026
Presidents Day – February 16, 2026
Professional Development – February 17, 2026
Eid al-Fitr – March 20, 2026
Recordkeeping Day – March 27, 2026
Memorial Day – May 25, 2026
Professional Development – May 26, 2026
Eid al Adha – May 27, 2026
Juneteenth – June 19, 2026
Independence Day – July 4, 2026
Labor Day – September 7, 2026
First day of School – September 8, 2026

Substantial Completion

The Work will be substantially complete on or before August 21, 2026

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MINNEAPOLIS PUBLIC SCHOOLS

Amendment to Construction Manager as Advisor Agreement

PROJECT: *(name and address)*	**Agreement Information**	**Amendment Information**
FY21 North High School Additions, renovation and CTE Project	Date: May 31, 2022	Amendment No.6

ARCHITECT: (name and address)	**Construction Manager as Advisor:** *(name and address)*
LSE Architects	Kraus Anderson Construction Company
100 Portland Avenue S. Suite 100	501 South 8th Street
Minneapolis, MN 55401	Minneapolis, MN 55401

The Owner and Construction Manager as Advisor amend the Agreement as follows:
This amendment adds to the Kraus Anderson Construction Manager as Advisor contract costs for Phase 4 at North High School. Phase 4 is scheduled to be completed in 2026 and includes classroom renovations, new single user bathrooms, new mechanical equipment and upgraded digital building controls and electrical infrastructure.

The Construction Manager as Advisor compensation and schedule shall be adjusted as follows:

Compensation Adjustment:
Original Contract Amount: $140,000 (MAS-13714)
Amendment No 1 (8/16/2022, AMD-13797) $1,273,206
Amendment No 2 (add General Conditions) $600,000
Amendment No 3 (Phase 2 services) $1,510,764
Amendment No 4 (Phase 3 CM Services) $927,854
Amendment No 5 (General Conditions) $400,000
Amendment No 6 (Phase 4 Services) $3,132,150 (included $1,155,000 of general conditions that are invoiced as needed to support construction)

Total contract value with all amendments $7,983,974

Schedule Adjustment:
Amendment No 6 extends the schedule to Substantial Completion for Phase 4 on August 21, 2026.

Other Adjustments:
None

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MINNEAPOLIS PUBLIC SCHOOLS

Signatures:

Construction Manager as Advisor	**Owner**
Firm Name	*Name*
Kraus Anderson Construction Company	Minneapolis Public Schools
DocuSigned by: H. John Huenink 09455AA0700B484...	
Signature H. John Huenink VP	**Signature**
Printed Name and Title H. John Huenink VP Director of K-12	**Printed Name and Title** Tom Parent, Senior Operations Officer
Date 2/12/2025 | 10:58 AM CST	**Date**

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KRAUS-ANDERSON®
Construction Company

Owner: **Minneapolis Public Schools**
Project: **North High School BP#4**
Delivery Method **CM - Advisor**
Designer: **LSE**

North High School BP#4 Renovations

		Start Date:		**3/31/25**
		Finish Date:		**9/30/26**
18.0		**78**	**391**	**3131**
Months		**Wks**	**Days**	**Hours**

Construction Cost (Est.) **$ 15,000,000**

Preconstruction/Bidding Phases

Administrative Labor	Hours	Rate	Total
Project Director	0	$205.00	$0
Senior Project Manager	4	$175.00	$700
Project Manager	20	$154.00	$3,080
Cost Estimator	20	$154.00	$3,080
Quality Manager	0	$152.00	$0
MEP Specialist	20	$165.00	$3,300
VDC/BIM	0	$123.00	$0
Clerical - Project Coordiator	40	$76.00	$3,040
Preconstruction Lump Sum Fee			**$13,200**

Estimated Construction Reimbursable (2025 Rates)

Reimbursable	Mnths	Rate	Total
Office Equip / Supplies / Phone	18.0	$620	$11,160
Reproduction costs	18.0	$300	$5,400
Postage / Courier services	18.0	$185	$3,330
Travel & Misc. Expenses	18.0	$650	$11,700
Field office trailer	18.0	$1,750	$31,500
Supt. Truck, Tools	18.0	$2,500	$45,000
Const. Reimbursable Expenses			**$108,090**

Construction & Post Construction Phases (2025 Rates)

Administrative Labor	hrs/wk	Hours	Rate	Total
Project Director	2	157	$205.00	Incl.
Senior Project Manager	8	626	$175.00	$109,600
Project Manager	20	1,566	$154.00	$241,120
Assistant Project Manager	10	783	$134.00	$104,903
Safety Engineer & Manager	2	157	$144.00	$22,546
Quality Manager	1	78	$152.00	Incl.
MEP Specialist	1	78	$165.00	Incl.
General Superintendent	2	157	$162.00	$25,365
Lead Superintendent	40	3,131	$154.00	$482,240
Assistant Superintendent	40	3,640	$132.00	$480,480
Clerical - Project Coordiator	6	470	$76.00	$35,698
Accounting	2	157	$76.00	$11,899
IT Allocation		10,373	$4.05	$42,009
Construction Administrative Labor				**$1,555,860**

TOTAL CM Services & SUP $1,677,150

Project Fee & Profit

Fee - Overhead & Profit	Construction $'s	%	Total
	15,000,000	2.00%	$300,000
Fee - Overhead & Profit			

Site Services/Fee	**$**	**1,977,150**
EST GC's	**$**	**1,155,000**
TOTAL:	**$**	**3,132,150**

The Lump Sum Total of $3,135,930 (waiting on project estimate) represents 18.0 months of Construction Phase Services and 2.0% Fee based upon a $15,000,000.00 Cost of Work. Should the duration of construction change due to circumstances outside of the Construction Manager's control the Construction Manager shall be entitled to an equitable adjustment of its compensation based upon the rates outlined in Exhibit B and in accordance with Article 11.

FY21 North High School Additions, Renovation and CTE Project

Contract Sum: $140,000

Construction Manager as Advisor: Krause-Anderson Construction Company

Project Name and Number

North High School
1500 James Avenue North
Minneapolis, MN 55411
Minneapolis Public Schools Project Number 21NORTCTE
RFP 22-10

Description

This project requires a Construction Manager as Advisor for the management of a multiple prime contractor. The initial North High School renovation consists of additions and renovations to accommodate a new CTE space, new auxiliary gym and storm shelter, and new electrical room ("Project No. 1").

Construction Manager as Advisor Basic Services

Item	Price	Status
Preconstruction Phase	$140,000	Accepted
Construction Phase	$TBD	Accepted/pending
Additional costs and expenses	$TBD	Accepted/Pending

Supplemental Services

TBD

Contract Documents

AIA Document C132-2019
Exhibit B – Project Charter
Exhibit C – Owners Insurance
Exhibit D – Project Schedule

AIA® Document C132™ – 2019

Standard Form of Agreement Between Owner and Construction Manager as Adviser

AGREEMENT made as of the 31 day of May in the year 2022
(In words, indicate day, month and year.)

BETWEEN the Owner:
(Name, legal status, address, and other information)

Minneapolis Public Schools, Special School District No. 1
1250 West Broadway Avenue
Minneapolis, MN 55411

and the Construction Manager:
(Name, legal status, address, and other information)

Kraus Anderson Construction Company
501 South 8th Street
Minneapolis, MN 55404

for the following Project:
(Name, location, and detailed description)

t
North High School Additions, Renovations and CTE Project
1500 James Avenue, Minneapolis, MN 55411

The Architect:
(Name, legal status, address, and other information)

LSE Architects
100 Portland Avenue South, Suite 100
Minneapolis, MN 55401

The Owner and Construction Manager agree as follows.

ADDITIONS AND DELETIONS:
The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

This document is intended to be used in conjunction with AIA Documents A132™–2019, Standard Form of Agreement Between Owner and Contractor, Construction Manager as Adviser Edition; A232™–2019, General Conditions of the Contract for Construction, Construction Manager as Adviser Edition; and B132™–2019, Standard Form of Agreement Between Owner and Architect, Construction Manager as Adviser Edition. AIA Document A232™–2019 is adopted in this document by reference. Do not use with other general conditions unless this document is modified.

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ARTICLE 1 INITIAL INFORMATION

§ 1.1 This Agreement is based on the Initial Information set forth in this Section 1.1.
(For each item in this section, insert the information or a statement such as "not applicable" or "unknown at time of execution.")

§ 1.1.1 The Owner's program for the Project:
(Insert the Owner's program, identify documentation that establishes the Owner's program, or state the manner in which the program will be developed.)

The Owner and the Construction Manager agree that this Agreement shall govern the North High School Additions and Renovations Program including the & CTE Center ("Owner's Program"), which shall consist of multiple independent Projects. In lieu of executing separate contracts for each Project, the Owner and the Construction Manager have agreed to execute one contract for the Owner's Program that can be applicable to each such Project. Therefore, the Owner and the Construction Manager agree that this Agreement will be used for multiple independent and discrete Projects, each of which is referred to as a "Project" for purposes of this Agreement. This Agreement shall govern the first Project in Owner's Program, Project No. 1, and the subsequent individual Projects shall be described in separate Amendments to this Agreement which shall be governed by this Agreement. Each individual Project Amendment shall provide a description of the Project, compensation terms, milestone and completion dates, and other project-specific items or modifications to this Agreement required for the individual Project. If an Amendment for a particular Project modifies or excludes any terms of this Agreement, such modification shall apply only to the Project for which such Amendment is applicable and shall not modify this Agreement with respect to any other Project governed by this Agreement.

§ 1.1.2 The Project's physical characteristics:
(Identify or describe pertinent information about the Project's physical characteristics, such as size; location; dimensions; geotechnical reports; site boundaries; topographic surveys; traffic and utility studies; availability of public and private utilities and services; legal description of the site, etc.)

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North High School Additions, Renovations and CTE Center Program. Project 1 consists of additions and renovations and other construction for a new CTE space, new electrical room and new auxiliary gym.

§ 1.1.3 The Owner's budget for the Cost of the Work, as defined in Section 6.1:
(Provide total and, if known, a line item breakdown.)

$24,150,000

§ 1.1.4 The Owner's anticipated design and construction milestone dates:

.1 Design phase milestone dates, if any:

May 27, 2022

.2 Construction commencement date:

August 2022

.3 Substantial Completion date or dates:

December 2023

.4 Other milestone dates:

§ 1.1.5 The Owner intends the following procurement method for the Project:
(Identify method such as competitive bid or negotiated contract.)

Competitive public bidding pursuant to the Minnesota Uniform Municipal Contracting Act, Minnesota Statutes, Section 471.345 and 123B.52 ("Public Bidding"), with single prime contractor

§ 1.1.6 The Owner's requirements for accelerated or fast-track design and construction, multiple bid packages, or phased construction are set forth below:
(Identify any requirements for fast-track scheduling or phased construction and, if applicable, list number and type of bid/procurement packages.)

As set forth in Exhibit B Project Charter

§ 1.1.7 The Owner's anticipated Sustainable Objective for the Project:
(Identify and describe the Owner's Sustainable Objective for the Project, if any.)

As set forth in Exhibit B Project Charter

§ 1.1.7.1 If the Owner identifies a Sustainable Objective, the Owner and Construction Manager shall complete and incorporate AIA Document E235™–2019, Sustainable Projects Exhibit, Construction Manager as Adviser Edition, into this Agreement to define the terms, conditions and services related to the Owner's Sustainable Objective. If E235–2019 is incorporated into this Agreement, the Owner and Construction Manager shall incorporate the completed E235–2019 into the agreements with the consultants and contractors performing services or Work in any way associated with the Sustainable Objective.

§ 1.1.8 Other Project information:
(Identify special characteristics or needs of the Project not provided elsewhere.)

As set forth in Exhibit B Project Charter. If the services covered by this Agreement for Project No. 1 have not been completed within nineteen (19) months of the date of this Agreement, through no fault of the Construction Manager, extension of the Construction Manager's services beyond that time shall be compensated as Additional Services. The timeline for services for subsequent Projects shall be set forth in the amendments per Section 1.1.

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§ 1.1.9 The Owner identifies the following representative in accordance with Section 5.5:
(List name, address, and other contact information.)

Curt Hartog, P.E.
Executive Director
Capital Planning, Construction & Maintenance (CPCM)
Minneapolis Public Schools
1250 West Broadway
Minneapolis, MN 55411

§ 1.1.10 The persons or entities, in addition to the Owner's representative, who are required to review the Construction Manager's submittals to the Owner are as follows:
(List name, address, and other contact information.)

§ 1.1.11 The Owner shall retain the following consultants and Contractors: Defined in Exhibit B Project Charter
(List name, legal status, address, and other contact information.)

.1 Land Surveyor:

.2 Geotechnical Engineer:

.3 Civil Engineer:

.4 Contractors, as defined in Section 1.4:

.5 Separate Contractors, as defined in Section 1.4:

.6 Other, if any:
(List any other consultants retained by the Owner.)

§ 1.1.12 The Construction Manager identifies the following representative in accordance with Section 2.5:

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(List name, address, and other contact information.)

Shane Butler, Construction Executive
Kraus Anderson Construction Company
501 South Eighth Street
Minneapolis, MN 55404

shane.butler@krausanderson.com

§ 1.1.13 The Construction Manager's staffing plan as required under Section 3.3.3 shall include:
(List any specific requirements and personnel to be included in the staffing plan, if known.)

Project managers and site superintendents

§ 1.1.14 The Construction Manager's consultants retained under Basic Services, if any:
(List name, legal status, address, and other contact information of any consultants.)

None

§ 1.1.15 The Construction Manager's consultants retained under Supplemental Services:

None

§ 1.1.16 Other Initial Information on which this Agreement is based:

As defined in Exhibit B Project Charter

§ 1.2 The Owner and Construction Manager may rely on the Initial Information. Both parties, however, recognize that the Initial Information may materially change and, in that event, the Owner and the Construction Manager shall by appropriate written agreement adjust the Construction Manager's services, schedule for the Construction Manager's services, and the Construction Manager's compensation. The Owner shall adjust the Owner's budget for the Cost of the Work and the Owner's anticipated design and construction milestones, as necessary, to accommodate material changes in the Initial Information. All such adjustments shall be proposed and made in writing and shall be signed by the authorized representatives of the Owner and Construction Manager in order to be a binding change to the terms of this Agreement.

§ 1.3 The parties shall agree upon protocols governing the transmission and use of Instruments of Service or any other information or documentation in digital form. The parties may use AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, to establish the protocols for the development, use, transmission, and exchange of digital data.

§ 1.3.1 Any use of, or reliance on, all or a portion of a building information model without agreement to protocols governing the use of, and reliance on, the information contained in the, shall be at the using or relying party's sole risk and without liability to the other party and its contractors or consultants, the authors of, or contributors to, the building information model, and each of their agents and employees.

§ 1.4 The term "Contractors" refers to persons or entities who perform Work under contracts with the Owner that are administered by the Construction Manager and Architect. The term "Contractors" is used to refer to such persons or entities, whether singular or plural. The term does not include the Owner's own forces, or Separate Contractors, which are persons or entities who perform construction under separate contracts with the Owner not administered by the Construction Manager and Architect.

ARTICLE 2 CONSTRUCTION MANAGER'S RESPONSIBILITIES

§ 2.1 The Construction Manager shall provide the services as set forth in this Agreement.

§ 2.2 The Construction Manager shall perform its services consistent with the skill and care provided by experienced construction managers practicing in the same or similar locality under the same or similar circumstances. The

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Construction Manager shall perform its services as expeditiously as is consistent with such skill and care and the orderly progress of the Project.

§ 2.3 The Construction Manager shall provide its services in conjunction with the services of an Architect as described in AIA Document A232-2019 General Conditions of the Contract for Construction, Construction Manager as Advisor Edition, as modified.. The Construction Manager shall not be responsible for actions taken by the Architect.

§ 2.4 The Construction Manager shall coordinate its services with those services provided by the Owner, the Architect, the Contractors, and the Owner's other consultants and Separate Contractors. The Construction Manager shall be entitled to rely on, and shall not be responsible for, the accuracy and completeness of services and information furnished by the Owner, the Architect, and the Owner's other consultants and Separate Contractors. The Construction Manager shall provide prompt written notice to the Owner if the Construction Manager becomes aware of any error, omission, or inconsistency in such services or information.

§ 2.5 The Construction Manager shall identify a representative authorized to act on behalf of the Construction Manager with respect to the Project.

§ 2.6 The Construction Manager, as soon as practicable after execution of the Agreement, shall notify the Owner in writing of the names and qualifications of its proposed key staff members. Within 14 days of receipt of the names and qualifications of the Construction Manager's proposed key staff members, the Owner may reply to the Construction Manager in writing, stating (1) whether the Owner has reasonable objection to a proposed key staff member or (2) that the Owner requires additional time to review. Failure of the Owner to reply within the 14-day period shall constitute notice of no reasonable objection. The Construction Manager shall not staff any employees on the Project to whom the Owner has made reasonable and timely objection. The Construction Manager shall not change its key staff members without the Owner's consent, which shall not be unreasonably withheld or delayed.

§ 2.7 Except with the Owner's knowledge and consent, the Construction Manager shall not engage in any activity, or accept any employment, interest or contribution that would reasonably appear to compromise the Construction Manager's judgment with respect to this Project.

§ 2.8 The Construction Manager shall maintain insurance pursuant to the requirements set forth in Exhibit C Owner Insurance.

(Paragraphs deleted)

§ 2.9 The Construction Manager shall assist the Owner, Architect, and other Project participants in establishing building information modeling and digital data protocols for the Project using AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, to establish the protocols for the development, use, transmission, and exchange of digital data.

§ 2.10 If a centralized electronic document management system will be used on the Project, the Construction Manager shall be , responsible for managing and maintaining the centralized electronic document management system.
(*List any items to be included that are not listed in Article 3 of E203-2013.)*

None

§ 2.11 The Construction Manager shall retain all Project related documents and information it receives, and the Owner and Architect shall have access to the documents and information. The Construction Manager shall transmit the documents and information to the Owner at final completion.

ARTICLE 3 SCOPE OF CONSTRUCTION MANAGER'S BASIC SERVICES

§ 3.1 Definition

The Construction Manager's Basic Services consist of those described in this Article 3, and include monitoring, reviewing and reporting on the following usual and customary Preconstruction and Construction Phase Services. Services not set forth in this Article 3 are Supplemental or Additional Services. The Owner, Construction Manager, and Contractors may agree, in consultation with the Architect, for the Construction Phase to commence prior to completion of the Preconstruction Phase, in which case, both phases will proceed concurrently.

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§ 3.2 Preconstruction Phase

§ 3.2.1 The Construction Manager shall review the program furnished by the Owner and any evaluation of the Owner's program provided by the Architect, to ascertain the requirements of the Project and shall arrive at a mutual understanding of such requirements with the Owner and Architect.

§ 3.2.2 The Construction Manager shall provide a preliminary evaluation of the Owner's program, schedule and construction budget requirements, each in terms of the other.

§ 3.2.3 The Construction Manager shall prepare, and deliver to the Owner, for the Owner's approval, a written Construction Management Plan that includes, at a minimum, the following: (1) preliminary evaluations required in Section 3.2.2, (2) a Project schedule, (3) cost estimates, (4) construction phasing recommendations and (5) Contractors' scopes of Work. The Construction Manager shall periodically update the Construction Management Plan, for the Owner's approval, over the course of the Project.

§ 3.2.4 The Construction Manager shall prepare and periodically update the Project schedule included in the Construction Management Plan for the Architect's review and the Owner's acceptance. The Construction Manager shall obtain the Architect's approval for the portion of the Project schedule relating to the performance of the Architect's services. The Project schedule shall coordinate and integrate the Construction Manager's services, the Architect's services, other Owner consultants' services, and the Owner's responsibilities and highlight items that affect the Project's timely completion.

§ 3.2.5 The Construction Manager shall update the Project schedule to include the components of the Work, including phasing of construction, times of commencement and completion required of each Contractor, ordering and delivery of products, including those that must be ordered in advance of construction, obtaining the required reviews and approvals of authorities having jurisdiction over the Project, and the occupancy requirements of the Owner.

§ 3.2.6 Based on the preliminary design and information prepared or provided by the Architect and other Owner consultants, the Construction Manager shall prepare, for the Architect's review and Owner's approval, preliminary estimates of the Cost of the Work or the cost of program requirements using area, volume or similar conceptual estimating techniques, including the establishment of sufficient contingency to reasonably anticipate the development of the Project's design documents.

§ 3.2.7 The Construction Manager shall review design documents during their development and advise the Owner and Architect on proposed site use and improvements, selection of materials, building systems, and equipment. The Construction Manager shall also provide recommendations to the Owner and Architect, consistent with the Project requirements, on constructability; availability of materials and labor; sequencing for phased construction; time requirements for procurement, installation and construction; and factors related to construction cost including, but not limited to, costs of alternative designs or materials, preliminary budgets, life-cycle data, and possible cost reductions.

§ 3.2.8 The Construction Manager shall review recommendations for systems, materials, or equipment for the impact upon cost, schedule, sequencing, constructability, and coordination among the Contractors. The Construction Manager shall discuss its findings with the Owner and the Architect, and coordinate resolution, as necessary, of any such impacts.

§ 3.2.9 As the Architect progresses with the preparation of the Schematic Design, Design Development and Construction Documents, the Construction Manager shall cause to be prepared and updated estimates of the Cost of the Work with increasing detail and refinement. The Construction Manager shall include in the estimate those costs to allow for further development of the design, bidding or negotiating, price escalation, and market conditions. The estimate shall be provided for the Architect's review and the Owner's approval. The Construction Manager shall inform the Owner and Architect in the event that the estimate of Cost of the Work exceeds the latest approved Project budget, and consult with Owner and Architect concerning potential corrective actions that might be implemented.

§ 3.2.10 As the Architect progresses with the preparation of the Schematic Design, Design Development and Construction Documents, the Construction Manager shall consult with the Owner and Architect and make recommendations whenever the Construction Manager determines that the design, or details, adversely affect cost, scope, schedule, constructability, or quality of the Project.

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§ 3.2.11 The Construction Manager shall provide recommendations and information to the Owner and Architect regarding the assignment of responsibilities for temporary Project facilities and equipment, materials and services for common use of the Contractors. The Construction Manager shall verify that such requirements and assignment of responsibilities are included in the proposed Contract Documents.

§ 3.2.12 The Construction Manager shall provide recommendations and information to the Owner regarding the allocation of responsibilities for safety programs among the Contractors.

§ 3.2.13 The Construction Manager shall provide recommendations to the Owner on the division of the Project into individual contracts for the construction of various categories of Work, including the method to be used for selecting Contractors and awarding Contracts for Construction. The Construction Manager shall review the Drawings and Specifications and make recommendations as required to provide that (1) the Work of the Contractors is coordinated, (2) all requirements for the Project are assigned to the appropriate Contract, (3) the likelihood of jurisdictional disputes is minimized, and (4) proper coordination is provided for phased construction.

§ 3.2.14 The Construction Manager shall make recommendations about, and coordinate the ordering and delivery of, materials in support of the schedule, including those that must be ordered in advance of construction.

§ 3.2.15 The Construction Manager shall assist the Owner in selecting, retaining, and coordinating the professional services of surveyors, geotechnical engineers, special consultants, and construction materials testing required for the Project.

§ 3.2.16 The Construction Manager shall provide an analysis of the types and quantities of labor required for the Project and review the availability of appropriate categories of labor required for critical phases. The Construction Manager shall make recommendations for actions designed to minimize adverse effects of labor shortages.

§ 3.2.17 The Construction Manager shall assist the Owner in obtaining information regarding applicable requirements for equal employment opportunity programs, and other programs as may be required by governmental and quasi-governmental authorities for inclusion in the Contract Documents.

§ 3.2.18 Following the Owner's approval of the Drawings and Specifications, the Construction Manager shall update and submit the latest estimate of the Cost of the Work and the Project schedule for the Architect's review and the Owner's approval.

§ 3.2.19 The Construction Manager, in consultation with the Owner, shall develop bidders' interest in the Project and establish bidding schedules. The Construction Manager shall assist the Owner and the Architect with the development of the Bidding Documents, which consist of bidding requirements and proposed Contract Documents. The Construction Manager, with the assistance of the Architect, shall issue Bidding Documents in accordance with applicable public bidding requirements. The Construction Manager shall conduct pre-bid conferences with prospective bidders. The Construction Manager shall issue the current Project schedule with each set of Bidding Documents. The Construction Manager shall assist the Architect with regard to questions from bidders and with the issuance of addenda.

(Paragraph deleted)
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§ 3.2.21 The Construction Manager, with the assistance of the Architect, shall review bids, and prepare bid analyses, and make recommendations to the Owner for the Owner's award of Contracts for Construction or rejection of bids. The Owner shall receive bids. If requested by the Owner, the Construction Manager shall assist in advertising the Project for public competitive bids, assist in evaluating responsiveness of bids to the bid requirements, and assist the Owner in the investigation and determinations of bidder responsibility and other compliance requirements as may be required under the competitive bidding laws.

§ 3.2.22 The Construction Manager, with the assistance of the Architect, shall assist the Owner in preparing Contracts for Construction. The Construction Manager shall advise the Owner on the acceptability of Subcontractors and

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material suppliers proposed by Contractors. The Owner will review and approve contracts consistent with Owner's approval process.

§ 3.2.23 The Construction Manager shall obtain on behalf of the Owner building permits and special permits for permanent improvements, except for permits required to be obtained directly by the Contractors. The Construction Manager shall verify that the Owner has paid applicable fees and assessments. The Construction Manager shall assist the Owner and Architect in connection with the Owner's responsibility for filing documents required for the approvals of governmental authorities having jurisdiction over the Project.

The Construction Manager shall timely communicate in writing with Owner, architect, bidders, consultants during the Preconstruction Phase of the Project.

If requested by the Owner, the Construction Manager shall timely assist the Owner with any desired tax-exempt purchasing activities on the Project.

§ 3.2.24 If the Owner identified a Sustainable Objective in Article 1, the Construction Manager shall fulfill its Preconstruction Phase responsibilities per the agreed upon terms, conditions and services related to the Owner's Sustainable Objectives.

§ 3.3 Construction Phase

§ 3.3.1 The Construction Manager shall provide on-site administration of the Contracts for Construction in cooperation with the Architect as set forth below and in AIA Document A232™–2019, General Conditions of the Contract for Construction, Construction Manager as Adviser Edition. If the Owner and Contractor modify AIA Document A232–2019, those modifications shall not affect the Construction Manager's services under this Agreement unless the Owner and the Construction Manager amend this Agreement.

§ 3.3.2 Subject to Section 4.2 and except as provided in Section 3.3.30, the Construction Manager's responsibility to provide Construction Phase Services commences with the award of the first Contract for Construction and terminates on the date the Architect issues the final Certificate for Payment for the last outstanding Contract for Construction.

§ 3.3.3 The Construction Manager shall provide a staffing plan to include one or more representatives who shall be in attendance at the Project site whenever the Work is being performed.

§ 3.3.4 The Construction Manager shall provide administrative, management and related services to coordinate scheduled activities and responsibilities of the Contractors with each other and with those of the Construction Manager, the Owner and the Architect. The Construction Manager shall coordinate the activities of the Contractors in accordance with the latest approved Project schedule and the Contract Documents. Construction Manager shall certify that all prime Contractors have executed contracts with the Owner before such Prime Contractors are allowed on-site to perform work.

§ 3.3.5 The Construction Manager shall review and analyze the construction schedules provided by the Contractors to update the Project schedule, incorporating the activities of the Owner, Architect, and Contractors on the Project, including activity sequences and durations, allocation of labor and materials, processing of Shop Drawings, Product Data and Samples, and delivery and procurement of products, including those that must be ordered in advance of construction. The Project schedule shall include the Owner's occupancy requirements showing portions of the Project having occupancy priority. The Construction Manager shall update and reissue the Project schedule as required to show current conditions. If an update indicates that the previously approved Project schedule may not be met, the Construction Manager shall recommend corrective action to the Owner and Architect.

§ 3.3.6 The Construction Manager shall schedule, attend and conduct meetings to discuss matters such as procedures, progress, coordination, and scheduling of the Work, and to develop solutions to issues identified. The Construction Manager shall prepare and promptly distribute minutes to the Owner, Architect and Contractors.

§ 3.3.7 In accordance with the Contract Documents and the latest approved Project schedule, and utilizing information from the Contractors, the Construction Manager shall review, analyze, schedule and coordinate the overall sequence of construction and assignment of space in areas where the Contractors are performing Work.

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§ 3.3.8 The Construction Manager shall coordinate all tests and inspections required by the Contract Documents or governmental authorities, observe the on-site testing and inspections, and arrange for the delivery of test and inspection reports to the Owner and Architect.

§ 3.3.9 The Construction Manager shall endeavor to obtain satisfactory performance from each of the Contractors. The Construction Manager shall recommend courses of action to the Owner when requirements of a Contract are not being fulfilled.

§ 3.3.10 The Construction Manager shall monitor and evaluate actual costs for activities in progress and estimates for uncompleted tasks and advise the Owner and Architect as to variances between actual costs and budgeted or estimated costs. If a Contractor is required to submit a Control Estimate, the Construction Manager shall meet with the Owner and Contractor to review the Control Estimate. The Construction Manager shall promptly notify the Contractor if there are any inconsistencies or inaccuracies in the information presented. The Construction Manager shall also report the Contractor's cost control information to the Owner.

§ 3.3.11 The Construction Manager shall develop cash flow reports and forecasts for the Project and include them in the Construction Manager's progress reports.

§ 3.3.12 The Construction Manager shall maintain accounting records on authorized Work performed under unit costs, additional Work performed on the basis of actual costs of labor and materials, and other Work requiring accounting records.

§ 3.3.12.1 The Construction Manager shall consult with the Owner and Architect to develop and implement procedures for the review and processing of Applications for Payment by Contractors for progress and final payments, including any Owner requirements for prompt payment to Contractors, consistent with the Prompt Payment of Local Government Bills, Minnesota Statutes, Section 471.425 ("Prompt Payment Act").

§ 3.3.12.2 Not more frequently than monthly, the Construction Manager shall review and certify the amounts due the respective Contractors as follows:

.1 Where there is only one Contractor responsible for performing the Work, the Construction Manager shall, within seven days after the Construction Manager receives the Contractor's Application for Payment, review the Application, certify the amount the Construction Manager determines is due the Contractor, and forward the Contractor's Application and Certificate for Payment to the Architect.

.2 Where there is more than one Contractor responsible for performing different portions of the Project, the Construction Manager shall, within seven days after the Construction Manager receives each Contractor's Application for Payment: (1) review the Applications and certify the amount the Construction Manager determines is due each Contractor; (2) prepare a Summary of Contractors' Applications for Payment by summarizing information from each Contractor's Application for Payment; (3) prepare a Project Application and Certificate for Payment; (4) certify the total amount the Construction Manager determines is due all Contractors collectively; and (5) forward the Summary of Contractors' Applications for Payment and Project Application and Certificate for Payment to the Architect.

§ 3.3.12.3 The Construction Manager's certification for payment shall constitute a representation to the Owner, based on the Construction Manager's evaluations of the Work and on the data comprising the Contractors' Applications for Payment, that, to the best of the Construction Manager's knowledge, information and belief, the Work has progressed to the point indicated, the quality of the Work is in accordance with the Contract Documents, and the Contractors are entitled to payment in the amount certified. The foregoing representations are subject to (1) an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion; (2) results of subsequent tests and inspections; (3) correction of minor deviations from the Contract Documents prior to completion; and (4) specific qualifications expressed by the Construction Manager. The issuance of a Certificate for Payment shall further constitute a recommendation to the Architect and Owner that the Contractor be paid the amount certified.

§ 3.3.12.4 The certification of an Application for Payment or a Project Application for Payment by the Construction Manager shall not be a representation that the Construction Manager has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work; (2) reviewed construction means, methods, techniques, procedures, or sequences for a Contractor's own Work; (3) reviewed copies of requisitions received from

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Subcontractors and suppliers and other data requested by the Owner to substantiate each Contractor's right to payment; or (4) ascertained how or for what purpose that Contractor has used money previously paid on account of the Contract Sum. The certification of an Application for Payment shall constitute the Construction Manager's representation to the Owner that the Construction Manager has reported to the Owner and the Architect all deviations from the Contract Documents that the Construction Manager has observed pursuant to its obligations under this Section and Section 3.3.12.4 or has been reported to the Construction Manager as of the date of the certification.

§ 3.3.13 The Construction Manager shall obtain and review the safety programs developed by each Contractor solely and exclusively for purposes of coordinating the safety programs with those of the other Contractors and for making recommendations for any additional safety measures to be considered in the Work of the Contractors. The Construction Manager's responsibilities for coordination of safety programs shall not extend to direct control over or charge of the acts or omissions of the Contractors, Subcontractors, agents or employees of the Contractors or Subcontractors, or any other persons performing portions of the Work and not directly employed by the Construction Manager.

§ 3.3.14 The Construction Manager shall determine in general that the Work of each Contractor is being performed in accordance with the requirements of the Contract Documents and notify the Owner, Contractor and Architect of defects and deficiencies in the Work. The Construction Manager shall have the authority to reject Work that does not conform to the Contract Documents and shall notify the Architect about the rejection. The failure of the Construction Manager to reject Work shall not constitute acceptance of the Work. The Construction Manager shall record any rejection of Work in its daily log and include information regarding the rejected Work in its progress reports to the Architect and Owner pursuant to Section 3.3.22.1. Upon written authorization from the Owner, the Construction Manager may require and make arrangements for additional inspection or testing of the Work in accordance with the provisions of the Contract Documents, whether or not the Work is fabricated, installed or completed, and the Construction Manager shall give timely notice to the Architect of when and where the tests and inspections are to be made so that the Architect may be present for such procedures.

§ 3.3.15 The Construction Manager shall advise and consult with the Owner and Architect during the performance of its Construction Phase Services. The Construction Manager shall have authority to act on behalf of the Owner only to the extent provided in this Agreement. The Construction Manager shall not have control over, charge of, or responsibility for the construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work of each of the Contractors, since these are solely the Contractor's rights and responsibilities under the Contract Documents. The Construction Manager shall not be responsible for a Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The Construction Manager shall be responsible to the Owner for the Construction Manager's negligent acts or omissions, but shall not have control over or charge of, and shall not be responsible for, acts or omissions of the Contractors, Subcontractors, or their agents or employees, or any other persons or entities performing portions of the Work. Subject to Section 3.3.14, nothing in this section is intended to limit the Construction Manager's duty to report to the Owner and the Architect all defects in the Work or deviations from the Contract Documents that have been observed by or reported to the Construction Manager. Subject to Section 3.3.14, nothing in this section is intended, or shall be construed to, negate or limit the Construction Manager's duties to the Owner in Section 2.2.

§ 3.3.16 The Construction Manager shall transmit to the Architect requests for interpretations, and requests for information of the meaning and intent of the Drawings and Specifications and provide its written opinion on matters within Construction Manager's purview, including constructability, phasing, scheduling, and cost. The Construction Manager shall assist in the resolution of questions that may arise.

§ 3.3.17 The Construction Manager shall review requests for changes, assist in negotiating Contractors' proposals, submit recommendations to the Architect and Owner, and, if the proposed changes are accepted or required by the Owner, prepare Change Orders or Construction Change Directives that incorporate the Architect's modifications to the Contract Documents.

§ 3.3.18 The Construction Manager shall assist the Initial Decision Maker in the review, evaluation and documentation of Claims, such assistance in the initial review, evaluation, and documentation of Claims shall be considered a Basic Service.

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§ 3.3.19 Utilizing the submittal schedules provided by each Contractor, the Construction Manager shall prepare, and revise as necessary, a Project submittal schedule incorporating information from the Owner, Owner's consultants, Owner's Separate Contractors and vendors, governmental agencies, and participants in the Project under the management of the Construction Manager. The Project submittal schedule and any revisions shall be submitted to the Architect for approval.

§ 3.3.20 The Construction Manager shall promptly review all Shop Drawings, Product Data, Samples, and other submittals from the Contractors for compliance with the submittal requirements of the Contract, coordinate submittals with information contained in related documents, and transmit to the Architect those that the Construction Manager recommends for approval. The Construction Manager's actions shall be taken in accordance with the Project submittal schedule approved by the Architect, or in the absence of an approved Project submittal schedule, with such reasonable promptness as to cause no delay in the Work or in the activities of the Contractors, the Owner, or the Architect.

§ 3.3.20.1 If professional design services or certifications by a design professional related to systems, materials, or equipment are specifically required of the Contractors by the Contract Documents, the Construction Manager shall review those submittals for sequencing, constructability, and coordination impacts on the other Contractors. The Construction Manager shall discuss its findings with the Owner and the Architect, and assist the Owner and Architect with resolution, as necessary, of any such impacts.

§ 3.3.21 The Construction Manager shall keep a daily log containing a record of weather, each Contractor's Work on the site, number of workers, identification of equipment, Work accomplished, problems encountered, and other similar relevant data as the Owner may require.

§ 3.3.21.1 The Construction Manager shall collect, review for accuracy, and compile the Contractors' daily logs; and include them in the Construction Manager's reports prepared and submitted in accordance with section 3.3.21.2.

§ 3.3.21.2 The Construction Manager shall record the progress of the Project. On a monthly basis, or otherwise as agreed to by the Owner, the Construction Manager shall submit written progress reports to the Owner and Architect, showing percentages of completion and other information identified below:

- **.1** Work completed for the period;
- **.2** Project schedule status;
- **.3** Submittal schedule and status report, including a summary of remaining and outstanding submittals;
- **.4** Request for information, Change Order, and Construction Change Directive status reports;
- **.5** Tests and inspection reports;
- **.6** Status report of nonconforming and rejected Work;
- **.7** Daily logs;
- **.8** Summary of all Contractors' Applications for Payment;
- **.9** Cumulative total of the Cost of the Work to date including the Construction Manager's compensation and reimbursable expenses at the job site, if any;
- **.10** Cash-flow and forecast reports;
- **.11** Photographs to document the progress of the Project;
- **.12** Status reports on permits and approvals of authorities having jurisdiction; and
- **.13** Any other items the Owner may require:

(Paragraphs deleted)

§ 3.3.22 Utilizing the documents provided by the Contractors, the Construction Manager shall make available, at the Project site, the Contract Documents, including Change Orders, Construction Change Directives, and other Modifications, in good order and marked currently to indicate field changes and selections made during construction, and the approved Shop Drawings, Product Data, Samples, and similar required submittals. These shall be in electronic form or paper copy, available to the Owner, Architect, and Contractors. Upon completion of the Project, the Construction Manager shall deliver them to the Owner.

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§ 3.3.23 The Construction Manager shall arrange for the delivery, storage, protection and security of Owner-purchased materials, systems and equipment that are a part of the Project until such items are incorporated into the Work.

§ 3.3.24 With the Owner's maintenance personnel, the Construction Manager shall observe the Contractors' final testing and start-up of utilities, operational systems and equipment and observe any commissioning as the Contract Documents may require.

§ 3.3.25 When the Construction Manager considers each Contractor's Work or a designated portion thereof substantially complete, the Construction Manager shall, jointly with that Contractor, prepare for the Architect a list of incomplete or unsatisfactory items and a schedule for their completion. The Construction Manager shall assist the Architect in conducting inspections to determine whether the Work or designated portion thereof is substantially complete.

§ 3.3.26 When the Work of all of the Contractors, or designated portion thereof, is substantially complete, the Construction Manager shall prepare, and the Construction Manager and Architect shall execute, a Certificate of Substantial Completion. The Construction Manager shall submit the executed Certificate to the Owner and Contractors. The Construction Manager shall coordinate the correction and completion of the Work. Following issuance of a Certificate of Substantial Completion of the Work or a designated portion thereof, the Construction Manager shall perform an inspection to confirm the completion of the Work of the Contractors and make recommendations to the Architect when the Work of all of the Contractors is ready for final inspection. The Construction Manager shall assist the Architect in conducting the final inspection.

§ 3.3.27 The Construction Manager shall forward to the Owner, with a copy to the Architect, the following information received from the Contractors: (1) certificates of insurance ; (2) consent of surety or sureties, if any, to reduction in or partial release of retainage or the making of final payment; (3) affidavits, receipts, releases and waivers of liens or bonds indemnifying the Owner against liens; and (4) any other documentation required of the Contractors under the Contract Documents, including warranties and similar submittals.

§ 3.3.28 The Construction Manager shall coordinate receipt, and delivery to the Owner, of other items provided by the Contractors, such as keys, manuals, and record drawings. The Construction Manager shall forward to the Architect a final Project Application for Payment and Project Certificate for Payment, or a final Application for Payment and final Certificate for Payment, upon the Contractors' compliance with the requirements of the Contract Documents.

§ 3.3.29 Duties, responsibilities and limitations of authority of the Construction Manager as set forth in the Contract Documents shall not be restricted, modified or extended without written consent of the Owner and Construction Manager. Consent shall not be unreasonably withheld.

§ 3.3.30 Upon request of the Owner, and prior to the expiration of one year from the date of Substantial Completion, the Construction Manager shall, without additional compensation, conduct a meeting with the Owner and Architect to review the facility operations and performance.

ARTICLE 4 SUPPLEMENTAL AND ADDITIONAL SERVICES

§ 4.1 Supplemental Services

§ 4.1.1 The services as set forth in Exhibit B Project Charter are not included in Basic Services but may be required for the Project.

(Paragraphs deleted)

§ 4.1.2 Description of Supplemental Services

§ 4.1.2.1 A description of each Supplemental Service identified in Section 4.1.1 as the Construction Manager's responsibility is provided below.

(Describe in detail the Construction Manager's Supplemental Services identified in Section 4.1.1 or, if set forth in an exhibit, identify the exhibit.)

As set forth in Exhibit B Project Charter

§ 4.1.2.2 A description of each Supplemental Service identified in Section 4.1.1 as the Owner's responsibility is provided below.

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(Describe in detail the Owner's Supplemental Services identified in Section 4.1.1 or, if set forth in an exhibit, identify the exhibit.)

As set forth in Exhibit B Project Charter

§ 4.1.3 If the Owner identified a Sustainable Objective in Article 1, the Construction Manager shall provide, as a Supplemental Service, the Sustainability Services per the agreed upon terms, conditions and services related to the Owner's Sustainable Objective. The Owner shall compensate the Construction Manager as provided in Section 11.2.

§ 4.2 Construction Manager's Additional Services

§ 4.2.1 With prior written notice to the Owner, the Construction Manager may provide Additional Services after execution of this Agreement, without invalidating this Agreement.. In the event that Construction Manager believes that it may be required to perform any Additional Services, it shall first notify Owner in writing of such services, with a quoted price for the same, and obtain advance written approval before performing the same. The Construction Manager's failure to obtain advance written approval for any Additional Services shall convert all such work as constituting a part of Construction Manager's Basic Services on the Project. This provision is a material part of the parties' agreement and is not subject to waiver. Any authorized Additional Services not made necessary by the fault of Construction Manager shall be paid as provided under Section 11.3.

§ 4.2.2 Upon recognizing the need to perform the following Additional Services, the Construction Manager shall notify the Owner as required in Section 4.2.1 and explain the facts and circumstances giving rise to the need. The Construction Manager shall not proceed to provide the following Additional Services until the Construction Manager receives the Owner's written authorization:

.1 Services necessitated by a change in the Initial Information, previous instructions or approvals given by the Owner, or a material change in the Project including size, quality, complexity, the Owner's schedule or budget for Cost of the Work, or procurement or delivery method, or bid packages in addition to those listed in Section 1.1.6. Services necessitated by sections 6.4 and 6.6 shall not be considered additional services;

.2 ;

.3 Services necessitated by decisions of the Owner not rendered in a timely manner or any other failure of performance on the part of the Owner or the Owner's other consultants or contractors;

.4 Preparation of documentation for alternate bid or proposal requests proposed by the Owner;

.5 Preparation for, and attendance at, a public presentation, meeting or hearing;

.6 Preparation for, and attendance at, a dispute resolution proceeding or legal proceeding, except where the Construction Manager is party thereto;

.7 Consultation concerning replacement of Work resulting from fire or other cause during construction and furnishing services required in connection with the replacement of such Work; or

.8 Assistance to the Initial Decision Maker.

The first cumulative twenty (20) hours of any work required under .4, .5, or .7 above shall be provided as Basic Services and thereafter, with advance written approval from the Owner, shall constitute Additional Services.

(Paragraphs deleted)

§ 4.2.4 Except for services required under Section 3.3.30, Construction Phase Services provided more than 60 days after (1) the date of Substantial Completion of the Work, or (2) the anticipated date of Substantial Completion identified in the Initial Information, whichever is earlier, shall be compensated as Additional Services to the extent the Construction Manager incurs additional cost in providing those Construction Phase Services.

(Paragraph deleted)

ARTICLE 5 OWNER'S RESPONSIBILITIES

§ 5.1 Unless otherwise provided for under this Agreement, the Owner shall provide information in a timely manner regarding requirements for and limitations on the Project, including a written program, which shall set forth the Owner's objectives; schedule; constraints and criteria; special equipment; systems; and site requirements.

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§ 5.2 The Owner shall establish the Owner's budget for the Project, including (1) the budget for the Cost of the Work as defined in Section 6.1; (2) the Owner's other costs; and (3) reasonable contingencies related to all of these costs. The Owner shall update the Owner's budget for the Project as necessary throughout the duration of the Project until final completion. If the Owner significantly increases or decreases the Owner's budget for the Cost of the Work, the Owner shall notify the Construction Manager and Architect. The Owner and the Architect, in consultation with the Construction Manager, shall thereafter agree to a corresponding change in the Project's scope and quality.

§ 5.3 The Owner acknowledges that accelerated, phased, or fast-track design and construction provides a benefit, but also carries with it the risk of additional costs. If the Owner selects accelerated, phased or fast-track scheduling, the Owner agrees to include in the budget for the Project sufficient contingencies to cover such costs.

§ 5.4 The Owner shall retain an Architect to provide services, duties and responsibilities as described in AIA Document B101-2017, Standard Form of Agreement Between Owner and Architect, as modified, and A232-2019 General Conditions, as modified for the Project. The Owner shall provide the Construction Manager with a copy of the scope of services in the agreement executed between the Owner and Architect, and any further modifications to the Architect's scope of services in the agreement.

§ 5.5 The Owner shall identify a representative authorized to act on the Owner's behalf with respect to the Project. Any decisions which impact the Cost of the Work must be made by Owner in accordance with Owner's Delegation of Authority policy, a copy of which will be provided to the Construction Manager upon request. The Owner's representative shall obtain any necessary approvals that exceed the Owner's representative's authority prior to communicating any decision to the Construction Manager. The Owner shall render decisions pertaining to documents the Construction Manager submits in a timely manner in order to avoid unreasonable delay in the orderly and sequential progress of the Construction Manager's services.

§ 5.6 Unless otherwise required by this Agreement to be provided by the Construction Manager, the Owner shall furnish surveys to describe physical characteristics, legal limitations and utility locations for the site of the Project, and a written legal description of the site. The surveys and legal information shall include, as applicable, grades and lines of streets, alleys, pavements and adjoining property and structures; designated wetlands; adjacent drainage; rights-of-way, restrictions, easements, encroachments, zoning, deed restrictions, boundaries, and contours of the site; locations, dimensions, and other necessary data with respect to existing buildings, other improvements and trees; and information concerning available utility services and lines, both public and private, above and below grade, including inverts and depths. All the information on the survey shall be referenced to a Project benchmark.

§ 5.7 Unless otherwise required by this Agreement to be provided by the Construction Manager, the Owner shall furnish services of geotechnical engineers, which may include test borings, test pits, determinations of soil bearing values, percolation tests, evaluations of hazardous materials, seismic evaluation, ground corrosion tests and resistivity tests, including necessary operations for anticipating subsoil conditions, with written reports and appropriate recommendations.

§ 5.8 The Owner shall provide the Supplemental Services designated as the Owner's responsibility in Section 4.1.1.

§ 5.9 If the Owner identified a Sustainable Objective in Article 1, the Owner shall fulfill its responsibilities as required in AIA Document E235™–2019, Sustainable Projects Exhibit, Construction Manager as Adviser Edition, attached to this Agreement.

§ 5.10 The Owner shall coordinate the services of its own consultants with those services provided by the Construction Manager. Upon the Construction Manager's request, the Owner shall furnish copies of the scope of services in the contracts between the Owner and the Owner's consultants. The Owner shall furnish the services of consultants other than those designated as the responsibility of the Construction Manager in this Agreement, or authorize the Construction Manager to furnish them as an Additional Service, when the Construction Manager requests such services and demonstrates that they are reasonably required by the scope of the Project. The Owner shall require that its consultants and contractors maintain insurance, including professional liability insurance, as appropriate to the services or work provided.

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§ 5.11 The Owner shall furnish tests, inspections and reports required by law or the Contract Documents, such as structural, mechanical, and chemical tests, tests for air and water pollution, and tests for hazardous materials.

§ 5.12 The Owner shall furnish all legal, insurance and accounting services, including auditing services, that may be reasonably necessary at any time for the Project to meet the Owner's needs and interests.

§ 5.13 The Owner shall provide prompt written notice to the Construction Manager and Architect if the Owner becomes aware of any fault or defect in the Project, including errors, omissions or inconsistencies in the Architect's Instruments of Service or any fault or defect in the Construction Manager's services.

§ 5.14 The Owner reserves the right to perform construction and operations related to the Project with the Owner's own forces, and to award contracts in connection with the Project which are not part of the Construction Manager's responsibilities under this Agreement. The Construction Manager shall notify the Owner if any such independent action will interfere with the Construction Manager's ability to perform the Construction Manager's responsibilities under this Agreement. When performing construction or operations related to the Project, the Owner agrees to be subject to the same obligations and to have the same rights as the Contractors.

§ 5.15 The Owner shall communicate with the Contractors and the Construction Manager's consultants through the Construction Manager about matters arising out of or relating to the Contract Documents. The Owner and Construction Manager shall include the Architect in all communications that relate to or affect the Architect's services or professional responsibilities. The Owner shall promptly notify the Architect of the substance of any direct communications between the Owner and the Construction Manager otherwise relating to the Project. Communications by and with the Architect's consultants shall be through the Architect.

§ 5.16 Before executing the Contracts for Construction, the Owner shall coordinate the Construction Manager's duties and responsibilities set forth in the Contracts for Construction with the Construction Manager's services set forth in this Agreement. The Owner shall provide the Construction Manager a copy of the executed agreements between the Owner and Contractors, including the General Conditions of the Contracts for Construction.

§ 5.17 The Owner shall provide the Construction Manager access to the Project site prior to commencement of the Work and shall obligate the Contractors to provide the Construction Manager access to the Work wherever it is in preparation or progress.

§ 5.18 Within 15 days after receipt of a written request from the Construction Manager, the Owner shall furnish the requested information as necessary and relevant for the Construction Manager to evaluate, give notice of, or enforce lien rights.

§ 5.19 The services, information, and reports provided by the Owner pursuant to this Article 5 shall be provided at the Owner's expense, and the Construction Manager shall be entitled to rely upon the accuracy and completeness thereof, subject to the standard of skill and care for professionals in the industry.

ARTICLE 6 COST OF THE WORK

§ 6.1 For purposes of this Agreement, the Cost of the Work shall be the total cost to the Owner to construct all elements of the Project designed or specified by the Architect and shall include the Contractors' general conditions costs, overhead and profit. The Cost of the Work also includes the reasonable value of labor, materials, and equipment, donated to, or otherwise furnished by, the Owner. The Cost of the Work does not include the compensation of the Construction Manager and Construction Manager's Consultants, including compensation for reimbursable expenses at the job site, if any. The Cost of the Work does not include the compensation of the Architect; the costs of the land, rights-of-way, financing, or contingencies for changes in the Work; or other costs that are the responsibility of the Owner.

§ 6.2 The Owner's budget for the Cost of the Work is provided in Initial Information, and shall be adjusted throughout the Project as required under Sections 5.2 and 6.4. Evaluations of the Owner's budget for the Cost of the Work, and the estimates of the Cost of the Work prepared by the Construction Manager, represent the Construction Manager's judgment as a person or entity familiar with the construction industry. It is recognized, however, that neither the Construction Manager nor the Owner has control over the cost of labor, materials; or equipment; the Contractors' methods of determining bid prices; or competitive bidding, market, or negotiating conditions. Accordingly, the

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Construction Manager cannot and does not warrant or represent that bids or negotiated prices will not vary from the Owner's budget for the Cost of the Work, or from any estimate of the Cost of the Work, or evaluation, prepared or agreed to by the Construction Manager.

§ 6.3 If the Architect is providing cost estimating services as a Supplemental Service, and a discrepancy exists between the Construction Manager's cost estimates and the Architect's cost estimates, the Construction Manager and the Architect shall work together to reconcile the cost estimates.

§ 6.4 If the Construction Manager's estimate of the Cost of the Work exceeds the Owner's budget for the Cost of the Work, the Construction Manager, in consultation with the Architect, shall make appropriate recommendations to the Owner to adjust the Project's size, quality, or budget for the Cost of the Work, and the Owner shall cooperate with the Construction Manager and Architect in making such adjustments.

§ 6.5 If the Construction Manager's estimate of the Cost of the Work exceeds the Owner's budget for the Cost of the Work, the Owner shall

.1 give written approval of an increase in the budget for the Cost of the Work;

.2 terminate in accordance with Section 9.5;

.3 in consultation with the Construction Manager and Architect, revise the Project program, scope, or quality as required to reduce the Cost of the Work; or

.4 implement any other mutually acceptable alternative.

§ 6.6 If the Owner chooses to revise the Project program, scope, or quality to reduce the Cost of the Work pursuant to Section 6.5.3, or if the bids or proposals received from the prospective Contractors, in the aggregate, exceed the Owner's budget for the Cost of the Work, and the Owner chooses to revise the Project program, scope, or quality to reduce the Cost of the Work , the Construction Manager shall cooperate with the Owner and Architect to develop the necessary revisions, update the cost estimate, and obtain additional bids. The Construction Manager will perform the services described in Sections 6.4 and 6.6 without additional compensation.

ARTICLE 7 COPYRIGHTS AND LICENSES

The Construction Manager and the Construction Manager's consultants, if any, shall not own or claim a copyright in the Instruments of Service. The Construction Manager, the Construction Manager's consultants, if any, and the Owner warrant that in transmitting Instruments of Service, or any other information, the transmitting party is the copyright owner of such information or has permission from the copyright owner to transmit such information for its use on the Project.

ARTICLE 8 CLAIMS AND DISPUTES

§ 8.1 General

§ 8.1.1 The Owner and Construction Manager shall commence all claims and causes of action against the other and arising out of or related to this Agreement, whether in contract, tort, or otherwise, in accordance with the requirements of the binding dispute resolution method selected in this Agreement and within the period specified by applicable law,. The Owner and Construction Manager waive all claims and causes of action not commenced in accordance with this Section 8.1.1.

(Paragraph deleted)

§ 8.1.3 The Construction Manager shall indemnify and hold the Owner and the Owner's officers and employees harmless from and against damages, losses and judgments arising from claims by third parties, including reasonable attorneys' fees and expenses recoverable under applicable law, but only to the extent they are caused by the negligent acts or omissions of the Construction Manager, its employees and its consultants in the performance of professional services under this Agreement. The Construction Manager's obligation to indemnify and hold the Owner and the Owner's officers and employees harmless does not include a duty to defend. The Construction Manager's duty to indemnify the Owner under this Section 8.1.3 shall be limited to the available proceeds of the insurance coverage required by this Agreement. . Construction Manager's indemnification obligation to Owner shall include deductibles under Owner's insurance coverage to extent claim was caused by the negligent acts or omissions of Construction Manager. All indemnification obligations shall survive termination, expiration or cancellation of this Contract. The Construction Manager agrees that it will at all times during the term of this contract keep in force policies of insurances required in Exhibit-C Owner Insurance. Nothing in this Contract shall be construed to waive any immunities or limitations to which Owner is entitled under Minnesota Statutes, Chapter 466.

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§ 8.1.4 The Construction Manager and Owner waive consequential damages for claims, disputes, or other matters in question, arising out of or relating to this Agreement. This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination of this Agreement, except as specifically provided in Section 9.7.

§ 8.2 Mediation

§ 8.2.1 Any claim, dispute or other matter in question arising out of or related to this Agreement shall be subject to mediation. If such matter relates to or is the subject of a lien arising out of the Construction Manager's services, the Construction Manager may proceed in accordance with applicable law to comply with the lien notice or filing deadlines prior to resolution of the matter by mediation or by binding dispute resolution. Mediation is not a condition precedent to commencing litigation. If litigation is commenced, the parties agree to mediate before any dispositive motion or trial.

(Paragraph deleted)

§ 8.2.3 The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

§ 8.2.4 If the parties do not resolve a dispute through mediation pursuant to this Section 8.2, the method of binding dispute resolution shall be the following:
(Check the appropriate box.)

[ ] Arbitration pursuant to Section 8.3 of this Agreement

[**X**] Litigation in a state or federal court of competent jurisdiction located in Hennepin County, Minnesota

[ ] Other: *(Specify)*

If the Owner and Construction Manager do not select a method of binding dispute resolution, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, the dispute will be resolved in a court of competent jurisdiction.

(Paragraphs deleted)

§ 8.4 The provisions of this Article 8 shall survive the termination of this Agreement.

ARTICLE 9 TERMINATION OR SUSPENSION

§ 9.1 Except for the amounts that are subject of a good faith dispute, if the Owner fails to make payments that are due to the Construction Manager, Construction Manager shall give Owner written notice of nonpayment, including the amount owed, and provide fourteen (14) days for the Owner to cure. If the Owner fails to cure the nonpayment following the fourteen (14) day cure period, then Construction Manager in accordance with this Agreement, such failure shall be considered substantial nonperformance and cause for termination or, at the Construction Manager's option, cause for suspension of performance of services under this Agreement. If the Construction Manager elects to suspend services, the Construction Manager shall give seven days' written notice to the Owner before suspending services. In the event of a suspension of services, the Construction Manager shall have no liability to the Owner for delay or damage caused the Owner because of such suspension of services. Before resuming services, the Owner shall pay the Construction Manager all sums due which are not subject of a good faith dispute prior to suspension and any expenses incurred in the interruption and resumption of the Construction Manager's services. The Construction Manager's fees for the remaining services and the time schedules shall be equitably adjusted.

§ 9.2 If the Owner suspends the Project, the Construction Manager shall be compensated for services performed timely and properly prior to notice of such suspension. When the Project is resumed, the Construction Manager shall

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be compensated for expenses incurred in the interruption and resumption of the Construction Manager's services. The Construction Manager's fees for the remaining services and the time schedules shall be equitably adjusted.

§ 9.3 If the Owner suspends the Project for more than 90 cumulative days for reasons other than the fault of the Construction Manager, the Construction Manager may terminate this Agreement by giving not less than seven days' written notice.

§ 9.4 Either party may terminate this Agreement upon not less than twenty-one (21) days' written notice should the other party fail substantially to perform in accordance with the terms of this Agreement through no fault of the party initiating the termination.

§ 9.5 The Owner may terminate this Agreement upon not less than twenty-one (21) days' written notice to the Construction Manager for the Owner's convenience and without cause.

§ 9.6 If the Owner terminates this Agreement for its convenience pursuant to Section 9.5, or the Construction Manager terminates this Agreement pursuant to Section 9.3, the Owner shall compensate the Construction Manager for services timely and properly performed prior to termination, Reimbursable Expenses incurred, and costs attributable to termination, including the costs attributable to the Construction Manager's termination of consultant agreements.

(Paragraphs deleted)

§ 9.8 Except as otherwise expressly provided herein, this Agreement shall terminate one year from the date of Substantial Completion.

ARTICLE 10 MISCELLANEOUS PROVISIONS

§ 10.1 This Agreement shall be governed by the law of the place where the Project is located, excluding that jurisdiction's choice of law rules.

§ 10.2 Terms in this Agreement shall have the same meaning as those in AIA Document A232–2019, General Conditions of the Contract for Construction, as modified, except for purposes of this Agreement, the term "Work" shall include the work of all Contractors under the administration of the Construction Manager and the Architect.

§ 10.3 The Owner and Construction Manager, respectively, bind themselves, their agents, successors, assigns, and legal representatives to this Agreement. Neither the Owner nor the Construction Manager shall assign this Agreement without the written consent of the other, except that the Owner may assign this Agreement to a lender providing financing for the Project if the lender agrees to assume the Owner's rights and obligations under this Agreement, including any payments due to the Construction Manager by the Owner prior to the assignment.

§ 10.4 If the Owner requests the Construction Manager to execute certificates, the proposed language of such certificates shall be submitted to the Construction Manager for review at least 14 days prior to the requested dates of execution. If the Owner requests the Construction Manager to execute consents reasonably required to facilitate assignment to a lender, the Construction Manager shall execute all such consents that are consistent with this Agreement, provided the proposed consent is submitted to the Construction Manager for review at least 14 days prior to execution. The Construction Manager shall not be required to execute certificates or consents that would require knowledge, services, or responsibilities beyond the scope of this Agreement.

§ 10.5 Nothing contained in this Agreement shall create a contractual relationship with, or a cause of action in favor of, a third party against either the Owner or Construction Manager.

§ 10.6 Unless otherwise required in this Agreement, the Construction Manager shall have no responsibility for the discovery, presence, handling, removal or disposal of, or exposure of persons to, hazardous materials or toxic substances in any form at the Project site.

(Paragraph deleted)

§ 10.7. The Owner prohibits Construction Manager from using the Work in any marketing material or business development practice. Construction Manager is prohibited from communication with any news outlet or public

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without Owner's written approval. Floor plans, designs, wiring, safety and security measures shall be kept confidential by the Construction Manager during and after completion of the Work. This Section 10.7 shall survive the termination of this Agreement unless the Owner terminates this Agreement for cause pursuant to Section 9.4.

§ 10.8 If the Construction Manager or Owner receives information specifically designated as "confidential" or "business proprietary," the receiving party shall keep such information strictly confidential and shall not disclose it to any other person except as set forth in Section 10.8.1. This Section 10.8 shall survive the termination of this Agreement. All Information related to this Agreement shall be governed by the Minnesota Government Data Practices Act, Minnesota Statutes, Chapter 13 ("MGDPA"), as applicable.

§ 10.8.1 The receiving party may disclose "confidential" or "business proprietary" information after 7 days' notice to the other party, when required by law, arbitrator's order, or court order, including a subpoena or other form of compulsory legal process issued by a court or governmental entity, or to the extent such information is reasonably necessary for the receiving party to defend itself in any dispute. The receiving party may also disclose such information to its employees, consultants, or contractors in order to perform services or work solely and exclusively for the Project, provided those employees, consultants and contractors are subject to the restrictions on the disclosure and use of such information as set forth in this Section 10.8.

§ 10.9 The invalidity of any provision of the Agreement shall not invalidate the Agreement or its remaining provisions. If it is determined that any provision of the Agreement violates any law, or is otherwise invalid or unenforceable, then that provision shall be revised to the extent necessary to make that provision legal and enforceable. In such case the Agreement shall be construed, to the fullest extent permitted by law, to give effect to the parties' intentions and purposes in executing the Agreement.

§ 10.10 If reasonably requested by the Owner during the Project, the Construction Manager shall promptly remove its Project Manager or Superintendent and assign new persons in such roles. Construction Manager shall have and maintain a consistent and continuing presence on the Project and at the Project site while work is being performed to document and monitor the Work.

§ 10.11 The Construction Manager agrees that time is of the essence for the Project.

§ 10.12 Data Practices. The Parties acknowledge that this Contract is subject to the applicable requirements of Minnesota's Government Data Practices Act (MGDPA), Minnesota Statutes, Section 13.01 et seq. The Construction Manager agrees to cooperate with the Owner with respect to the Owner's obligations to comply with the requirements of the MGDPA. Pursuant to Minnesota Statutes, Section 13.05, subd. 11, all of the data created, collected, received, stored, used, maintained, or disseminated by Construction Manager in performing this contract is subject to the applicable requirements of the MGDPA.

§ 10.13 Non-Discrimination. The provisions of any law or ordinance relating to civil rights and discrimination applicable to the services for which the Construction Manager is responsible under this Agreement shall be considered part of this Agreement as if fully set forth herein. Construction Manager certifies that it that is in compliance with applicable laws prohibiting discrimination as to all aspects of employment because of race, color, religion, gender, age, disability, sexual orientation or national origin, and that it is an equal opportunity employer.

§ 10.14 Modifications/Amendment. Any alterations, variations, modifications, amendments or waivers of the provisions of this Contract shall only be valid when they have been reduced to writing and signed by authorized representative of the Owner and the Construction Manager.

§ 10.15 Compliance with Laws. The Construction Manager shall comply with all Federal, State and local laws, statutes, ordinances, rules and regulations now in effect or hereinafter adopted to the extent applicable to the Construction Manager's performance of its services under this Agreement.

§ 10.16 No Waiver. Any Party's failure in any one or more instances to insist upon strict performance of any of the terms and conditions of this Contract or to exercise any right herein conferred shall not be construed as a waiver or relinquishment of that right or of that Party's right to assert or rely upon the terms and conditions of this Contract. Any express waiver of a term of this Contract shall not be binding and effective unless made in writing and properly executed by the waiving Party.

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§ 10.17 Severability. The invalidity or unenforceability of any provision of this Contract shall not affect the validity or enforceability of any other provision. Any invalid or unenforceable provision shall be deemed severed from this Contract to the extent of its invalidity or unenforceability, and this Contract shall be construed and enforced as if the Contract did not contain that particular provision to the extent of its invalidity or unenforceability.

§ 10.18 Survivability. All covenants, indemnities, guarantees, releases, representations and warranties by any Party or Parties, and any undischarged obligations of the Owner and The Construction Manager arising prior to the expiration of this Contract (whether by completion or earlier termination), shall survive such expiration.

ARTICLE 11 COMPENSATION

§ 11.1 For the Construction Manager's Basic Services described under Article 3, the Owner shall compensate the Construction Manager as follows:

§ 11.1.1 For Preconstruction Phase Services in Section 3.2:
(Insert amount of, or basis for, compensation, including stipulated sums, multiples or percentages.)

As set forth in Exhibit B Project Charter

§ 11.1.2 For Construction Phase Services in Section 3.3:
(Insert amount of, or basis for, compensation, including stipulated sums, multiples or percentages.)

As set forth in Exhibit B Project Charter

§ 11.2 For the Construction Manager's Supplemental Services designated in Section 4.1.1, and for any Sustainability Services required pursuant to Section 4.1.3, the Owner shall compensate the Construction Manager as follows:
(Insert amount of, or basis for, compensation. If necessary, list specific services to which particular methods of compensation apply.)

At the hourly rates set forth in Exhibit B Project Charter

§ 11.3 For Additional Services that may arise during the course of the Project, including those under Section 4.2, the Owner shall compensate the Construction Manager as follows:
(Insert amount of, or basis for, compensation.)

At the hourly rates set forth in Exhibit B Project Charter

(Table deleted)
(Paragraphs deleted)

§ 11.6 Compensation for Reimbursable Expenses

§ 11.6.1 Reimbursable Expenses are in addition to compensation for Basic, Supplemental, and Additional Services and include expenses incurred by the Construction Manager and the Construction Manager's consultants directly related to the Project, as follows:

- **.1** Transportation and authorized out-of-town travel and subsistence;
- **.2** Dedicated data and communication services, teleconferences, Project web sites, and extranets;
- **.3** Permitting and other fees required by authorities having jurisdiction over the Project;
- **.4** Printing, reproductions, plots, and standard form documents;
- **.5** Postage, handling, and delivery;
- **.6** Expense of overtime work requiring higher than regular rates, if authorized in advance by the Owner in writing;
- **.7** Professional photography, and presentation materials requested by the Owner;
- **.8** Expenditures approved by Owner pursuant to Section 3.3.21.2;
- **.9** All taxes levied on professional services and on reimbursable expenses;
- **.10** Reasonable site office expenses and on-site office supplies; and
- **.11** Other similar Project-related expenditures.

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§ 11.6.2 For Reimbursable Expenses the compensation shall be the expenses incurred by the Construction Manager and the Construction Manager's consultants plus zero percent (0 %) of the expenses incurred.

(Paragraphs deleted)

§ 11.8 Payments to the Construction Manager

§ 11.8.1 Initial Payment

§ 11.8.1.1 An initial payment of zero dollars ($ 0) shall be made upon execution of this Agreement and is the minimum payment under this Agreement. It shall be credited to the Owner's account in the final invoice.

§ 11.8.2 Progress Payments

§ 11.8.2.1 Unless otherwise agreed, invoices for services shall be made monthly in proportion to services performed. Payments are due and payablewithin thirty-five (35) days of presentation of the Construction Manager's valid and complete invoice , pursuant to the Prompt Payment Act, as it is applicable to payments made under this Agreement. Construction Manager's invoice shall breakdown, in detail, timekeeper, each timekeeper's hourly rate, date of service, total time expended per task, and a detailed description of the task(s) performed. Amounts unpaid thirty-five (35) days after the invoice date shall bear interest at the rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of the Construction Manager. Interest on unpaid amounts shall not accrue on any amounts that the Owner withholds in good faith based on a dispute over Construction Manager's services

(Insert rate of monthly or annual interest agreed upon.)

0 % zero percent

§ 11.8.2.2 The Owner shall not withhold amounts from the Construction Manager's compensation to impose a penalty or liquidated damages on the Construction Manager, or to offset sums requested by or paid to Contractors for the cost of changes in the Work, unless the Construction Manager agrees or has been found liable for the amounts in a binding dispute resolution proceeding. The Owner's right, if any, to offset sums due the Construction Manager shall be governed by applicable law, including, but not limited to the Prompt Payment Act. Interest on unpaid amounts shall not accrue on any amounts that the Owner withholds in good faith based on a dispute over Construction Manager's services

(Paragraph deleted)

§ 11.8.2. Pursuant to Minnesota Statutes, Section 16C.05, subd. 5, the books, records, documents, and accounting procedures and practices of the Construction Manager that are relevant to this Agreement are subject to examination by the Owner and either the Legislative Auditor or the State Auditor as appropriate for a minimum of six (6) years after the end of the Agreement. Construction Manager agrees to maintain books, documents, and records evidencing work performed for the Owner and amounts invoiced to and received from the Owner as compensation for such work. Upon written request of the Owner, or the Owner's auditors, Construction Manager shall provide copies of or access to such books, records, documents, and accounting procedures and practices. The Owner or the Owner's auditors will give Consultant reasonable notice in advance (but not less than ten (10) business days) of any such audit request.

ARTICLE 12 SPECIAL TERMS AND CONDITIONS

Special terms and conditions that modify this Agreement are as follows:
(Include other terms and conditions applicable to this Agreement.)

DOCUSIGN ELECTRONIC SIGNING SYSTEM. The Construction Manager has an agreement with DocuSign, Inc. ("DocuSign") with respect to the DocuSign electronic signing system (the "DocuSign System"). The DocuSign System may be used to facilitate the administration and execution of the Owner's Construction Contracts with the Multiple Prime Contractors, as well as various other Contract Documents requiring signatures. Should the Owner elect to have the Construction Manager use the DocuSign System with respect to any portion of the Project, the Owner acknowledges and agrees that (i) the Owner conducted its own independent investigation and evaluation as to all legal and other considerations related to its decision to use the DocuSign System on the Project, (ii) the Owner did not rely on any advice, recommendations or representations of the Construction Manager in making the Owner's independent determination to use the DocuSign System on the Project, (iii) the Construction Manager and DocuSign are not affiliated with each other and the Construction Manager does not warrant or guarantee any portion of the DocuSign

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System, (iv) the Construction Manager does not warrant or guarantee that the DocuSign system complies with or satisfies any legal requirements applicable to its use on the Project, and (v) the Owner waives all claims, causes of action, costs, expenses and damages (including reasonable attorney's fees) against the Construction Manager arising out of or resulting from the use of the DocuSign System on the Project.

ARTICLE 13 SCOPE OF THE AGREEMENT

§ 13.1 This Agreement represents the entire and integrated agreement between the Owner and the Construction Manager and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both the Owner and Construction Manager.

§ 13.2 This Agreement is comprised of the following documents identified below:

.1 AIA Document C132™–2019, Standard Form Agreement Between Owner and Construction Manager as Adviser, as modified

.2 AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, dated as indicated below:
(Insert the date of the E203-2013 incorporated into this Agreement.)

Not Applicable

.3 Exhibits:
(Check the appropriate box for any exhibits incorporated into this Agreement.)

[ ] AIA Document E235™–2019, Sustainable Projects Exhibit, Construction Manager as Adviser Edition, dated as indicated below:
(Insert the date of the E235-2019 incorporated into this agreement.)

[X] Other Exhibits incorporated into this Agreement:
(Clearly identify any other exhibits incorporated into this Agreement, including any exhibits identified in Section 4.1.2.)

Exhibit A – Not Applicable
Exhibit B Project Charter and Construction Manager's Compensation
Exhibit C Owners Insurance
Echibit D Project Schedule

.4 Other documents:
(List other documents, if any, forming part of the Agreement.)

None

This Agreement is entered into as of the day and year first written above.

CONSTRUCTION MANAGER *(Signature)*	**OWNER** *(Signature)*
H. John Huenink VP	Ibrahima Diop, Senior Financial & Operations Officer
(Printed name and title)	*(Printed name and title)*

Init.
/

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Additions and Deletions Report for
AIA® Document C132™ – 2019

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PAGE 1

AGREEMENT made as of the 31 day of May in the year 2022

...

Minneapolis Public Schools, Special School District No. 1
1250 West Broadway Avenue
Minneapolis, MN 55411

...

Kraus Anderson Construction Company
501 South 8th Street
Minneapolis, MN 55404

...

t
North High School Additions, Renovations and CTE Project
1500 James Avenue, Minneapolis, MN 55411

...

LSE Architects
100 Portland Avenue South, Suite 100
Minneapolis, MN 55401

PAGE 2

The Owner and the Construction Manager agree that this Agreement shall govern the North High School Additions and Renovations Program including the & CTE Center ("Owner's Program"), which shall consist of multiple independent Projects. In lieu of executing separate contracts for each Project, the Owner and the Construction Manager have agreed to execute one contract for the Owner's Program that can be applicable to each such Project. Therefore, the Owner and the Construction Manager agree that this Agreement will be used for multiple independent and discrete Projects, each of which is referred to as a "Project" for purposes of this Agreement. This Agreement shall govern the first Project in Owner's Program, Project No. 1, and the subsequent individual Projects shall be described in separate Amendments to this Agreement which shall be governed by this Agreement. Each individual Project Amendment shall provide a description of the Project, compensation terms, milestone and completion dates, and other project-specific items or modifications to this Agreement required for the individual Project. If an Amendment for a particular Project modifies or excludes any terms of this Agreement, such modification shall apply only to the Project for which such Amendment is applicable and shall not modify this Agreement with respect to any other Project governed by this Agreement.

PAGE 3

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North High School Additions, Renovations and CTE Center Program. Project 1 consists of additions and renovations and other construction for a new CTE space, new electrical room and new auxiliary gym.

...

$24,150,000

...

May 27, 2022

...

August 2022

...

December 2023

...

Competitive public bidding pursuant to the Minnesota Uniform Municipal Contracting Act, Minnesota Statutes, Section 471.345 and 123B.52 ("Public Bidding"), with single prime contractor

...

As set forth in Exhibit B Project Charter

...

As set forth in Exhibit B Project Charter

...

As set forth in Exhibit B Project Charter. If the services covered by this Agreement for Project No. 1 have not been completed within nineteen (19) months of the date of this Agreement, through no fault of the Construction Manager, extension of the Construction Manager's services beyond that time shall be compensated as Additional Services. The timeline for services for subsequent Projects shall be set forth in the amendments per Section 1.1.

PAGE 4

Curt Hartog, P.E.
Executive Director
Capital Planning, Construction & Maintenance (CPCM)
Minneapolis Public Schools
1250 West Broadway
Minneapolis, MN 55411

...

§ 1.1.11 The Owner shall retain the following consultants and Contractors: Defined in Exhibit B Project Charter

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Shane Butler, Construction Executive
Kraus Anderson Construction Company
501 South Eighth Street
Minneapolis, MN 55404

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...

shane.butler@krausanderson.com

...

Project managers and site superintendents

...

None

...

None

...

As defined in Exhibit B Project Charter

§ 1.2 The Owner and Construction Manager may rely on the Initial Information. Both parties, however, recognize that the Initial Information may materially change and, in that event, the Owner and the Construction Manager shall ~~appropriately~~ by appropriate written agreement adjust the Construction Manager's services, schedule for the Construction Manager's services, and the Construction Manager's compensation. The Owner shall adjust the Owner's budget for the Cost of the Work and the Owner's anticipated design and construction milestones, as necessary, to accommodate material changes in the Initial Information. All such adjustments shall be proposed and made in writing and shall be signed by the authorized representatives of the Owner and Construction Manager in order to be a binding change to the terms of this Agreement.

§ 1.3 The parties shall agree upon protocols governing the transmission and use of Instruments of Service or any other information or documentation in digital form. The parties ~~will~~ may use AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, to establish the protocols for the development, use, transmission, and exchange of digital data.

§ 1.3.1 Any use of, or reliance on, all or a portion of a building information model without agreement to protocols governing the use of, and reliance on, the information contained in ~~the model and without having those protocols set forth in AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, and the requisite AIA Document G202™–2013, Project Building Information Modeling Protocol Form,~~ the, shall be at the using or relying party's sole risk and without liability to the other party and its contractors or consultants, the authors of, or contributors to, the building information model, and each of their agents and employees.

...

§ 2.2 The Construction Manager shall perform its services consistent with the skill and care ~~ordinarily~~ provided by experienced construction managers practicing in the same or similar locality under the same or similar circumstances. The Construction Manager shall perform its services as expeditiously as is consistent with such skill and care and the orderly progress of the Project.

§ 2.3 The Construction Manager shall provide its services in conjunction with the services of an Architect as described in AIA Document ~~B132™–2019, Standard Form of Agreement Between Owner and Architect, Construction Manager as Adviser Edition.~~ A232-2019 General Conditions of the Contract for Construction, Construction Manager as Advisor Edition, as modified.. The Construction Manager shall not be responsible for actions taken by the Architect.

PAGE 6

§ 2.8 The Construction Manager shall maintain ~~the following insurance until termination of this Agreement. If any of the requirements set forth below are in addition to the types and limits the Construction Manager normally maintains,~~

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~~the Owner shall pay the Construction Manager as set forth in section 11.7.~~insurance pursuant to the requirements set forth in Exhibit C Owner Insurance.

~~**§ 2.8.1** Commercial General Liability with policy limits of not less than ($) for each occurrence and ($) in the aggregate for bodily injury and property damage.~~

~~**§ 2.8.2** Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Construction Manager with policy limits of not less than ($) per accident for bodily injury, death of any person, and property damage arising out of the ownership, maintenance and use of those motor vehicles, along with any other statutorily required automobile coverage.~~

~~**§ 2.8.3** The Construction Manager may achieve the required limits and coverage for Commercial General Liability and Automobile Liability through a combination of primary and excess or umbrella liability insurance, provided such primary and excess or umbrella liability insurance policies result in the same or greater coverage as the coverages required under Sections 2.8.1 and 2.8.2, and in no event shall any excess or umbrella liability insurance provide narrower coverage than the primary policy. The excess policy shall not require the exhaustion of the underlying limits only through the actual payment by the underlying insurers.~~

~~**§ 2.8.4** Workers' Compensation at statutory limits and Employers Liability with policy limits not less than ($) each accident, ($) each employee, and ($) policy limit.~~

~~**§ 2.8.5** Professional Liability covering negligent acts, errors and omissions in the performance of professional services with policy limits of not less than ($) per claim and ($) in the aggregate.~~

~~**§ 2.8.6 Additional Insured Obligations.** To the fullest extent permitted by law, the Construction Manager shall cause the primary and excess or umbrella polices for Commercial General Liability and Automobile Liability to include the Owner as an additional insured for claims caused in whole or in part by the Construction Manager's negligent acts or omissions. The additional insured coverage shall be primary and non-contributory to any of the Owner's insurance policies and shall apply to both ongoing and completed operations.~~

~~**§ 2.8.7** The Construction Manager shall provide certificates of insurance to the Owner that evidence compliance with the requirements in this Section 2.8.~~

§ 2.10 ~~A~~ If a centralized electronic document management system will be used on the Project, ~~and the Construction Manager shall be designated the Responsible Project Participant in section 3.5 of E203-2013,~~ the Construction Manager shall be , responsible for managing and maintaining the centralized electronic document management system. ~~The centralized electronic document management system shall include all items listed in Article 3 of E203, and the following:~~

...

None

...

The Construction Manager's Basic Services consist of those described in this Article 3, and include monitoring, reviewing and reporting on the following usual and customary Preconstruction and Construction Phase Services. Services not set forth in this Article 3 are Supplemental or Additional Services. The Owner, Construction Manager, and Contractors may agree, in consultation with the Architect, for the Construction Phase to commence prior to completion of the Preconstruction Phase, in which case, both phases will proceed concurrently.

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§ 3.2.3 The Construction Manager shall prepare, and deliver to the Owner, for the Owner's approval, a written Construction Management Plan that includes, at a minimum, the following: (1) preliminary evaluations required in Section 3.2.2, (2) a Project schedule, (3) cost estimates, (4) ~~recommendations for Project delivery method,~~

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construction phasing recommendations and (5) Contractors' scopes of Work. The Construction Manager shall periodically update the Construction Management Plan, for the Owner's approval, over the course of the Project.

...

§ 3.2.9 As the Architect progresses with the preparation of the Schematic Design, Design Development and Construction Documents, the Construction Manager shall ~~prepare and update, at appropriate intervals agreed to by the Owner, Construction Manager and Architect, an estimate~~ cause to be prepared and updated estimates of the Cost of the Work with increasing detail and refinement. The Construction Manager shall include in the estimate those costs to allow for further development of the design, bidding or negotiating, price escalation, and market conditions. The estimate shall be provided for the Architect's review and the Owner's approval. The Construction Manager shall inform the Owner and Architect in the event that the estimate of Cost of the Work exceeds the latest approved Project budget, and ~~make recommendations for corrective action.~~consult with Owner and Architect concerning potential corrective actions that might be implemented.

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§ 3.2.19 The Construction Manager, in consultation with the Owner, shall develop bidders' interest in the Project and establish bidding schedules. The Construction Manager shall assist the Owner and the Architect with the development of the Bidding Documents, which consist of bidding requirements and proposed Contract Documents. The Construction Manager, with the assistance of the Architect, shall issue Bidding Documents ~~to bidders and~~ in accordance with applicable public bidding requirements. The Construction Manager shall conduct pre-bid conferences with prospective bidders. The Construction Manager shall issue the current Project schedule with each set of Bidding Documents. The Construction Manager shall assist the Architect with regard to questions from bidders and with the issuance of addenda.

~~**§ 3.2.20** The Construction Manager shall submit a list of prospective bidders for the Architect's review and the Owner's approval.~~

§

§ 3.2.21 The Construction Manager, with the assistance of the Architect, shall review bids, and prepare bid analyses, and make recommendations to the Owner for the Owner's award of Contracts for Construction or rejection of bids. The Owner shall receive bids. If requested by the Owner, the Construction Manager shall assist in advertising the Project for public competitive bids, assist in evaluating responsiveness of bids to the bid requirements, and assist the Owner in the investigation and determinations of bidder responsibility and other compliance requirements as may be required under the competitive bidding laws.

§ 3.2.22 The Construction Manager, with the assistance of the Architect, shall assist the Owner in preparing Contracts for Construction. The Construction Manager shall advise the Owner on the acceptability of Subcontractors and material suppliers proposed by Contractors. The Owner will review and approve contracts consistent with Owner's approval process.

§ 3.2.23 The Construction Manager shall ~~assist~~ obtain on behalf of the Owner ~~in obtaining~~ building permits and special permits for permanent improvements, except for permits required to be obtained directly by the Contractors. The Construction Manager shall verify that the Owner has paid applicable fees and assessments. The Construction Manager shall assist the Owner and Architect in connection with the Owner's responsibility for filing documents required for the approvals of governmental authorities having jurisdiction over the Project.

The Construction Manager shall timely communicate in writing with Owner, architect, bidders, consultants during the Preconstruction Phase of the Project.

If requested by the Owner, the Construction Manager shall timely assist the Owner with any desired tax-exempt purchasing activities on the Project.

§ 3.2.24 If the Owner identified a Sustainable Objective in Article 1, the Construction Manager shall fulfill its Preconstruction Phase responsibilities ~~as required in AIA Document E235™–2019, Sustainable Projects Exhibit,~~

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~~Construction Manager as Adviser Edition, attached to this Agreement.~~per the agreed upon terms, conditions and services related to the Owner's Sustainable Objectives.

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§ 3.3.2 Subject to Section 4.2 and except as provided in Section 3.3.30, the Construction Manager's responsibility to provide Construction Phase Services commences with the award of the ~~initial~~ first Contract for Construction and terminates on the date the Architect issues the final Certificate ~~for Payment.~~for Payment for the last outstanding Contract for Construction.

...

§ 3.3.4 The Construction Manager shall provide administrative, management and related services to coordinate scheduled activities and responsibilities of the Contractors with each other and with those of the Construction Manager, the Owner and the Architect. The Construction Manager shall coordinate the activities of the Contractors in accordance with the latest approved Project schedule and the Contract Documents. Construction Manager shall certify that all prime Contractors have executed contracts with the Owner before such Prime Contractors are allowed on-site to perform work.

...

§ 3.3.6 The Construction Manager shall ~~schedule~~ schedule, attend and conduct meetings to discuss matters such as procedures, progress, coordination, and scheduling of the Work, and to develop solutions to issues identified. The Construction Manager shall prepare and promptly distribute minutes to the Owner, Architect and Contractors.

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§ 3.3.12.1 The Construction Manager shall consult with the Owner and Architect to develop and implement procedures for the review and processing of Applications for Payment by Contractors for progress and final ~~payments.~~payments, including any Owner requirements for prompt payment to Contractors, consistent with the Prompt Payment of Local Government Bills, Minnesota Statutes, Section 471.425 ("Prompt Payment Act").

...

§ 3.3.12.4 The certification of an Application for Payment or a Project Application for Payment by the Construction Manager shall not be a representation that the Construction Manager has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work; (2) reviewed construction means, methods, techniques, procedures, or sequences for a Contractor's own Work; (3) reviewed copies of requisitions received from Subcontractors and suppliers and other data requested by the Owner to substantiate each Contractor's right to payment; or (4) ascertained how or for what purpose that Contractor has used money previously paid on account of the Contract Sum. The certification of an Application for Payment shall constitute the Construction Manager's representation to the Owner that the Construction Manager has reported to the Owner and the Architect all deviations from the Contract Documents that the Construction Manager has observed pursuant to its obligations under this Section and Section 3.3.12.4 or has been reported to the Construction Manager as of the date of the certification.

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§ 3.3.15 The Construction Manager shall advise and consult with the Owner and Architect during the performance of its Construction Phase Services. The Construction Manager shall have authority to act on behalf of the Owner only to the extent provided in this Agreement. The Construction Manager shall not have control over, charge of, or responsibility for the construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work of each of the Contractors, since these are solely the Contractor's rights and responsibilities under the Contract Documents. The Construction Manager shall not be responsible for a Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The Construction Manager shall be responsible to the Owner for the Construction Manager's negligent acts or omissions, but shall not have control over or charge of, and shall not be responsible for, acts or omissions of the Contractors, Subcontractors, or their agents or employees, or any other persons or entities performing portions of the Work. Subject to Section 3.3.14, nothing in this section is intended to limit the Construction Manager's duty to report to the Owner and the Architect all defects in the Work or deviations from the Contract Documents that have been observed by or reported to

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the Construction Manager. Subject to Section 3.3.14, nothing in this section is intended, or shall be construed to, negate or limit the Construction Manager's duties to the Owner in Section 2.2.

§ 3.3.16 The Construction Manager shall transmit to the Architect requests for interpretations, and requests for information of the meaning and intent of the Drawings and ~~Specifications, and provide its written recommendation.~~ Specifications and provide its written opinion on matters within Construction Manager's purview, including constructability, phasing, scheduling, and cost. The Construction Manager shall assist in the resolution of questions that may arise.

...

§ 3.3.18 The Construction Manager shall assist the Initial Decision Maker in the review, evaluation and documentation of Claims, ~~subject to Section 4.2.2.7.~~such assistance in the initial review, evaluation, and documentation of Claims shall be considered a Basic Service.

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§ 3.3.20.1 If professional design services or certifications by a design professional related to systems, materials, or equipment are specifically required of the Contractors by the Contract Documents, the Construction Manager shall review those submittals for sequencing, constructability, and coordination impacts on the other Contractors. The Construction Manager shall discuss its findings with the Owner and the Architect, and ~~coordinate~~ assist the Owner and Architect with resolution, as necessary, of any such impacts.

...

~~**§ 3.3.21.3** In addition, for Projects constructed on the basis of the Cost of the Work, the Construction Manager shall include the following additional information in its progress reports:~~

~~**.1** Contractors' work force reports;~~
~~**.2** Equipment utilization report;~~
~~**.3** Cost summary, comparing actual costs to updated cost estimates; and~~
~~**.4** Any other items as the Owner may require:~~

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§ 3.3.29 Duties, responsibilities and limitations of authority of the Construction Manager as set forth in the Contract Documents shall not be restricted, modified or extended without written consent of the ~~Owner, Construction Manager, Architect, and Contractors.~~ Owner and Construction Manager. Consent shall not be unreasonably withheld.

...

§ 4.1.1 The services ~~listed below~~ as set forth in Exhibit B Project Charter are not included in Basic Services but may be required ~~for the Project. The Construction Manager shall provide the listed Supplemental Services only if specifically designated in the table below as the Construction Manager's responsibility, and the Owner shall compensate the Construction Manager as provided in Section 11.2. Unless otherwise specifically addressed in this Agreement, if neither the Owner nor the Construction Manager is designated, the parties agree that the listed Supplemental Service is not being provided~~ for the Project.
~~*(Designate the Construction Manager's Supplemental Services and the Owner's Supplemental Services required for the Project by indicating whether the Construction Manager or Owner shall be responsible for providing the identified Supplemental Service. Insert a description of the Supplemental Services in Section 4.1.2 below or attach the description of services as an exhibit to this Agreement.)*~~

~~**Supplemental Services**~~	~~**Responsibility**~~ ~~*(Construction Manager, Owner or not provided)*~~

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~~§ 4.1.1.1 Measured drawings~~	
~~§ 4.1.1.2 Tenant-related services~~	
~~§ 4.1.1.3 Commissioning~~	
~~§ 4.1.1.4 Development of a commissioning plan~~	
~~§ 4.1.1.5 Sustainable Project Services pursuant to Section 4.1.3~~	
~~§ 4.1.1.6 Furniture, furnishings and equipment delivery, and installation coordination~~	
~~§ 4.1.1.7 Furniture, furnishings and equipment procurement assistance~~	
~~§ 4.1.1.8 Assistance with site selection~~	
~~§ 4.1.1.9 Assistance with selection of the Architect~~	
~~§ 4.1.1.10 Furnish land survey~~	
~~§ 4.1.1.11 Furnish geotechnical engineering services~~	
~~§ 4.1.1.12 Provide insurance advice~~	
~~§ 4.1.1.13 Provide supplemental Project risk analysis and mitigation strategies~~	
~~§ 4.1.1.14 Stakeholder relationships management~~	
~~§ 4.1.1.15 Owner moving coordination~~	
~~§ 4.1.1.16 Coordination of Owner's Separate Contractors~~	
~~§ 4.1.1.17 Other Supplemental Services~~	

...

As set forth in Exhibit B Project Charter

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As set forth in Exhibit B Project Charter

§ 4.1.3 If the Owner identified a Sustainable Objective in Article 1, the Construction Manager shall provide, as a Supplemental Service, the Sustainability Services ~~required in AIA Document E235™ 2019, Sustainable Projects Exhibit, Construction Manager as Adviser Edition, attached to this Agreement.~~ per the agreed upon terms, conditions and services related to the Owner's Sustainable Objective. The Owner shall compensate the Construction Manager as provided in Section 11.2.

...

§ 4.2.1 ~~The~~ With prior written notice to the Owner, the Construction Manager may provide Additional Services after execution of this Agreement, without invalidating this ~~Agreement. Except for services required due to the fault of the Construction Manager, any Additional Services provided in accordance with this Section 4.2 shall entitle the Construction Manager to compensation pursuant to~~ Agreement.. In the event that Construction Manager believes that it may be required to perform any Additional Services, it shall first notify Owner in writing of such services, with a quoted price for the same, and obtain advance written approval before performing the same. The Construction Manager's failure to obtain advance written approval for any Additional Services shall convert all such work as constituting a part of Construction Manager's Basic Services on the Project. This provision is a material part of the parties' agreement and is not subject to waiver. Any authorized Additional Services not made necessary by the fault of Construction Manager shall be paid as provided under Section 11.3.

§ 4.2.2 Upon recognizing the need to perform the following Additional Services, the Construction Manager shall notify the Owner ~~with reasonable promptness~~ as required in Section 4.2.1 and explain the facts and circumstances giving rise to the need. The Construction Manager shall not proceed to provide the following Additional Services until the Construction Manager receives the Owner's written authorization:

...

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.2 ~~Services necessitated by the enactment or revision of codes, laws, regulations or official interpretations after the date of this Agreement;~~;

...

.8 Assistance to the Initial Decision Maker.

The first cumulative twenty (20) hours of any work required under .4, .5, or .7 above shall be provided as Basic Services and thereafter, with advance written approval from the Owner, shall constitute Additional Services.

~~§ 4.2.3 To avoid delay in the Construction Phase, the Construction Manager shall provide the following Additional Services, notify the Owner with reasonable promptness, and explain the facts and circumstances giving rise to the need. If, upon receipt of the Construction Manager's notice, the Owner determines that all or parts of the services are not required, the Owner shall give prompt written notice to the Construction Manager of the Owner's determination. The Owner shall compensate the Construction Manager for the services provided prior to the Construction Manager's receipt of the Owner's notice:~~

~~.1 Providing assistance to the Initial Decision Maker in evaluating an extensive number of Claims submitted by a Contractor or others in connection with the Work.~~

~~.2 Services required in an emergency to coordinate the activities of a Contractor or Contractors in the event of risk of personal injury or serious property damage, consistent with Section 3.3.15.~~

~~§ 4.2.5 If the services covered by this Agreement have not been completed within ( ) months of the date of this Agreement, through no fault of the Construction Manager, extension of the Construction Manager's services beyond that time shall be compensated as Additional Services.~~

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§ 5.4 The Owner shall retain an Architect to provide services, duties and responsibilities as described in AIA Document ~~B132–2019,~~ B101-2017, Standard Form of Agreement Between Owner and Architect, ~~Construction Manager as Adviser Edition.~~ as modified, and A232-2019 General Conditions, as modified for the Project. The Owner shall provide the Construction Manager with a copy of the scope of services in the agreement executed between the Owner and Architect, and any further modifications to the Architect's scope of services in the agreement.

§ 5.5 The Owner shall identify a representative authorized to act on the Owner's behalf with respect to the Project. Any decisions which impact the Cost of the Work must be made by Owner in accordance with Owner's Delegation of Authority policy, a copy of which will be provided to the Construction Manager upon request. The Owner's representative shall obtain any necessary approvals that exceed the Owner's representative's authority prior to communicating any decision to the Construction Manager. The Owner shall render decisions pertaining to documents the Construction Manager submits in a timely manner in order to avoid unreasonable delay in the orderly and sequential progress of the Construction Manager's services.

§ 5.6 Unless otherwise required by this Agreement to be provided by the Construction Manager, the Owner shall furnish surveys to describe physical characteristics, legal limitations and utility locations for the site of the Project, and a written legal description of the site. The surveys and legal information shall include, as applicable, grades and lines of streets, alleys, pavements and adjoining property and structures; designated wetlands; adjacent drainage; rights-of-way, restrictions, easements, encroachments, zoning, deed restrictions, boundaries, and contours of the site; locations, dimensions, and other necessary data with respect to existing buildings, other improvements and trees; and information concerning available utility services and lines, both public and private, above and below grade, including inverts and depths. All the information on the survey shall be referenced to a Project benchmark.

§ 5.7 Unless otherwise required by this Agreement to be provided by the Construction Manager, the Owner shall furnish services of geotechnical engineers, which may include test borings, test pits, determinations of soil bearing values, percolation tests, evaluations of hazardous materials, seismic evaluation, ground corrosion tests and resistivity

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tests, including necessary operations for anticipating subsoil conditions, with written reports and appropriate recommendations.
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§ 5.19 The services, information, and reports provided by the Owner pursuant to this Article 5 shall be provided at the Owner's expense, and the Construction Manager shall be entitled to rely upon the accuracy and completeness thereof, subject to the standard of skill and care for professionals in the industry.

§ 6.1 For purposes of this Agreement, the Cost of the Work shall be the total cost to the Owner to construct all elements of the Project designed or specified by the Architect and shall include the Contractors' general conditions costs, overhead and profit. The Cost of the Work also includes the reasonable value of labor, materials, and equipment, donated to, or otherwise furnished by, the Owner. The Cost of the Work ~~includes~~ does not include the compensation of the Construction Manager and Construction Manager's ~~Consultants during the Construction Phase only,~~ Consultants, including compensation for reimbursable expenses at the job site, if any. The Cost of the Work does not include the compensation of the Architect; the costs of the land, rights-of-way, financing, or contingencies for changes in the Work; or other costs that are the responsibility of the Owner.
PAGE 17

§ 8.1.1 The Owner and Construction Manager shall commence all claims and causes of action against the other and arising out of or related to this Agreement, whether in contract, tort, or otherwise, in accordance with the requirements of the binding dispute resolution method selected in this Agreement and within the period specified by applicable ~~law, but in any case not more than 10 years after the date of Substantial Completion of the Work.~~ law,. The Owner and Construction Manager waive all claims and causes of action not commenced in accordance with this Section 8.1.1.

~~§ 8.1.2 To the extent damages are covered by property insurance, the Owner and Construction Manager waive all rights against each other and against the contractors, consultants, agents, and employees of the other for damages, except such rights as they may have to the proceeds of such insurance as set forth in AIA Document A232–2019, General Conditions of the Contract for Construction. The Owner or the Construction Manager, as appropriate, shall require of the contractors, consultants, agents, and employees of any of them, similar waivers in favor of the other parties enumerated herein.~~

§ 8.1.3 The Construction Manager shall indemnify and hold the Owner and the Owner's officers and employees harmless from and against damages, losses and judgments arising from claims by third parties, including reasonable attorneys' fees and expenses recoverable under applicable law, but only to the extent they are caused by the negligent acts or omissions of the Construction Manager, its employees and its consultants in the performance of professional services under this Agreement. The Construction Manager's obligation to indemnify and hold the Owner and the Owner's officers and employees harmless does not include a duty to defend. The Construction Manager's duty to indemnify the Owner under this Section 8.1.3 shall be limited to the available proceeds of the insurance coverage required by this Agreement. . Construction Manager's indemnification obligation to Owner shall include deductibles under Owner's insurance coverage to extent claim was caused by the negligent acts or omissions of Construction Manager. All indemnification obligations shall survive termination, expiration or cancellation of this Contract. The Construction Manager agrees that it will at all times during the term of this contract keep in force policies of insurances required in Exhibit-C Owner Insurance. Nothing in this Contract shall be construed to waive any immunities or limitations to which Owner is entitled under Minnesota Statutes, Chapter 466.
PAGE 18

§ 8.2.1 Any claim, dispute or other matter in question arising out of or related to this Agreement shall be subject to ~~mediation as a condition precedent to binding dispute resolution.~~ mediation. If such matter relates to or is the subject of a lien arising out of the Construction Manager's services, the Construction Manager may proceed in accordance with applicable law to comply with the lien notice or filing deadlines prior to resolution of the matter by mediation or by binding dispute resolution. Mediation is not a condition precedent to commencing litigation. If litigation is commenced, the parties agree to mediate before any dispositive motion or trial.

~~§ 8.2.2 The Owner and Construction Manager shall endeavor to resolve claims, disputes and other matters in question between them by mediation, which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Mediation Procedures in effect on the date of this Agreement. A request for mediation shall be made in writing, delivered to the other party to this~~

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~~Agreement, and filed with the person or entity administering the mediation. The request may be made concurrently with the filing of a complaint or other appropriate demand for binding dispute resolution but, in such event, mediation shall proceed in advance of binding dispute resolution proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order. If an arbitration proceeding is stayed pursuant to this section, the parties may nonetheless proceed to the selection of the arbitrator(s) and agree upon a schedule for later proceedings.~~

...

[**X**] Litigation in a state or federal court of competent jurisdiction located in Hennepin County, Minnesota

...

~~§ 8.3 Arbitration~~

~~§ 8.3.1~~ ~~If the parties have selected arbitration as the method for binding dispute resolution in this Agreement, any claim, dispute or other matter in question arising out of or related to this Agreement subject to, but not resolved by, mediation shall be subject to arbitration, which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Arbitration Rules in effect on the date of this Agreement. A demand for arbitration shall be made in writing, delivered to the other party to this Agreement, and filed with the person or entity administering the arbitration.~~

~~§ 8.3.1.1~~ ~~A demand for arbitration shall be made no earlier than concurrently with the filing of a request for mediation, but in no event shall it be made after the date when the institution of legal or equitable proceedings based on the claim, dispute or other matter in question would be barred by the applicable statute of limitations. For statute of limitations purposes, receipt of a written demand for arbitration by the person or entity administering the arbitration shall constitute the institution of legal or equitable proceedings based on the claim, dispute or other matter in question.~~

~~§ 8.3.2~~ ~~The foregoing agreement to arbitrate, and other agreements to arbitrate with an additional person or entity duly consented to by parties to this Agreement, shall be specifically enforceable in accordance with applicable law in any court having jurisdiction thereof.~~

~~§ 8.3.3~~ ~~The award rendered by the arbitrator(s) shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.~~

~~§ 8.3.4 Consolidation or Joinder~~

~~§ 8.3.4.1~~ ~~Either party, at its sole discretion, may consolidate an arbitration conducted under this Agreement with any other arbitration to which it is a party provided that (1) the arbitration agreement governing the other arbitration permits consolidation; (2) the arbitrations to be consolidated substantially involve common questions of law or fact; and (3) the arbitrations employ materially similar procedural rules and methods for selecting arbitrator(s).~~

~~§ 8.3.4.2~~ ~~Either party, at its sole discretion, may include by joinder persons or entities substantially involved in a common question of law or fact whose presence is required if complete relief is to be accorded in arbitration, provided that the party sought to be joined consents in writing to such joinder. Consent to arbitration involving an additional person or entity shall not constitute consent to arbitration of any claim, dispute or other matter in question not described in the written consent.~~

~~§ 8.3.4.3~~ ~~The Owner and Construction Manager grant to any person or entity made a party to an arbitration conducted under this Section 8.3, whether by joinder or consolidation, the same rights of joinder and consolidation as the Owner and Construction Manager under this Agreement.~~

...

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§ 9.1 ~~If~~ Except for the amounts that are subject of a good faith dispute, if the Owner fails to make payments that are due to the Construction Manager, Construction Manager shall give Owner written notice of nonpayment, including the amount owed, and provide fourteen (14) days for the Owner to cure. If the Owner fails to cure the nonpayment following the fourteen (14) day cure period, then Construction Manager in accordance with this Agreement, such failure shall be considered substantial nonperformance and cause for termination or, at the Construction Manager's option, cause for suspension of performance of services under this Agreement. If the Construction Manager elects to suspend services, the Construction Manager shall give seven days' written notice to the Owner before suspending services. In the event of a suspension of services, the Construction Manager shall have no liability to the Owner for delay or damage caused the Owner because of such suspension of services. Before resuming services, the Owner shall pay the Construction Manager all sums due which are not subject of a good faith dispute prior to suspension and any expenses incurred in the interruption and resumption of the Construction Manager's services. The Construction Manager's fees for the remaining services and the time schedules shall be equitably adjusted.

§ 9.2 If the Owner suspends the Project, the Construction Manager shall be compensated for services performed timely and properly prior to notice of such suspension. When the Project is resumed, the Construction Manager shall be compensated for expenses incurred in the interruption and resumption of the Construction Manager's services. The Construction Manager's fees for the remaining services and the time schedules shall be equitably adjusted.
PAGE 19

§ 9.4 Either party may terminate this Agreement upon not less than ~~seven~~ twenty-one (21) days' written notice should the other party fail substantially to perform in accordance with the terms of this Agreement through no fault of the party initiating the termination.

§ 9.5 The Owner may terminate this Agreement upon not less than ~~seven~~ twenty-one (21) days' written notice to the Construction Manager for the Owner's convenience and without cause.

§ 9.6 If the Owner terminates this Agreement for its convenience pursuant to Section 9.5, or the Construction Manager terminates this Agreement pursuant to Section 9.3, the Owner shall compensate the Construction Manager for services timely and properly performed prior to termination, Reimbursable Expenses incurred, and costs attributable to termination, including the costs attributable to the Construction Manager's termination of consultant agreements.

~~**§ 9.7** In addition to any amounts paid under Section 9.6, if the Owner terminates this Agreement for its convenience pursuant to Section 9.5, or the Construction Manager terminates this Agreement pursuant to Section 9.3, the Owner shall pay to the Construction Manager the following termination fee:~~
~~*(Set forth below the amount of any termination fee, or the method for determining any termination fee.)*~~

...

§ 10.1 This Agreement shall be governed by the law of the place where the Project is located, excluding that jurisdiction's choice of law rules. ~~If the parties have selected arbitration as the method of binding dispute resolution, the Federal Arbitration Act shall govern Section 8.3.~~

§ 10.2 Terms in this Agreement shall have the same meaning as those in AIA Document A232–2019, General Conditions of the Contract for Construction, as modified, except for purposes of this Agreement, the term "Work" shall include the work of all Contractors under the administration of the Construction Manager and the Architect.

...

~~**§ 10.7** The Construction Manager shall have the right to include photographic or artistic representations of the design of the Project among the Construction Manager's promotional and professional materials. The Construction Manager shall provide professional credit for the Architect and the Contractors in the Construction Manager's promotional materials for the Project. The Construction Manager shall be given reasonable access to the completed Project to make such representations. However, the Construction Manager's materials shall not include the Owner's confidential or~~

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~~proprietary information if the Owner has previously advised the Construction Manager in writing of the specific information considered by the Owner to be confidential or proprietary. The Owner shall provide professional credit for the Construction Manager in the Owner's promotional materials for the Project. This Section 10.7 shall survive the termination of this Agreement unless the Owner terminates this Agreement for cause pursuant to Section 9.4.~~

§ 10.7. The Owner prohibits Construction Manager from using the Work in any marketing material or business development practice. Construction Manager is prohibited from communication with any news outlet or public without Owner's written approval. Floor plans, designs, wiring, safety and security measures shall be kept confidential by the Construction Manager during and after completion of the Work. This Section 10.7 shall survive the termination of this Agreement unless the Owner terminates this Agreement for cause pursuant to Section 9.4.

§ 10.8 If the Construction Manager or Owner receives information specifically designated as "confidential" or "business proprietary," the receiving party shall keep such information strictly confidential and shall not disclose it to any other person except as set forth in Section 10.8.1. This Section 10.8 shall survive the termination of this Agreement. All Information related to this Agreement shall be governed by the Minnesota Government Data Practices Act, Minnesota Statutes, Chapter 13 ("MGDPA"), as applicable.
PAGE 20

§ 10.10 If reasonably requested by the Owner during the Project, the Construction Manager shall promptly remove its Project Manager or Superintendent and assign new persons in such roles. Construction Manager shall have and maintain a consistent and continuing presence on the Project and at the Project site while work is being performed to document and monitor the Work.

§ 10.11 The Construction Manager agrees that time is of the essence for the Project.

§ 10.12 Data Practices. The Parties acknowledge that this Contract is subject to the applicable requirements of Minnesota's Government Data Practices Act (MGDPA), Minnesota Statutes, Section 13.01 et seq. The Construction Manager agrees to cooperate with the Owner with respect to the Owner's obligations to comply with the requirements of the MGDPA. Pursuant to Minnesota Statutes, Section 13.05, subd. 11, all of the data created, collected, received, stored, used, maintained, or disseminated by Construction Manager in performing this contract is subject to the applicable requirements of the MGDPA.

§ 10.13 Non-Discrimination. The provisions of any law or ordinance relating to civil rights and discrimination applicable to the services for which the Construction Manager is responsible under this Agreement shall be considered part of this Agreement as if fully set forth herein. Construction Manager certifies that it that is in compliance with applicable laws prohibiting discrimination as to all aspects of employment because of race, color, religion, gender, age, disability, sexual orientation or national origin, and that it is an equal opportunity employer.

§ 10.14 Modifications/Amendment. Any alterations, variations, modifications, amendments or waivers of the provisions of this Contract shall only be valid when they have been reduced to writing and signed by authorized representative of the Owner and the Construction Manager.

§ 10.15 Compliance with Laws. The Construction Manager shall comply with all Federal, State and local laws, statutes, ordinances, rules and regulations now in effect or hereinafter adopted to the extent applicable to the Construction Manager's performance of its services under this Agreement.

§ 10.16 No Waiver. Any Party's failure in any one or more instances to insist upon strict performance of any of the terms and conditions of this Contract or to exercise any right herein conferred shall not be construed as a waiver or relinquishment of that right or of that Party's right to assert or rely upon the terms and conditions of this Contract. Any express waiver of a term of this Contract shall not be binding and effective unless made in writing and properly executed by the waiving Party.

§ 10.17 Severability. The invalidity or unenforceability of any provision of this Contract shall not affect the validity or enforceability of any other provision. Any invalid or unenforceable provision shall be deemed severed from this Contract to the extent of its invalidity or unenforceability, and this Contract shall be construed and enforced as if the Contract did not contain that particular provision to the extent of its invalidity or unenforceability.

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§ 10.18 Survivability. All covenants, indemnities, guarantees, releases, representations and warranties by any Party or Parties, and any undischarged obligations of the Owner and The Construction Manager arising prior to the expiration of this Contract (whether by completion or earlier termination), shall survive such expiration.

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As set forth in Exhibit B Project Charter

...

As set forth in Exhibit B Project Charter

...

At the hourly rates set forth in Exhibit B Project Charter

...

At the hourly rates set forth in Exhibit B Project Charter

~~**§ 11.4** Compensation for Supplemental and Additional Services of the Construction Manager's consultants when not included in Sections 11.2 or 11.3, shall be the amount invoiced to the Construction Manager plus [ ] percent ([ ] %), or as follows:~~
~~*(Insert amount of, or basis for computing, Construction Manager's consultants' compensation for Supplemental or Additional Services.)*~~

~~**§ 11.5** The hourly billing rates for services of the Construction Manager and the Construction Manager's consultants are set forth below. The rates shall be adjusted in accordance with the Construction Manager's and Construction Manager's consultants' normal review practices.~~
~~*(If applicable, attach an exhibit of hourly billing rates or insert them below.)*~~

~~**Employee or Category** **Rate ($0.00)**~~

...

.2 ~~Long distance services, dedicated~~ Dedicated data and communication services, teleconferences, Project web sites, and extranets;

...

.6 Expense of overtime work requiring higher than regular rates, if authorized in advance by the ~~Owner;~~Owner in writing;

...

.8 ~~If required by the Owner, and with the Owner's prior written approval, the Construction Manager's consultants' expenses of professional liability insurance dedicated exclusively to this Project, or the expense of additional insurance coverage or limits in excess of that normally maintained by the Construction Manager's consultants;~~Expenditures approved by Owner pursuant to Section 3.3.21.2;

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...

.10 ~~Site office expenses;~~ Reasonable site office expenses and on-site office supplies; and

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§ 11.6.2 For Reimbursable Expenses the compensation shall be the expenses incurred by the Construction Manager and the Construction Manager's consultants plus zero percent (0 %) of the expenses incurred.

~~§ 11.7 Construction Manager's Insurance.~~ ~~If the types and limits of coverage required in Section 2.8 are in addition to the types and limits the Construction Manager normally maintains, the Owner shall pay the Construction Manager for the additional costs incurred by the Construction Manager for the additional coverages as set forth below.~~
~~*(Insert the additional coverages the Construction Manager is required to obtain in order to satisfy the requirements set forth in Section 2.8, and for which the Owner shall reimburse the Construction Manager.)*~~

...

§ 11.8.1.1 An initial payment of zero dollars ($ 0) shall be made upon execution of this Agreement and is the minimum payment under this Agreement. It shall be credited to the Owner's account in the final invoice.

...

§ 11.8.2.1 Unless otherwise agreed, ~~payments~~ invoices for services shall be made monthly in proportion to services performed. Payments are due and ~~payable upon presentation of the Construction Manager's invoice. Amounts unpaid (~~ payablewithin thirty-five (35) days of presentation of the Construction Manager's valid and complete invoice , pursuant to the Prompt Payment Act, as it is applicable to payments made under this Agreement. Construction Manager's invoice shall breakdown, in detail, timekeeper, each timekeeper's hourly rate, date of service, total time expended per task, and a detailed description of the task(s) performed. Amounts unpaid thirty-five (35) days after the invoice date shall bear interest at the rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of the Construction Manager. Interest on unpaid amounts shall not accrue on any amounts that the Owner withholds in good faith based on a dispute over Construction Manager's services

...

~~% 0 %~~ zero percent

§ 11.8.2.2 The Owner shall not withhold amounts from the Construction Manager's compensation to impose a penalty or liquidated damages on the Construction Manager, or to offset sums requested by or paid to Contractors for the cost of changes in the Work, unless the Construction Manager agrees or has been found liable for the amounts in a binding dispute resolution proceeding. The Owner's right, if any, to offset sums due the Construction Manager shall be governed by applicable law, including, but not limited to the Prompt Payment Act. Interest on unpaid amounts shall not accrue on any amounts that the Owner withholds in good faith based on a dispute over Construction Manager's services

~~**§ 11.8.2.3** Records of Reimbursable Expenses, expenses pertaining to Supplemental and Additional Services, and services performed on the basis of hourly rates shall be available to the Owner at mutually convenient times.~~

§ 11.8.2. Pursuant to Minnesota Statutes, Section 16C.05, subd. 5, the books, records, documents, and accounting procedures and practices of the Construction Manager that are relevant to this Agreement are subject to examination by the Owner and either the Legislative Auditor or the State Auditor as appropriate for a minimum of six (6) years after the end of the Agreement. Construction Manager agrees to maintain books, documents, and records evidencing work performed for the Owner and amounts invoiced to and received from the Owner as compensation for such work. Upon written request of the Owner, or the Owner's auditors, Construction Manager shall provide copies of or access to

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such books, records, documents, and accounting procedures and practices. The Owner or the Owner's auditors will give Consultant reasonable notice in advance (but not less than ten (10) business days) of any such audit request.

...

DOCUSIGN ELECTRONIC SIGNING SYSTEM. The Construction Manager has an agreement with DocuSign, Inc. ("DocuSign") with respect to the DocuSign electronic signing system (the "DocuSign System"). The DocuSign System may be used to facilitate the administration and execution of the Owner's Construction Contracts with the Multiple Prime Contractors, as well as various other Contract Documents requiring signatures. Should the Owner elect to have the Construction Manager use the DocuSign System with respect to any portion of the Project, the Owner acknowledges and agrees that (i) the Owner conducted its own independent investigation and evaluation as to all legal and other considerations related to its decision to use the DocuSign System on the Project, (ii) the Owner did not rely on any advice, recommendations or representations of the Construction Manager in making the Owner's independent determination to use the DocuSign System on the Project, (iii) the Construction Manager and DocuSign are not affiliated with each other and the Construction Manager does not warrant or guarantee any portion of the DocuSign System, (iv) the Construction Manager does not warrant or guarantee that the DocuSign system complies with or satisfies any legal requirements applicable to its use on the Project, and (v) the Owner waives all claims, causes of action, costs, expenses and damages (including reasonable attorney's fees) against the Construction Manager arising out of or resulting from the use of the DocuSign System on the Project.

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.1 AIA Document C132™–2019, Standard Form Agreement Between Owner and Construction Manager as ~~Adviser~~Adviser, as modified

...

Not Applicable

...

[X] Other Exhibits incorporated into this Agreement:
(Clearly identify any other exhibits incorporated into this Agreement, including any exhibits identified in Section 4.1.2.)

Exhibit A – Not Applicable
Exhibit B Project Charter and Construction Manager's Compensation
Exhibit C Owners Insurance
Echibit D Project Schedule

...

None

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Certification of Document's Authenticity

AIA® Document D401™ – 2003

I, , hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with its associated Additions and Deletions Report and this certification at 15:27:06 CT on 06/30/2022 under Order No. 2114296869 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document C132™ – 2019, Standard Form of Agreement Between Owner and Construction Manager as Adviser, as published by the AIA in its software, other than those additions and deletions shown in the associated Additions and Deletions Report.



(Signed)

Executive Director

(Title)

6/30/2022

(Dated)

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Exhibit B – Project Charter

Project Name and Number

North High School
1500 James Avenue North
Minneapolis, MN 55411
Minneapolis Public Schools Project Number 21NORTCTE
RFP 22-10

Description

This project requires a Construction Manager as Advisor for the management of a multiple prime contractor. The initial North High School renovation consists of additions and renovations to accommodate a new CTE space, new auxiliary gym and storm shelter, and new electrical room ("Project No. 1"). The program consists of several projects over the next 4 years.

Contract Sum

The Contract Sum shall be $ 140,000 for the initial preconstruction phase and reimbursable expenses. Amendments to this contract will be developed for construction phase services and other expenses. The Construction Manager is not obligated for construction phase services, additional service and supplemental services unless an amendment is approved by both parties. Adjustments for additional and supplemental services may be made based on the hourly rates attached.

Construction Manager's Administrative Rates for 2022

KRAUS-ANDERSON®

Administration Rates for 2022

CLASSIFICATION	HOURLY RATE	Notes
Project Director/VP/DOO	$ 184	
Senior Project Manager/Construction Executive	$ 158	
Project Manager	$ 139	
Assistant PM	$ 111	
Project Engineer & Field Engineer	$ 102	
Director of Preconstruction	$ 153	
Preconstruction Manager/Estimator	$ 134	
Assistant Estimator	$ 103	
Project Intern	$ 51	
Safety Director	$ 144	
Safety Engineer & Safety Manager	$ 127	
Quality Director	$ 169	
Quality Manager	$ 138	
MEP Specialist	$ 145	
VDC/BIM	$ 123	
General Superintendent	$ 146	
Field Superintendent	$ 137	
Assistant Superintendent	$ 121	
Project Coordinator, Accounting & Marketing	$ 66	
Computer/IT	$ 88	
Yard Delivery	$ 114	

EXHIBIT C Owner Insurance

Insurance Requirements

1. **CONSTRUCTION MANAGER AS ADVISOR (CMA) INSURANCE** – to be used with AIA C132-2019:
   The CMA shall at its own expense maintain in effect at all times during the performance of the Work under the Agreement at least the following coverage and limits of insurance:

   a. Worker's Compensation and Employer's Liability Insurance

      i. Coverage A is statutory.

      ii. Coverage B
      $500,000 Each Accident
      $500,000 Each Employee
      $500,000 Policy Limit (Disease)

   b. Comprehensive General Liability Insurance *

General Aggregate	$2,000,000
Products/Completed Operations Aggregate	$1,000,000
Per Occurrence	$1,000,000
Medical Payments	$10,000

   * To the fullest extent permitted by law, the Construction Manager shall cause the Commercial General Liability Insurance to include the Owner as an additional insured for claims caused in whole or in part by the Construction Manager's negligent acts or omissions until final completion of the Construction Phase of the Project. Such additional insured coverage shall be primary and non-contributory to any of the Owner's insurance. In the event the Construction Manager or its insurer accepts the Owner's tender of the defense of any claim as an additional insured, the Owner shall reimburse the Construction Manager or its insurer for all attorney's fees and costs paid or advanced as part of the Owner's defense to the extent the Owner, or a Contractor that had a comparable duty to provide additional insured coverage to the Owner, is adjudicated to have caused the loss or damage.

c. Automobile Insurance

Per Occurrence	$1,000,000
PIP	Basic
Underinsured Motorist	$1,000,000
Uninsured Motorist	$1,000,000

d. Professional Liability Insurance

i. Per Claim	$2,000,000
ii. Aggregate	$4,000,000

e. Umbrella Liability Insurance

i. Per Occurrence	$2,000,000
ii. Aggregate	$2,000,000

f. Manned or Unmanned Aircraft Coverage (if used)

i. Per Claim	$1,000,000
ii. Aggregate	$1,000,000

If the CMA hires specialty consultants for portions of the CMA's services, items A, B, C and F shall apply.

Special Asbestos Abatement Liability Insurance is required for Asbestos Abatement Contractors. The limits are $1,500,000 per claim, for liability arising from the encapsulation, removal, handling, storage, transportation, and disposal of asbestos-containing materials.

2. CMA OBLIGATIONS

CMA shall not knowingly permit any violation of any conditions or terms of the policies of insurance required to be carried under the terms hereof and shall endeavor to satisfy the requirements of the insurance companies issuing them. In the event CMA neglects, refuses or fails to provide or maintain any of the insurance required to be carried under the Agreement, or if such insurance is canceled for any reason, the Owner shall have the right, but not the duty, to procure or maintain the same.

In the event the Owner procures or maintains such insurance, the Owner shall have, in additional to any and all other available remedies, the right to recover from the CMA (including the right of set-off against sums otherwise due the CMA) all of the costs associated with procuring or maintaining such insurance.

PROFESSIONAL LIABILITY INSURANCE

a. Professional Liability Coverage of $2,000,000 per event and $4,000,000 aggregate shall be maintained for one (1) year from the date of Substantial Completion. If the CMA discontinues its business and if directed by Owner in writing, CMA shall purchase such insurance in such amount for an extended discovery period beyond the one (1) year after the date of Substantial Completion, with the premium cost to be a reimbursable expense paid by the Owner. The limit of liability for such policy

may not be reduced below $2,000,000/$4,000,000 without the Owner giving its prior, written consent.

b. The CMA shall provide certificates of insurance to the Owner that evidence compliance with the requirements in this Exhibit C. Such proof of insurance shall confirm that the insurer has agreed that it will not cancel the insurance without giving the Owner thirty (30) days advance written notice of its intent to cancel, other than for non-payment of premium, which shall be ten (10) days advance written notice. The CMA shall likewise require from its consultants proof of insurance meeting the foregoing requirements as a condition precedent to their engagement to perform services on the Project.

c. The Owner shall not be responsible for obtaining or paying premiums or other expenses in connection with insurance required to be carried under the Agreement, and the obligation to obtain such insurance and to pay such premiums and other expenses shall be solely that of the CMA.

d. The CMA shall bear all the costs of any and all deductible amounts under any insurance policies required to be carried under the Agreement.

3. COVERAGE

   The coverage's referred to above are set forth in full in the respective policy forms, and the foregoing descriptions of such policies are not intended to be complete.

4. GENERALLY

   a. The CMA thereby represents and warrants to the Owner that, as of the date of the execution of the Agreement, the CMA is not aware of any claims or potential claims which have been made, filed or threatened against any of the insurance or for damages covered by any of the insurance required to be carried under the Agreement that would affect the CMA's ability to provide the insurance coverage required by this agreement.

   b. It is understood that the provisions in the Agreement requiring the CMA to carry insurance shall not be construed as in any manner waiving or restricting the liability of the CMA as to any obligations imposed under the Agreement.

Exhibit D – Project Schedule

Project Name and Number

North High School
1500 James Avenue North
Minneapolis, MN 55411
Minneapolis Public Schools Project Number 21NORTCTE
RFP 22-10

Description

This project requires a Construction Manager as Advisor for the management of a multiple prime contractor. The initial North High School renovation consists of additions and renovations to accommodate a new CTE space, new auxiliary gym and storm shelter, and new electrical room ("Project No. 1").

Schedule

Preconstruction Phase

The Preconstruction Phase for Project No. 1 is scheduled to begin on the date of execution of the contract.

Construction Phase

The Construction Phase for Project No. 1 is scheduled to begin in August 2022, as noted in Section 1.1.4 of the Agreement.

AIA® Document C103® – 2015

Standard Form of Agreement Between Owner and Consultant without a Predefined Scope of Consultant's Services

AGREEMENT made as of the 24th day of February in the year 2025
(In words, indicate day, month and year.)

BETWEEN the Owner:
(Name, legal status, address, and other information)

Minneapolis Public Schools Special School District #1
1250 West Broadway Avenue
Minneapolis, MN 55411

and the Consultant:
(Name, legal status, address, and other information)

Kraus-Anderson Construction Company
501 South Eighth Street
Minneapolis, MN 55404

Consultant's discipline:

Facilities Condition Assessments

for the following Project:
(Name, location and detailed description. Time limits for bringing claims in Section 6.1.1 are tied to completion of the "Project." The "Project" may be limited to the scope of services to be provided by the Consultant, or the Consultant may be providing services for a "Project" involving design and construction of one or more structures. Care should be taken in describing or defining the Project.)

Detailed project description defined in:
EXH-A Project Charter and Schedule
EXH-C Owner's Insurance

The Owner and Consultant agree as follows.

ADDITIONS AND DELETIONS:
The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

This document does not contain a description of the Consultant's scope of Services. This document is intended to be used in conjunction with AIA Standard Form of Consultant's Services documents.

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TABLE OF ARTICLES

1 INITIAL INFORMATION

2 CONSULTANT'S RESPONSIBILITIES

3 ADDITIONAL SERVICES

4 OWNER'S RESPONSIBILITIES

5 COPYRIGHTS AND LICENSES

6 CLAIMS AND DISPUTES

7 TERMINATION OR SUSPENSION

8 COMPENSATION

9 MISCELLANEOUS PROVISIONS

10 SPECIAL TERMS AND CONDITIONS

11 SCOPE OF THE AGREEMENT

ARTICLE 1 INITIAL INFORMATION

§ 1.1 This Agreement is based on the Initial Information set forth in this Article 1:
(State below Initial Information, such as details of the Project's site and program; identity of the Architect, Owner's contractors and other consultants, and Consultants' subconsultants; anticipated procurement method; and other information relevant to the Consultant's Services.)

Comprehensive Facilities Condition Assessment of the Owner's facilities as defined in:
Defined in EXH-A Project Charter and Schedule

§ 1.2 Unless otherwise specifically defined in this Agreement, terms in this Agreement shall have the same meaning as those in AIA Document A201™–2007, General Conditions of the Contract for Construction.

§ 1.3 The Owner's anticipated design and construction schedule:

.1 Design phase milestones, if any:

Defined in EXH-A Project Charter and Schedule

.2 Date for commencement of construction:

Defined in EXH-A Project Charter and Schedule

.3 Substantial Completion date:

Defined in EXH-A Project Charter and Schedule

.4 Other milestone dates:

Defined in EXH-A Project Charter and Schedule

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§ 1.4 The Owner and Consultant may rely on the Initial Information. Both parties, however, recognize that the Initial Information may materially change and, in that event, the Owner and the Consultant shall appropriately adjust the schedule, the Consultant's services, and the Consultant's compensation.

ARTICLE 2 CONSULTANT'S RESPONSIBILITIES

§ 2.1 The Consultant shall provide the following professional services:
(Describe the scope of the Consultant's services or identify an exhibit or scope of services document setting forth the Consultant's services and incorporated into this document in Section 11.2.)

Defined in EXH-A Project Charter and Schedule

§ 2.2 The Consultant shall perform its services consistent with the professional skill and care ordinarily provided by professionals in the same discipline practicing in the same or similar locality under the same or similar circumstances. The Consultant shall perform its services as expeditiously as is consistent with such professional skill and care and the orderly progress of the Project.

§ 2.3 The Consultant identifies the following representative who is authorized to act on behalf of the Consultant with respect to the Project.
(List name, address, and other information.)

Travis Evenson
Kraus-Anderson Construction Company
501 South Eighth Street
Minneapolis, MN 55404
Phone: 612-655-5393
Email: travis.evenson@krausanderson.com

§ 2.4 If required in the jurisdiction where the Project is located, the Consultant shall be licensed to perform the services described in this Agreement, or shall cause such services to be performed by appropriately licensed professionals.

§ 2.5 The Consultant shall coordinate its services with those services provided by the Owner and the Owner's other consultants. The Consultant may communicate with the Owner's other consultants for the purposes of performing its services on the Project. The Consultant shall keep the Owner reasonably informed of any such communications. The Consultant shall be entitled to rely on the accuracy and completeness of services and information furnished by the Owner and the Owner's other consultants. The Consultant shall provide prompt written notice to the Owner if the Consultant becomes aware of any error, omission, or inconsistency in such services or information.

§ 2.6 The Consultant shall keep the Owner reasonably informed of the progress of the Consultant's services.

§ 2.7 Insurance. The Consultant shall maintain the following insurance for the duration of this Agreement.
Agreement as defined in
EXH-C Owner Insurance.

§

(Paragraphs Deleted)

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§ 2.8 Time. The Consultant shall provide its services within the time limits established in the Consultant's Schedule, or within the Deliverable(s) Time Limit(s) set forth below. The Consultant shall immediately inform the Owner of any circumstances which may cause a delay.
(Check one or both selections below.)

[ ] Consultant's Schedule: As soon as practicable after the date of this Agreement, the Consultant shall submit, for the Owner's approval, a schedule for the performance of the Consultant's Services. If relevant to the Consultant's Services, the schedule initially shall include anticipated dates for design phase milestones, commencement of construction, and for Substantial Completion of the Work as set forth in the Initial Information. The schedule shall include allowances for periods of time required for the Owner's review, for the performance of the Owner's consultants, and for approval of submissions by authorities having jurisdiction over the Project. Once approved by the Owner, time limits established by the schedule shall not, except for reasonable cause, be exceeded by the Consultant or Owner.

[X] Deliverable(s) Time Limit: The Consultant shall provide the following deliverable(s) within the time limit(s) set forth .in EXH-A Project Charter and Schedule.

(Table Deleted)

ARTICLE 3 ADDITIONAL SERVICES

§ 3.1 Additional Services may be provided after execution of this Agreement without invalidating the Agreement.

§ 3.2 The Consultant shall promptly notify the Owner upon recognizing the need to perform Additional Services. The Consultant, however, shall not proceed to provide such services until the Consultant receives the Owner's written authorization. Except for services due to the fault of the Consultant, any Additional Services provided in accordance with this Section 3.2 shall entitle the Consultant to compensation pursuant to Section 8.2.

ARTICLE 4 OWNER'S RESPONSIBILITIES

§ 4.1 Unless otherwise provided for under this Agreement, the Owner shall provide information in a timely manner regarding requirements for and limitations on the Project. Within 15 days after receipt of a written request from the Consultant, the Owner shall furnish the requested information as necessary and relevant for the Consultant to evaluate, give notice of, or enforce lien rights.

§ 4.2 The Owner identifies the following representative who is authorized to act on the Owner's behalf with respect to the Project.
(List name, address, and other information.)

Daniel Goemann
Minneapolis Public Schools – Special School District #1
1250 West Broadway Avenue
Minneapolis, MN 55411
Email: Daniel.goemann@mpls.k12.mn.us

§ 4.3 The Owner shall render decisions and approve the Consultant's submittals, if any, in a timely manner in order to avoid unreasonable delay in the orderly and sequential progress of the Consultant's services.

§ 4.4 The Owner shall coordinate the services of its other consultants with those services provided by the Consultant. The Owner shall provide the Consultant with a list of other consultants on the Project whose services relate to the Consultant's services. The Owner shall also, upon written request, furnish the Consultant with copies of the scope of services in contracts between the Owner and such other consultants. The Owner shall require that its other consultants maintain professional liability insurance as appropriate to the services provided.

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§ 4.5 The Owner shall furnish the services of consultants other than those designated in this Agreement, or authorize the Consultant to furnish them as an Additional Service, when the Consultant requests such services and demonstrates that they are reasonably required for the Consultant to be able to perform its services.

§ 4.6 The Owner shall provide prompt written notice to the Consultant if the Owner becomes aware of any fault or defect in the Project, including errors, omissions, or inconsistencies in the Consultant's Services.

ARTICLE 5 COPYRIGHTS AND LICENSES

§ 5.1 Instruments of Service are representations, in any medium of expression now known or later developed, of the tangible and intangible creative work performed by the Consultant and the Consultant's subconsultants under their respective professional services agreements. Instruments of Service may include, without limitation, studies, surveys, models, sketches, drawings, specifications, and other similar materials in digital or physical form.

§ 5.2 The Consultant and the Owner warrant that in transmitting Instruments of Service, or any other information, the transmitting party is the copyright owner of such information or has permission from the copyright owner to transmit such information for its use on the Project. If the Owner and Consultant intend to transmit Instruments of Service or any other information or documentation in digital form, they shall endeavor to establish necessary protocols governing such transmissions or comply with protocols established for the Project, if any.

§ 5.3 The Consultant and the Consultant's subconsultants shall be deemed the authors and owners of their respective Instruments of Service and shall retain all common law, statutory, and other reserved rights, including copyrights. Submission or distribution of Instruments of Service to meet official regulatory requirements or for similar purposes in connection with the Project is not to be construed as publication in derogation of the reserved rights of the Consultant's subconsultants.

§ 5.4 Upon execution of this Agreement, the Consultant grants to the Owner a nonexclusive license to use the Consultant's Instruments of Service solely and exclusively for purposes of designing, constructing, using, maintaining, altering and adding to the Project, provided that the Owner substantially performs its obligations, including prompt payment of all sums when due, under this Agreement. The Consultant shall obtain similar nonexclusive licenses from its subconsultants consistent with this Agreement. The license granted under this section permits the Owner to authorize the Owner's consultants and contractors to reproduce applicable portions of the Instruments of Service solely and exclusively for the purposes of designing, constructing, using, maintaining, altering and adding to the Project. If the Consultant rightfully terminates this Agreement for cause as provided in Section 7.4, the license granted in this Section 5.4 shall terminate.

§ 5.4.1 In the event the Owner uses the Instruments of Service without retaining the author of the Instruments of Service, the Owner releases the Consultant and the Consultant's subconsultants from all claims and causes of action arising from such uses. The Owner, to the extent permitted by law, further agrees to indemnify and hold harmless the Consultant and its subconsultants from all costs and expenses, including the cost of defense, related to claims and causes of action asserted by any third person or entity to the extent such costs and expenses arise from the Owner's use of the Instruments of Service under this Section 5.4.1. The terms of this Section 5.4.1 shall not apply if the Owner rightfully terminates this Agreement for cause under Section 7.4.

§ 5.5 Any unauthorized use of the Instruments of Service shall be at the Owner's sole risk and without liability to the Consultant and the Consultant's subconsultants. The Owner retains full rights to all Instruments of Service for use in the Project and any existing or future projects.

ARTICLE 6 CLAIMS AND DISPUTES

§ 6.1 General

§ 6.1.1 The Owner and Consultant shall commence all claims and causes of action, whether in contract, tort, or otherwise, against the other arising out of or related to this Agreement in accordance with the requirements of the method of binding dispute resolution selected in this Agreement within the period specified by applicable law, but in any case not more than 10 years after the date the Project is sufficiently complete so that the Owner can utilize it for its intended use. The Owner and Consultant waive all claims and causes of action not commenced in accordance with this Section 6.1.1.

Init.
/
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§ 6.1.2 To the extent damages are covered by property insurance, the Owner and Consultant waive all rights against each other and against the contractors, consultants, agents, and employees of the other for damages, except such rights as they may have to the proceeds of such insurance. The Owner or the Consultant, as appropriate, shall require of the contractors, consultants, agents, and employees of any of them, similar waivers in favor of the other parties enumerated herein.

§ 6.1.3 The Consultant and Owner waive consequential damages for claims, disputes, or other matters in question arising out of or relating to this Agreement. This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination of this Agreement, except as specifically provided in Section 7.7.

§ 6.2 Mediation

§ 6.2.1 Any claim, dispute, or other matter in question arising out of or related to this Agreement shall be subject to mediation as a condition precedent to binding dispute resolution. If such matter relates to or is the subject of a lien arising out of the Consultant's services, the Consultant may proceed in accordance with applicable law to comply with the lien notice or filing deadlines prior to resolution of the matter by mediation or by binding dispute resolution.

§ 6.2.2 The Owner and Consultant shall endeavor to resolve claims, disputes, and other matters in question between them by mediation which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Mediation Procedures in effect on the date of the Agreement. A request for mediation shall be made in writing, delivered to the other party to the Agreement, and filed with the person or entity administering the mediation. The request may be made concurrently with the filing of a complaint or other appropriate demand for binding dispute resolution but, in such event, mediation shall proceed in advance of binding dispute resolution proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order. If an arbitration proceeding is stayed pursuant to this Section, the parties may nonetheless proceed to the selection of the arbitrator(s) and agree upon a schedule for later proceedings.

§ 6.2.3 The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

§ 6.2.4 If the parties do not resolve a dispute through mediation pursuant to this Section 6.2, the method of binding dispute resolution shall be the following:
(Check the appropriate box. If the Owner and Consultant do not select a method of binding dispute resolution below, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, the dispute will be resolved in a court of competent jurisdiction.)

[ ] Arbitration pursuant to Section 6.3 of this Agreement

[X] Litigation in a court of competent jurisdiction

[ ] Other: (Specify)

§ 6.3 Arbitration

§ 6.3.1 If the parties have selected arbitration as the method for binding dispute resolution in this Agreement, any claim, dispute or other matter in question, arising out of or related to this Agreement, subject to, but not resolved by, mediation shall be subject to arbitration, which unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Arbitration Rules in effect on the date of this Agreement. A demand for arbitration shall be made in writing, delivered to the other party to this Agreement, and filed with the person or entity administering the arbitration.

§ 6.3.1.1 A demand for arbitration shall be made no earlier than concurrently with the filing of a request for mediation, but in no event shall it be made after the date when the institution of legal or equitable proceedings based on the claim, dispute, or other matter in question would be barred by the applicable statute of limitations. For statute

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of limitations purposes, receipt of a written demand for arbitration by the person or entity administering the arbitration shall constitute the institution of legal or equitable proceedings based on the claim, dispute, or other matter in question.

§ 6.3.2 The foregoing agreement to arbitrate and other agreements to arbitrate with an additional person or entity duly consented to by parties to this Agreement shall be specifically enforceable in accordance with applicable law in any court having jurisdiction thereof.

§ 6.3.3 The award rendered by the arbitrator(s) shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.

§ 6.3.4 Consolidation or Joinder

§ 6.3.4.1 Either party, at its sole discretion, may consolidate an arbitration conducted under this Agreement with any other arbitration to which it is a party provided that (1) the arbitration agreement governing the other arbitration permits consolidation; (2) the arbitrations to be consolidated substantially involve common questions of law or fact; and (3) the arbitrations employ materially similar procedural rules and methods for selecting arbitrator(s).

§ 6.3.4.2 Either party, at its sole discretion, may include by joinder persons or entities substantially involved in a common question of law or fact whose presence is required if complete relief is to be accorded in arbitration, provided that the party sought to be joined consents in writing to such joinder. Consent to arbitration involving an additional person or entity shall not constitute consent to arbitration of any claim, dispute or other matter in question not described in the written consent.

§ 6.3.4.3 The Owner and Consultant grant to any person or entity made a party to an arbitration conducted under this Section 6.3, whether by joinder or consolidation, the same rights of joinder and consolidation as the Owner and Consultant under this Agreement.

ARTICLE 7 TERMINATION OR SUSPENSION

§ 7.1 If the Owner fails to make payments to the Consultant in accordance with this Agreement, such failure shall be considered substantial nonperformance and cause for termination or, at the Consultant's option, cause for suspension of performance of services under this Agreement. If the Consultant elects to suspend services, the Consultant shall give seven days' written notice to the Owner before suspending services. In the event of a suspension of services, the Consultant shall have no liability to the Owner for delay or damage caused the Owner because of such suspension of services. Before resuming services, the Consultant shall be paid all sums due prior to suspension and any expenses incurred in the interruption and resumption of the Consultant's services. The Consultant's fees for the remaining services and the time schedules shall be equitably adjusted.

§ 7.2 If the Owner suspends the Project or the Consultant's services, the Consultant shall be compensated for services performed prior to notice of such suspension. When the Project or the Consultant's services are resumed, the Consultant shall be compensated for expenses incurred in the interruption and resumption of the Consultant's services. The Consultant's fees for the remaining services and the time schedules shall be equitably adjusted.

§ 7.3 If the Owner suspends the Project or the Consultant's services for more than 90 cumulative days for reasons other than the fault of the Consultant, the Consultant may terminate this Agreement by giving not less than seven days' written notice.

§ 7.4 Either party may terminate this Agreement upon not less than seven days' written notice should the other party fail substantially to perform in accordance with the terms of this Agreement through no fault of the party initiating the termination.

§ 7.5 The Owner may terminate this Agreement upon not less than seven days' written notice to the Consultant for the Owner's convenience and without cause.

§ 7.6 In the event of termination not the fault of the Consultant, the Consultant shall be compensated for services performed prior to termination, together with Reimbursable Expenses then due and all Termination Expenses as defined in Section 7.7.

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§ 7.7 Termination Expenses are in addition to compensation for the Consultant's services and include expenses directly attributable to termination for which the Consultant is not otherwise compensated, plus an amount for the Consultant's anticipated profit on the value of the services not performed by the Consultant.

§ 7.8 The Owner's rights to use the Consultant's Instruments of Service in the event of a termination of this Agreement are set forth in Article 5 and Section 8.7.

ARTICLE 8 COMPENSATION

§ 8.1 The Owner shall compensate the Consultant for services described in Article 2 as follows:
(Insert amount of, or basis for, compensation)

Defined in EXH-A Project Charter and Schedule

§ 8.2 The Owner shall compensate the Consultant for Additional Services that may arise during the course of the Project as follows:
(Insert amount of, or basis for, compensation.)

Defined in EXH-A Project Charter and Schedule

§ 8.3 The hourly billing rates for services of the Consultant and the Consultant's subconsultants, if any, are set forth below. The rates shall be adjusted in accordance with the Consultant's and Consultant's subconsultants' normal review practices.
(If applicable, attach an exhibit of hourly billing rates or insert them below.)

Defined in EXH-A Project Charter and Schedule

(Table Deleted)

§ 8.4 Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed. Payments are due and payable upon presentation of the Consultant's invoice. Amounts unpaid thirty (30) days after the invoice date shall bear interest at the rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of the Consultant.
(Insert rate of monthly or annual interest agreed upon.)

five percent (5 %)

§ 8.5 The Owner shall not withhold amounts from the Consultant's compensation to impose a penalty or liquidated damages on the Consultant, or to offset sums requested by or paid to contractors for the cost of changes in the Work unless the Consultant agrees or has been found liable for the amounts in a binding dispute resolution proceeding.

§ 8.6 Reimbursable Expenses

§ 8.6.1 Reimbursable Expenses are in addition to compensation for the Consultant's professional services and include expenses incurred by the Consultant directly related to the Project, as follows:

- **.1** Transportation and authorized out-of-town travel and subsistence;
- **.2** Long distance services, dedicated data and communication services, teleconferences, Project Web sites, and extranets;
- **.3** Fees paid for securing approval of authorities having jurisdiction over the Project;
- **.4** Printing, reproductions, plots, standard form documents;
- **.5** Postage, handling and delivery;
- **.6** Expense of overtime work requiring higher than regular rates, if authorized in advance by the Owner;
- **.7**
- **.8** All taxes levied on professional services and on reimbursable expenses;
- **.9** Other similar Project-related expenditures, if authorized in advance by the Owner.

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§ 8.6.2 For Reimbursable Expenses the compensation shall be the expenses incurred by the Consultant plus an administrative fee of five percent (5 %) of the expenses incurred.

§ 8.6.3

§ 8.6.4 Records of Reimbursable Expenses and services performed on the basis of hourly rates shall be available to the Owner at mutually convenient times.

§ 8.7 Compensation for Use of Consultant's Instruments of Service

If the Owner terminates the Consultant for its convenience under Section 7.5, or the Consultant terminates this Agreement under Section 7.3, the Owner shall pay a licensing fee as compensation for the Owner's continued use of the Consultant's Instruments of Service solely for purposes of completing, using and maintaining the Project as follows:

$0

ARTICLE 9 MISCELLANEOUS PROVISIONS

§ 9.1 This Agreement shall be governed by the law of the place where the Project is located, except that if the parties have selected arbitration as the method of binding dispute resolution, the Federal Arbitration Act shall govern Section 6.3.

§ 9.2 The Owner and Consultant, respectively, bind themselves, their agents, successors, assigns and legal representatives to this Agreement. Neither the Owner nor the Consultant shall assign this Agreement without the written consent of the other, except that the Owner may assign this Agreement to a lender providing financing for the Project if the lender agrees to assume the Owner's rights and obligations under this Agreement.

§ 9.3 If the Owner requests the Consultant to execute certificates, the proposed language of such certificates shall be submitted to the Consultant for review at least 14 days prior to the requested dates of execution. If the Owner requests the Consultant to execute consents reasonably required to facilitate assignment to a lender, the Consultant shall execute all such consents that are consistent with this Agreement, provided the proposed consent is submitted to the Consultant for review at least 14 days prior to execution. The Consultant shall not be required to execute certificates or consents that would require knowledge, services, or responsibilities beyond the scope of this Agreement.

§ 9.4 Nothing contained in this Agreement shall create a contractual relationship with or a cause of action in favor of a third party against either the Owner or Consultant.

§ 9.5 Unless otherwise required in this Agreement, the Consultant shall have no responsibility for the discovery, presence, handling, removal or disposal of, or exposure of persons to, hazardous materials or toxic substances in any form at the Project site.

§ 9.6 Confidential Information is information containing confidential or business proprietary information that is clearly marked as "confidential." If the Owner or Consultant transmits Confidential Information, the transmission of such Confidential Information constitutes a warranty to the party receiving such Confidential Information that the transmitting party is authorized to transmit the Confidential Information. If a party receives Confidential Information, the receiving party shall keep the Confidential Information strictly confidential and shall not disclose it to any other person or entity except as set forth in Section 9.6.1.

§ 9.6.1 A party receiving Confidential Information may disclose the Confidential Information as required by law or court order, including a subpoena or other form of compulsory legal process issued by a court or governmental entity. A party receiving Confidential Information may also disclose the Confidential Information to its employees, consultants, or contractors in order to perform services or work solely and exclusively for the Project, provided those employees, consultants, and contractors are subject to the restrictions on the disclosure and use of Confidential Information as set forth in this Agreement.

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ARTICLE 10 SPECIAL TERMS AND CONDITIONS

Special terms and conditions that modify this Agreement are as follows: None.

ARTICLE 11 SCOPE OF THE AGREEMENT

§ 11.1 This Agreement represents the entire and integrated agreement between the Owner and the Consultant and supersedes all prior negotiations, representations, or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both Owner and Consultant. In the event of a conflict between the terms and conditions of this C103™–2015, Standard Form Agreement between Owner and Consultant and an attached exhibit, the terms and conditions of the C103–2015, Standard Form Agreement between Owner and Consultant shall take precedence.

§ 11.2 This Agreement is comprised of the following documents listed below:

.1 AIA Document C103™–2015, Standard Form of Agreement Between Owner and Consultant.

(Paragraph Deleted)

.3 Scope of Services Exhibit(s) listed in section 2.1

.4 Other documents:

(List other documents hereby incorporated into the Agreement.)

EXH-A Project Charter and Schedule
EXH-C Owner Insurance

This Agreement entered into as of the day and year first written above.

OWNER*(Signature)*	**CONSULTANT***(Signature)* Patrick Mulcahey
(Printed name and title)	Patrick Mulcahey VP-Doc *(Printed name and title)*

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Additions and Deletions Report for
AIA® Document C103® – 2015

This Additions and Deletions Report, as defined on page 1 of the associated document, reproduces below all text the author has added to the standard form AIA document in order to complete it, as well as any text the author may have added to or deleted from the original AIA text. Added text is shown underlined. Deleted text is indicated with a horizontal line through the original AIA text.

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PAGE 1

AGREEMENT made as of the ~~day of~~ 24th day of February in the year 2025

...

BETWEEN the ~~Owner:~~Owner:

...

Minneapolis Public Schools Special School District #1
1250 West Broadway Avenue
Minneapolis, MN 55411

...

Kraus-Anderson Construction Company
501 South Eighth Street
Minneapolis, MN 55404

...

Facilities Condition Assessments

...

Detailed project description defined in:
EXH-A Project Charter and Schedule
EXH-C Owner's Insurance

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TABLE OF ARTICLES

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Comprehensive Facilities Condition Assessment of the Owner's facilities as defined in:
Defined in EXH-A Project Charter and Schedule

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Defined in EXH-A Project Charter and Schedule

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Defined in EXH-A Project Charter and Schedule

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Defined in EXH-A Project Charter and Schedule

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Defined in EXH-A Project Charter and Schedule

...

Travis Evenson
Kraus-Anderson Construction Company
501 South Eighth Street
Minneapolis, MN 55404
Phone: 612-655-5393
Email: travis.evenson@krausanderson.com

...

§ 2.7 Insurance. The Consultant shall maintain the following insurance for the duration of this Agreement. ~~If any of the requirements set forth below exceed the types and limits the Consultant normally maintains, the Owner shall reimburse the Consultant for any additional cost as set forth inSection 8.6.3.~~Agreement as defined in

...

EXH-C Owner Insurance.

...

~~**§2.7.1** Commercial General Liability with policy limits of not less than ($) for each occurrence and ($) in the aggregate for bodily injury and property damage.~~

...

~~**§ 2.7.2** Automobile Liability covering vehicles owned by the Consultant and non-owned vehicles used by the Consultant with policy limits of not less than ($) per claim and ($) in the aggregate for bodily injury and property damage along with any other statutorily required automobile coverage.~~

...

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~~§ 2.7.3 The Consultant may achieve the required limits and coverage for Commercial General Liability and Automobile Liability through a combination of primary and excess liability insurance, provided such primary and excess insurance policies result in the same or greater coverage as those required under Sections 2.7.1 and 2.7.2.~~

...

~~§ 2.7.4 Workers' Compensation at statutory limits and Employers' Liability with a policy limit of not less than ($).~~

...

~~§ 2.7.5 Professional Liability covering the negligent acts, errors and omissions in the performance of professional services with policy limits of not less than ($) per claim and ($) in the aggregate.~~

...

~~§ 2.7.6 The Owner shall be an additional insured on the Consultant's primary and excess insurance policies for Commercial General Liability and Automobile Liability. The additional insured coverage shall be primary and non-contributory to any of the Owner's insurance policies. The additional insured coverage shall apply to both ongoing operations and completed operations.~~

...

~~§ 2.7.7 The Consultant shall provide to the Owner certificates of insurance evidencing compliance with the requirements in this Section 2.7. The certificates will show the Owner as an additional insured on the Commercial General Liability, Automobile Liability, and any excess policies.~~

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[X] Deliverable(s) Time Limit: The Consultant shall provide the following deliverable(s) within the time limit(s) set forth ~~below. Unless otherwise indicated below, time shall be calculated based on calendar days from the date of this Agreement.~~ in EXH-A Project Charter and Schedule.

...

~~**Deliverable(s)**~~ ~~*(Describe the deliverable(s))*~~	~~**Time Limits**~~ ~~*(Insert number of calendar days and, where appropriate, if time is to be measured from a separate written authorization from the Owner)*~~

...

Daniel Goemann
Minneapolis Public Schools – Special School District #1
1250 West Broadway Avenue
Minneapolis, MN 55411
Email: Daniel.goemann@mpls.k12.mn.us

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§ 5.5 ~~Except for the licenses granted in this Article 5, no other license or right shall be deemed granted or implied under this Agreement. The Owner shall not assign, delegate, sublicense, pledge, or otherwise transfer any license granted herein to another party without the prior written agreement of the Consultant.~~ Any unauthorized use of the Instruments of Service shall be at the Owner's sole risk and without liability to the Consultant and the Consultant's subconsultants. The Owner retains full rights to all Instruments of Service for use in the Project and any existing or future projects.

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[X] Litigation in a court of competent jurisdiction

...

[ ] ~~Other:~~ Other: (Specify)

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Defined in EXH-A Project Charter and Schedule

...

Defined in EXH-A Project Charter and Schedule

...

Defined in EXH-A Project Charter and Schedule

...

~~**Employee or Category**~~ ~~**Rate**~~

...

§ 8.4 Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed. Payments are due and payable upon presentation of the Consultant's invoice. Amounts unpaid thirty (30) days after the invoice date shall bear interest at the rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of the Consultant.

...

five percent (5 %)

...

.7 ~~Consultant's subconsultants expense of professional liability insurance dedicated exclusively to this Project, or the expense of additional insurance coverage or limits if the Owner requests such insurance in excess of that normally carried by the Consultant's subconsultants;~~

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§ 8.6.2 For Reimbursable Expenses the compensation shall be the expenses incurred by the Consultant plus an administrative fee of five percent (5 %) of the expenses incurred.

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...

~~§ 8.6.3 If the insurance requirements listed in Section 2.7 exceed the types and limits the Consultant normally maintains and the Consultant incurred or will incur additional costs to satisfy such requirements, the Owner shall reimburse the Consultant for such costs as set forth below:~~

...

$0

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Special terms and conditions that modify this Agreement are as follows: None.

...

.1 AIA Document ~~C103™–2014,~~ C103™–2015, Standard Form of Agreement Between Owner and Consultant.

...

~~.2 AIA Document E202™–2022, BIM Exhibit for Sharing Models with Project Participants, Where Model Versions May Not be Enumerated as a Contract Document, if completed, or the following:~~

...

EXH-A Project Charter and Schedule

...

EXH-C Owner Insurance

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Certification of Document's Authenticity

AIA® Document D401™ – 2003

I, , hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with its associated Additions and Deletions Report and this certification at 14:42:34 CT on 02/25/2025 under Order No. 4104251278 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document C103™ - 2015, Standard Form of Agreement Between Owner and Consultant without a Predefined Scope of Consultant's Services, other than those additions and deletions shown in the associated Additions and Deletions Report.

_____

(Signed)

_____

(Title)

_____

(Dated)

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Exhibit A – Project Charter and Schedule

MPS Facility Condition Assessment Services

Minneapolis Public Schools

Multiple Sites

Minneapolis, MN

RFP 25-09

Description

Provide Facility Condition Assessment Services per attached Kraus-Anderson proposal dated November 26, 2024.

Contract Sum

The Contract Sum shall be $620,000.00

Schedule

Refer to attached Kraus-Anderson proposal dated November 26, 2024.

KRAUS-ANDERSON®

Kraus-Anderson Construction Company
501 South Eighth Street, Minneapolis, MN 55404



MINNEAPOLIS
PUBLIC SCHOOLS
Urban Education. Global Citizens.

Facility Condition Assessment Proposal for Minneapolis School District

November 26, 2024

Office 612-332-7281 | www.krausanderson.com | Fax 612-332-8739

OBJECTIVE

Kraus-Anderson received a request for proposal from the Minneapolis Public Schools (MPS) requesting facility condition assessment services. MPS has selected Intellis as their software provider of choice for Facility Asset management and Facility Condition Assessment reporting. Kraus-Anderson has responded to assist with the completion of the Facility Condition Assessment (FCA) process and analyzing the school district facilities. Kraus-Anderson will leverage our FCA team and the Intellis software to help review, understand, input, estimate and prioritize our findings of deferred maintenance and upcoming facility expenditures. Kraus-Anderson will assist in inventorying the various features determined by MPS and KA as a meaningful plan for the district. MPS has already completed extensive inventory on the mechanical systems, roofs and hard scape (parking lot) and would like to leverage that information as part of our engagement. Some of the information has already been entered into Intellis.

MPS has selected Kraus-Anderson as their preferred partner for the FCA process and our team will work closely to align our scope of services in order to provide MPS the most meaningful approach to understanding the capital requirements of their facilities.

SCOPE OF WORK

The Kraus-Anderson Facility Assessment team is pleased to submit our proposal to assist Minneapolis Public Schools with providing a comprehensive Facility Condition Assessment. The FCA will be inclusive of the following facilities and surrounding properties (inclusive of the various athletic field and complexes):

Facility	Approximate SF
Adult Education Center	134340
Andersen	232577
Anthony	139590
Anwatin	146771
Armatage	99647
Bancroft	106241
Barton	83752
Bethune	75615
Bryn Mawr	102658
Burroughs	100367
Cityview	121588
Davis Center	173768
Dowling	88608
Edison	279550
Emerson	70064
Ericsson	64421
FAIR School	86150
Field	81171
Folwell	140629
Franklin	125794

Green	117773
Hale	81807
Hall	81110
Harrison	54793
Henry	242262
Hiawatha	40888
Hmong International Academy	123293
Howe	36161
Ella Baker	151498
Johnson	125150
Justice Page	156856
Keewaydin	86050
Kenny	60104
Kenwood	65699
Lake Harriet Lower Campus (Audubon)	63646
Lake Harriet Upper Campus	85874
Laney	109026
Lincoln	155831
Lind	96693
Longfellow	44813
Loring	60036
Lyndale	97506
Maintenance & Operations	89729
Marcy	85235
North	287113
North Star	144197
Northeast	173080
Nutrition Center	73143
Olson	114959
Pillsbury	87705
Pratt	42437
Roosevelt	324724
Sanford	150680
Seward	126726
Las Estrellas	148005
South	283094
Southwest	295832
Sullivan	214421
Transportation Center	133210
YWCA Fieldhouse	50000

W. Harry Davis Academy	93483
Waite Park	60073
Washburn	256430
Webster	73414
Wenonah	44827
Whittier	142460
Wilder Complex	205536
Windom	79158
Grand Total	**8,369,841**

Facilities Condition Assessment

Kraus-Anderson's Facility Condition Assessments will provide Minneapolis Public Schools with an estimate and inventory of current and anticipated deferred maintenance and an approximation of costs for each line-item deferred maintenance identified. Our comprehensive review of the facilities includes the following:

- Complete site interviews of key facility personnel currently managing and maintaining the facility- gather all pertinent information regarding the facilities and surrounding property.
- Onsite visit: Complete a visual inspection, a high-level site visits to review the property and existing building systems conditions inclusive of the following divisions:
    - *02-Site Work:* Site lighting, transformer, parking lots/structures, stormwater, curb, green space, etc.
    - *03- Building Structure:* Non-engineering review of structure- identify points of concern
    - *04- Foundation/Slab-on-Grade:* Basements, loading docks, slabs, etc.
    - *05- Exterior Enclosure:* Façades, exterior walls, exterior doors, windows, building penetrations
    - *06- Roofs:* Roof review, roof drainage, flashing, coping, etc. (Portions provided by MPS) A visual inspection of the roof is not included, KA will depend on the reports provided by MPS
    - *07- Interior Construction:* Detail as determined by MPS and KA understanding of scope requirements
    - *09- Special Construction:* Gyms, Pools, Ice, Server Rooms, IT Closets, etc.
    - *10- Conveyance:* Elevators, escalators, chair lifts, etc. Supplemented with MPS data
    - *11- Fire Protection:* Protection, detection, panels
    - *12- Plumbing Systems:* Water Heaters, softeners, sumps, sewer, gas, etc.
    - *13- HVAC:* Heating, Ventilation, cooling, boilers, AHUs, etc. (Provided by MPS)
    - *14- Controls:* DDC, Pneumatic, Lighting Controls to be provided by MPS. Lighting shall be reviewed as to LED status only.
    - *15- Electrical:* Switchgear, Generators, ATS
    - *16- A/V:* Provided by the Minneapolis Public Schools
    - *17- Technology, Electronic Safety/Security:* Provided by the Minneapolis Public Schools
- Identify deferred maintenance and upcoming facility expenditures and digitize the findings into a consolidated report.

- Itemize and prioritize deferred maintenance and facility expenditure items and develop a comprehensive deferred maintenance list for the facilities.
- Identify cost estimates associated with either repair, replacement, or upgrades that coincide with each identified depreciable asset item that will either be a deferred maintenance item or upcoming facility expenditure.
- Analyze and consolidate cost estimate information by building and by FIN code
- Input all findings to in the Intellis software
- Present and review itemized FCA and list of prioritization recommendations.
- Develop assessment report content.
- Modify/update final facilities condition assessment report based on Minneapolis Public Schools input and prioritization direction.

PROJECT APPROACH & WORK PLAN

Kraus-Anderson's Facility Assessment Service follows a detailed delivery assurance process to maintain the quality of the Facility Condition Assessments provided for our customers. Independent of the amount of information available, our team will provide a comprehensive review of the facilities and property, organize the gathered information and previously, and present the results of the facility condition assessment. All information will be digitized and consolidated into the intellis platform provided by MPS.

Define Phase (Project initiation)

- External Kickoff Meeting
  - Introduce team members.
  - Identify key stakeholders.
  - Identify and gather existing key documentation of the site that has not been provided.
  - Review proposed timelines and project schedule.

Collect Phase

- Site observation and walk-throughs (digitally documenting site walk-through)
- Review existing documentation.
- Interview with key personnel and stakeholders– identify key site dates, information about the site, critical information, anecdotal information that may be useful to understanding the status of equipment/materials/condition, transfer of knowledge.
- Complete inventory of all reviewed systems and assets
- Digitize information gathered from site interviews, walk-throughs, site visits into the Intellis software.

Develop Phase

- Development of comprehensive facility expenditures and deferred maintenance list.
- Prioritize facility maintenance needs.
- Estimate costs associated with facility improvements and upcoming expenditures.

- Incorporate previously completed assessments and estimated costs and confirm pricing for those items.

Refine Phase

- Collaboratively work with the owner through:

- Concepts for facility maintenance items, site improvements.
- Iterative prioritization process and criticality of items

Present Phase

- Provide an executive summary of findings and ownership recommendations.
- Provide a fully digitized Intellis report per each building

PROJECT DELIVERABLES

At the conclusion of the project, Minneapolis Public Schools will be presented with Information obtained using the Intellis software, inclusive of the following:

Name	Description
Intellis Building Reports	Report of facility information, site walk-through, and deferred maintenance findings and site photography
Asset Inventory Management	Prioritize and categories by condition, criticality, and replacement • Capital and deferred maintenance/facility deficiency items identified. • Equipment and Materials lifetime expectancy. • Cost estimates are based upon real-time market data from KA's current construction cost database.
Site Interview Information	Document the anecdotal information available about the various facilities, document timeframes and phasing of the building, and current issues the facility teams are dealing with regarding the facility.
Meetings and Agendas	Inclusive of the kickoff meeting agenda and other regular meetings where information is gathered.

SCHEDULE

Based upon the scope of services, we anticipate an FCA for the proposed facilities to require 7 Months from the date of the initial kickoff meeting.

FEE

We propose to furnish all labor, material, Workers' Compensation, all liability insurance, and to pay all state, federal and local taxes to provide this assessment for a lump sum fee of **$620,000.**

EXCLUSIONS

The following is a list of exclusions, not included in the scope of services.

- Bulk printing of reports and findings

CLIENT RESPONSIBLITIES

To deliver a successful project, the Client agrees to provide the following information in order to support this engagement.

- Designate a single point of contact (SPOC) who will be responsible for:
  - Identify, schedule, and confirm availability of Client subject matter experts, facilities staff, end-users, and management for onsite interviews and meetings.
  - Provide access to the facility as needed.
- Provide documentation as needed throughout the project, such as drawings, diagrams, inventories, current cost data, and various reports.
- Ensure client interviews and review meetings are attended to avoid project delays and costs.
- Provide information, decisions, and approvals within three (3) working days of the request or otherwise agreed upon.
- Provide access and training on MPS provided Intellis system

ACCEPTANCE

This proposal will be deemed accepted as the Work Order for the project upon receipt of a signed original or copy thereof. If this proposal correctly states our agreement, please sign below:

In witness whereof, the parties hereto have caused their duly authorized representatives to enter into this agreement effective as of the date set forth below.

MINNEAPOLIS PUBLIC SCHOOLS	**KRAUS-ANDERSON**
By: _____	By: _____
Date: / / _____	Date: / / _____

PROJECT ASSUMPTIONS

- The purpose of this project is to define current facilities conditions, provide framework for space planning efforts and strategy, not to execute the strategy. The actual execution is expected to be a follow-on engagement to be discussed upon the presentation of the strategy and approval by the Client.
- The scope of work was proposed solely to meet the needs of KA's Client.
- KA's evaluations and opinions of cost estimates are only as of the date the walk-through performed, documentation reviewed, and interviews conducted. KA does not guarantee any cost estimates provided as part of the facilities assessment.
- Conditions at a property and the estimated costs to remedy them can change significantly over a relatively short period of time due to levels of maintenance, wear, and tear, acts of nature and other factors.
- KA shall not be liable for any unintended usage of this report by another party.
- No facility assessment can wholly eliminate uncertainty regarding the potential for physical deficiencies and the performance of a property's building.
- There is an inherent subjective nature of opinions as to such issues as original workmanship, quality of original installation, and estimating the remaining useful life of any given component or system.
- KA's facility assessment was designed to reduce, but not eliminate the uncertainty regarding the potential for component or system failure, within reasonable limits of time and cost, and no warranty is expressed or implied regarding the design, operation or safety of any building system or component by KA's performance of the facility assessment.
- The facility assessment is intended to be a non-intrusive assessment.
- No destructive testing will be completed and concealed areas, such as inside, plenums, behind walls or within machinery, were not accessed (unless specifically noted)
- KA makes no representations regarding exterior insulation and finishing systems (EIFS), curtain walls or other building skin conditions that would not be readily observable and, therefore, outside the scope of this assignment (unless specifically included).
- The facility assessment does not constitute a design, regulatory or code compliance audit of the building systems that may be present at the Property.
- KA is not performing the facilities assessment in the capacity of a design professional. Where any changes or repairs to existing building systems are contemplated, Client agrees to retain the services of a licensed design professional to evaluate/design any such changes or repairs.
- KA's fee for the facilities assessment includes a reasonable allowance for risk. Client agrees that KA's aggregate liability for all claims arising from the facilities assessment will not exceed the fee paid to KA or $50,000, whichever is greater, and Client agrees to indemnify KA from any liability in excess of such amount.
- Testing, measuring, or preparing calculations for any system or component to determine adequacy, capacity, or compliance with any standard is outside the scope of work.

- Information in this report, concerning past and current physical concerns, maintenance and replacement activities, and condition of spaces not observed or viewable, is from sources deemed to be reliable, including, but not limited to interviews with property owners, operators and tenants, interviews with municipal agencies and vendors; however, no representation or warranty is made as to the accuracy thereof.
- KA will have no ongoing obligation to obtain and include information that was not reasonably ascertainable, practically reviewable or provided to KA in a reasonable timeframe to formulate an opinion and complete the assessment by the agreed upon due date.
- While the general environmental setting of the property is described, this assessment is not intended to be a formal flood plain or wetland determination, and no warranty with respect thereto is expressed or implied.

EXHIBIT C Owner Insurance

Insurance Requirements

1. The Consultant shall at its own expense maintain in effect at all times during the performance of the Work under the Agreement at least the following coverage and limits of insurance:

    a. Worker's Compensation and Employer's Liability Insurance

        i. Coverage A is statutory.

        ii. Coverage B
        $500,000 Each Accident
        $500,000 Each Employee
        $500,000 Policy Limit (Disease)

    b. Comprehensive General Liability Insurance

General Aggregate	$1,000,000
Products/Completed Operations Aggregate	$1,000,000
Per Occurrence	$1,000,000
Medical Payments	$10,000

    c. Automobile Insurance

Per Occurrence	$1,000,000
PIP	Basic
Underinsured Motorist	$1,000,000
Uninsured Motorist	$1,000,000

    d. Professional Liability Insurance

i. Per Claim	$2,000,000

ii. For projects with an estimated construction Contract Sum of over $10,000,000 or major structural work an aggregate is required as follows:
Aggregate $4,000,000

e. Umbrella Liability Insurance

i. Per Occurrence $2,000,000

ii. For projects with an estimated construction Contract Sum of over $10,000,000 or major structural work an aggregate is required as follows:
Aggregate $2,000,000

f. Manned or Unmanned Aircraft Coverage (if used)

i. Per Claim $1,000,000

ii. Aggregate $1,000,000

For specialty consultants used for commissioning activities, studies, asbestos surveys and security, items A, B, C and F shall apply.

Special Asbestos Abatement Liability Insurance is required for Asbestos Abatement Contractors. The limits are $1,500,000 per claim, for liability arising from the encapsulation, removal, handling, storage, transportation, and disposal of asbestos-containing materials.

2. CONSULTANT'S OBLIGATIONS

Consultant shall not violate or knowingly permit any violation of any conditions or terms of the policies of insurance required to be carried under the terms hereof and shall endeavor to satisfy the requirements of the insurance companies issuing them. In the event Consultant neglects, refuses or fails to provide or maintain any of the insurance required to be carried under the Agreement, or if such insurance is canceled for any reason, the Owner or the Owner's lender(s) shall have the right, but not the duty, to procure or maintain the same.

In the event the Owner or the Owner's lender(s) do procure or maintain such insurance, the Owner or the Owner's lender(s) shall have, in additional to any and all other available remedies, the right to recover from the Consultant (including the right of set-off against sums otherwise due the Consultant) all of the costs associated with procuring or maintaining such insurance.

3. PROFESSIONAL LIABILITY INSURANCE

   a. Professional Liability Coverage of $2,000,000 shall be maintained for one (1) year from the date of Substantial Completion. If the Consultant discontinues its business and if directed by Owner in writing, Consultant shall purchase such insurance in such amount for an extended discovery period beyond the one (1) year after the date of Substantial Completion, with the premium cost to be a reimbursable expense paid by the Owner. The limit of liability for such policy may not be reduced below $2,000,000 without the Owner giving its prior, written consent.

   b. The Owner shall not be responsible for obtaining or paying premiums or other expenses in connection with insurance required to be carried under the Agreement or normally carried by the Consultant's consultants, and the obligation to obtain such insurance and to pay such premiums and other expenses shall be solely that of the Consultant.

   c. The Consultant shall bear all the costs of any and all deductible amounts under any insurance policies required to be carried under the Agreement and shall remain solely and fully liable for the full amount of any claim or item not compensated by insurance (to the extent that any amount resulted from damages that arose out of the Consultant's sole negligence.)

4. COVERAGE
   The coverage's referred to above are set forth in full in the respective policy forms, and the foregoing descriptions of such policies are not intended to be complete.

5. GENERALLY

   a. The Consultant thereby represents and warrants to the Owner that, as of the date of the execution of the Agreement, the Consultant is not aware of any claims or potential claims which have been made, filed or threatened against any of the insurance or for damages covered by any of the insurance required to be carried under the Agreement that would affect the Consultant's ability to provide the insurance coverage required by this agreement.

   b. It is understood that the provisions in the Agreement requiring the Consultant to carry insurance shall not be construed as in any manner waiving or restricting the liability of the Consultant as to any obligations imposed under the Agreement.

MINNEAPOLIS PUBLIC SCHOOLS

Capital Planning, Construction & Maintenance Department

Consultant/Architect Contract Change Order Cover Sheet

Project Information

Consultant/Architect	LSE	Date	1/16/2025
Project Name	North High School CTE Project	Project No.	21NORTCTE
Contract Approval Date:	2/10/2021	MAS #	12953

Summary

Original Contract Amount	$	446,494.00	Date of Substantial Completion	NA
Board Authorized Amount	$	4,924,155.99	Most recent Board Approval Date	3/12/2024

Summary of Previous Change Orders

Change Order #1	$	3,058,270.00	change for construction cost estimate
Change Order #2	$	1,124,391.99	Added services for phasing
Change Order #3	$	295,000.00	Added services for electrical and mechanical phasing
Change Order #4	$	307,750.00	Added service for Phase 4 bid package
Change Order #5			
Change Order #6			
Change Order #7			
		TOTAL OF PREVIOUS CHANGE ORDERS	$ 4,785,411.99

AMOUNT OF THIS CHANGE ORDER #	**4**	**$ 307,750.00**
TOTAL CHANGE ORDERS TO DATE		**$ 4,785,411.99**
REVISED CONTRACT AMOUNT		**$ 5,231,905.99**
REVISED DATE OF SUBSTANTIAL COMPLETION		NA
DATE OF BOARD ACTION		3/11/2025

Approved By: _____ Date: 2/11/2025
Executive Director, CPCM

Approved By: Girish Bhatnagar Date: 3/3/2025
Director of Procurement and Contracts

Approved By: _____ Date: _____
Senior Officer of Operations

AIA® Document G802® – 2017

Amendment to the Professional Services Agreement

PROJECT: *(name and address)*
North High School
1500 James Ave North
Minneapolis, MN 55411

AGREEMENT INFORMATION:
Date: January 28, 2021

AMENDMENT INFORMATION:
Amendment Number: 4
Date: 11/08/2024

OWNER: *(name and address)*
Minneapolis Public Schools
Special School District No. 1
1250 West Broadway Ave
Minneapolis, MN 55411

ARCHITECT: *(name and address)*
LSE Architects, Inc.
1401 Glenwood Avenue
Minneapolis, MN 55405

The Owner and Architect amend the Agreement as follows:

Modify the Architect's scope of work to align with the Construction Managers current Cost of Work, as defined in the Bid Package 4 CD Final Bid Set Estimate at $17,867,836. Adjustments for the increased Cost of Work with the include Mechancial, Electical, Plumbing, Structural Engineering and Architectural and Interior Design.
Scope includes the full chilled piping replacement (FRP piping replacement), replacement of pneumatic controls with digital, lighting replacement where existing ceilings are impacted and finishes, and re - scoping and packaging of the documents.

The Architect’s compensation and schedule shall be adjusted as follows:

Compensation Adjustment:

The total contract value is $4,924,155.99. Services are being added to execute Phase 4 construction and phased design. Total increase in cost is $307,750. Te revised total contract value will be $5,231,905.99. Details for the amendment amount and the revised schedule is provided below.

Invoice Schedule		
November	Documents	$230,812
February	Bidding	$6,155
March '25 - August '26	Construction	$3,932 per month for 18 months

Schedule Adjustment:	
Construction Documents	July '24 - October '24
Bidding	November '24
Construction	March 2025 - August '26

SIGNATURES:

LSE Architects
ARCHITECT *(Firm name)*

OWNER *(Firm name)*

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SIGNATURE	**SIGNATURE**
Quintin J. Scott, President	
PRINTED NAME AND TITLE	**PRINTED NAME AND TITLE**
1/28/2025	
DATE	**DATE**

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FY21 North High School CTE Project

Master Planning Contract Sum: $
Schematic–Construction Contract Sum: TBD

Architect: LSE Architects

Project Name and Number

North High School CTE Project
1800 34th Avenue NE
Minneapolis, MN 55418
Minneapolis Public Schools Project Number 21-00 Nort

Description

This project includes the remodeling of the southeast wing of North High School to a CTE center. A preliminary study was completed showing the potential floor plans. The project includes the renovation and separate entrance for a CTE center. The project also includes lunchroom and kitchen modifications and new entrance for North High School. Future projects include significant mechanical and electrical renovations throughout the school.

Contract Documents

AIA Document B101-2017
Exhibit A – Project Charter
Exhibit B – Project Design Milestones & Deliverables
Exhibit C – Owner Insurance
Exhibit D – Owner Requirements
AIA Document G201-2013
AIA Document G202-2013
AIA Document E203-2013

AIA® Document B101™ – 2017

Standard Form of Agreement Between Owner and Architect

AGREEMENT made as of the Twenty Eight day of January in the year 2021
(In words, indicate day, month and year.)

BETWEEN the Architect's client identified as the Owner:
(Name, legal status, address and other information)

Minneapolis Public Schools
Special School District #1
1250 West Broadway Avenue
Minneapolis, MN 55411

and the Architect:
(Name, legal status, address and other information)

Lawal Scott Erickson Architects, Incorporated
100 Portland Avenue S, Suite 100
Minneapolis, MN
55401

for the following Project:
(Name, location and detailed description)

North High School CTE Project
1500 James Ave N
Minneapolis, MN
55411

The Owner and Architect agree as follows.

The standards of professional services are set forth in this document and schedule of exhibits as follows:

EXH-A Project Charter
EXH-B Project Design Milestones & Deliverables
EXH-C Owner Insurance
EXH-D Owner Requirements

ADDITIONS AND DELETIONS:
The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

Init.
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10 MISCELLANEOUS PROVISIONS

11 COMPENSATION

12 SPECIAL TERMS AND CONDITIONS

13 SCOPE OF THE AGREEMENT

ARTICLE 1 INITIAL INFORMATION

§ 1.1 This Agreement is based on the Initial Information set forth in this Section 1.1.
(For each item in this section, insert the information or a statement such as "not applicable" or "unknown at time of execution.")

§ 1.1.1 The Owner's program for the Project:
(Insert the Owner's program, identify documentation that establishes the Owner's program, or state the manner in which the program will be developed.)

Defined in EXH-A Project Charter

§ 1.1.2 The Project's physical characteristics:
(Identify or describe pertinent information about the Project's physical characteristics, such as size; location; dimensions; geotechnical reports; site boundaries; topographic surveys; traffic and utility studies; availability of public and private utilities and services; legal description of the site, etc.)

Defined in EXH-A Project Charter

§ 1.1.3 The Owner's budget for the Cost of the Work, as defined in Section 6.1:
(Provide total and, if known, a line item breakdown.)

Defined in EXH-A Project Charter

§ 1.1.4 The Owner's anticipated design and construction milestone dates:

.1 Design phase milestone dates, if any:

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Defined in EXH-B Project Design Milestones & Deliverables

.2 Construction commencement date:

Defined in EXH-A Project Charter and EXH-B Project Design Milestones & Deliverables

.3 Substantial Completion date or dates:

Defined in EXH-A Project Charter

.4 Other milestone dates:

Defined in EXH-B Project Design Milestones & Deliverables

§ 1.1.5 The Owner intends the following procurement and delivery method for the Project:
(Identify method such as competitive bid or negotiated contract, as well as any requirements for accelerated or fast-track design and construction, multiple bid packages, or phased construction.)

Defined in EXH-A Project Charter

§ 1.1.6 The Owner's anticipated Sustainable Objective for the Project:
(Identify and describe the Owner's Sustainable Objective for the Project, if any.)

Sustainable Design solutions which optimize or promote improved energy efficiency, occupant well-being, comfort, health, and improved long-term maintenance serviceability as standard to LEED rating system and B3 requirements are valued. Owner will not pursue LEED certification or complete B3 compliance. The Architect is not required to provide additional services for Sustainable Design.
(Paragraph Deleted)

§ 1.1.6.1 If the Owner identifies a Sustainable Objective, the Owner and Architect shall complete and incorporate AIA Document E204™–2017, Sustainable Projects Exhibit, into this Agreement to define the terms, conditions and services related to the Owner's Sustainable Objective. If E204–2017 is incorporated into this agreement, the Owner and Architect shall incorporate the completed E204–2017 into the agreements with the consultants and contractors performing services or Work in any way associated with the Sustainable Objective.

§ 1.1.7 The Owner identifies the following representative in accordance with Section 5.3:
(List name, address, and other contact information.)

Andy Lesch, PLA Project Manager
Construction Services,, CPCM
1250 West Broadway
Minneapolis, MN
55411
612-267.9207, 612.668.0434

§ 1.1.8 The persons or entities, in addition to the Owner's representative, who are required to review the Architect's submittals to the Owner are as follows:
(List name, address, and other contact information.)

§ 1.1.9 The Owner shall retain the following consultants and contractors:
(List name, legal status, address, and other contact information.)

.1 Geotechnical Engineer:

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.2 Civil Engineer:

.3 Other, if any:
(List any other consultants and contractors retained by the Owner.)

Commissioning Agent, Geotechnical Engineer, Special Inspections, Hazardous Materials Abatement, Special Testing, and Investigative Analysis

§ 1.1.10 The Architect identifies the following representative in accordance with Section 2.3:
(List name, address, and other contact information.)

Jennifer Anderson - Tuttle, Assoc. AIA
LSE Architects, Inc.
100 Portland Ave South, Suite 100
Minneapolis, MN
55401
612.343.1010

§ 1.1.11 The Architect shall retain the consultants identified in EXH-A Project Charter.

(Paragraphs Deleted)

§ 1.1.12 Other Initial Information on which the Agreement is based:

Professional Consultant Team as defined in EXH-A Project Charter

§ 1.2 The Owner and Architect may rely on the Initial Information. Both parties, however, recognize that the Initial Information may materially change and, in that event, the Owner and the Architect shall appropriately adjust the Architect's services, schedule for the Architect's services, and the Architect's compensation. The Owner shall adjust the Owner's budget for the Cost of the Work and the Owner's anticipated design and construction milestones, as necessary, to accommodate material changes in the Initial Information.

§ 1.3 The parties shall agree upon protocols governing the transmission and use of Instruments of Service or any other information or documentation in digital form. The parties will use AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, to establish the protocols for the development, use, transmission, and exchange of digital data.

§ 1.3.1 Any use of, or reliance on, all or a portion of a building information model without agreement to protocols governing the use of, and reliance on, the information contained in the model and without having those protocols set forth in AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, and the requisite

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AIA Document G202™–2013, Project Building Information Modeling Protocol Form, shall be at the using or relying party's sole risk and without liability to the other party and its contractors or consultants, the authors of, or contributors to, the building information model, and each of their agents and employees.

ARTICLE 2 ARCHITECT'S RESPONSIBILITIES

§ 2.1 The Architect shall provide professional services as set forth in this Agreement. The Architect represents that it is properly licensed in the jurisdiction where the Project is located to provide the services required by this Agreement, or shall cause such services to be performed by appropriately licensed design professionals.

§ 2.2 The Architect shall perform its services consistent with the professional skill and care ordinarily provided by architects practicing in the same or similar locality under the same or similar circumstances. The Architect shall perform its services as expeditiously as is consistent with such professional skill and care and the orderly progress of the Project.

§ 2.3 The Architect shall identify a representative authorized to act on behalf of the Architect with respect to the Project.

§ 2.4 Except with the Owner's knowledge and consent, the Architect shall not engage in any activity, or accept any employment, interest or contribution that would reasonably appear to compromise the Architect's professional judgment with respect to this Project.

§ 2.5 The Architect shall maintain insurance as defined in EXH-C Owner Insurance until termination of this Agreement and for the period of the statutes of repose set forth in Minnesota Statute 541.051, so long as such insurance is commercially available and reasonably affordable. If any of the requirements set forth below are in addition to the types and limits the Architect normally maintains, the Owner shall pay the Architect as set forth in Section 11.9.

§ 2.5.1 Commercial General Liability with policy limits as defined in EXH-C Owner Insurance.

§ 2.5.2 Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Architect with policy limits as defined in EXH-C Owner Insurance.

§ 2.5.3 The Architect may achieve the required limits and coverage for Commercial General Liability and Automobile Liability through a combination of primary and excess or umbrella liability insurance, provided such primary and excess or umbrella liability insurance policies result in the same or greater coverage as the coverages required under Sections 2.5.1 and 2.5.2, and in no event shall any excess or umbrella liability insurance provide narrower coverage than the primary policy. The excess policy shall not require the exhaustion of the underlying limits only through the actual payment by the underlying insurers. Defined in EXH-C Owner Insurance.

§ 2.5.4 Workers' Compensation at statutory limits. Defined in EXH-C Owner Insurance.

§ 2.5.5 Employers' Liability with policy limits as defined in EXH-C Owner Insurance.

§ 2.5.6 Professional Liability covering negligent acts, errors and omissions in the performance of professional services with policy limits as defined in EXH-C Owner Insurance.

§ 2.5.7 Additional Insured Obligations. To the fullest extent permitted by law, the Architect shall cause the primary and excess or umbrella polices for Commercial General Liability and Automobile Liability to include the Owner as an additional insured for claims caused in whole or in part by the Architect's negligent acts or omissions. The additional insured coverage shall be primary and non-contributory to any of the Owner's insurance policies and shall apply to both ongoing and completed operations.

§ 2.5.8 The Architect shall provide certificates of insurance to the Owner that evidence compliance with the requirements in this Section 2.5.

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ARTICLE 3 SCOPE OF ARCHITECT'S BASIC SERVICES

§ 3.1 The Architect's Basic Services consist of those described in this Article 3 and include usual and customary structural, mechanical, and electrical engineering services. Services not set forth in this Article 3 are Supplemental or Additional Services. The Architect's Basic Services are defined in EXH-B Project Design Milestones & Deliverables.

§ 3.1.1 The Architect shall manage the Architect's services, research applicable design criteria, attend Project meetings, communicate with members of the Project team, and report progress to the Owner.

§ 3.1.2 The Architect shall coordinate its services with those services provided by the Owner and the Owner's consultants. The Architect shall be entitled to rely on, and shall not be responsible for, the accuracy, completeness, and timeliness of, services and information furnished by the Owner and the Owner's consultants. The Architect shall provide prompt (within 7-10 business days of discovery) written notice to the Owner if the Architect becomes aware of any error, omission, or inconsistency in such services or information. The Architect is encouraged to provide prompt written notice to the Owner within this timeframe; it is most critical during the construction administration phase.

§ 3.1.3 As soon as practicable after the date of this Agreement, the Architect shall submit for the Owner's approval a schedule for the performance of the Architect's services. The schedule initially shall include anticipated dates for the commencement of construction and for Substantial Completion of the Work as set forth in the Initial Information and defined in EXH-B Project Design Milestones & Deliverables. The schedule shall include allowances for periods of time required for the Owner's review, for the performance of the Owner's consultants, and for approval of submissions by authorities having jurisdiction over the Project. Once approved by the Owner, time limits established by the schedule shall not, except for reasonable cause, be exceeded by the Architect or Owner. With the Owner's approval, the Architect shall adjust the schedule, if necessary, as the Project proceeds until the commencement of construction.

§ 3.1.4 The Architect shall not be responsible for an Owner's directive or substitution, or for the Owner's acceptance of non-conforming Work, made or given without the Architect's written approval.

§ 3.1.5 The Architect shall contact governmental authorities required to approve the Construction Documents and entities providing utility services to the Project. The Architect shall respond to applicable design requirements imposed by those authorities and entities and initiate governmental planning review processes as defined in EXH-B Project Design Milestones & Deliverables.

§ 3.1.6 The Architect shall assist the Owner in connection with the Owner's responsibility for filing documents required for the approval of governmental authorities having jurisdiction over the Project.

§ 3.1.7 The Architect shall fully cooperate and coordinate with the Owner and its hired Commissioning Agent during all phases of design, construction, and commissioning to achieve the Project's final completion and full systems operability and ongoing use per the approved final design. The Architect is responsible for the duration of the contract to provide adequate support to its sub-consultants who provide services integral to commissioning.

§ 3.1.8 The Architect shall assist the Owner in connection with the Owner's responsibility to communicate the project design and construction to the school community, school neighbors, and neighborhood associations.

§ 3.1.9 The Owner shall provide available historical building documentation and the Architect shall field verify building elements as a basis for design. Additional design fees and reimbursable expenses incurred by the Architect related to remedying or addressing incorrectly identified building elements following the Architect's completion of field verification shall be borne solely by the Architect. Field verification shall include (1) field measurements of readily visible elements, (2) removing and replacing lay-in ceiling tiles, and (3) opening and closing access panels. The Architect is encouraged to identify areas that are not readily visible and merit further destructive testing that may include (1) drilling holes to use a scope camera to see inside a wall, (2) cutting small holes to identify sub surface conditions, or (3) moving non-functioning equipment to facilitate investigation. The Owner will perform any requested destructive testing. The Architect is responsible for field verification for the portion of the building within

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the scope of services. Field verification and destructive testing shall not be required for portions of the building or building systems that are not within the scope of services as defined in AIA G202-2013 Article
(Paragraph Deleted)

3.3.

§ 3.2 Schematic Design Phase Services

§ 3.2.1 The Architect shall review the program and other information furnished by the Owner, and shall review laws, codes, and regulations applicable to the Architect's services. The Architect shall submit reports, documents for review, and deliverables as defined in EXH-B Project Design Milestones & Deliverables, AIA contracts G201-2013, G202-2013, and E203-2013.

§ 3.2.2 The Architect shall prepare a preliminary evaluation of the Owner's program, schedule, budget for the Cost of the Work, Project site, the proposed procurement and delivery method, and other Initial Information, each in terms of the other, to ascertain the requirements of the Project. The Architect shall notify the Owner of (1) any inconsistencies discovered in the information, and (2) other information or consulting services that may be reasonably needed for the Project.

§ 3.2.3 The Architect shall present its preliminary evaluation to the Owner and shall discuss with the Owner alternative approaches to design and construction of the Project. The Architect shall reach an understanding with the Owner regarding the requirements of the Project.

§ 3.2.4 Based on the Project requirements agreed upon with the Owner, the Architect shall prepare and present, for the Owner's approval, a preliminary design illustrating the scale and relationship of the Project components.

§ 3.2.5 Based on the Owner's approval of the preliminary design, the Architect shall prepare Schematic Design Documents for the Owner's approval. The Schematic Design Documents shall consist of drawings and other documents including a site plan, if appropriate, and preliminary building plans, sections and elevations; and may include some combination of study models, perspective sketches, or digital representations. Preliminary selections of major building systems and construction materials shall be noted on the drawings or described in writing.

§ 3.2.5.1 The Architect shall consider sustainable design alternatives, such as material choices and building orientation, together with other considerations based on program and aesthetics, in developing a design that is consistent with the Owner's program, schedule and budget for the Cost of the Work. The Owner may obtain more advanced sustainable design services as a Supplemental Service under Section 4.1.1.

§ 3.2.5.2 The Architect shall consider the value of alternative materials, building systems and equipment, together with other considerations based on program and aesthetics, in developing a design for the Project that is consistent with the Owner's program, schedule, and budget for the Cost of the Work.

§ 3.2.6 The Architect shall submit to the Owner an estimate of the Cost of the Work prepared in accordance with Section 6.3.

§ 3.2.7 The Architect shall submit the Schematic Design Documents to the Owner as defined in EXH-B Design Milestones & Deliverables, and request the Owner's approval before proceeding with Design Development Documents as defined in EXH-B Design Milestones & Deliverables.

§ 3.3 Design Development Phase Services

§ 3.3.1 Based on the Owner's approval of the Schematic Design Documents, and on the Owner's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, the Architect shall prepare Design Development Documents for the Owner's approval. The Design Development Documents shall illustrate and describe the development of the approved Schematic Design Documents and shall consist of drawings and other documents including plans, sections, elevations, typical construction details, and diagrammatic layouts of building systems to fix and describe the size and character of the Project as to architectural, structural, mechanical and electrical systems, and other appropriate elements. The Design Development Documents shall also include outline specifications that identify major materials and systems and establish, in general, their quality levels. The Architect

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shall submit reports, documents for review, and deliverables as defined in EXH-B Project Design Milestones & Deliverables and AIA contracts G201-2013, G202-2013, and E203-2013.

§ 3.3.2 The Architect shall update the estimate of the Cost of the Work prepared in accordance with Section 6.3.

§ 3.3.3 The Architect shall submit the Design Development Documents to the Owner, advise the Owner of any adjustments to the estimate of the Cost of the Work as defined in EXH-B Project Design Milestones & Deliverables, and request the Owner's approval before proceeding with Construction Documents as defined in EXH-B Design Milestones & Deliverables.

§ 3.4 Construction Documents Phase Services

§ 3.4.1 Based on the Owner's approval of the Design Development Documents, and on the Owner's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, the Architect shall prepare Construction Documents for the Owner's approval. The Construction Documents shall illustrate and describe the further development of the approved Design Development Documents and shall consist of Drawings and Specifications setting forth in detail the quality levels and performance criteria of materials and systems and other requirements for the construction of the Work. The Owner and Architect acknowledge that, in order to perform the Work, the Contractor will provide additional information, including Shop Drawings, Product Data, Samples and other similar submittals, which the Architect shall review in accordance with Section 3.6.4.

§ 3.4.2 The Architect shall incorporate the design requirements of governmental authorities having jurisdiction over the Project into the Construction Documents.

§ 3.4.3 During the development of the Construction Documents, the Architect shall assist the Owner in the development and preparation of (1) procurement information that describes the time, place, and conditions of bidding, including bidding or proposal forms; (2) the form of agreement between the Owner and Contractor; and (3) the Conditions of the Contract for Construction (General, Supplementary and other Conditions). The Architect shall also compile a project manual that includes the Conditions of the Contract for Construction and Specifications, and may include bidding requirements and sample forms.

§ 3.4.4 The Architect shall update the estimate for the Cost of the Work prepared in accordance with Section 6.3.

§ 3.4.5 The Architect shall submit the Construction Documents to the Owner, advise the Owner of any adjustments to the estimate of the Cost of the Work, take any action required under Section 6.5, and request the Owner's approval. The Architect shall submit construction documents which are estimated to bid within 5% of the budgeted construction cost. The Cost of Work submittal is defined in EXH-B Project Design Milestones & Deliverables.

§ 3.5 Procurement Phase Services

§ 3.5.1 General

The Architect shall assist the Owner in establishing a list of prospective contractors. Following the Owner's approval of the Construction Documents, the Architect shall assist the Owner in (1) obtaining either competitive bids or negotiated proposals; (2) confirming responsible and responsiveness of bids or proposals; (3) determining the successful bid or proposal, if any; (4) awarding and preparing contracts for construction; and, (5) Any review of bid anomalies or irregularities requiring legal review shall be provided by the Owner.

§ 3.5.2 Competitive Bidding

§ 3.5.2.1 Bidding Documents shall consist of bidding requirements and proposed Contract Documents.

§ 3.5.2.2 The Architect shall assist the Owner in bidding the Project by:

- **.1** facilitating the distribution of Bidding Documents to prospective bidders;
- **.2** organizing and conducting a pre-bid conference for prospective bidders;
- **.3** preparing responses to questions from prospective bidders and providing clarifications and interpretations of the Bidding Documents to the prospective bidders in the form of addenda; and,
- **.4** organizing and conducting the opening of the bids, and subsequently documenting and distributing the bidding results, as directed by the Owner.

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§ 3.5.2.3 If the Bidding Documents permit substitutions, upon the Owner's written authorization, the Architect shall consider requests for substitutions and prepare and distribute addenda identifying approved substitutions to all prospective bidders.

§ 3.5.3 Negotiated Proposals

§ 3.5.3.1 Proposal Documents shall consist of proposal requirements and proposed Contract Documents.

§ 3.5.3.2 The Architect shall assist the Owner in obtaining proposals by:

.1 facilitating the distribution of Proposal Documents for distribution to prospective contractors and requesting their return upon completion of the negotiation process;

.2 organizing and participating in selection interviews with prospective contractors;

.3 preparing responses to questions from prospective contractors and providing clarifications and interpretations of the Proposal Documents to the prospective contractors in the form of addenda; and,

.4 participating in negotiations with prospective contractors, and subsequently preparing a summary report of the negotiation results, as directed by the Owner.

§ 3.5.3.3 If the Proposal Documents permit substitutions, upon the Owner's written authorization, the Architect shall, as an Additional Service, consider requests for substitutions and prepare and distribute addenda identifying approved substitutions to all prospective contractors.

§ 3.6 Construction Phase Services

§ 3.6.1 General

§ 3.6.1.1 The Architect shall provide administration of the Contract between the Owner and the Contractor as set forth below and in AIA Document A201™–2017, General Conditions of the Contract for Construction. If the Owner and Contractor modify AIA Document A201–2017, those modifications shall not affect the Architect's services under this Agreement unless the Owner and the Architect amend this Agreement.

§ 3.6.1.2 The Architect shall advise, lead, and consult with the Owner during the Construction Phase Services. The Architect shall have authority to act on behalf of the Owner only to the extent provided in this Agreement. The Architect shall not have control over, charge of, or responsibility for the construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work, nor shall the Architect be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The Architect shall be responsible for the Architect's negligent acts, errors, or omissions, but shall not have control over or charge of, and shall not be responsible for, acts or omissions of the Contractor or of any other persons or entities performing portions of the Work.

§ 3.6.1.3 Subject to Section 4.2 and except as provided in Section 3.6.6.5, the Architect's responsibility to provide Construction Phase Services commences with the award of the Contract for Construction and the Owner's written notice to proceed to Construction Administration and terminates on the date the Architect authorizes the Contractor's final Certificate for Payment.

§ 3.6.2 Evaluations of the Work

§ 3.6.2.1 The Architect shall visit the site at intervals appropriate to the stage of construction, or as otherwise required in Section 4.2.3, to become generally familiar with the progress and quality of the portion of the Work completed, and to determine, in general, if the Work observed is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the Architect shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. On the basis of the site visits, the Architect shall keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, and promptly report to the Owner (1) known deviations from the Contract Documents, (2) known deviations from the most recent construction schedule submitted by the Contractor, and (3) defects and deficiencies observed in the Work.

§ 3.6.2.2 The Architect has the authority and obligation to reject Work that does not conform to the Contract Documents unless the Owner accepts non-conforming work in writing after consulting with the Architect. Whenever the Architect considers it necessary or advisable, the Architect shall have the authority and obligation to require inspection or testing of the Work in accordance with the provisions of the Contract Documents, whether or not the Work is fabricated, installed or completed. However, neither this authority and obligation of the Architect nor a

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decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect to the Contractor, Subcontractors, suppliers, their agents or employees, or other persons or entities performing portions of the Work.

§ 3.6.2.3 The Architect shall interpret and decide matters concerning performance under, and requirements of, the Contract Documents on written request of either the Owner or Contractor. The Architect's response to such requests shall be made in writing within five business days of requests or otherwise with reasonable promptness.

§ 3.6.2.4 Interpretations and decisions of the Architect shall be consistent with the intent of, and reasonably inferable from, the Contract Documents and shall be in writing or in the form of drawings. When making such interpretations and decisions, the Architect shall endeavor to secure faithful performance by both Owner and Contractor, shall not show partiality to either, and shall not be liable for results of interpretations or decisions rendered in good faith. The Architect's decisions on matters relating to aesthetic effect shall be final if consistent with the intent expressed in the Contract Documents.

§ 3.6.2.5 Unless the Owner and Contractor designate another person to serve as an Initial Decision Maker, as that term is defined in AIA Document A201–2017, the Architect shall render initial decisions on Claims between the Owner and Contractor as provided in the Contract Documents.

§ 3.6.3 Certificates for Payment to Contractor

§ 3.6.3.1 The Architect shall review and certify the amounts due the Contractor and shall issue certificates in such amounts. The Architect's certification for payment shall constitute a representation to the Owner, based on the Architect's evaluation of the Work as provided in Section 3.6.2 and on the data comprising the Contractor's Application for Payment, that, to the best of the Architect's knowledge, information and belief, the Work has progressed to the point indicated, the quality of the Work is in accordance with the Contract Documents, and that the Contractor is entitled to payment in the amount certified. The foregoing representations are subject to (1) an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, (2) results of subsequent documented tests and inspections, (3) correction of minor deviations from the Contract Documents prior to completion, and (4) specific qualifications expressed by the Architect. The Architect's certification on the Certificate for Payment shall be that the percentages of Work shown on the application are completed, to the best of the Architect's knowledge, information, and belief. No judgement is made by the Architect as to the value of the Work or the value of uncompleted Work.

§ 3.6.3.2 The issuance of a Certificate for Payment shall not be a representation that the Architect has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work, (2) reviewed construction means, methods, techniques, sequences or procedures, (3) reviewed copies of requisitions received from Subcontractors and suppliers and other data requested by the Owner to substantiate the Contractor's right to payment, or (4) ascertained how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

§ 3.6.3.3 The Architect shall maintain a record of the Applications and Certificates for Payment.

§ 3.6.4 Submittals

§ 3.6.4.1 The Architect shall review the Contractor's submittal schedule and shall not unreasonably delay or withhold approval of the schedule. The Architect's action in reviewing submittals shall be taken in accordance with the approved submittal schedule or, in the absence of an approved submittal schedule, with reasonable promptness while allowing sufficient time, in the Architect's professional judgment, to permit adequate review.

§ 3.6.4.2 The Architect shall review and approve, or take other appropriate action upon, the Contractor's submittals such as Shop Drawings, Product Data and Samples, but only for the limited purpose of checking for conformance with the Contract Documents. Review of such submittals is not for the purpose of determining the accuracy and completeness of other information such as dimensions, quantities, and installation or performance of equipment or systems, which are the Contractor's responsibility. The Architect's review shall not constitute approval of safety precautions or construction means, methods, techniques, sequences or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

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§ 3.6.4.3 If the Contract Documents specifically require the Contractor to provide professional design services or certifications by a design professional related to systems, materials, or equipment, the Architect shall specify the appropriate performance and design criteria that such services must satisfy. The Architect shall review and take appropriate action on Shop Drawings and other submittals related to the Work designed or certified by the Contractor's design professional, provided the submittals bear such professional's seal and signature when submitted to the Architect. The Architect's review shall be for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Architect shall be entitled to rely upon, and shall not be responsible for, the adequacy and accuracy of the services, certifications, and approvals performed or provided by such design professionals.

§ 3.6.4.4 Subject to Section 4.2, the Architect shall review and respond to requests for information about the Contract Documents. The Architect shall set forth, in the Contract Documents, the requirements for requests for information. Requests for information shall include, at a minimum, a detailed written statement that indicates the specific Drawings or Specifications in need of clarification and the nature of the clarification requested. The Architect's response to such requests shall be made in writing within any time limits agreed upon, or otherwise with reasonable promptness. If appropriate, the Architect shall prepare and issue supplemental Drawings and Specifications in response to the requests for information.

§ 3.6.4.5 The Architect shall maintain a record of submittals and copies of submittals supplied by the Contractor in accordance with the requirements of the Contract Documents.

§ 3.6.5 Changes in the Work

§ 3.6.5.1 The Architect may order minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. Subject to Section 4.2, the Architect shall prepare Change Orders and Construction Change Directives for the Owner's approval and execution in accordance with the Contract Documents.

§ 3.6.5.2 The Architect shall maintain records relative to changes in the Work.

§ 3.6.6 Project Completion

§ 3.6.6.1 The Architect shall:

.1 conduct inspections to determine the date or dates of Substantial Completion and the date of final completion;

.2 issue Certificates of Substantial Completion;

.3 forward to the Owner, for the Owner's review and records, written warranties including a warranty schedule of major building systems and warranty expiration dates, and related documents required by the Contract Documents and received from the Contractor; and,

.4 issue a final Certificate for Payment based upon a final inspection indicating that, to the best of the Architect's knowledge, information, and belief, the Work complies with the requirements of the Contract Documents.

.5 The Architect shall produce punch list items as part of the certificate of Substantial Completion issued to the Contractor. The Architect shall create the list(s), present them to the Owner, incorporate Owner feedback, and compile all punch items for the contractor in a timely manner.

§ 3.6.6.2 The Architect's inspections shall be conducted with the Owner to check conformance of the Work with the requirements of the Contract Documents and to verify the accuracy and completeness of the list(s) including and not limited to Architectural, Civil, Mechanical, Electrical, Structural, and Plumbing systems submitted by the Contractor of Work to be completed or corrected.

§ 3.6.6.3 When Substantial Completion has been achieved, the Architect shall inform the Owner about the balance of the Contract Sum remaining to be paid the Contractor, including the amount to be retained from the Contract Sum, if any, for final completion or correction of the Work.

§ 3.6.6.4 The Architect shall forward to the Owner the following information received from the Contractor: (1) consent of surety or sureties, if any, to reduction in or partial release of retainage or the making of final payment; (2)

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affidavits, receipts, releases and waivers of liens, or bonds indemnifying the Owner against liens; and (3) any other documentation required of the Contractor under the Contract Documents.

§ 3.6.6.5 Upon request of the Owner ten (10) months following substantial completion, and prior to the expiration of one year from the date of Substantial Completion, the Architect shall, without additional compensation, conduct a meeting with the Owner to review the facility operations and performance.

§ 3.6.6.6 The Architect shall issue an As Constructed Record set of construction documents that will consist of the As Designed Record Sets of construction documents and Revit model with redlined changes from the General Contractor incorporated into the digital deliverables as defined in AIA G201 2013 Article 2.3 to the Owner upon final completion of the Project. The As Constructed Record documents shall reflect all digital changes made by the Architect between issuing the Bid Documents set and final completion as well as the General Contractor's redline changes. The Architect shall not be held responsible for field verification of the General Contractor's changes. The Architect's full set of deliverables during Construction Administration are defined in EXH-D Owner Requirements.

ARTICLE 4 SUPPLEMENTAL AND ADDITIONAL SERVICES

§ 4.1 Supplemental Services

§ 4.1.1 The services listed below are not included in Basic Services but may be required for the Project. The Architect shall provide the listed Supplemental Services only if specifically designated in the table below as the Architect's responsibility, and the Owner shall compensate the Architect as provided in Section 11.2. Unless otherwise specifically addressed in this Agreement, if neither the Owner nor the Architect is designated, the parties agree that the listed Supplemental Service is not being provided for the Project.

(Designate the Architect's Supplemental Services and the Owner's Supplemental Services required for the Project by indicating whether the Architect or Owner shall be responsible for providing the identified Supplemental Service. Insert a description of the Supplemental Services in Section 4.1.2 below or attach the description of services as an exhibit to this Agreement.)

Supplemental Services	**Responsibility** *(Architect, Owner, or not provided)*
§ 4.1.1.1 Programming	
§ 4.1.1.2 Multiple preliminary designs	
§ 4.1.1.3 Measured drawings	
§ 4.1.1.4 Existing facilities surveys	
§ 4.1.1.5 Site evaluation and planning	
§ 4.1.1.6 Building Information Model management responsibilities	
§ 4.1.1.7 Development of Building Information Models for post construction use	
§ 4.1.1.8 Civil engineering	
§ 4.1.1.9 Landscape design	
§ 4.1.1.10 Architectural interior design	
§ 4.1.1.11 Value analysis	
§ 4.1.1.12 Detailed cost estimating beyond that required in Section 6.3	
§ 4.1.1.13 On-site project representation	
§ 4.1.1.14 Conformed documents for construction	
§ 4.1.1.15 As-designed record drawings	
§ 4.1.1.16 As-constructed record drawings	
§ 4.1.1.17 Post-occupancy evaluation	
§ 4.1.1.18 Facility support services	
§ 4.1.1.19 Tenant-related services	

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§ 4.1.1.20 Architect's coordination of the Owner's consultants	
§ 4.1.1.21 Telecommunications/data design	
§ 4.1.1.22 Security evaluation and planning	
§ 4.1.1.23 Commissioning	
§ 4.1.1.24 Sustainable Project Services pursuant to Section 4.1.3	
§ 4.1.1.25 Fast-track design services	
§ 4.1.1.26 Multiple bid packages	
§ 4.1.1.27 Historic preservation	
§ 4.1.1.28 Furniture, furnishings, and equipment design	
§ 4.1.1.29 Other services provided by specialty Consultants	
§ 4.1.1.30 Other Supplemental Services	

§ 4.1.2 Description of Supplemental Services

§ 4.1.2.1 A description of each Supplemental Service identified in Section 4.1.1 as the Architect's responsibility is provided below.

(Describe in detail the Architect's Supplemental Services identified in Section 4.1.1 or, if set forth in an exhibit, identify the exhibit. The AIA publishes a number of Standard Form of Architect's Services documents that can be included as an exhibit to describe the Architect's Supplemental Services.)

§ 4.1.2.2 A description of each Supplemental Service identified in Section 4.1.1 as the Owner's responsibility is provided below.

(Describe in detail the Owner's Supplemental Services identified in Section 4.1.1 or, if set forth in an exhibit, identify the exhibit.)

§ 4.1.3 If the Owner identified a Sustainable Objective in Article 1, the Architect shall provide, as a Supplemental Service, the Sustainability Services required in AIA Document E204™–2017, Sustainable Projects Exhibit, attached to this Agreement. The Owner shall compensate the Architect as provided in Section 11.2.

§ 4.2 Architect's Additional Services

The Architect may provide Additional Services after execution of this Agreement without invalidating the Agreement. Except for services required due to the fault of the Architect, any Additional Services provided in accordance with this Section 4.2 shall entitle the Architect to compensation pursuant to Section 11.3 and an appropriate adjustment in the Architect's schedule. Additional Services are Defined in EXH-A Project Charter.

§ 4.2.1 Upon recognizing the need to perform the following Additional Services, the Architect shall notify the Owner with reasonable promptness and explain the facts and circumstances giving rise to the need. The Architect shall not proceed to provide the following Additional Services until the Architect receives the Owner's written authorization:

.1 Services necessitated by a change in the Initial Information, previous instructions or approvals given by the Owner, or a material change in the Project including size, quality, complexity, the Owner's schedule or budget for Cost of the Work, or procurement or delivery method;

.2 Services necessitated by the enactment or revision of codes, laws, or regulations, including changing or editing previously prepared Instruments of Service;

.3 Changing or editing previously prepared Instruments of Service necessitated by official interpretations of applicable codes, laws or regulations that are contrary to requirements of the Instruments of Service when those Instruments of Service were prepared in accordance with the applicable standard of care;

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.4 Services necessitated by decisions of the Owner not rendered in a timely manner or any other failure of performance on the part of the Owner or the Owner's consultants or contractors;

(Paragraphs Deleted)

.8 Preparation for, and attendance at, a dispute resolution proceeding or legal proceeding, except where the Architect is party thereto;

(Paragraph Deleted)

.10 Consultation concerning replacement of Work resulting from fire or other cause during construction; or,

(Paragraph Deleted)

§ 4.2.2 To avoid delay in the Construction Phase, the Architect shall provide the following Additional Services, notify the Owner with reasonable promptness, and explain the facts and circumstances giving rise to the need. If, upon receipt of the Architect's notice, the Owner determines that all or parts of the services are not required, the Owner shall give prompt written notice to the Architect of the Owner's determination. The Owner shall compensate the Architect for the services provided prior to the Architect's receipt of the Owner's notice.

.1 Reviewing a Contractor's submittal out of sequence from the submittal schedule approved by the Architect;

.2 Responding to the Contractor's requests for information that are not prepared in accordance with the Contract Documents or where such information is available to the Contractor from a careful study and comparison of the Contract Documents, field conditions, other Owner-provided information, Contractor-prepared coordination drawings, or prior Project correspondence or documentation;

.3 Preparing Change Orders and Construction Change Directives that require evaluation of Contractor's proposals and supporting data, or the preparation or revision of Instruments of Service;

.4 Evaluating an extensive number of Claims as the Initial Decision Maker; or,

.5 Evaluating substitutions proposed by the Owner or Contractor and making subsequent revisions to Instruments of Service resulting therefrom.

§ 4.2.3 The Architect shall provide Construction Phase Services exceeding the limits set forth below as Additional Services. When the limits below are reached, the Architect shall notify the Owner:

.1 2 (two) reviews of each Shop Drawing, Product Data item, sample and similar submittals of the Contractor

.2 1 (one) visits per week to the site by the Architect during construction

.3 2 (two) inspections for any portion of the Work to determine whether such portion of the Work is substantially complete in accordance with the requirements of the Contract Documents

.4 1 (one) inspections for any portion of the Work to determine final completion.

§ 4.2.4 Except for services required under Section 3.6.6.5 and those services that do not exceed the limits set forth in Section 4.2.3, Construction Phase Services provided more than 60 days after (1) the date of Substantial Completion of the Work or (2) the initial date of Substantial Completion identified in the agreement between the Owner and Contractor, whichever is earlier, shall be compensated as Additional Services to the extent the Architect incurs additional cost in providing those Construction Phase Services.

§ 4.2.5 If the services covered by this Agreement have not been completed within eighteen (18) months of the date of this Agreement, through no fault of the Architect, extension of the Architect's services beyond that time shall be compensated as Additional Services.

ARTICLE 5 OWNER'S RESPONSIBILITIES

§ 5.1 Unless otherwise provided for under this Agreement, the Owner shall provide information in a timely manner regarding requirements for and limitations on the Project, including a written program, which shall set forth the Owner's objectives; schedule; constraints and criteria, including space requirements and relationships; flexibility;

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expandability; special equipment; systems; and site requirements and stakeholder engagement requirements as defined in EXH-B Project Design Milestones & Deliverables.

§ 5.2 The Owner shall establish the Owner's budget for the Project, including (1) the budget for the Cost of the Work as defined in Section 6.1; (2) the Owner's other costs; and, (3) reasonable contingencies related to all of these costs. The Owner shall update the Owner's budget for the Project as necessary throughout the duration of the Project until final completion. If the Owner significantly increases or decreases the Owner's budget for the Cost of the Work, the Owner shall notify the Architect. The Owner and the Architect shall thereafter agree to a corresponding change in the Project's scope and quality.

§ 5.3 The Owner shall identify a representative authorized to act on the Owner's behalf with respect to the Project. The Owner shall render decisions and approve the Architect's submittals in a timely manner in order to avoid unreasonable delay in the orderly and sequential progress of the Architect's services.

§ 5.4 The Owner shall furnish surveys to describe physical characteristics, legal limitations and utility locations for the site of the Project, and a written legal description of the site. The surveys and legal information shall include, as applicable, grades and lines of streets, alleys, pavements and adjoining property and structures; designated wetlands; adjacent drainage; rights-of-way, restrictions, easements, encroachments, zoning, deed restrictions, boundaries and contours of the site; locations, dimensions, and other necessary data with respect to existing buildings, other improvements and trees; and information concerning available utility services and lines, both public and private, above and below grade, including inverts and depths. All the information on the survey shall be referenced to a Project benchmark.

§ 5.5 The Owner shall furnish services of geotechnical engineers, which may include test borings, test pits, determinations of soil bearing values, percolation tests, evaluations of hazardous materials, seismic evaluation, ground corrosion tests and resistivity tests, including necessary operations for anticipating subsoil conditions, with written reports and appropriate recommendations.

§ 5.6 The Owner shall provide the Supplemental Services designated as the Owner's responsibility in Section 4.1.1.

§ 5.7 If the Owner identified a Sustainable Objective in Article 1, the Owner shall fulfill its responsibilities as required in AIA Document E204™–2017, Sustainable Projects Exhibit, attached to this Agreement.

§ 5.8 The Owner shall coordinate the services of its own consultants with those services provided by the Architect. Upon the Architect's request, the Owner shall furnish copies of the scope of services in the contracts between the Owner and the Owner's consultants. The Owner shall furnish the services of consultants other than those designated as the responsibility of the Architect in this Agreement, or authorize the Architect to furnish them as an Additional Service, when the Architect requests such services and demonstrates that they are reasonably required by the scope of the Project. The Owner shall require that its consultants and contractors maintain insurance, including professional liability insurance, as appropriate to the services or work provided and defined in Article 2.

§ 5.8.1 Architect's responsibility in connection with the services of Owner's consultants, contractors, or design-build contractor shall be to coordinate Owner's consultants', contractors', or design-build contractor's portion of the Instruments of Service. Owner shall require consultants, contractors, or design-build contractor retained by Owner to coordinate their services and documents with those of Architect and Architect's consultants.

§ 5.9 The Owner shall furnish tests, inspections and reports required by law or the Contract Documents, such as structural, mechanical, and chemical tests, tests for air and water pollution, and tests for hazardous materials.

§ 5.10 The Owner shall furnish all legal, insurance and accounting services, including auditing services, that may be reasonably necessary at any time for the Project to meet the Owner's needs and interests.

§ 5.11 The Owner shall provide prompt written notice to the Architect if the Owner becomes aware of any fault or defect in the Project, including errors, omissions or inconsistencies in the Architect's Instruments of Service.

§ 5.12 The Owner shall include the Architect in all communications with the Contractor that relate to or affect the Architect's services or professional responsibilities. The Owner shall promptly notify the Architect of the substance

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of any direct communications between the Owner and the Contractor otherwise relating to the Project. Communications by and with the Architect's consultants shall be through the Architect.

§ 5.13 Before executing the Contract for Construction, the Owner shall coordinate the Architect's duties and responsibilities set forth in the Contract for Construction with the Architect's services set forth in this Agreement. The Owner shall provide the Architect a copy of the executed agreement between the Owner and Contractor, including the General Conditions of the Contract for Construction.

§ 5.14 The Owner shall provide the Architect access to the Project site prior to commencement of the Work and shall obligate the Contractor to provide the Architect access to the Work wherever it is in preparation or progress.

§ 5.15 Within 15 days after receipt of a written request from the Architect, the Owner shall furnish the requested information as necessary and relevant for the Architect to evaluate, give notice of, or enforce lien rights.

§ 5.16 The Owner shall provide coordination, installation, and procurement of furniture, furnishings, and equipment for the Project.

§ 5.17 The Owner shall provide Information Technology equipment plugged into networks. Cabling and infrastructure designed by the Architect and installed by the Contractor.

§ 5.18 The Owner shall provide Testing and Special Inspections.

§ 5.19 The Owner shall coordinate closely with the Architect and the Contractor for design and installation of security systems in the Project. The Owner shall design systems by locating cameras and designating doors for access control, the Architect shall document and complete the initial design by designing pathways, the Contractor shall install cabling and infrastructure required for the systems to be operational as well as devices, and the Owner shall work with the Contractor to program and test the
(Paragraph Deleted)

systems.

ARTICLE 6 COST OF THE WORK

§ 6.1 For purposes of this Agreement, the Cost of the Work shall be the total cost to the Owner to construct all elements of the Project designed or specified by the Architect and shall include contractors' general conditions costs, overhead and profit. The Cost of the Work also includes the reasonable value of labor including escalation for phased work or market conditions, materials, and equipment, donated to, or otherwise furnished by, the Owner. The Cost of the Work does not include the compensation of the Architect; the costs of the land, rights-of-way, financing, or contingencies for changes in the Work; or other costs that are the responsibility of the Owner.

§ 6.2 The Owner's budget for the Cost of the Work is provided in Initial Information, and shall be adjusted throughout the Project as required under Sections 5.2, 6.4 and 6.5. Evaluations of the Owner's budget for the Cost of the Work, and the preliminary estimate of the Cost of the Work and updated estimates of the Cost of the Work, prepared by the Architect, represent the Architect's judgment as a design professional. It is recognized, however, that neither the Architect nor the Owner has control over the cost of labor, materials, or equipment; the Contractor's methods of determining bid prices; or competitive bidding, market, or negotiating conditions. Accordingly, the Architect cannot and does not warrant or represent that bids or negotiated prices will not vary from the Owner's budget for the Cost of the Work, or from any estimate of the Cost of the Work, or evaluation, prepared or agreed to by the Architect.

§ 6.3 In preparing estimates of the Cost of Work, the Architect shall be permitted to include contingencies for design, bidding, and price escalation; to determine what materials, equipment, component systems, and types of construction are to be included in the Contract Documents; to recommend reasonable adjustments in the program and scope of the Project; and to include design alternates as may be necessary to adjust the estimated Cost of the Work to meet the Owner's budget as defined in EXH-A Project Charter and EXH-B Project Design Milestones & Deliverables. The Architect's estimate of the Cost of the Work shall be based on current area, volume or similar conceptual estimating techniques. If the Owner requires a detailed estimate of the Cost of the Work, the Architect

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shall provide such an estimate, if identified as the Architect's responsibility in Section 4.1.1, as a Supplemental Service.

§ 6.4 If, through no fault of the Architect, the Procurement Phase has not commenced within 90 days after the Architect submits the Construction Documents to the Owner, the Owner's budget for the Cost of the Work may be adjusted to reflect changes in the general level of prices in the applicable construction market.

§ 6.5 If at any time the Architect's estimate of the Cost of the Work exceeds the Owner's budget for the Cost of the Work, the Architect shall make appropriate recommendations to the Owner to adjust the Project's size, quality, or budget for the Cost of the Work, and the Owner shall cooperate with the Architect in making such adjustments.

§ 6.6 If the Owner's budget for the Cost of the Work at the conclusion of the Construction Documents Phase Services is exceeded by five percent (5%) by the lowest bona fide bid or negotiated proposal, the Owner shall

.1 give written approval of an increase in the budget for the Cost of the Work;

.2 authorize rebidding or renegotiating of the Project within a reasonable time;

.3 terminate in accordance with Section 9.5;

.4 in consultation with the Architect, revise the Project program, scope, or quality as required to reduce the Cost of the Work; or,

.5 cooperate in revising the Project scope as required to reduce the estimated construction cost to an estimated cost within the Owner's budget. Costs or time incurred by the Architect to review the design to align with the Budget shall be borne entirely by the Architect.

.6 implement any other mutually acceptable alternative, which may include the Owner's decision to suspend the Project, in which case the Architect shall be paid for services actually rendered under this agreement.

§ 6.7 If the Owner chooses to proceed under Section 6.6.4, the Architect shall modify the Construction Documents as necessary to comply with the Owner's budget for the Cost of the Work at the conclusion of the Construction Documents Phase Services, or the budget as adjusted under Section 6.6.1. If the Owner requires the Architect to modify the Construction Documents because the lowest bona fide bid or negotiated proposal exceeds the Owner's budget for the Cost of the Work due to market conditions the Architect could not reasonably anticipate, the Owner shall compensate the Architect for the modifications as an Additional Service pursuant to Section 11.3; otherwise the Architect's services for modifying the Construction Documents shall be without additional compensation. In any event, the Architect's modification of the Construction Documents shall be the limit of the Architect's responsibility under this Article 6.

ARTICLE 7 COPYRIGHTS AND LICENSES

§ 7.1 The Architect and the Owner warrant that in transmitting Instruments of Service, or any other information, the transmitting party is the copyright owner of such information or has permission from the copyright owner to transmit such information for its use on the Project.

§ 7.2 The Architect and the Architect's consultants shall be deemed the authors and owners of their respective Instruments of Service, including the Drawings and Specifications, and shall retain all common law, statutory and other reserved rights, including copyrights. Submission or distribution of Instruments of Service to meet official regulatory requirements or for similar purposes in connection with the Project is not to be construed as publication in derogation of the reserved rights of the Architect and the Architect's consultants.

§ 7.3 The Architect grants to the Owner a nonexclusive license to use the Architect's Instruments of Service solely and exclusively for purposes of constructing, using, maintaining, altering and adding to the Project, provided that the Owner substantially performs its obligations under this Agreement, including prompt payment of all sums due pursuant to Article 9 and Article 11. The Architect shall obtain similar nonexclusive licenses from the Architect's consultants consistent with this Agreement. The license granted under this section permits the Owner to authorize the Contractor, Subcontractors, Sub-subcontractors, and suppliers, as well as the Owner's consultants and separate contractors, to reproduce applicable portions of the Instruments of Service, subject to any protocols established pursuant to Section 1.3, solely and exclusively for use in performing services or construction for the Project. If the Architect rightfully terminates this Agreement for cause as provided in Section 9.4, the license granted in this Section 7.3 shall terminate.

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§ 7.3.1 In the event the Owner uses the Instruments of Service without retaining the authors of the Instruments of Service, the Owner releases the Architect and Architect's consultant(s) from all claims and causes of action arising from such uses. The Owner, to the extent permitted by law, further agrees to indemnify and hold harmless the Architect and its consultants from all costs and expenses, including the cost of defense, related to claims and causes of action asserted by any third person or entity to the extent such costs and expenses arise from the Owner's use of the Instruments of Service under this Section 7.3.1. The terms of this Section 7.3.1 shall not apply if the Owner rightfully terminates this Agreement for cause under Section 9.4.

§ 7.4 Any unauthorized use of the Instruments of Service shall be at the Owner's sole risk and without liability to the Architect and the Architect's consultants. The Owner retains full rights to all Instruments of Service for use in the Project and any existing or future projects.

§ 7.5 Except as otherwise stated in Section 7.3, the provisions of this Article 7 shall survive the termination of this Agreement.

ARTICLE 8 CLAIMS AND DISPUTES

§ 8.1 General

§ 8.1.1 The Owner and Architect shall commence all claims and causes of action against the other and arising out of or related to this Agreement, whether in contract, tort, or otherwise, in accordance with the requirements of the binding dispute resolution method selected in this Agreement and within the period specified by applicable law, but in any case not more than 10 years after the date of Substantial Completion of the Work. The Owner and Architect waive all claims and causes of action not commenced in accordance with this Section 8.1.1.

§ 8.1.2 To the extent damages are covered by property insurance, the Owner and Architect waive all rights against each other and against the contractors, consultants, agents, and employees of the other for damages, except such rights as they may have to the proceeds of such insurance as set forth in AIA Document A201–2017, General Conditions of the Contract for Construction. The Owner or the Architect, as appropriate, shall require of the contractors, consultants, agents, and employees of any of them, similar waivers in favor of the other parties enumerated herein.

§ 8.1.3 The Architect and Owner waive consequential damages for claims, disputes, or other matters in question, arising out of or relating to this Agreement. This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination of this Agreement, except as specifically provided in Section 9.7.

§ 8.2 Mediation

§ 8.2.1 Any claim, dispute or other matter in question arising out of or related to this Agreement shall be subject to mediation as a condition precedent to binding dispute resolution. If such matter relates to or is the subject of a lien arising out of the Architect's services, the Architect may proceed in accordance with applicable law to comply with the lien notice or filing deadlines prior to resolution of the matter by mediation or by binding dispute resolution.

§ 8.2.2 The Owner and Architect shall endeavor to resolve claims, disputes and other matters in question between them by mediation, which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Mediation Procedures in effect on the date of this Agreement. A request for mediation shall be made in writing, delivered to the other party to this Agreement, and filed with the person or entity administering the mediation. The request may be made concurrently with the filing of a complaint or other appropriate demand for binding dispute resolution but, in such event, mediation shall proceed in advance of binding dispute resolution proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order. If an arbitration proceeding is stayed pursuant to this section, the parties may nonetheless proceed to the selection of the arbitrator(s) and agree upon a schedule for later proceedings.

§ 8.2.3 The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

§ 8.2.4 If the parties do not resolve a dispute through mediation pursuant to this Section 8.2, the method of binding dispute resolution shall be the following:

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(Check the appropriate box.)

[ ] Arbitration pursuant to Section 8.3 of this Agreement

[X] Litigation in a court of competent jurisdiction

[ ] Other: *(Specify)*

If the Owner and Architect do not select a method of binding dispute resolution, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, the dispute will be resolved in a court of competent jurisdiction.

§ 8.3 Arbitration

§ 8.3.1 If the parties have selected arbitration as the method for binding dispute resolution in this Agreement, any claim, dispute or other matter in question arising out of or related to this Agreement subject to, but not resolved by, mediation shall be subject to arbitration, which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Arbitration Rules in effect on the date of this Agreement. A demand for arbitration shall be made in writing, delivered to the other party to this Agreement, and filed with the person or entity administering the arbitration.

§ 8.3.1.1 A demand for arbitration shall be made no earlier than concurrently with the filing of a request for mediation, but in no event shall it be made after the date when the institution of legal or equitable proceedings based on the claim, dispute or other matter in question would be barred by the applicable statute of limitations. For statute of limitations purposes, receipt of a written demand for arbitration by the person or entity administering the arbitration shall constitute the institution of legal or equitable proceedings based on the claim, dispute or other matter in question.

§ 8.3.2 The foregoing agreement to arbitrate, and other agreements to arbitrate with an additional person or entity duly consented to by parties to this Agreement, shall be specifically enforceable in accordance with applicable law in any court having jurisdiction thereof.

§ 8.3.3 The award rendered by the arbitrator(s) shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.

§ 8.3.4 Consolidation or Joinder

§ 8.3.4.1 Either party, at its sole discretion, may consolidate an arbitration conducted under this Agreement with any other arbitration to which it is a party provided that (1) the arbitration agreement governing the other arbitration permits consolidation; (2) the arbitrations to be consolidated substantially involve common questions of law or fact; and (3) the arbitrations employ materially similar procedural rules and methods for selecting arbitrator(s).

§ 8.3.4.2 Either party, at its sole discretion, may include by joinder persons or entities substantially involved in a common question of law or fact whose presence is required if complete relief is to be accorded in arbitration, provided that the party sought to be joined consents in writing to such joinder. Consent to arbitration involving an additional person or entity shall not constitute consent to arbitration of any claim, dispute or other matter in question not described in the written consent.

§ 8.3.4.3 The Owner and Architect grant to any person or entity made a party to an arbitration conducted under this Section 8.3, whether by joinder or consolidation, the same rights of joinder and consolidation as the Owner and Architect under this Agreement.

§ 8.4 The provisions of this Article 8 shall survive the termination of this Agreement.

ARTICLE 9 TERMINATION OR SUSPENSION

§ 9.1 If the Owner fails to make payments to the Architect in accordance with this Agreement, such failure shall be considered substantial nonperformance and cause for termination or, at the Architect's option, cause for suspension

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of performance of services under this Agreement. If the Architect elects to suspend services, the Architect shall give seven days' written notice to the Owner before suspending services. In the event of a suspension of services, the Architect shall have no liability to the Owner for delay or damage caused the Owner because of such suspension of services. Before resuming services, the Owner shall pay the Architect all sums due prior to suspension and any reasonable, quantifiable expenses incurred in the interruption and resumption of the Architect's services. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted.

§ 9.2 If the Owner suspends the Project, the Architect shall be compensated for services performed prior to notice of such suspension. When the Project is resumed, the Architect shall be compensated for expenses incurred in the interruption and resumption of the Architect's services. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted.

§ 9.3 If the Owner suspends the Project for more than 90 cumulative days for reasons other than the fault of the Architect, the Architect may terminate this Agreement by giving not less than seven days' written notice.

§ 9.4 Either party may terminate this Agreement upon not less than seven days' written notice should the other party fail substantially to perform in accordance with the terms of this Agreement through no fault of the party initiating the termination.

§ 9.5 The Owner may terminate this Agreement upon not less than seven days' written notice to the Architect for the Owner's convenience and without cause.

§ 9.6 If the Owner terminates this Agreement for its convenience pursuant to Section 9.5, or the Architect terminates this Agreement pursuant to Section 9.3, the Owner shall compensate the Architect for services performed prior to termination, Reimbursable Expenses incurred, and costs attributable to termination, including the committed costs or performance of services attributable to the Architect's termination of consultant agreements.

§ 9.7 In addition to any amounts paid under Section 9.6, if the Owner terminates this Agreement for its convenience pursuant to Section 9.5, or the Architect terminates this Agreement pursuant to Section 9.3, the Owner shall pay to the Architect the following fees:
(Set forth below the amount of any termination or licensing fee, or the method for determining any termination or licensing fee.)

.1 Termination Fee:

$0

.2 Licensing Fee if the Owner intends to continue using the Architect's Instruments of Service:

$0

§ 9.8 Except as otherwise expressly provided herein, this Agreement shall terminate one year from the date of Substantial Completion.

§ 9.9 The Owner's rights to use the Architect's Instruments of Service in the event of a termination of this Agreement are set forth in Article 7 and Section 9.7.

ARTICLE 10 MISCELLANEOUS PROVISIONS

§ 10.1 This Agreement shall be governed by the law of the place where the Project is located, excluding that jurisdiction's choice of law rules. If the parties have selected arbitration as the method of binding dispute resolution, the Federal Arbitration Act shall govern Section 8.3.

§ 10.2 Terms in this Agreement shall have the same meaning as those in AIA Document A201–2017, General Conditions of the Contract for Construction.

§ 10.3 The Owner and Architect, respectively, bind themselves, their agents, successors, assigns, and legal representatives to this Agreement. Neither the Owner nor the Architect shall assign this Agreement without the

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written consent of the other, except that the Owner may assign this Agreement to a lender providing financing for the Project if the lender agrees to assume the Owner's rights and obligations under this Agreement, including any payments due to the Architect by the Owner prior to the assignment.

§ 10.4 If the Owner requests the Architect to execute certificates, the proposed language of such certificates shall be submitted to the Architect for review at least 14 days prior to the requested dates of execution. If the Owner requests the Architect to execute consents reasonably required to facilitate assignment to a lender, the Architect shall execute all such consents that are consistent with this Agreement, provided the proposed consent is submitted to the Architect for review at least 14 days prior to execution. The Architect shall not be required to execute certificates or consents that would require knowledge, services, or responsibilities beyond the scope of this Agreement.

§ 10.5 Nothing contained in this Agreement shall create a contractual relationship with, or a cause of action in favor of, a third party against either the Owner or Architect.

§ 10.6 Unless otherwise required in this Agreement, the Architect shall have no responsibility for the discovery, presence, handling, removal or disposal of, or exposure of persons to, hazardous materials or toxic substances in any form at the Project site. A hazardous material or toxic substance is any material or substance that may be considered hazardous, toxic, or otherwise subject to statutory or regulatory requirements governing handling, disposal, and/or cleanup. For purposes of this agreement, the term hazardous material shall include and not be limited to asbestos, polychlorinated biphenyl (PCB), mold, mildew, fungi, or other similar microbial conditions.

§ 10.6.1 Owner agrees to defend, indemnify, and save harmless the Architect from and against any and all liabilities, demands, claims, penalties, forfeitures, suits, and the costs and expenses arising from the discovery, presence, handling, removal, or disposal of, or exposure to hazardous materials or toxic substances (as defined in § 10.6), except to the extent that the presence of or exposure to hazardous materials or toxic substances result from the sole negligence or willful misconduct of the Architect.

§ 10.7 The Architect shall have the right to include photographic or artistic representations of the design of the Project among the Architect's promotional and professional materials. The Architect shall be given reasonable access to the completed Project to make such representations. However, the Architect's materials shall not include the Owner's confidential or proprietary information if the Owner has previously advised the Architect in writing of the specific information considered by the Owner to be confidential or proprietary. The Owner shall provide professional credit for the Architect in the Owner's promotional materials for the Project. This Section 10.7 shall survive the termination of this Agreement unless the Owner terminates this Agreement for cause pursuant to Section 9.4.

§ 10.8 If the Architect or Owner receives information specifically designated as "confidential" or "business proprietary," the receiving party shall keep such information strictly confidential and shall not disclose it to any other person except as set forth in Section 10.8.1. This Section 10.8 shall survive the termination of this Agreement.

§ 10.8.1 The receiving party may disclose "confidential" or "business proprietary" information after 7 days' notice to the other party, when required by law, arbitrator's order, or court order, including a subpoena or other form of compulsory legal process issued by a court or governmental entity, or to the extent such information is reasonably necessary for the receiving party to defend itself in any dispute. The receiving party may also disclose such information to its employees, consultants, or contractors in order to perform services or work solely and exclusively for the Project, provided those employees, consultants and contractors are subject to the restrictions on the disclosure and use of such information as set forth in this Section 10.8.

§ 10.9 The invalidity of any provision of the Agreement shall not invalidate the Agreement or its remaining provisions. If it is determined that any provision of the Agreement violates any law, or is otherwise invalid or unenforceable, then that provision shall be revised to the extent necessary to make that provision legal and enforceable. In such case the Agreement shall be construed, to the fullest extent permitted by law, to give effect to the parties' intentions and purposes in executing the Agreement.

ARTICLE 11 COMPENSATION

§ 11.1 For the Architect's Basic Services described under Article 3, the Owner shall compensate the Architect as follows:

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.1 Stipulated Sum
(Insert amount)

Defined in EXH-A Project Charter

.2 Percentage Basis
(Insert percentage value)

( ) % of the Owner's budget for the Cost of the Work, as calculated in accordance with Section 11.6.

.3 Other
(Describe the method of compensation)

Defined in EXH-A Project Charter

§ 11.2 For the Architect's Supplemental Services designated in Section 4.1.1 and for any Sustainability Services required pursuant to Section 4.1.3, the Owner shall compensate the Architect as follows:
(Insert amount of, or basis for, compensation. If necessary, list specific services to which particular methods of compensation apply.)

Defined in EXH-A Project Charter.

§ 11.3 For Additional Services that may arise during the course of the Project, including those under Section 4.2, the Owner shall compensate the Architect as follows:
(Insert amount of, or basis for, compensation.)

Defined in EXH-A Project Charter

§ 11.4 Compensation for Supplemental and Additional Services of the Architect's consultants when not included in Section 11.2 or 11.3, shall be the amount invoiced to the Architect plus percent (%), or as follows:
(Insert amount of, or basis for computing, Architect's consultants' compensation for Supplemental or Additional Services.)

§ 11.5 When compensation for Basic Services is based on a stipulated sum or a percentage basis, the proportion of compensation for each phase of services shall be as follows and defined in EXH-B Project Design Milestones & Deliverables:

Schematic Design Phase		percent (		%)
Design Development Phase		percent (		%)
Construction Documents Phase		percent (		%)
Procurement Phase		percent (		%)
Construction Phase		percent (		%)
Total Basic Compensation	one hundred	percent (	100	%)

§ 11.6 When compensation identified in Section 11.1 is on a percentage basis, progress payments for each phase of Basic Services shall be calculated by multiplying the percentages identified in this Article by the Owner's most recent budget for the Cost of the Work. Compensation paid in previous progress payments shall not be adjusted based on subsequent updates to the Owner's budget for the Cost of the Work.

§ 11.6.1 When compensation is on a percentage basis and any portions of the Project are deleted or otherwise not constructed, compensation for those portions of the Project shall be payable to the extent services are performed on

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those portions. The Architect shall be entitled to compensation in accordance with this Agreement for all services performed whether or not the Construction Phase is commenced.

§ 11.7 The hourly billing rates for services of the Architect and the Architect's consultants are set forth below. The rates shall be adjusted in accordance with the Architect's and Architect's consultants' normal review practices. *(If applicable, attach an exhibit of hourly billing rates or insert them below.)*

Defined in EXH-A Project Charter

Employee or Category	Rate ($0.00)

§ 11.8 Compensation for Reimbursable Expenses

§ 11.8.1 Reimbursable Expenses are in addition to compensation for Basic, Supplemental, and Additional Services and include expenses incurred by the Architect and the Architect's consultants directly related to the Project, as follows:

.1 Transportation and authorized out-of-town travel and subsistence;
.2 Long distance services, dedicated data and communication services, teleconferences, Project web sites, and extranets;
.3 Permitting and other fees required by authorities having jurisdiction over the Project;
.4 Printing, reproductions, plots, and standard form documents;
.5 Postage, handling, and delivery;
.6 Expense of overtime work requiring higher than regular rates, if authorized in advance by the Owner;
.7 Renderings, physical models, mock-ups, professional photography, and presentation materials requested by the Owner or required for the Project;
.8 If required by the Owner, and with the Owner's prior written approval, the Architect's consultants' expenses of professional liability insurance dedicated exclusively to this Project, or the expense of additional insurance coverage or limits in excess of that normally maintained by the Architect's consultants;
.9 All taxes levied on professional services and on reimbursable expenses;
.10 Site office expenses;
.11 Registration fees and any other fees charged by the Certifying Authority or by other entities as necessary to achieve the Sustainable Objective; and,
.12 Other similar Project-related expenditures.

§ 11.8.2 For Reimbursable Expenses the compensation shall be the expenses incurred by the Architect and the Architect's consultants plus five percent (5 %) of the expenses incurred.

§ 11.9 Architect's Insurance. If the types and limits of coverage required in Section 2.5 are in addition to the types and limits the Architect normally maintains, the Owner shall pay the Architect for the additional costs incurred by the Architect for the additional coverages as set forth below:
(Insert the additional coverages the Architect is required to obtain in order to satisfy the requirements set forth in Section 2.5, and for which the Owner shall reimburse the Architect.)

$0

§ 11.10 Payments to the Architect

§ 11.10.1 Initial Payments

§ 11.10.1.1 An initial payment of zero ($ 0) shall be made upon execution of this Agreement and is the minimum payment under this Agreement. It shall be credited to the Owner's account in the final invoice.

§ 11.10.1.2 If a Sustainability Certification is part of the Sustainable Objective, an initial payment to the Architect of zero ($ 0) shall be made upon execution of this Agreement for registration fees and other fees payable to the Certifying Authority and necessary to achieve the Sustainability Certification. The Architect's payments to the Certifying Authority shall be credited to the Owner's account at the time the expense is incurred.

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§ 11.10.2 Progress Payments

§ 11.10.2.1 Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed. Payments are due and payable upon presentation of the Architect's invoice. Amounts unpaid thirty (30) days after the invoice date shall bear interest at the rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of the Architect. The Architect shall send invoices directly to the Contract Representative named in paragraph 1.1.7.

(Insert rate of monthly or annual interest agreed upon.)

%

§ 11.10.2.2 The Owner shall not withhold amounts from the Architect's compensation to impose a penalty or liquidated damages on the Architect, or to offset sums requested by or paid to contractors for the cost of changes in the Work, unless the Architect agrees or has been found liable for the amounts in a binding dispute resolution proceeding.

§ 11.10.2.3 Records of Reimbursable Expenses, expenses pertaining to Supplemental and Additional Services, and services performed on the basis of hourly rates shall be available to the Owner upon written request.

ARTICLE 12 SPECIAL TERMS AND CONDITIONS

Special terms and conditions that modify this Agreement are as follows:

(Include other terms and conditions applicable to this Agreement.)

12.1 The Architect and the Owner agree that the Project may be phased, include multiple bid packs (as few as one or as many as three) or require accelerated design deliverables to best meet the Owner's schedule of funding approvals and day one operations for building occupants. As a standard of working with the Owner the Architect agrees that additional compensation above fees for Basic Services and Additional Services as defined in EXH-A Project Charter will not be paid to the Architect to perform and deliver services within known parameters for the Project as defined in EXH-A Project Charter, EXH-B Project Design Milestones & Deliverables, and EXH-D Owner Requirements.

12.2 The Architect and the Owner agree to incorporate the Owner's feedback as defined ni EXH-D Owner Requirements. The Owner's written notice to proceed to the next design phase will not be granted without written receipt of required deliverables.

12.3 If the Owner elects to employ an accelerated, phased, or fast track design process (in which some of the Architect's design services overlap the construction work and are out of sequence with the traditional delivery method), Owner does so with full recognition of the inherent risks associated with these design methodologies. Such risks include the Owner incurring costs for the Architect to coordinate and re-design portions of the Project affected by procuring or installing elements of the Project prior to the completion of all relevant Construction Documents, and costs for the Contractor to remove and replace previously installed Work. In recognition of the inherent risks of the fast tracking to the Architect and the benefits to the Owner, the Owner agrees to (i) waive all claims against the Architect for design changes, delays, disruptions, or other modifications of portions of the Work already constructed due to the Owner's decision to employ the fast track process and (ii) indemnify and hold the Architect harmless, to the maximum extent permitted by law, from any and all damage, liability, and cost, including reasonable attorney fees and defense costs, arising from third party claims, excepting those attributable to the negligence of the Architect or those for whom the Architect is legally liable. To compensate the Architect for all Additional Services required to modify, correct, or adjust the Construction Documents and coordinate them in order to meet the Owner's program requirements because of the Owner's decision to construct the Project in a fast track manner. Owner further agrees to include in the budget for the Project sufficient contingencies to cover such Additional Services.

12.4 The Owner agrees that the Architect is not responsible for damages arising directly or indirectly from any delays for causes beyond the Architect's control. For purposes of this Agreement, such causes include, but are not limited to, strikes or other labor disputes; severe weather disruptions, other natural disasters; fires, riots, acts of terrorism, war, or other emergencies or acts of God.

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ARTICLE 13 SCOPE OF THE AGREEMENT

§ 13.1 This Agreement represents the entire and integrated agreement between the Owner and the Architect and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both the Owner and Architect.

§ 13.2 This Agreement is comprised of the following documents identified below:

.1 AIA Document B101™–2017, Standard Form Agreement Between Owner and Architect

.2 AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, dated as indicated below:

(Insert the date of the E203-2013 incorporated into this agreement.)

January 31, 2020

.3 Exhibits: A-D as identified on page 1 of this agreement and named below

.4 AIA Document G201-2013 Project Digital Data Protocol Form

.5 AIA Document G202-2013 Project Building Information Modeling Protocol Form

(Check the appropriate box for any exhibits incorporated into this Agreement.)

[ ] AIA Document E204™–2017, Sustainable Projects Exhibit, dated as indicated below:
(Insert the date of the E204-2017 incorporated into this agreement.)

[X] Other Exhibits incorporated into this Agreement:
(Clearly identify any other exhibits incorporated into this Agreement, including any exhibits and scopes of services identified as exhibits in Section 4.1.2.)

EXH-A Project Charter
EXH-B Project Design Milestones & Deliverables
EXH-C Owner Insurance
EXH-D Owner Requirements

.6 Other documents:

(List other documents, if any, forming part of the Agreement.)

AIA Document A201-2017 General Conditions

This Agreement entered into as of the day and year first written above.

OWNER (Signature)

Ibrahima Diop, Senior Financial Officer

(Printed name and title)

ARCHITECT (Signature)

QUINTIN J. SCOTT / PRESIDENT

(Printed name, title, and license number, if required)

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Additions and Deletions Report for
AIA® Document B101™ – 2017

This Additions and Deletions Report, as defined on page 1 of the associated document, reproduces below all text the author has added to the standard form AIA document in order to complete it, as well as any text the author may have added to or deleted from the original AIA text. Added text is shown underlined. Deleted text is indicated with a horizontal line through the original AIA text.

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PAGE 1

AGREEMENT made as of the Twenty Eight day of January in the year 2021

...

Minneapolis Public Schools
Special School District #1
1250 West Broadway Avenue
Minneapolis, MN 55411

...

Lawal Scott Erickson Architects, Incorporated
100 Portland Avenue S, Suite 100
Minneapolis, MN
55401

...

North High School CTE Project

...

1500 James Ave N

...

Minneapolis, MN
55411

...

The standards of professional services are set forth in this document and schedule of exhibits as follows:

...

EXH-A Project Charter

...

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EXH-B Project Design Milestones & Deliverables

...

EXH-C Owner Insurance

...

EXH-D Owner Requirements

PAGE 2

TABLE OF ARTICLES

...

(Insert the Owner's program, identify documentation that establishes the Owner's program, or state the manner in which the program will be developed.)

...

Defined in EXH-A Project Charter

...

Defined in EXH-A Project Charter

...

Defined in EXH-A Project Charter

PAGE 3

Defined in EXH-B Project Design Milestones & Deliverables

...

Defined in EXH-A Project Charter and EXH-B Project Design Milestones & Deliverables

...

Defined in EXH-A Project Charter

...

Defined in EXH-B Project Design Milestones & Deliverables

...

Defined in EXH-A Project Charter

...

Sustainable Design solutions which optimize or promote improved energy efficiency, occupant well-being, comfort, health, and improved long-term maintenance serviceability as standard to LEED rating system and B3 requirements

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are valued. Owner will not pursue LEED certification or complete B3 compliance. The Architect is not required to provide additional services for Sustainable Design.

...

Andy Lesch, PLA Project Manager
Construction Services,, CPCM
1250 West Broadway
Minneapolis, MN
55411
612-267.9207, 612.668.0434

PAGE 4

Commissioning Agent, Geotechnical Engineer, Special Inspections, Hazardous Materials Abatement, Special Testing, and Investigative Analysis

...

Jennifer Anderson - Tuttle, Assoc. AIA
LSE Architects, Inc.
100 Portland Ave South, Suite 100
Minneapolis, MN
55401
612.343.1010

...

§ 1.1.11 The Architect shall retain the consultants identified in ~~Sections 1.1.11.1 and 1.1.11.2:~~EXH-A Project Charter.

...

~~*(List name, legal status, address, and other contact information.)*~~

...

~~**§ 1.1.11.1** Consultants retained under Basic Services:~~

...

~~**.1** Structural Engineer:~~

...

~~**.2** Mechanical Engineer:~~

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...

~~.3 Electrical Engineer:~~

...

~~**§ 1.1.11.2** Consultants retained under Supplemental Services:~~

...

Professional Consultant Team as defined in EXH-A Project Charter

PAGE 5

§ 2.5 The Architect shall maintain ~~the following insurance until termination of this Agreement.~~ insurance as defined in EXH-C Owner Insurance until termination of this Agreement and for the period of the statutes of repose set forth in Minnesota Statute 541.051, so long as such insurance is commercially available and reasonably affordable. If any of the requirements set forth below are in addition to the types and limits the Architect normally maintains, the Owner shall pay the Architect as set forth in Section 11.9.

...

§ 2.5.1 Commercial General Liability with policy limits ~~of not less than ($) for each occurrence and ($) in the aggregate for bodily injury and property damage.~~as defined in EXH-C Owner Insurance.

...

§ 2.5.2 Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Architect with policy limits ~~of not less than ($) per accident for bodily injury, death of any person, and property damage arising out of the ownership, maintenance and use of those motor vehicles, along with any other statutorily required automobile coverage.~~as defined in EXH-C Owner Insurance.

...

§ 2.5.3 The Architect may achieve the required limits and coverage for Commercial General Liability and Automobile Liability through a combination of primary and excess or umbrella liability insurance, provided such primary and excess or umbrella liability insurance policies result in the same or greater coverage as the coverages required under Sections 2.5.1 and 2.5.2, and in no event shall any excess or umbrella liability insurance provide narrower coverage than the primary policy. The excess policy shall not require the exhaustion of the underlying limits only through the actual payment by the underlying insurers. Defined in EXH-C Owner Insurance.

...

§ 2.5.4 Workers' Compensation at statutory limits. Defined in EXH-C Owner Insurance.

...

§ 2.5.5 Employers' Liability with policy limits ~~not less than ($) each accident, ($) each employee, and ($) policy limit.~~as defined in EXH-C Owner Insurance.

...

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§ 2.5.6 Professional Liability covering negligent acts, errors and omissions in the performance of professional services with policy limits ~~of not less than ($) per claim and ($) in the aggregate.~~as defined in EXH-C Owner Insurance.

PAGE 6

§ 3.1 The Architect's Basic Services consist of those described in this Article 3 and include usual and customary structural, mechanical, and electrical engineering services. Services not set forth in this Article 3 are Supplemental or Additional Services. The Architect's Basic Services are defined in EXH-B Project Design Milestones & Deliverables.

...

§ 3.1.2 The Architect shall coordinate its services with those services provided by the Owner and the Owner's consultants. The Architect shall be entitled to rely on, and shall not be responsible for, the accuracy, completeness, and timeliness of, services and information furnished by the Owner and the Owner's consultants. The Architect shall provide prompt (within 7-10 business days of discovery) written notice to the Owner if the Architect becomes aware of any error, omission, or inconsistency in such services or information. The Architect is encouraged to provide prompt written notice to the Owner within this timeframe; it is most critical during the construction administration phase.

...

§ 3.1.3 As soon as practicable after the date of this Agreement, the Architect shall submit for the Owner's approval a schedule for the performance of the Architect's services. The schedule initially shall include anticipated dates for the commencement of construction and for Substantial Completion of the Work as set forth in the Initial ~~Information.~~ Information and defined in EXH-B Project Design Milestones & Deliverables. The schedule shall include allowances for periods of time required for the Owner's review, for the performance of the Owner's consultants, and for approval of submissions by authorities having jurisdiction over the Project. Once approved by the Owner, time limits established by the schedule shall not, except for reasonable cause, be exceeded by the Architect or Owner. With the Owner's approval, the Architect shall adjust the schedule, if necessary, as the Project proceeds until the commencement of construction.

...

§ 3.1.5 The Architect shall contact governmental authorities required to approve the Construction Documents and entities providing utility services to the Project. The Architect shall respond to applicable design requirements imposed by those authorities and ~~entities.~~entities and initiate governmental planning review processes as defined in EXH-B Project Design Milestones & Deliverables.

...

§ 3.1.7 The Architect shall fully cooperate and coordinate with the Owner and its hired Commissioning Agent during all phases of design, construction, and commissioning to achieve the Project's final completion and full systems operability and ongoing use per the approved final design. The Architect is responsible for the duration of the contract to provide adequate support to its sub-consultants who provide services integral to commissioning.

...

§ 3.1.8 The Architect shall assist the Owner in connection with the Owner's responsibility to communicate the project design and construction to the school community, school neighbors, and neighborhood associations.

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§ 3.1.9 The Owner shall provide available historical building documentation and the Architect shall field verify building elements as a basis for design. Additional design fees and reimbursable expenses incurred by the Architect related to remedying or addressing incorrectly identified building elements following the Architect's completion of field verification shall be borne solely by the Architect. Field verification shall include (1) field measurements of readily visible elements, (2) removing and replacing lay-in ceiling tiles, and (3) opening and closing access panels. The Architect is encouraged to identify areas that are not readily visible and merit further destructive testing that may include (1) drilling holes to use a scope camera to see inside a wall, (2) cutting small holes to identify sub surface conditions, or (3) moving non-functioning equipment to facilitate investigation. The Owner will perform any requested destructive testing. The Architect is responsible for field verification for the portion of the building within the scope of services. Field verification and destructive testing shall not be required for portions of the building or building systems that are not within the scope of services as defined in AIA G202-2013 Article

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3.3.

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§ 3.2 Schematic Design Phase Services

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§ 3.2.1 The Architect shall review the program and other information furnished by the Owner, and shall review laws, codes, and regulations applicable to the Architect's services. The Architect shall submit reports, documents for review, and deliverables as defined in EXH-B Project Design Milestones & Deliverables, AIA contracts G201-2013, G202-2013, and E203-2013.

...

§ 3.2.7 The Architect shall submit the Schematic Design Documents to the ~~Owner, and request the Owner's approval.~~Owner as defined in EXH-B Design Milestones & Deliverables, and request the Owner's approval before proceeding with Design Development Documents as defined in EXH-B Design Milestones & Deliverables.

PAGE 8

§ 3.3.1 Based on the Owner's approval of the Schematic Design Documents, and on the Owner's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, the Architect shall prepare Design Development Documents for the Owner's approval. The Design Development Documents shall illustrate and describe the development of the approved Schematic Design Documents and shall consist of drawings and other documents including plans, sections, elevations, typical construction details, and diagrammatic layouts of building systems to fix and describe the size and character of the Project as to architectural, structural, mechanical and electrical systems, and other appropriate elements. The Design Development Documents shall also include outline specifications that identify major materials and systems and establish, in general, their quality levels. The Architect shall submit reports, documents for review, and deliverables as defined in EXH-B Project Design Milestones & Deliverables and AIA contracts G201-2013, G202-2013, and E203-2013.

...

§ 3.3.3 The Architect shall submit the Design Development Documents to the Owner, advise the Owner of any adjustments to the estimate of the Cost of the ~~Work, and request the Owner's approval.~~Work as defined in EXH-B Project Design Milestones & Deliverables, and request the Owner's approval before proceeding with Construction Documents as defined in EXH-B Design Milestones & Deliverables.

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...

§ 3.4.5 The Architect shall submit the Construction Documents to the Owner, advise the Owner of any adjustments to the estimate of the Cost of the Work, take any action required under Section 6.5, and request the Owner's approval. The Architect shall submit construction documents which are estimated to bid within 5% of the budgeted construction cost. The Cost of Work submittal is defined in EXH-B Project Design Milestones & Deliverables.

...

The Architect shall assist the Owner in establishing a list of prospective contractors. Following the Owner's approval of the Construction Documents, the Architect shall assist the Owner in (1) obtaining either competitive bids or negotiated proposals; (2) confirming responsible and responsiveness of bids or proposals; (3) determining the successful bid or proposal, if any; ~~and,~~ (4) awarding and preparing contracts for ~~construction.~~construction; and, (5) Any review of bid anomalies or irregularities requiring legal review shall be provided by the Owner.

PAGE 9

§ 3.5.2.3 If the Bidding Documents permit substitutions, upon the Owner's written authorization, the Architect ~~shall, as an Additional Service,~~ shall consider requests for substitutions and prepare and distribute addenda identifying approved substitutions to all prospective bidders.

...

§ 3.6.1.2 The Architect shall ~~advise~~ advise, lead, and consult with the Owner during the Construction Phase Services. The Architect shall have authority to act on behalf of the Owner only to the extent provided in this Agreement. The Architect shall not have control over, charge of, or responsibility for the construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work, nor shall the Architect be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The Architect shall be responsible for the Architect's negligent ~~acts~~ acts, errors, or omissions, but shall not have control over or charge of, and shall not be responsible for, acts or omissions of the Contractor or of any other persons or entities performing portions of the Work.

...

§ 3.6.1.3 Subject to Section 4.2 and except as provided in Section 3.6.6.5, the Architect's responsibility to provide Construction Phase Services commences with the award of the Contract for Construction and the Owner's written notice to proceed to Construction Administration and terminates on the date the Architect ~~issues the~~ authorizes the Contractor's final Certificate for Payment.

PAGE 10

§ 3.6.2.2 The Architect has the authority and obligation to reject Work that does not conform to the Contract ~~Documents.~~ Documents unless the Owner accepts non-conforming work in writing after consulting with the Architect. Whenever the Architect considers it necessary or advisable, the Architect shall have the authority and obligation to require inspection or testing of the Work in accordance with the provisions of the Contract Documents, whether or not the Work is fabricated, installed or completed. However, neither this authority and obligation of the Architect nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect to the Contractor, Subcontractors, suppliers, their agents or employees, or other persons or entities performing portions of the Work.

...

§ 3.6.2.3 The Architect shall interpret and decide matters concerning performance under, and requirements of, the Contract Documents on written request of either the Owner or Contractor. The Architect's response to such requests shall be made in writing within ~~any time limits agreed upon~~ five business days of requests or otherwise with reasonable promptness.

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§ 3.6.3.1 The Architect shall review and certify the amounts due the Contractor and shall issue certificates in such amounts. The Architect's certification for payment shall constitute a representation to the Owner, based on the Architect's evaluation of the Work as provided in Section 3.6.2 and on the data comprising the Contractor's Application for Payment, that, to the best of the Architect's knowledge, information and belief, the Work has progressed to the point indicated, the quality of the Work is in accordance with the Contract Documents, and that the Contractor is entitled to payment in the amount certified. The foregoing representations are subject to (1) an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, (2) results of subsequent documented tests and inspections, (3) correction of minor deviations from the Contract Documents prior to completion, and (4) specific qualifications expressed by the Architect. The Architect's certification on the Certificate for Payment shall be that the percentages of Work shown on the application are completed, to the best of the Architect's knowledge, information, and belief. No judgement is made by the Architect as to the value of the Work or the value of uncompleted Work.

...

§ 3.6.4.2 The Architect shall review and approve, or take other appropriate action upon, the Contractor's submittals such as Shop Drawings, Product Data and Samples, but only for the limited purpose of checking for conformance with ~~information given and the design concept expressed in~~ the Contract Documents. Review of such submittals is not for the purpose of determining the accuracy and completeness of other information such as dimensions, quantities, and installation or performance of equipment or systems, which are the Contractor's responsibility. The Architect's review shall not constitute approval of safety precautions or construction means, methods, techniques, sequences or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

PAGE 11

.3 forward to the Owner, for the Owner's review and records, written warranties including a warranty schedule of major building systems and warranty expiration dates, and related documents required by the Contract Documents and received from the Contractor; and,

...

.5 The Architect shall produce punch list items as part of the certificate of Substantial Completion issued to the Contractor. The Architect shall create the list(s), present them to the Owner, incorporate Owner feedback, and compile all punch items for the contractor in a timely

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manner.

...

§ 3.6.6.2 The Architect's inspections shall be conducted with the Owner to check conformance of the Work with the requirements of the Contract Documents and to verify the accuracy and completeness of the ~~list~~ list(s) including and not limited to Architectural, Civil, Mechanical, Electrical, Structural, and Plumbing systems submitted by the Contractor of Work to be completed or corrected.

PAGE 12

§ 3.6.6.5 Upon request of the ~~Owner,~~ Owner ten (10) months following substantial completion, and prior to the expiration of one year from the date of Substantial Completion, the Architect shall, without additional compensation, conduct a meeting with the Owner to review the facility operations and performance.

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...

§ 3.6.6.6 The Architect shall issue an As Constructed Record set of construction documents that will consist of the As Designed Record Sets of construction documents and Revit model with redlined changes from the General Contractor incorporated into the digital deliverables as defined in AIA G201 2013 Article 2.3 to the Owner upon final completion of the Project. The As Constructed Record documents shall reflect all digital changes made by the Architect between issuing the Bid Documents set and final completion as well as the General Contractor's redline changes. The Architect shall not be held responsible for field verification of the General Contractor's changes. The Architect's full set of deliverables during Construction Administration are defined in EXH-D Owner Requirements.

PAGE 13

The Architect may provide Additional Services after execution of this Agreement without invalidating the Agreement. Except for services required due to the fault of the Architect, any Additional Services provided in accordance with this Section 4.2 shall entitle the Architect to compensation pursuant to Section 11.3 and an appropriate adjustment in the Architect's schedule. Additional Services are Defined in EXH-A Project Charter.

...

.3 Changing or editing previously prepared Instruments of Service necessitated by official interpretations of applicable codes, laws or regulations that are ~~either (a) contrary to specific interpretations by the applicable authorities having jurisdiction made prior to the issuance of the building permit, or (b)~~ contrary to requirements of the Instruments of Service when those Instruments of Service were prepared in accordance with the applicable standard of care;

PAGE 14

~~.5 Preparing digital models or other design documentation for transmission to the Owner's consultants and contractors, or to other Owner-authorized recipients;~~

...

~~.6 Preparation of design and documentation for alternate bid or proposal requests proposed by the Owner;~~

...

~~.7 Preparation for, and attendance at, a public presentation, meeting or hearing;~~

...

~~.9 Evaluation of the qualifications of entities providing bids or proposals;~~

...

~~.11 Assistance to the Initial Decision Maker, if other than the Architect.~~

...

.1 2 (two) reviews of each Shop Drawing, Product Data item, sample and similar submittals of the Contractor

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...

.2 1 (one) visits per week to the site by the Architect during construction

...

.3 2 (two) inspections for any portion of the Work to determine whether such portion of the Work is substantially complete in accordance with the requirements of the Contract Documents

...

.4 1 (one) inspections for any portion of the Work to determine final completion.

...

§ 4.2.5 If the services covered by this Agreement have not been completed within eighteen (18) months of the date of this Agreement, through no fault of the Architect, extension of the Architect's services beyond that time shall be compensated as Additional Services.

PAGE 15

§ 5.1 Unless otherwise provided for under this Agreement, the Owner shall provide information in a timely manner regarding requirements for and limitations on the Project, including a written program, which shall set forth the Owner's objectives; schedule; constraints and criteria, including space requirements and relationships; flexibility; expandability; special equipment; systems; and site ~~requirements.~~requirements and stakeholder engagement requirements as defined in EXH-B Project Design Milestones & Deliverables.

...

§ 5.8 The Owner shall coordinate the services of its own consultants with those services provided by the Architect. Upon the Architect's request, the Owner shall furnish copies of the scope of services in the contracts between the Owner and the Owner's consultants. The Owner shall furnish the services of consultants other than those designated as the responsibility of the Architect in this Agreement, or authorize the Architect to furnish them as an Additional Service, when the Architect requests such services and demonstrates that they are reasonably required by the scope of the Project. The Owner shall require that its consultants and contractors maintain insurance, including professional liability insurance, as appropriate to the services or work ~~provided.~~provided and defined in Article 2.

...

§ 5.8.1 Architect's responsibility in connection with the services of Owner's consultants, contractors, or design-build contractor shall be to coordinate Owner's consultants', contractors', or design-build contractor's portion of the Instruments of Service. Owner shall require consultants, contractors, or design-build contractor retained by Owner to coordinate their services and documents with those of Architect and Architect's consultants.

PAGE 16

§ 5.16 The Owner shall provide coordination, installation, and procurement of furniture, furnishings, and equipment for the Project.

...

§ 5.17 The Owner shall provide Information Technology equipment plugged into networks. Cabling and infrastructure designed by the Architect and installed by the Contractor.

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...

§ 5.18 The Owner shall provide Testing and Special Inspections.

...

§ 5.19 The Owner shall coordinate closely with the Architect and the Contractor for design and installation of security systems in the Project. The Owner shall design systems by locating cameras and designating doors for access control, the Architect shall document and complete the initial design by designing pathways, the Contractor shall install cabling and infrastructure required for the systems to be operational as well as devices, and the Owner shall work with the Contractor to program and test the

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~~**ARTICLE**~~

...

systems.

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ARTICLE 6 COST OF THE WORK

...

§ 6.1 For purposes of this Agreement, the Cost of the Work shall be the total cost to the Owner to construct all elements of the Project designed or specified by the Architect and shall include contractors' general conditions costs, overhead and profit. The Cost of the Work also includes the reasonable value of ~~labor,~~ labor including escalation for phased work or market conditions, materials, and equipment, donated to, or otherwise furnished by, the Owner. The Cost of the Work does not include the compensation of the Architect; the costs of the land, rights-of-way, financing, or contingencies for changes in the Work; or other costs that are the responsibility of the Owner.

PAGE 17

§ 6.3 In preparing estimates of the Cost of Work, the Architect shall be permitted to include contingencies for design, bidding, and price escalation; to determine what materials, equipment, component systems, and types of construction are to be included in the Contract Documents; to recommend reasonable adjustments in the program and scope of the Project; and to include design alternates as may be necessary to adjust the estimated Cost of the Work to meet the Owner's ~~budget.~~ budget as defined in EXH-A Project Charter and EXH-B Project Design Milestones & Deliverables. The Architect's estimate of the Cost of the Work shall be based on current area, volume or similar conceptual estimating techniques. If the Owner requires a detailed estimate of the Cost of the Work, the Architect shall provide such an estimate, if identified as the Architect's responsibility in Section 4.1.1, as a Supplemental Service.

...

§ 6.4 If, through no fault of the Architect, the Procurement Phase has not commenced within 90 days after the Architect submits the Construction Documents to the Owner, the Owner's budget for the Cost of the Work ~~shall~~ may be adjusted to reflect changes in the general level of prices in the applicable construction market.

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§ 6.6 If the Owner's budget for the Cost of the Work at the conclusion of the Construction Documents Phase

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Services is exceeded by five percent (5%) by the lowest bona fide bid or negotiated proposal, the Owner shall

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.5 cooperate in revising the Project scope as required to reduce the estimated construction cost to an estimated cost within the Owner's budget. Costs or time incurred by the Architect to review the design to align with the Budget shall be borne entirely by the Architect.

...

~~implement any other mutually acceptable alternative.~~.6 implement any other mutually acceptable alternative, which may include the Owner's decision to suspend the Project, in which case the Architect shall be paid for services actually rendered under this agreement.

PAGE 18

§ 7.4 ~~Except for the licenses granted in this Article 7, no other license or right shall be deemed granted or implied under this Agreement. The Owner shall not assign, delegate, sublicense, pledge or otherwise transfer any license granted herein to another party without the prior written agreement of the Architect.~~ Any unauthorized use of the Instruments of Service shall be at the Owner's sole risk and without liability to the Architect and the Architect's consultants. The Owner retains full rights to all Instruments of Service for use in the Project and any existing or future projects.

PAGE 19

[X] Litigation in a court of competent jurisdiction

PAGE 20

§ 9.1 If the Owner fails to make payments to the Architect in accordance with this Agreement, such failure shall be considered substantial nonperformance and cause for termination or, at the Architect's option, cause for suspension of performance of services under this Agreement. If the Architect elects to suspend services, the Architect shall give seven days' written notice to the Owner before suspending services. In the event of a suspension of services, the Architect shall have no liability to the Owner for delay or damage caused the Owner because of such suspension of services. Before resuming services, the Owner shall pay the Architect all sums due prior to suspension and any reasonable, quantifiable expenses incurred in the interruption and resumption of the Architect's services. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted.

...

§ 9.6 If the Owner terminates this Agreement for its convenience pursuant to Section 9.5, or the Architect terminates this Agreement pursuant to Section 9.3, the Owner shall compensate the Architect for services performed prior to termination, Reimbursable Expenses incurred, and costs attributable to termination, including the committed costs or performance of services attributable to the Architect's termination of consultant agreements.

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§ 10.6 Unless otherwise required in this Agreement, the Architect shall have no responsibility for the discovery, presence, handling, removal or disposal of, or exposure of persons to, hazardous materials or toxic substances in any

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form at the Project site. A hazardous material or toxic substance is any material or substance that may be considered hazardous, toxic, or otherwise subject to statutory or regulatory requirements governing handling, disposal, and/or cleanup. For purposes of this agreement, the term hazardous material shall include and not be limited to asbestos, polychlorinated biphenyl (PCB), mold, mildew, fungi, or other similar microbial conditions.

...

§ 10.6.1 Owner agrees to defend, indemnify, and save harmless the Architect from and against any and all liabilities, demands, claims, penalties, forfeitures, suits, and the costs and expenses arising from the discovery, presence, handling, removal, or disposal of, or exposure to hazardous materials or toxic substances (as defined in §

...

10.6), except to the extent that the presence of or exposure to hazardous materials or toxic substances result from the sole negligence or willful misconduct of the Architect.

PAGE 22

Defined in EXH-A Project Charter

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Defined in EXH-A Project Charter

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Defined in EXH-A Project Charter.

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Defined in EXH-A Project Charter

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§ 11.5 When compensation for Basic Services is based on a stipulated sum or a percentage basis, the proportion of compensation for each phase of services shall be as ~~follows:~~follows and defined in EXH-B Project Design Milestones & Deliverables:

PAGE 23

Defined in EXH-A Project Charter

...

§ 11.8.2 For Reimbursable Expenses the compensation shall be the expenses incurred by the Architect and the Architect's consultants plus five percent (5 %) of the expenses incurred.

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...

§ 11.10.1.1 An initial payment of zero ($ 0) shall be made upon execution of this Agreement and is the minimum payment under this Agreement. It shall be credited to the Owner's account in the final invoice.

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§ 11.10.1.2 If a Sustainability Certification is part of the Sustainable Objective, an initial payment to the Architect of zero ($ 0) shall be made upon execution of this Agreement for registration fees and other fees payable to the Certifying Authority and necessary to achieve the Sustainability Certification. The Architect's payments to the Certifying Authority shall be credited to the Owner's account at the time the expense is incurred.

PAGE 24

§ 11.10.2.1 Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed. Payments are due and payable upon presentation of the Architect's invoice. Amounts unpaid thirty (30) days after the invoice date shall bear interest at the rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of the Architect. The Architect shall send invoices directly to the Contract Representative named in paragraph 1.1.7.

...

§ 11.10.2.3 Records of Reimbursable Expenses, expenses pertaining to Supplemental and Additional Services, and services performed on the basis of hourly rates shall be available to the Owner ~~at mutually convenient times.~~upon written request.

...

12.1 The Architect and the Owner agree that the Project may be phased, include multiple bid packs (as few as one or as many as three) or require accelerated design deliverables to best meet the Owner's schedule of funding approvals and day one operations for building occupants. As a standard of working with the Owner the Architect agrees that additional compensation above fees for Basic Services and Additional Services as defined in EXH-A Project Charter will not be paid to the Architect to perform and deliver services within known parameters for the Project as defined in EXH-A Project Charter, EXH-B Project Design Milestones & Deliverables, and EXH-D Owner Requirements.

12.2 The Architect and the Owner agree to incorporate the Owner's feedback as defined ni EXH-D Owner Requirements. The Owner's written notice to proceed to the next design phase will not be granted without written receipt of required deliverables.

12.3 If the Owner elects to employ an accelerated, phased, or fast track design process (in which some of the Architect's design services overlap the construction work and are out of sequence with the traditional delivery method), Owner does so with full recognition of the inherent risks associated with these design methodologies. Such risks include the Owner incurring costs for the Architect to coordinate and re-design portions of the Project affected by procuring or installing elements of the Project prior to the completion of all relevant Construction Documents, and costs for the Contractor to remove and replace previously installed Work. In recognition of the inherent risks of the fast tracking to the Architect and the benefits to the Owner, the Owner agrees to (i) waive all claims against the Architect for design changes, delays, disruptions, or other modifications of portions of the Work already constructed due to the Owner's decision to employ the fast track process and (ii) indemnify and hold the Architect harmless, to the maximum extent permitted by law, from any and all damage, liability, and cost, including reasonable attorney fees and defense costs, arising from third party claims, excepting those attributable to the negligence of the Architect or those for whom the Architect is legally liable. To compensate the Architect for all Additional Services required to modify, correct, or adjust the Construction Documents and coordinate them in order to meet the Owner's program requirements because of the Owner's decision to construct the Project in a fast track manner. Owner further agrees to include in the budget for the Project sufficient contingencies to cover such Additional Services.

12.4 The Owner agrees that the Architect is not responsible for damages arising directly or indirectly from any delays for causes beyond the Architect's control. For purposes of this Agreement, such causes include, but are not limited to, strikes or other labor disputes; severe weather disruptions, other natural disasters; fires, riots, acts of terrorism, war, or other emergencies or acts of God.

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...

.3 Exhibits: A-D as identified on page 1 of this agreement and named below

...

.4 AIA Document G201-2013 Project Digital Data Protocol Form

...

.5 AIA Document G202-2013 Project Building Information Modeling Protocol Form

...

[X] Other Exhibits incorporated into this Agreement:

...

EXH-A Project Charter

...

EXH-B Project Design Milestones & Deliverables

...

EXH-C Owner Insurance

...

EXH-D Owner Requirements

...

~~.4~~ **.6** Other documents:

...

AIA Document A201-2017 General Conditions

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Certification of Document's Authenticity

AIA® Document D401™ – 2003

I, Minneapolis Public Schools, hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with its associated Additions and Deletions Report and this certification at 12:15:42 CT on 02/10/2021 under Order No. 1260426072 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document B101™ - 2017, Standard Form of Agreement Between Owner and Architect, as published by the AIA in its software, other than those additions and deletions shown in the associated Additions and Deletions Report.

_____

(Signed)

_____

(Title)

_____

(Dated)

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EXHIBIT A - Project Charter

Project Identification, Intent, and Scope

Re: MPS Project Number: Nort-21-00
MPS Project Name: FY21 North High School CTE Project
School Website: http:// north.mpls.k12.mn.us

Building Context

North School was constructed in 1972 with an addition in 1997.The school has a total area of approximately 282,795 square feet. The school currently has a student population ranging from grade 9 through grade 12. North High school is based on a HS-60T prototype. The school has several external programs including day care, sports programs and Community Education.

Project Intent

Conversion of the southeast wing to a CTE center and modifications to the entrance and kitchen/lunchroom at North High School. Future projects include significant LTFM, mechanical and electrical improvements throughout the building.

Project Summary

Project Delivery Method:	Best Value
Project Construction Budget:	$60-80M to be Determined, phase II FY22 scope may be added at the end of the schematic phase
Phased Construction Completion:	July 1st 2023 CTE/Entries /Kitchen/Cafeteria, possibly July 1st 2024 if delays occur 2025 Systems Upgrades

Scope/Budget Context

This project includes the remodeling of the southeast wing of North High School to a CTE center. A preliminary study was completed showing the potential floor plans. The project includes the renovation and separate entrance for a CTE center. The project also includes lunchroom and kitchen modifications and new entrance for North High School. Future projects include significant mechanical and electrical renovations throughout the school.

Capital Renewal items:

1. Electrical System and Service
2. Elevator
3. Mechanical Systems
4. Food service equipment

Project Schedule

Project Phase	Suggested Completion Date
Master Plan Report	4/30/2021
Schematic Design Report – Phase 1	6/25/2021
Design Development Report	8/16/2021
Construction Documents Report	12/13/2021
Receive bids	1/6/2022
BOE Construction Contract Approval	1/11/2022
Pre-Construction Activities	1/17/2022
Construction Area 1 - CTE	6/2023
Construction Area 2 – Entry/Kitch./ME	6/2023
Construction Area 1 & 2 if delayed final	10/ 2024
Construction Area 3 – LTFM	6/2025
Warranty (one year)	

Project Staff

The following MPS staff are anticipated to serve on the Stakeholder Team. This is an evolving list.

Mauri Friestleben	School Principal
TBD	Site Council
TBD	Site Council
TBD	Director CTE/Stem
TBD	Students

The following MPS staff are anticipated to serve on the Steering Team. This is an evolving list.

Celina Martina	Exec. Director Engagement & External Services
Curt Hartog	Executive Director - CPCM
Shawn Harris -Berry	Assoc. Superintendent
TBD	Director CTE/Stem
Grant Lindberg	Manager Plant Maintenance
Karen DeVet	Senior Operating Officer
David Richards	Master Planner - CPCM
Jibril Yusuf	Manager, Design & Construction
Jason Matlock	Director EMSS
Penny Jones Richardson	Communications and External Engagement

Project Communications

Consultant and District representative will coordinate the development and implementation of a project communications plan, including:

Communication
Meetings with Steering Team
Meetings with Stakeholder Team
Presentations to Community Groups if needed
Project web page updates

Project e-updates
Updates for elected representatives
Updates for families and staff
Updates for neighborhood
Construction signage
Board of Education updates

Project Budget

Construction Budget

$21,710,004

Type	Capital Renewal	Capital Improvement	Total
CTE Center		19,255,608	19,255,608
Kitchen/Lunchroom		959,247	959,247
Kitchen electrical , mech	896,814		896,814
HVAC ,Tuckpointing	598,335		598,335
PROJECT TOTALS			
CONSTRUCTION TOTAL			**21,710,004**

Consultant's Fee, Hourly Rates, and Reimbursable Expenses

Compensation for the Master Planning Phase of the Project Services are defined herein as a fixed fee of $172,400. The schematic Design fee is proposed as a lump sum fee. For the Schematic Design Phase the fee is for proposed as $254,094 based on a Construction budget of $21.7M. Reimbursable expenses are estimated at $20,000 for these phases. Total Award is 446,494 with later phases to be added as per the proposal letter.

Basic Design Services will be allocated to the phases of work as defined in EXH-B Project Design Milestones & Deliverables.

APPENDIX C: PRICING INFORMATION

F: Fees and Costs

As requested, we have provided hourly rates for key team members only. We have proposed a fee structure that is not an hourly based fee.

Key Team Member	Role	Rate
Mohammed Lawal	Principal Architect	$250
Jennifer Anderson-Tuttle	Principal/Planner	$200
Keon Blasingame	Project Manager/Associate	$175
Ian Simmonson	Project Designer/Associate	$175
Tunde Olusanya	Job Captain	$150
Sam Ero-Phillips	Engagement / Documents	$125
Phil Ramsey	Specifications	$160

We have provided our preferred MEP partners to be selected with MPS and included within LSE Scope of Services.

HEI (MBE)		
Kyle Simonson	Mechanical PM	$170
Trevor Gilbertson	Mechanical Engineer	$135
Dan Zitzer	Electrical Engineer	$135

Exhibit B – Project Design Milestones & Deliverables

Project Design Milestones

Architect Responsibilities		Owner Responsibilities
Fully Executed Contract	0%	
	1%	Project Steering Team Kickoff
	5%	QAQC #1 Existing Conditions
	10%	Project Stakeholder Team Kickoff
Three Design Options Delivered	15%	
City Planning Processes initiated	20%	Commissioning Provider Kickoff
Schematic Design Report Delivered	25%	
	35%	MEP Systems Decisions Made
Design Development Report Delivered	50%	All major scope items have final decisions
	75%	QAQC #3 Two Week Comprehensive Design Review
Construction Document Report Delivered	80%	
Procurement Begins	90%	
	95%	
Bid Period Ends	99%	
	100%	Fully Executed Construction Contract

Design Milestones

0% Complete – Fully executed architectural contract

Once the Design team has a fully executed contract, work may commence. The Architect is required to download a new copy of the Minneapolis Public Schools (MPS) Master Specifications at this time. Previous project specifications shall not be used as a template for new projects. All changes to MPS Master Specifications will be recorded with track changes, with additions and deletions clearly identified at each Design Report Phase. The Architect shall utilize the MPS Design Guidelines in the development of the Work. Deviations from design guidelines shall be documented and sent to the Owner for Approval. The Architect shall conform to the MPS Revit and Drafting Standards including MPS sheet numbering conventions and begin the Work with the MPS Revit template provided by the Owner.

1% Complete – Project Steering Team Kickoff Meeting

The Owner will schedule the first meeting of the Project Steering Team, a team that discusses project scope, schedule, and budget and makes recommendations to the Owner. This team needs to meet at the onset of the project to provide background and input for the design team. The meeting will be in person and will have an agenda prepared by the Owner's Project Manager that includes:

1. Welcome and Introductions
2. Team roles and responsibilities
3. Communication protocol and confidentiality agreement
4. Project Overview
5. Next Steps

The Architect is expected to provide a presentation, a clear ask of the group, and any available graphics that can describe the scope of work to the team. Graphics at this stage may include aerial photographs, photographs of the building and site, massing models if available, or rudimentary renderings if available. Any graphics that were included in the RFP may be used to describe the scope of work. The Owner will present the most recent list of maintenance requirements that should be incorporated into the project. Generally, the maintenance needed matches the project budget detail. However, on occasion, the maintenance required for the project may change to accommodate the most needed items.

5% Complete – Quality Assurance / Quality Control (QAQC) #1 – Existing Conditions Meeting

The Owner will coordinate a meeting on site at the school with the Architect and the Owner's QAQC team. The purpose of the meeting is to:

1. Introduce the design team to the QAQC team
2. Allow the QAQC team an opportunity to present important existing conditions to the Architect
3. Inform the Architect of any work that has been performed during pre-planning of the project and can be removed from scope.
4. Document all presented conditions for future reference whether they are included in the budget provided by the Owner at project kickoff or if they are outside the scope of the Work.
5. Identify known deficiencies in the building that are identified in the budget provided by the Owner at project kickoff.
6. Provide the Owner an opportunity to present deficiencies not identified in the budget that should be considered as part of the Work.

The Architect is expected to provide:

- Sign in sheet
- One person whose sole role at the meeting is to document the conversation and take photographs as needed
- Minutes that capture all presented conditions and general discussions during the meeting.
- If multiple component meetings are conducted (e.g. mechanical, electrical, plumbing) the Architect shall assign a person to each team to document the review.

10% Complete – Project Stakeholder Team Kickoff Meeting

The Owner will identify members of the Project Stakeholder team and schedule a meeting with the Architect. The Architect is expected to present preliminary information on the project that includes scope, schedule, and budget. The Architect shall provide graphics that are easy to interpret for a non-technical audience such as 3-D views, renderings, photographs, or video fly throughs.

15% Complete - Three Options Delivered

The Architect will deliver at least three options to illustrate proposed solutions that will be presented to the Steering Team. All three options must be within the budget provided by the Owner at project kickoff and address programmatic and maintenance goals of the Work. The goal of the meeting is to present options to the Steering Team and ask for recommendations to proceed with design. The Architect is responsible for providing:

- Images that depict the scope options in 3-D formats. Acceptable formats are:
    - Greyscale camera views from Revit
    - Video flythrough
    - Hand drawn perspectives
- Color-coded floor plan that clearly describes scope of work and any associated programmatic moves within the building.
- A table summary of preliminary costs broken into categories of maintenance and new items
- A meeting agenda
- A digital presentation as well as paper handouts
- Minutes

Estimates of expected costs at this stage shall be AACE International Class 4 levels. The cost estimate shall clearly show the expected accuracy range and provide sufficient detail and reference to determine the source and scope of the information. The estimate shall also identify potential risks to the project and estimated costs and mitigation strategies for further refinement.

20% Complete – City planning processes started

It is expected that projects with additions in excess of 2,500 sf or those that disturb more than one acre of land to take 10 to 12 weeks to complete the City of Minneapolis Planning Process. As soon as the Architect has:

- A survey, even in draft form
- A preliminary understand of how big and where any addition(s) will be
- Elevations or camera views from Revit
- Site plan, even in draft form

The Architect shall have an initial meeting with the Planning Department at the City of Minneapolis to discuss initial feedback related to site improvements and storm water conditions on the site. The architect shall

invite the Owner's Project Manager to the meeting. As soon as is practicable after the meeting, the Architect shall complete the online application to begin the PDR, LUA, CUP, and variance processes. The Architect shall develop meeting minutes for all meetings with the City. The meeting minutes shall be sent to all parties in attendance for verification of items discussed and to the Owner's Project Manager.

20% Complete – Commissioning Agent kickoff

The Owner will hire a Commissioning Agent for most projects. The Commissioning Agent will be responsible for design review and input throughout the project. The Architect will incorporate the Commissioning Agent comments upon review and approval by the Owner's Project Manager.

25% Complete – Schematic Design (SD) Report, Cost Estimate 1, Constructability Review 1, EDA preliminary report

The Architect will deliver the Schematic Design (SD) report to the Owner for review. . The SD Report will be used to make final scope determinations, select mechanical options, and determine if the project is on budget and on schedule. The Owner will provide Bluebeam software to compile Owner comments to return to the Architect. The Architect will identify any non-standard equipment or processes in this report for Owner approval. SD report shall include:

- All drawings created for the project to date. This shall include a complete title page that indicates all potential drawings that will form the Construction Drawings. All drawings shall be bookmarked in Bluebeam by the Architect as defined in Article 5 of the AIA E203-2015 to facilitate Owner reviews.
- MEP narratives
- Cost Estimate #1 that contains cost information for up to three mechanical options and up to two architectural variations that meet program needs. The cost estimate shall be an AACE International Class 3 estimate. The estimate shall provide enough detail to determine the major cost drivers for the project and adequate to understand the scope of the project. The cost estimate shall detail the level of accuracy and provide a narrative on the contingency value used and why. Where appropriate the maintenance items that are not part of the improvement items shall be detailed in the cost estimate
- Constructability Review #1
- Preliminary EDA report (not all projects should participate in EDA)
- All meeting minutes to date
- Survey
- City Planning Documentation
- Revit file archived at delivery of SD report

SD report must be in 8 ½ x 11 format, in a binder, with tabs. It must also be delivered digitally as a PDF. Provide two paper copies to the Project Manager for review. The table of contents should read:

1. Project Background
    a. Executive Summary
    b. Project Goals
    c. Program goals
    d. Project Scope
    e. Preliminary Project Schedule showing both design, bidding and construction schedules
2. Existing Conditions
    a. Survey
    b. Site Plan
    c. Code Reviews

    d. Revit Camera Views or renderings
3. Design Options
    a. Architectural
    b. Mechanical
    c. Electrical
    d. Plumbing
    e. Food Service (if applicable), etc.
    f. Maintenance items identified in the 5% meeting.
4. Cost Estimate
    a. Project Budget breakdown for consultant services
    b. Cost Estimate. AACE International Class 3
    c. Constructability Review. List all risks and any unknown complexities.
5. EDA report (if applicable)
6. Minutes

35% Complete – MEP decisions Made

The Owner is committed to making any major MEP decisions such as choosing system types at this stage in order to allow the Architect to progress with drawings, designs and specifications. Documentation of decisions shall be provided in meeting minutes.

50% Complete – Design Development (DD) report, Cost Estimate 2, Constructability Review 2, Final EDA report

The Owner is committed to making design decisions early in order to have a robust submittal at this phase for review. For the DD Report, the Architect shall provide:

- Enough detail completed in at least one portion of the building (or major component of the project), to produce detail sheets, an idea of design intent with mechanical systems, and architectural decisions that indicate a final configuration.
- Specification sections that represent all or nearly all sections to be included in construction documents
- All drawings needed for a Construction Document shall be identified and in order.
- All drawings shall be bookmarked in Bluebeam by the Architect as defined in Article 5 of the AIA E203-2015 to facilitate Owner reviews.

DD report shall contain:

- Two half size drawings sets, unbound, and two paper copies of the specification, unbound
- All drawing sheets that will be included in the final set, even if they are blank, developed to 65% complete.
- Diagrammatic layouts of building systems
- Draft specification that contains all divisions, even if they are blank
- Cost estimate #2 in organized by major CSI division for construction items and detailed non-construction items. The cost estimate shall be an AACE International Class 3 estimate that shows the accuracy range of each item and the total.
- Constructability review #2
- Final EDA report (if applicable)
- Update on City of Minneapolis planning progress (if applicable)
- Revit file archived at delivery of DD report and delivered to the Owner

DD report shall have letter sized pages that can be delivered in a binder. The DD report shall include drawings that are 11x17. The Architect shall deliver two printed copies and one electronic copy to the Owner.

50% Complete – All major scope items have final decisions

The Owner will make final decisions on all major scope items in order to allow the Architect to create detailed drawings for the next review. The deliverable from the Owner to the Architect will be written confirmation of scope decisions.

75% Complete – QAQC #3 – Two Week Comprehensive Design Review

The Architect will prepare complete and detailed drawing sets and complete specifications for review by the Owner. The 75% set of drawings shall have 75% of all the drawings completed (100%) and all drawings in the Construction drawing set identified in the index. Detail numbering and references shown in the 75% drawings cannot be changed. Specifications shall be provided such that all specifications are identified and 75% of the specifications are considered to be in final form. All changes to the MPS Master Specifications shall be clearly shown using track changes. New specifications that are not part of the MPS Master Specifications shall be identified. Specifications shall be provided in an MS Word format for review. Drawings shall be provided in a PDF format for review. Comments to specifications will be made using track changes. Comments to drawings will be made in Bluebeam. The Architect shall document all comments and either incorporate them into the documents or provide an issue resolution document that details the comment and resolution and reasons not to include the change in the Construction Document. The Owner will compile comments and return them to the Architect following a two week review period. Documentation shall include all elements required to accurately describe the work. The Architect shall maintain the 75% review set for reference. The Architect shall provide the Owner with a list of unresolved comments/changes at the 90% review stage. The Owner and Architect shall document any unresolved item not included in the final project set and place that in the file.

80% Complete – Construction Document (CD) report, Cost Estimate #3, Constructability Review #3

Construction Document (CD) report is the basis for a final quality control check by the Owner. At this stage the drawings shall be complete. Cost estimates at this stage shall be at the AACE International Class 2 level with documented levels of accuracy for each item. The estimate shall include any risks and contingencies, exceptions and sources. Expected accuracy for each item is -10% to +20% or better. An estimate simulation shall be completed showing the outcome of various scenarios inside of the accuracy range. The final cost estimate shall not contain any amount for design contingency. At a minimum, 5% of the budget shall be represented in add alternates. Deliverables will include:

- Two half size drawings sets, unbound, and two paper copies of the specification, unbound
- one printed binder of letter sized documentation
- Digital versions of all documentation. Drawings shall be in PDF and REVIT.
- All drawings shall be bookmarked in Bluebeam by the Architect as defined in Article 5 of the AIA E203-2015 to facilitate Owner reviews.
- Specifications shall be in MS Word format.
- Correspondence relevant to City of Minneapolis Planning processes or Plan Review processes
- All drawing sheets that will be included in the final set.
- Egress plan for construction zones while building is occupied
- Diagrammatic layouts of building systems
- Draft specification that contains all divisions
- No major changes in design intent or scope can occur between DD and CD report

- cost Estimate #3 organized by CSI division for construction items and detailed non-construction items at Class 2 level
- Constructability Review narrative
- Revit file archived at delivery of CD report

The Owner will require two weeks to review the documents to ensure completeness and accuracy. Architect shall incorporate Owner comments into the final construction documents prior to issuing the set for bid release.

90% Complete – Procurement Begins

100% Construction Documentation set is released for public bid. Architect will coordinate with Owner to set a date for the mandatory pre-bid meeting, publicize bid release, and produce a call for bids. Owner will approve all addenda issued during the procurement process and will have adequate time to review any major changes issued via addenda. The Architect is expected to attend the pre-bid meeting and provide responses to questions, issue addendums and document changes to designs, specifications and contract documents.

95% Complete

This is considered as the bid opening. All addenda have been issued and questions responded to. The bid opening shall be attended by the Architect. The Architect shall provide a review of the apparent low bid and a written recommendation of award to the Owner. If the apparent low bid exceeds the cost estimate provided by the Architect, a detailed review and analysis shall be conducted by the Architect to determine the areas that caused the over bid. The Architect shall also make a written recommendation to accept or deny the add alternates in the bid document.

100% Complete – Fully executed contract between Owner and General Contractor

The Architect shall submit to the Owner the Revit file containing the Construction drawings, the specifications in an MS Word format and any addenda issued in an MS Word format. The architect shall prepare the contract documents for award of the contract using Owner provided forms, issue the notice of award to the Contractor and collect the payment and performance bonds, insurance, letter of assent and other documents. Once executed by the Contractor, the Architect shall provide a complete set to the Owner for signature. Upon Board of Education approval of the contract, the Architect shall prepare a Notice to Proceed for the Contractor. The Architect shall provide the Notice to Proceed to the Owner for review. The Owner shall issue the Notice to Proceed to the Contractor.

Construction Phase

The Architect shall prepare all meeting agendas and produce meeting minutes for regular meetings throughout the construction phase. The Architect will notify the Owner of discussion topics prior to the scheduled meeting so the Owner may invite the appropriate MPS staff to participate in the meeting. Meeting minutes for all meetings shall be distributed within 5 working days of the meeting. All agendas and meeting minutes shall be provided to the Owner for review in an MS Word format. Changes will be documented using track changes.

Submittals

The Architect shall follow the Owner's process for submittals. Contractor shall send submittals to the Architect in accordance with the submittal schedule prepared by the Contractor. The Architect shall document submittal schedule variances and provide the information to the Contractor and the Owner each

month. The Architect shall review all submittals and determine if the submittal meets the Contract Documents . Each submittal shall be labeled with a stamp or similar that identifies the reviewer of the submittal, date of review and action. Submittals shall be marked as:

- No exception taken
- Make Corrections Noted
- Revise and Resubmit
- Rejected
- No submittal is required

A copy of each submittal shall be provided to the Owner. The Architect shall be responsible for developing and maintaining a complete and accurate submittal log. The submittal log shall identify the submittal number, description, date received from contractor, date sent to reviewer, date returned from reviewer, action, date sent back to the Contractor and date when Owner was provided a copy. . If the Architect is unclear as to the requirements of the contract documents or should the Architect need input from the Owner, the Architect shall contact the Owner's Project Manager. All substitution requests shall be sent to the Owner for review. The Owner requires a minimum of 1 week for all reviews. The Architect shall log and track all items sent to the Owner for review and monitor the review schedule.

Substantial Completion

The Architect shall review the punch list provided by the Contractor to verify the list is complete and accurate based on the Architect's review. The Architect shall issue a preliminary final punch list of items to the Owner and schedule a punch list site review with the Owner. The punch list may be modified as a result of the Owner's punch list site review. The Architect shall then issue a final punch list to the Owner and Contractor. If the Owner and Architect deem the project substantial complete in accordance with Contract Documents, the Architect shall prepare and deliver a Certificate of Substantial Completion to the Contractor and Owner establishing the date of substantial completion. The punch list provided at the time of Substantial Completion shall include the Architect's estimate of costs to repair each of the items on the punch list. The estimate provided shall form the basis of the amount of retainage to be withheld for the punch list items in accordance with Minnesota Statute. Issuance of the Certificate of Substantial Completion shall include the final punch list and establish the date of substantial completion. The punch list shall include a complete list of all manuals, warranties, commissioning reports and other items required by the Contractor as part of the Contract Documents that was not previously provided to the Owner and accepted. If the project is not deemed substantially complete by the date established in the Contract Documents, the Architect will inform the Contractor of the liquidated damages provision in the Contract Document and apply liquidated damages to the next progress payment until the Certificate of Substantial Completion is issued.

EXHIBIT C Owner Insurance

Insurance Requirements

1. CONSULTANT'S INSURANCE – to be used with AIA B101-2017, AIA C103-2015, or similar non-contractor consultants:
   The Consultant shall at its own expense maintain in effect at all times during the performance of the Work under the Agreement at least the following coverage and limits of insurance:

   a. Worker's Compensation and Employer's Liability Insurance

      i. Coverage A is statutory.

      ii. Coverage B
      $500,000 Each Accident
      $500,000 Each Employee
      $500,000 Policy Limit (Disease)

   b. Comprehensive General Liability Insurance *

General Aggregate	$1,000,000
Products/Completed Operations Aggregate	$1,000,000
Per Occurrence	$1,000,000
Medical Payments	$10,000

   * The Owner should be named as an additional insured for Comprehensive General Liability Insurance.

   c. Automobile Insurance

Per Occurrence	$1,000,000
PIP	Basic
Underinsured Motorist	$1,000,000
Uninsured Motorist	$1,000,000

   d. Professional Liability Insurance

      i. Per Claim $2,000,000

ii. For projects with an estimated construction Contract Sum of over $10,000,000 or major structural work an aggregate is required as follows:
Aggregate $4,000,000

e. Umbrella Liability Insurance

i. Per Occurrence $2,000,000

ii. For projects with an estimated construction Contract Sum of over $10,000,000 or major structural work an aggregate is required as follows:
Aggregate $2,000,000

f. Manned or Unmanned Aircraft Coverage (if used)

i. Per Claim $1,000,000

ii. Aggregate $1,000,000

For specialty consultants used for commissioning activities, studies, asbestos surveys and security, items A, B, C and F shall apply.

Special Asbestos Abatement Liability Insurance is required for Asbestos Abatement Contractors. The limits are $1,500,000 per claim, for liability arising from the encapsulation, removal, handling, storage, transportation, and disposal of asbestos-containing materials.

2. CONSULTANT'S OBLIGATIONS

Consultant shall not violate or knowingly permit any violation of any conditions or terms of the policies of insurance required to be carried under the terms hereof and shall endeavor to satisfy the requirements of the insurance companies issuing them. In the event Consultant neglects, refuses or fails to provide or maintain any of the insurance required to be carried under the Agreement, or if such insurance is canceled for any reason, the Owner or the Owner's lender(s) shall have the right, but not the duty, to procure or maintain the same.

In the event the Owner or the Owner's lender(s) do procure or maintain such insurance, the Owner or the Owner's lender(s) shall have, in additional to any and all other available remedies, the right to recover from the Consultant (including the right of set-off against sums otherwise due the Consultant) all of the costs associated with procuring or maintaining such insurance.

3. PROFESSIONAL LIABILITY INSURANCE

   a. Professional Liability Coverage of $2,000,000 shall be maintained for one (1) year from the date of Substantial Completion. If the Consultant discontinues its business and if directed by Owner in writing, Consultant shall purchase such insurance in such amount for an extended discovery period beyond the one (1) year after the date of Substantial Completion, with the premium cost to be a reimbursable expense paid by the Owner. The limit of liability for such policy may not be reduced below $2,000,000 without the Owner giving its prior, written consent. All policies of insurance that Consultant is required under the terms of this Exhibit C Owner's Insurance to secure and maintain shall bear the endorsement "Not to be canceled until sixty (60) calendar days after Owner has received a written notice from insurer as evidence by a return receipt of registered or certified mail."

   b. The Owner shall not be responsible for obtaining or paying premiums or other expenses in connection with insurance required to be carried under the Agreement or normally carried by the Consultant's consultants, and the obligation to obtain such insurance and to pay such premiums and other expenses shall be solely that of the Consultant.

   c. The Consultant shall bear all the costs of any and all deductible amounts under any insurance policies required to be carried under the Agreement and shall remain solely and fully liable for the full amount of any claim or item not compensated by insurance (to the extent that any amount resulted from damages that arose out of the Consultant's sole negligence.)

4. COVERAGE
   The coverage's referred to above are set forth in full in the respective policy forms, and the foregoing descriptions of such policies are not intended to be complete.

5. GENERALLY

   a. The Consultant thereby represents and warrants to the Owner that, as of the date of the execution of the Agreement, the Consultant is not aware of any claims or potential claims which have been made, filed or threatened against any of the insurance or for damages covered by any of the insurance required to be carried under the Agreement that would affect the Consultant's ability to provide the insurance coverage required by this agreement.

b. It is understood that the provisions in the Agreement requiring the Consultant to carry insurance shall not be construed as in any manner waiving or restricting the liability of the Consultant as to any obligations imposed under the Agreement, including, but not limited to, obligations imposed under the provisions of Article 11 of the AIA A201-2017 General Conditions.

Insurance requirements for Contractors

1. CONTRACTOR'S INSURANCE – to be used with AIA A101-2017
   The Contractor shall at its own expense maintain in effect at all times during the performance of the Work under the Agreement at least the following coverage and limits of insurance:

   a. Commercial General Liability

      i. General Aggregate $1,500,000

      ii. Products/Completed Operations Aggregate $1,500,000

      iii. Per Occurrence $1,500,000

      The Owner shall be named as additional insured for Commercial General Liability Insurance

   b. Automobile Insurance

      i. Per Occurrence $1,000,000

      ii. PIP Basic

      iii. Underinsured Motorist $1,000,000

      iv. Uninsured Motorist $1,000,000

   c. Workers Compensation

      i. Coverage A is statutory.

      ii. Coverage B $500,000 Each Accident

      iii. $500,000 Each Employee

d. Professional Liability (if the Contractor is hiring professionals)

   i. Per Claim $2,000,000

   For Projects with an estimated construction cost of over $10,000,000 or major structural work, additional Aggregate coverage of $4,000,000 is required.

e. Manned or Unmanned Aircraft Coverage (if used)

   i. Per Claim $1,000,000

   ii. Aggregate $1,000,000

f. Property Insurance

   i. Per Claim $1,000,000

   ii. Aggregate $1,000,000

   This insurance is only required for materials stored offsite and not incorporated into the project at delivery. For material stored on site, no additional insurance is required.

g. Builders “all risk” Insurance

   i. Per Claim $2,000,000

   ii. Aggregate $4,000,000

   This insurance is only required for additions exceeding $10,000,000. Renovations to existing schools are not required to have builders all risk insurance.

h. Umbrella Liability

   i. Aggregate limit $5,000,000

   This insurance is required only for projects larger than $10,000,000 in total construction costs.

EXHIBIT D - Owner Requirements

Targeted Group Business

The Owner's Targeted Group Business goal is 12%. The Architect will employ the following strategies:

- Expanding the Professional identity of the targeted business with the design and construction industry.
- Creating opportunities for networking and exposure of the targeted business by team with other consultants.
- Encouraging leadership and management within both organizations and the targeted business through the design and construction process.
- Gaining new perspectives and encouraging cultural change within the firm by working with targeted business.

Quality Performance and Owner Provisions

The following are checklists to enhance quality performance tracking and requirements to promote improved delivery for Architect work items most commonly encountered throughout design and construction.

Before design commences

1. The Architect shall begin design with current download of the Owner's published Master Specifications as provided by the Owner at design kickoff.
2. The Architect shall design to the Owner's published design guidelines and requirements as provided by the Owner at design kickoff. Deviation from the design standard shall be clearly noted on all drawings and specifications up to CD.
3. The Architect shall conform to the Owner's Revit and Drafting Standards as provided by the Owner at design kickoff.
4. The Architect shall begin the 3-D model with the Owner's Revit template as provided by the Owner at design kickoff.
5. The Architect shall be familiar with the City of Minneapolis Planning Review Process.

During Design

1. Conform to all activities required in Article 3 of AIA Document B101-2017.
2. The Architect shall conform to the Owner's design milestones and deliverables as defined in EXH-B.

3. The Architect shall incorporate the Owner's review comments provided during design phases into the final design prior to project bid. Comments shall be cataloged by the Architect and resolution to comments clearly explained.
4. The Architect shall be familiar with the Owner's Procurement requirements.
5. The Architect shall own all agendas and meeting minutes throughout the design process.
6. The Architect shall document all major decision points.
7. The Architect shall present to the Owner's community stakeholders as required.

During Construction Administration

1. Conform to all activities required in Article 3 of AIA Document B101-2017.
2. The Architect shall own all agendas and meeting minutes throughout the construction process.

During Substantial Completion

1. Conform to the requirements of Article 3 in AIA Document B101-2017.
2. Confirm with the Owner the completeness of the punchlist before finalizing.
3. Provide the Owner with a detailed estimate to complete or repair all items on the substantial completion punchlist.

During Project Closeout

1. Conform to all activities required in Article 3 of AIA Document B101-2017.
2. Within thirty (30) days of the date of Substantial Completion, the Architect shall provide the Owner, in writing, a list of incomplete items and the cost to complete those items.

Safety Precautions and Programs

While on location of the Project, the Architect hereby agrees to and shall comply with the following Owner safety requirements.

1. Security Identification Badges: The Owner requires all personnel to wear an identification badge when at a facility of the Owner. The identification badge is to remain on personnel and clearly visible at all times. No one is permitted on-site without an identification badge. The identification badge shall contain the following:

    a. A legible photograph of the individual (passport sized photo)

    b. Name of the individual (Minimum 14 point font)

    c. Name of the employer (Company name, minimum 14 point font)

d. The badge shall be plastic-laminated.

e. The badge identification size shall be 3 ½" x 2 ½" minimum.

2. All personnel are required to check in with the main office to sign in, get a badge, and indicate their destination within the building while school is in session. All personnel are required to sign out in the main office upon completion of their site visit.

3. No personnel will be allowed to prop doors open and leave them unattended.

AIA® Document E203™ – 2013

Building Information Modeling and Digital Data Exhibit

This Exhibit dated the 31 day of January in the year 2020 is incorporated into the agreement (the "Agreement") between the Parties for the following Project:
(Name and location or address of the Project)

Defined in EXH-A Project Charter

TABLE OF ARTICLES

1 GENERAL PROVISIONS

2 TRANSMISSION AND OWNERSHIP OF DIGITAL DATA

3 DIGITAL DATA PROTOCOLS

4 BUILDING INFORMATION MODELING PROTOCOLS

5 OTHER TERMS AND CONDITIONS

ADDITIONS AND DELETIONS:
The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

This document is intended to be incorporated into an agreement between the parties and used in conjunction with AIA Documents G201™–2013, Project Digital Data Protocol Form, and G202™–2013, Building Information Modeling Protocol Form. It is anticipated that other Project Participants will incorporate a project specific E203–2013 into their agreements, and that the Parties and other Project Participants will set forth the agreed-upon protocols in AIA Documents G201–2013 and G202–2013.

ARTICLE 1 GENERAL PROVISIONS

§ 1.1 This Exhibit provides for the establishment of protocols for the development, use, transmission, and exchange of Digital Data for the Project. If Building Information Modeling will be utilized, this Exhibit also provides for the establishment of the protocols necessary to implement the use of Building Information Modeling on the Project, including protocols that establish the expected Level of Development for Model Elements at various milestones of the Project, and the associated Authorized Uses of the Building Information Models.

§ 1.2 The Parties agree to incorporate this Exhibit into their agreements with any other Project Participants that may develop or make use of Digital Data on the Project. Prior to transmitting or allowing access to Digital Data, a Party may require any Project Participant to provide reasonable evidence that it has incorporated this Exhibit into its agreement for the Project, and agreed to the most recent Project specific versions of AIA Document G201™–2013, Project Digital Data Protocol Form and AIA Document G202™–2013, Project Building Information Modeling Protocol Form.

§ 1.2.1 The Parties agree that each of the Project Participants utilizing Digital Data on the Project is an intended third party beneficiary of the Section 1.2 obligation to incorporate this Exhibit into agreements with other Project Participants, and any rights and defenses associated with the enforcement of that obligation. This Exhibit does not create any third-party beneficiary rights other than those expressly identified in this Section 1.2.1.

§ 1.3 Adjustments to the Agreement

§ 1.3.1 If a Party believes that protocols established pursuant to Sections 3.2 or 4.5, and memorialized in AIA Documents G201–2013 and G202–2013, will result in a change in the Party's scope of work or services warranting an adjustment in compensation, contract sum, schedule or contract time, the Party shall notify the other Party. Failure to provide notice as required in this Section 1.3 shall result in a Party's waiver of any claims for adjustments in compensation, contract sum, schedule or contract time as a result of the established protocols.

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§ 1.3.2 Upon such notice, the Parties shall discuss and negotiate revisions to the protocols or discuss and negotiate any adjustments in compensation, contract sum, schedule or contract time in accordance with the terms of the Agreement.

§ 1.3.3 Notice required under this Section 1.3 shall be provided within thirty days of receipt of the protocols, unless otherwise indicated below:
(If the Parties require a notice period other than thirty days from receipt of the protocols, indicate the notice period below.)

§ 1.4 Definitions

§ 1.4.1 Building Information Model. A Building Information Model is a digital representation of the Project, or a portion of the Project, and is referred to in this Exhibit as the "Model," which term may be used herein to describe a Model Element, a single model or multiple models used in the aggregate, as well as other data sets identified in AIA Document G202–2013, Project Building Information Modeling Protocol Form.

§ 1.4.2 Building Information Modeling. Building Information Modeling or Modeling means the process used to create the Model.

§ 1.4.3 Model Element. A Model Element is a portion of the Model representing a component, system or assembly within a building or building site.

§ 1.4.4 Level of Development. The Level of Development (LOD) describes the minimum dimensional, spatial, quantitative, qualitative, and other data included in a Model Element to support the Authorized Uses associated with such LOD.

§ 1.4.5 Authorized Uses. The term "Authorized Uses" refers to the permitted uses of Digital Data authorized in the Digital Data and/or Building Information Modeling protocols established pursuant to the terms of this Exhibit.

§ 1.4.6 Model Element Author. The Model Element Author is the entity (or individual) responsible for managing and coordinating the development of a specific Model Element to the LOD required for an identified Project milestone, regardless of who is responsible for providing the content in the Model Element. Model Element Authors are to be identified in Section 3.3, Model Element Table, of AIA Document G202–2013.

§ 1.4.7 Digital Data. Digital Data is information, including communications, drawings, specifications and designs, created or stored for the Project in digital form. Unless otherwise stated, the term Digital Data includes the Model.

§ 1.4.8 Confidential Digital Data. Confidential Digital Data is Digital Data containing confidential or business proprietary information that the transmitting party designates and clearly marks as "confidential."

§ 1.4.9 Written or In Writing. In addition to any definition in the Agreement to which this Exhibit is attached, for purposes of this Exhibit and the Agreement, "written" or "in writing" shall mean any communication prepared and sent using a transmission method set forth in this Exhibit, or the protocols developed pursuant to this Exhibit, that permits the recipient to print the communication.

§ 1.4.10 Written Notice. In addition to any terms in the Agreement to which this Exhibit is attached, for purposes of this Exhibit and the Agreement, "written notice" shall be deemed to have been duly served if transmitted electronically to an address provided in this Exhibit or the Agreement using a transmission method set forth in this Exhibit that permits the recipient to print the communication.

§ 1.4.11 Party and Parties. The terms "Party" and "Parties" refer to the signing parties to the Agreement.

§ 1.4.12 Project Participant. A Project Participant is an entity (or individual) providing services, work, equipment or materials on the Project and includes the Parties.

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ARTICLE 2 TRANSMISSION AND OWNERSHIP OF DIGITAL DATA

§ 2.1 The transmission of Digital Data constitutes a warranty by the Party transmitting Digital Data to the Party receiving Digital Data that the transmitting Party is the copyright owner of the Digital Data, or otherwise has permission to transmit the Digital Data for its use on the Project in accordance with the Authorized Uses of Digital Data established pursuant to the terms of this Exhibit.

§ 2.2 If a Party transmits Confidential Digital Data, the transmission of such Confidential Digital Data constitutes a warranty to the Party receiving such Confidential Digital Data that the transmitting Party is authorized to transmit the Confidential Digital Data. If a Party receives Confidential Digital Data, the receiving Party shall keep the Confidential Digital Data strictly confidential and shall not disclose it to any other person or entity except as set forth in Section 2.2.1.

§ 2.2.1 The receiving Party may disclose Confidential Digital Data as required by law or court order, including a subpoena or other form of compulsory legal process issued by a court or governmental entity. The receiving Party may also disclose the Confidential Digital Data to its employees, consultants or contractors in order to perform services or work solely and exclusively for the Project, provided those employees, consultants and contractors are subject to the restrictions on the disclosure and use of Confidential Digital Data as set forth in this Exhibit.

§ 2.3 By transmitting Digital Data, the transmitting Party does not convey any ownership right in the Digital Data or in the software used to generate the Digital Data. Unless otherwise granted in a separate license, the receiving Party's right to use, modify, or further transmit Digital Data is specifically limited to designing, constructing, using, maintaining, altering and adding to the Project consistent with the terms of this Exhibit, and nothing contained in this Exhibit conveys any other right to use the Digital Data.

§ 2.4 Where a provision in this Article 2 conflicts with a provision in the Agreement into which this Exhibit is incorporated, the provision in this Article 2 shall prevail.

ARTICLE 3 DIGITAL DATA PROTOCOLS

§ 3.1 Anticipated Types of Digital Data. The anticipated types of Digital Data to be used on the Project are as follows: *(Indicate below the information on the Project that shall be created and shared in a digital format. If the Parties indicate that Building Information Modeling will be utilized on the Project, the Parties shall also complete Article 4.)*

Anticipated Digital Data	**Applicability to the Project** *(Indicate Applicable or Not Applicable)*	**Location of Detailed Description** *(Section 3.1.1 below or in an attachment to this exhibit and identified below)*
Project Agreements and Modifications		
Project communications		
Architect's pre-construction submittals		
Contract Documents		
Contractor's submittals		
Subcontractor's submittals		
Modifications		
Project payment documents		
Notices and claims		
Building Information Modeling		

§ 3.1.1 Insert a detailed description of the anticipated Digital Data identified in Section 3.1, if not further described in an attachment to this Exhibit.

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§ 3.2 As soon as practical following execution of the Agreement, the Parties shall further describe the uses of Digital Data, and establish necessary protocols governing the transmission and Authorized Uses of Digital Data, in consultation with the other Project Participants that are expected to utilize Digital Data on the Project.

§ 3.2.1 Unless another Project Participant is identified below, the Architect shall prepare and distribute to the other Project Participants Digital Data protocols for review, revision and approval.
(If a Project Participant other than the Architect shall be responsible for preparing draft and final Digital Data protocols, identify that Project Participant.)

§ 3.2.2 The agreed upon Digital Data protocols shall be set forth in AIA Document G201–2013 and each Project Participant shall memorialize their agreement in writing to such Digital Data protocols.

§ 3.2.3 The Parties, together with the other Project Participants, shall review and, if necessary, revise the Digital Data protocols at appropriate intervals as required by the conditions of the Project.

§ 3.3 The Parties shall transmit, use, store and archive Digital Data in accordance with the Digital Data protocols set forth in the latest version of AIA Document G201–2013 agreed to by the Project Participants.

§ 3.4 Unauthorized Use

§ 3.4.1 Prior to Establishment of Digital Data Protocols

If a Party receives Digital Data prior to the agreement to, and documentation of, the Digital Data protocols in AIA Document G201–2013, that Party is not authorized to use or rely on the Digital Data. Any use of, or reliance on, such Digital Data is at that Party's sole risk and without liability to the other Party and its contractors, consultants, agents and employees.

§ 3.4.2 Following Establishment of Digital Data Protocols

Following agreement to, and documentation of, the Digital Data protocols in AIA Document G201–2013, if a Party uses Digital Data inconsistent with the Authorized Uses identified in the Digital Data protocols, that use shall be at the sole risk of the Party using the Digital Data.

§ 3.5 Digital Data Management

§ 3.5.1 Centralized electronic document management system use on the Project shall be:
(Check the appropriate box. If the Parties do not check one of the boxes below, the default selection shall be that the Parties will not utilize a centralized electronic document management system on the Project.)

[X] The Parties intend to use a centralized electronic document management system on the Project.

[ ] The Parties do not intend to use a centralized electronic document management system on the Project.

§ 3.5.2 If the Project Participants intend to utilize a centralized electronic document management system on the Project, the Project Participants identified in Section 3.5.3 shall be responsible for managing and maintaining such system. The Project Participants responsible for managing and maintaining the centralized electronic document management system shall facilitate the establishment of protocols for transmission, use, storage and archiving of the centralized Digital Data and assist the Project Participants identified in Section 3.2.1 above in preparing Digital Data protocols. Upon agreement to, and documentation of, the Digital Data protocols in AIA Document G201–2013, the Project Participants identified in Section 3.5.3 shall manage and maintain the centralized electronic document management system consistent with the management protocols set forth in the latest version of G201–2013 approved by the Project Participants.

§ 3.5.3 Unless responsibility is assigned to another Project Participant, the Architect shall be responsible for managing and maintaining the centralized electronic document management system. If the responsibility for management and maintenance will be assigned to another Project Participant at an identified Project milestone, indicate below the Project Participant who shall assume that responsibility, and the Project milestone.

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(Identify the Project Participant responsible for management and maintenance only if the Parties intend to utilize a centralized electronic document management system on the Project.)

Responsible Project Participant	Project Milestone

ARTICLE 4 BUILDING INFORMATION MODELING PROTOCOLS

§ 4.1 If the Parties indicate in Section 3.1 that Building Information Modeling will be used on the Project, specify below the extent to which the Parties intend to utilize Building Information Modeling and identify the provisions of this Article 4 governing such use:

[ ] The Parties shall utilize Building Information Modeling on the Project for the sole purpose of fulfilling the obligations set forth in the Agreement without an expectation that the Model will be relied upon by the other Project Participants. Unless otherwise agreed in writing, any use of, transmission of, or reliance on the Model is at the receiving Party's sole risk. The remaining sections of this Article 4 shall have no force or effect.

[X] The Parties shall develop, share, use and rely upon the Model in accordance with Sections 4.2 through 4.10 of this Exhibit.

§ 4.2 Anticipated Building Information Modeling Scope. Indicate below the portions of the Project for which Modeling will be used and the anticipated Project Participant responsible for that Modeling.

Project Portion for Modeling	Responsible Project Participant

§ 4.3 Anticipated Model Authorized Uses. Indicate below the anticipated Authorized Uses of the Model for the Project, which Authorized Uses will be agreed upon by the Project Participants and further described for each LOD in AIA Document G202–2013.

Authorized Uses of the Model for the Project are defined in Article 7 of AIA B101-2017.

§ 4.4 Ancillary Modeling Activities. Indicate additional Modeling activities agreed upon by the Parties, but not to be included in AIA Document G202–2013, if any.
(Describe any Modeling activities, such as renderings, animations, performance simulations, or other similar use, including the anticipated amount and scope of any such Modeling activities.)

Defined in EXH-B Project Design Milestones & Deliverables to AIA B101-2017.

§ 4.5 Modeling Protocols. As soon as practical following execution of the Agreement, the Parties shall, in consultation with the other Project Participants that are expected to utilize Building Information Modeling on the Project, further describe the Authorized Uses of the Model and establish necessary protocols governing the development of the Model utilizing AIA Document G202–2013.

§ 4.5.1 The Modeling protocols shall address the following:

.1 Identification of the Model Element Authors;
.2 Definition of the various LOD for the Model Elements and the associated Authorized Uses for each defined LOD;
.3 Identification of the required LOD of each Model Element at each identified Project milestone;
.4 Identification of the construction classification systems to be used on the Project;
.5 The process by which Project Participants will exchange and share the Model at intervals not reflected in Section 3.3, Model Element Table, of AIA Document G202–2013;
.6 The process by which the Project Participants will identify, coordinate and resolve changes to the Model;
.7 Details regarding any anticipated as-designed or as-constructed Authorized Uses for the Model, if required on the Project;

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.8 Anticipated Authorized Uses for facilities management or otherwise, following completion of the Project; and

.9 Other topics to be addressed by the Modeling protocols: *(Identify additional topics to be addressed by the Modeling Protocols.)*

§ 4.5.2 Unless responsibility is assigned to another Project Participant identified below, the Architect shall prepare and distribute Modeling protocols to the other Project Participants for review, revision and approval.
(If a Project Participant other than the Architect shall be responsible for preparing draft and final Modeling protocols, identify that Project Participant.)

§ 4.5.3 The agreed upon Modeling protocols shall be set forth in AIA Document G202–2013 and each Project Participant shall memorialize their agreement in writing to such Modeling protocols.

§ 4.5.4 The Parties, together with the other Project Participants, shall review, and if necessary, revise the Modeling protocols at appropriate intervals as required by the conditions of the Project.

§ 4.6 The Parties shall develop, use and rely on the Model in accordance with the Modeling protocols set forth in the latest version of AIA Document G202–2013, which document shall be included in or attached to the Model in a manner clearly accessible to the Project Participants.

§ 4.7 Unauthorized Use

§ 4.7.1 Prior to Establishment of Modeling Protocols

If a Party receives any Model prior to the agreement to, and documentation of, the Modeling protocols in AIA Document G202–2013, that Party is not authorized to use, transmit, or rely on the Model. Any use, transmission or reliance is at that Party's sole risk and without liability to the other Party and its contractors, consultants, agents and employees.

§ 4.7.2 Following Establishment of Modeling Protocols

Following agreement to, and documentation of, the Modeling protocols in AIA Document G202–2013, if a Party uses or relies on the Model inconsistent with the Authorized Uses identified in the Modeling protocols, such use or reliance shall be at the sole risk of the Party using or relying on the Model. A Party may rely on the Model Element only to the extent consistent with the minimum data required for the identified LOD, even if the content of a specific Model Element includes data that exceeds the minimum data required for the identified LOD.

§ 4.8 Model Management

§ 4.8.1 The requirements for managing the Model include the duties set forth in this Section 4.8. Unless assigned to another Project Participant, the Architect shall manage the Model from the inception of the Project. If the responsibility for Model management will be assigned to another Project Participant, or change at an identified Project milestone, indicate below the identity of the Project Participant who will assume that responsibility, and the Project milestone.

Responsible Project Participant	Project Milestone

§ 4.8.2 Model Management Protocol Establishment. The Project Participant responsible for managing the Model, in consultation with the other Project Participants that are expected to utilize Building Information Modeling on the Project, shall facilitate the establishment and revision of Model management protocols, including the following:

.1 Model origin point, coordinate system, precision, file formats and units. The Model shall be accurately geo-located.

.2 Model file storage location(s)

.3 Processes for transferring and accessing Model files

.4 Naming conventions as defined in the Owner's Revit and Drafting Standards.

.5 Processes for aggregating Model files from varying software platforms

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.6 Model access rights
.7 Identification of design coordination and clash detection procedures.
.8 Model security requirements
.9 Other: *(Identify additional Model management protocols to be addressed.)*

The Project Participant responsible for managing the Model shall use the issued MPS Revit template and conform to MPS Revit and Drafting Standards as defined in EXH-C.2 Quality Performance and Owner Provisions of AIA B101-2017.

§ 4.8.3 Ongoing Responsibilities. The Project Participant responsible for managing the Model shall do so consistent with the Model management protocols, which shall also include the following ongoing responsibilities:

.1 Collect incoming Models:
  .1 Coordinate submission and exchange of Models
  .2 Create and maintain a log of Models received
  .3 Review Model files for consistency with Sections 4.8.2.1 through 4.8.2.5
  .4 Maintain a record copy of each Model file received
.2 Aggregate Model files and make them available for Authorized Uses
.3 Maintain Model Archives and backups consistent with the requirements of Section 4.8.4 below
.4 Manage Model access rights
.5 Other: *(Identify additional responsibilities.)*

§ 4.8.4 Model Archives. The individual or entity responsible for Model management as set forth in this Section 4.8 shall compile a Model Archive at the end of each Project milestone and shall preserve it without alteration as a record of Model completion as of that Project milestone.

§ 4.8.4.1 Additional Model Archive requirements, if any, are as follows:

§ 4.8.4.2 The procedures for storing and preserving the Model(s) upon final completion of the Project are as follows:

§ 4.9 Post-Construction Model. The services associated with providing a Model for post-construction use shall only be required if specifically designated in the table below as a Party's responsibility.
(Designate below any anticipated post-construction Model and related requirements, the Project Participant responsible for creating or adapting the Model to achieve such uses, and the location of a detailed description of the anticipated scope of services to create or adapt the Model as necessary to achieve such uses.)

Post-Construction Model	**Applicability to Project** *(Applicable or Not Applicable)*	**Responsible Project Participant**	**Location of Detailed Description of Requirements and Services** *(Section 4.10 below or in an attachment to this exhibit and identified below)*
§ 4.9.1 Remodeling	Applicable	Owner	
§ 4.9.2 Wayfinding and Mapping	Applicable	Architect	
§ 4.9.3 Asset/FF & E Management	Applicable	Owner	
§ 4.9.4 Energy Management	Applicable	Owner	
§ 4.9.5 Space Management	Applicable	Owner	
§ 4.9.6 Maintenance Management	Applicable	Owner	

§ 4.10 Insert a detailed description of the requirements for each Post-Construction Model identified in Section 4.9 and the anticipated services necessary to create each Post-Construction Model, if not further described in an attachment to this Exhibit.

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ARTICLE 5 OTHER TERMS AND CONDITIONS

Other terms and conditions related to the transmission and use of Digital Data are as follows:

§ 5.1 Digital Reviews in Bluebeam

PDF documents shall be produced from the 3-D Digital Model as requested by the Owner and digitally transmited to the Owner for digital review. The PDF files shall be produced with the following criteria

.1 All sheets in the drawing set shall be listed on the title sheet.

.2 All sheets shall be bookmarked accurately from the title sheet of the drawing set allowing users to click on a sheet name and arrive at that sheet.

.3 All drafting symbols representing enlarged plans, sections, and details shall be accurately linked to the respective drawings.

.4 The Architect shall create a bookmark list of each major discipline allowing users to jump to the first sheet for each discipline.

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PAGE 1

This Exhibit dated the ~~day of~~ 31 day of January in the year 2020 is incorporated into the agreement (the "Agreement") between the Parties for the following Project:

...

Defined in EXH-A Project Charter

PAGE 4

[X] The Parties intend to use a centralized electronic document management system on the Project.

PAGE 5

[X] The Parties shall develop, share, use and rely upon the Model in accordance with Sections 4.2 through 4.10 of this Exhibit.

...

Authorized Uses of the Model for the Project are defined in Article 7 of AIA B101-2017.

...

Defined in EXH-B Project Design Milestones & Deliverables to AIA B101-2017.

PAGE 6

.1 Model origin point, coordinate system, precision, file formats and ~~units~~units. The Model shall be accurately geo-located.

...

.4 Naming conventions as defined in the Owner's Revit and Drafting Standards.

PAGE 7

The Project Participant responsible for managing the Model shall use the issued MPS Revit template and conform to MPS Revit and Drafting Standards as defined in EXH-C.2 Quality Performance and Owner Provisions of AIA B101-2017.

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...

§ 4.9.1 Remodeling	Applicable	Owner	
§ 4.9.2 Wayfinding and Mapping	Applicable	Architect	
§ 4.9.3 Asset/FF & E Management	Applicable	Owner	
§ 4.9.4 Energy Management	Applicable	Owner	
§ 4.9.5 Space Management	Applicable	Owner	
§ 4.9.6 Maintenance Management	Applicable	Owner	

PAGE 8

§ 5.1 Digital Reviews in Bluebeam

...

PDF documents shall be produced from the 3-D Digital Model as requested by the Owner and digitally transmited to the Owner for digital review. The PDF files shall be produced with the following criteria

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...

.2 All sheets shall be bookmarked accurately from the title sheet of the drawing set allowing users to click on a sheet name and arrive at that sheet.

...

.3 All drafting symbols representing enlarged plans, sections, and details shall be accurately linked to the respective drawings.

...

.4 The Architect shall create a bookmark list of each major discipline allowing users to jump to the first sheet for each discipline.

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Certification of Document's Authenticity

AIA® Document D401™ – 2003

I, Minneapolis Public Schools, hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with its associated Additions and Deletions Report and this certification at 10:18:49 ET on 01/31/2020 under Order No. 0188038492 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document E203™ - 2013, Building Information Modeling and Digital Data Exhibit, as published by the AIA in its software, other than those additions and deletions shown in the associated Additions and Deletions Report.

_____

(Signed)

_____

(Title)

_____

(Dated)

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AIA® Document G201™ – 2013

Project Digital Data Protocol Form

PROJECT: *(Name and address)*

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This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

This document is intended to be used in conjunction with a project specific AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, which the Parties will incorporate into their Agreement for the Project.

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Defined in EXH-A Project Charter

PROTOCOL VERSION NUMBER:
DATE: March 13, 2018
PREPARED BY: Minneapolis Public Schools
DISTRIBUTION TO: *(List each individual to whom this protocol is distributed. Include individuals listed in Section 1.2, or reference Section 1.2, along with any additional recipients.)*
Defined in EXH-A Project Charter

TABLE OF ARTICLES

1 GENERAL PROVISIONS REGARDING USE OF DIGITAL DATA

2 DIGITAL DATA MANAGEMENT PROTOCOLS

3 TRANSMISSION AND USE OF DIGITAL DATA

ARTICLE 1 GENERAL PROVISIONS REGARDING USE OF DIGITAL DATA

§ 1.1 List each Project Participant that has incorporated AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, dated , into its agreement for the Project:

Project Participant	Discipline

§ 1.2 Project Participants. For each Project Participant listed in Section 1.1, identify and provide contact information for the individuals responsible for implementation of the Digital Data protocols.

Project Participant	Individual Responsible	Contact Information

§ 1.3 Terms in this document shall have the same meaning as those in AIA Document E203–2013.

ARTICLE 2 DIGITAL DATA MANAGEMENT PROTOCOLS

§ 2.1.1 Electronic Document Management System. If, pursuant to Section 3.5.1 of the Project specific version of AIA Document E203–2013, the Project Participants indicated an intent to use a centralized electronic document management system on the Project, the requirements for the centralized electronic document management system are as follows:
(The requirements for the system shall address, among other things, access to and security of Digital Data.)

§ 2.1.2 System Startup Requirements. Initial training and other startup requirements to be implemented with respect to the use or management of Digital Data, if any, are as follows:
(Describe in detail any initial training or other startup requirements.)

The Owner shall provide a Revit template to be used to create the Model. The Owner shall provide Revit and Drafting Standards as outlined in EXH-C.2 Quality Performance & Owner Provisions of AIA B101-2017.

§ 2.1.3 Ongoing System Requirements. Ongoing training or support programs to be implemented with respect to the use or management of Digital Data, if any, are as follows:
(Describe in detail any ongoing training or support programs to be implemented.)

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§ 2.2 Digital Data Storage Requirements. The procedures and requirements for storing Digital Data during the course of the Project, if any, are as follows:
(Describe in detail the procedures and requirements for storing Digital Data during the course of the Project.)

§ 2.3 Digital Data Archiving Requirements. The procedures and requirements for archiving and preserving Digital Data during the course of the Project and following final completion of the Project, if any, are as follows:
(Describe in detail the procedures and requirements for archiving and preserving Digital Data during the course of the Project and following final completion.)

The Architect shall maintain digital versions of all meeting minutes. The Architect shall maintain digital versions of the Model at all project Report Milestones as well as the Conformed As Bid Model and the As Designed Record Model. All other requirements are defined in the Owner's Revit and Drafting Standards as defined in EXH-C.2 Quality Performance & Owner Provisions to and article 3.6.6.6 AIA B101-2017.

§ 2.4 Other Digital Data Management protocol requirements, if any, are as follows:
(Describe in detail any other requirements.)

ARTICLE 3 TRANSMISSION AND USE OF DIGITAL DATA

§ 3.1 Digital Data Protocol Table. The Project Participants shall comply with the data formats, transmission methods and Authorized Uses set forth in the Digital Data Protocol Table below when transmitting or using Digital Data on the Project.
(Complete the Digital Data Protocol Table by entering information in the spaces below. Adapt the table to the needs of the Project by adding, deleting or modifying the listed Digital Data as necessary. Use Section 3.2 Digital Data Protocol Table Definitions and Notes to define abbreviations placed, and to record notes indicated, in the Digital Data Protocol Table.)

Digital Data	Digital Data Format	Transmission Method	Authorized Uses	Note Number *(See Sec. 3.2)*
§ 3.1.1 Project Agreements and Modifications				
§ 3.1.2 Project communications				
General communications				
Meeting notices				
Agendas				
Minutes				
Requests for information				
Architect's Supplemental Instructions				
§ 3.1.3 Architect's pre-construction submittals				
Schematic Design Documents				
Design Development Documents				
Construction Documents				
§ 3.1.4 Contract Documents				
Architect's Drawings				
Architect's Specifications				
§ 3.1.5 Contractor's submittals				
Product data				
Submitted by Contractor				
Returned by Architect				
Shop drawings				
Submitted by Contractor				
Returned by Architect				
§ 3.1.6 Subcontractor's submittals				

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Product data				
Submitted by Subcontractor				
Returned by Contractor				
Shop drawings				
Submitted by Subcontractor				
Returned by Contractor				
§ 3.1.7 Modifications				
Requests for proposal				
Architect's order for a minor change in the Work				
Proposals				
Construction Change Directives				
Change Orders				
§ 3.1.8 Project payment documents				
§ 3.1.9 Notices and Claims				
§ 3.1.10 Closeout documents				
Record documents				
Operations and Maintenance Manual				

§ 3.2 Digital Data Protocol Table Definitions and Notes

Digital Data Format:
(Provide required data format, including software version, if applicable.)

Digital Data Format	Definition

Transmission Method:
(Below are suggested abbreviations and definitions. Delete, modify or supplement, as necessary.)

Abbreviation	Definition
CD	Delivered via Compact Disk
EM	Via e-mail
DMS	Centralized Electronic Document Management System

Authorized Uses of Digital Data:
(Below are suggested abbreviations and definitions. Delete, modify or supplement, as necessary.)

Abbreviation	Definition
I	Integrate (incorporate additional digital data without modifying data received)
M	Modify as required to fulfill obligations for the Project
R	Reproduce and distribute
S	Store and view only

Notes:
(List by number shown on table.)

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PAGE 2

Defined in EXH-A Project Charter

...

DATE: March 13, 2018
PREPARED BY: Minneapolis Public Schools

...

Defined in EXH-A Project Charter

...

The Owner shall provide a Revit template to be used to create the Model. The Owner shall provide Revit and Drafting Standards as outlined in EXH-C.2 Quality Performance & Owner Provisions of AIA B101-2017.

PAGE 3

The Architect shall maintain digital versions of all meeting minutes. The Architect shall maintain digital versions of the Model at all project Report Milestones as well as the Conformed As Bid Model and the As Designed Record Model. All other requirements are defined in the Owner's Revit and Drafting Standards as defined in EXH-C.2 Quality Performance & Owner Provisions to and article 3.6.6.6 AIA B101-2017.

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AIA® Document G202™ – 2013

Project Building Information Modeling Protocol Form

PROJECT: *(Name and address)*
Defined in EXH-A Project Charter

PROTOCOL VERSION NUMBER:

DATE: March 13, 2018

PREPARED BY: Minneapolis Public Schools

DISTRIBUTION TO: *(List each individual to whom this protocol is distributed. Include individuals listed in Section 1.1, or reference Section 1.1, along with any additional recipients.)*
Defined in EXH-A Project Charter

TABLE OF ARTICLES

1 GENERAL PROVISIONS

2 LEVEL OF DEVELOPMENT

3 MODEL ELEMENTS

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This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

This document is intended to be used in conjunction with a Project specific AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, which the Parties will incorporate into their agreement for the Project, and a Project specific AIA Document G201™–2013, Project Digital Data Protocol Form.

ARTICLE 1 GENERAL PROVISIONS

§ 1.1 For each Project Participant that has incorporated the Project specific AIA Document E203™–2013, Building Information Modeling and Digital Data Protocol Exhibit, dated , into its agreement for the Project, identify and provide the contact information for individuals responsible for implementation of the Modeling protocols. If, for any Project Participant, more than one individual will be responsible for implementation of the Modeling protocols, list each individual separately and describe the unique Modeling Role assigned to each individual.

Modeling Role	Project Participant	Individual Responsible	Contact Information

§ 1.2 This document establishes the Modeling protocols for the Project. For purposes of these protocols, the Model is comprised of the following information and other data sets: *(Indicate disciplines, separate models, and other data that will be included within the Model and governed by the Modeling protocols.)*

§ 1.3 Collaboration Protocols. The Project Participants' protocols for the collaborative utilization of the Model, if any, including communications protocols, a collaboration meeting schedule and colocation requirements, are as follows:

§ 1.4 Technical Requirements. The technical requirements relating to the utilization of Building Information Modeling, including specific software and hardware requirements are as follows:

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§ 1.5 Training and Support. The parameters for any training or support program(s) that will be implemented with respect to any collaboration strategy or technical requirements are set forth below:

§ 1.6 Model Standard. The Model shall be developed in accordance with the following Model Standard, if any:

§ 1.7 Model Management Protocols and Processes

The following Model Management Protocols and Processes shall apply to the Project only if specifically designated in the table below as being applicable.

(Designate the Model Management Protocols and Processes applicable to the Project in the second column of the table below. In the third column, indicate whether the detailed description of the Model Management Protocol or Process is located in Section 1.8 or in an attached exhibit. If in an exhibit, identify the exhibit.)

Model Management Protocols and Processes		Applicability to Project *(Applicable or Not Applicable)*	Location of Detailed Description *(Section 1.8 below or in an attachment to this exhibit identified below)*
§ 1.7.1	Model origin point, coordinate system, precision, file formats and units		
§ 1.7.2	Model file storage location(s)		
§ 1.7.3	Processes for transferring and accessing Model files		
§ 1.7.4	Naming conventions		
§ 1.7.5	Processes for aggregating Model files from varying software platforms		
§ 1.7.6	Model access rights		
§ 1.7.7	Design coordination and clash detection procedures.		
§ 1.7.8	Model security requirements		

§ 1.8 Insert a description of each Model Management Protocol and Process identified in Section 1.7, if not further described in an exhibit attached to this document:

§ 1.9 Terms in this document shall have the same meaning as those in AIA Document E203–2013.

ARTICLE 2 LEVEL OF DEVELOPMENT

§ 2.1 The Level of Development (LOD) descriptions, included in Section 2.2 through Section 2.6 below, identify the specific minimum content requirements and associated Authorized Uses for each Model Element at five progressively detailed levels of completeness. The Parties shall utilize the five LOD descriptions in completing the Model Element Table at Section 3.3.

§ 2.2 LOD 100

§ 2.2.1 Model Element Content Requirements. The Model Element may be graphically represented in the Model with a symbol or other generic representation, but does not satisfy the requirements for LOD 200. Information related to the Model Element (i.e., cost per square foot, tonnage of HVAC, etc.) can be derived from other Model Elements.

§ 2.2.2 Authorized Uses

§ 2.2.2.1 Analysis. The Model Element may be analyzed based on volume, area and orientation by application of generalized performance criteria assigned to other Model Elements.

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§ 2.2.2.2 Cost Estimating. The Model Element may be used to develop a cost estimate based on current area, volume or similar conceptual estimating techniques (e.g., square feet of floor area, condominium unit, hospital bed, etc.).

§ 2.2.2.3 Schedule. The Model Element may be used for Project phasing and determination of overall Project duration.

§ 2.2.2.4 Other Authorized Uses. Additional Authorized Uses of the Model Element developed to LOD 100, if any, are as follows:

§ 2.3 LOD 200

§ 2.3.1 Model Element Content Requirements. The Model Element is graphically represented within the Model as a generic system, object, or assembly with approximate quantities, size, shape, location, and orientation. Non-graphic information may also be attached to the Model Element.

§ 2.3.2 Authorized Uses

§ 2.3.2.1 Analysis. The Model Element may be analyzed for performance of selected systems by application of generalized performance criteria assigned to the representative Model Elements.

§ 2.3.2.2 Cost Estimating. The Model Element may be used to develop cost estimates based on the approximate data provided and quantitative estimating techniques (e.g., volume and quantity of elements or type of system selected).

§ 2.3.2.3 Schedule. The Model Element may be used to show ordered, time-scaled appearance of major elements and systems.

§ 2.3.2.4 Coordination. The Model Element may be used for general coordination with other Model Elements in terms of its size, location and clearance to other Model Elements.

§ 2.3.2.5 Other Authorized Uses. Additional Authorized Uses of the Model Element developed to LOD 200, if any, are as follows:

§ 2.4 LOD 300

§ 2.4.1 Model Element Content Requirements. The Model Element is graphically represented within the Model as a specific system, object or assembly in terms of quantity, size, shape, location, and orientation. Non-graphic information may also be attached to the Model Element.

§ 2.4.2 Authorized Uses

§ 2.4.2.1 Analysis. The Model Element may be analyzed for performance of selected systems by application of specific performance criteria assigned to the representative Model Element.

§ 2.4.2.2 Cost Estimating. The Model Element may be used to develop cost estimates suitable for procurement based on the specific data provided.

§ 2.4.2.3 Schedule. The Model Element may be used to show ordered, time-scaled appearance of detailed elements and systems.

§ 2.4.2.4 Coordination. The Model Element may be used for specific coordination with other Model Elements in terms of its size, location and clearance to other Model Elements including general operation issues.

§ 2.4.2.5 Other Authorized Uses. Additional Authorized Uses of the Model Element developed to LOD 300, if any, are as follows:

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§ 2.5 LOD 400

§ 2.5.1 Model Element Content Requirements. The Model Element is graphically represented within the Model as a specific system, object or assembly in terms of size, shape, location, quantity, and orientation with detailing, fabrication, assembly, and installation information. Non-graphic information may also be attached to the Model Element.

§ 2.5.2 Authorized Uses

§ 2.5.2.1 Analysis. The Model Element may be analyzed for performance of systems by application of actual performance criteria assigned to the Model Element.

§ 2.5.2.2 Cost Estimating. Costs are based on the actual cost of the Model Element at buyout.

§ 2.5.2.3 Schedule. The Model may be used to show ordered, time-scaled appearance of detailed specific elements and systems including construction means and methods.

§ 2.5.2.4 Coordination. The Model Element may be used for coordination with other Model Elements in terms of its size, location and clearance to other Model Elements, including fabrication, installation and detailed operation issues.

§ 2.5.2.5 Other Authorized Uses. Additional Authorized Uses of the Model Element developed to LOD 400, if any, are as follows:

§ 2.6 LOD 500

§ 2.6.1 Model Element Content Requirements. The Model Element is a field verified representation in terms of size, shape, location, quantity, and orientation. Non-graphic information may also be attached to the Model Elements.

§ 2.6.2 Authorized Uses. Specific Authorized Uses of the Model Element developed to LOD 500, if any, are as follows:

ARTICLE 3 MODEL ELEMENTS

§ 3.1 Reliance on Model Elements

§ 3.1.1 At any particular Project milestone, a Project Participant may rely on the accuracy and completeness of a Model Element only to the extent consistent with the minimum data required for the Model Element's LOD for that Project milestone as identified below in the Model Element Table, even if the content of a specific Model Element includes data that exceeds the minimum data required for the identified LOD.

§ 3.1.2 Coordination and Model Refinement

Where conflicts are found in the Model, regardless of the phase of the Project or LOD, the Project Participant that identifies the conflict shall promptly notify the Model Element Authors and the Project Participant identified in AIA Document E203–2013 Section 4.8 as being responsible for Model management. Upon such notification, the Model Element Author(s) shall act promptly to evaluate, mitigate and resolve the conflict in accordance with the processes established in Section 1.7.7, if applicable.

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§ 3.2 Table Instructions

§ 3.2.1 The Model Element Table in Section 3.3 indicates the LOD to which each Model Element shall be developed at each identified Project milestone and the Model Element Author.

§ 3.2.2 Abbreviations for each Model Element Author to be used in the Model Element Table are as follows:
(Provide abbreviations, such as "A—Architect," or "C—Contractor.")

Abbreviation	Model Element Author (MEA)

§ 3.3 Model Element Table

		Required LOD at Project milestones as defined in EXH-B Project Milestones & Deliverables					
Model Element Category	**Scope Status**	**15%**	**25%**	**50%**	**75%**	**90%**	**100%**
Exterior Walls	Within Scope	200	300	300	300	300	300
	Outside of Scope	100	300	300	300	300	300
Interior Walls	Within Scope	200	300	300	300	300	300
	Outside of Scope	100	200	200	200	200	200
Roofs	Within Scope	200	300	300	300	300	300
	Outside of Scope	100	300	300	300	300	300
Floors	Within Scope	200	300	300	300	300	300
	Outside of Scope	100	200	200	200	200	200
Exterior doors and windows	Within Scope	200	300	300	300	300	300
	Outside of Scope	100	300	300	300	300	300
Interior doors and windows	Within Scope	200	200	300	300	300	300
	Outside of Scope	100	200	200	200	200	200
Major structural elements	Within Scope	Not required	200	200	300	300	300
	Outside of Scope	Not required	Not required	Not required	Not required	Not required	Not required
Plumbing Fixtures	Within Scope	100	300	300	300	300	300
	Outside of Scope	Not required	Not required	Not required	Not required	Not required	Not required

§ 3.4 Model Element Table Notes

Notes:
(List by number shown on table.)

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Additions and Deletions Report for

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PAGE 1

Defined in EXH-A Project Charter

...

DATE: March 13, 2018
PREPARED BY: Minneapolis Public Schools

...

Defined in EXH-A Project Charter

PAGE 5

§ 3.3 Model Element Table

		Required LOD at Project milestones as defined in EXH-B Project Milestones & Deliverables					
Model Element Category	**Scope Status**	**15%**	**25%**	**50%**	**75%**	**90%**	**100%**
Exterior Walls	Within Scope	200	300	300	300	300	300
	Outside of Scope	100	300	300	300	300	300
Interior Walls	Within Scope	200	300	300	300	300	300
	Outside of Scope	100	200	200	200	200	200
Roofs	Within Scope	200	300	300	300	300	300
	Outside of Scope	100	300	300	300	300	300
Floors	Within Scope	200	300	300	300	300	300
	Outside of Scope	100	200	200	200	200	200
Exterior doors and windows	Within Scope	200	300	300	300	300	300
	Outside of Scope	100	300	300	300	300	300
Interior doors and windows	Within Scope	200	200	300	300	300	300

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	Outside of Scope	100	200	200	200	200	200
Major structural elements	Within Scope	Not required	200	200	300	300	300
	Outside of Scope	Not required	Not required	Not required	Not required	Not required	Not required
Plumbing Fixtures	Within Scope	100	300	300	300	300	300
	Outside of Scope	Not required	Not required	Not required	Not required	Not required	Not required

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Certification of Document's Authenticity

AIA® Document D401™ – 2003

I, , hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with its associated Additions and Deletions Report and this certification at 12:25:37 on 03/23/2018 under Order No. 8259021829 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document G202™ – 2013, Project Building Information Modeling Protocol Form , as published by the AIA in its software, other than those additions and deletions shown in the associated Additions and Deletions Report.

_____

(Signed)

_____

(Title)

_____

(Dated)

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FY21 North High School Renovations-Bid Pack 4 Work Scope 23-B Combined Mechanical

Contract Sum: $4,392,000

Contractor: Master Mechanical, Inc.

Project Name and Number

North High School
1500 James Avenue N
Minneapolis, MN 55411
Minneapolis Public Schools Project Number
OP25-2512

Description

Perform combined mechanical in accordance with Work Scope 23-B for the North High School Phase 4 renovations

Contract Sum details

Item	Price	Status
Base Bid	$3,589,000	accepted
Alt #1: Health Office	$457,000	rejected
Alt #2: Athletic and Counseling Offices	$397,000	rejected
Alt #3: Electrical panel replacements	$0	accepted
Alt #4: AHU-41 replacement	$292,000	accepted
Alt #5: Direct digital controls	$511,000	accepted

Contract Documents

AIA Document A132-2019
AIA Document A132 Exhibit A-2019
Exhibit B – Project Charter
Exhibit C – Owner Insurance
Exhibit D – Project Schedule
AIA Document A232-2019

AIA® Document A132® – 2019

Standard Form of Agreement Between Owner and Contractor, Construction Manager as Adviser Edition

AGREEMENT made as of the first__ day of _February_____ in the year 2025_
(In words, indicate day, month, and year.)

BETWEEN the Owner:
(Name, legal status, address, and other information)

Minneapolis Public Schools Special School District #1
1250 West Broadway Avenue
Minneapolis, MN 55411

and the Contractor:
(Name, legal status, address, and other information)

Master Mechanical, Inc
1027 Gemini Road
Eagan, MN 55121

for the following Project:
(Name, location, and detailed description)

North High School Phase 4 Work Scope 23-B Combined Mechanical
1500 James Avenue
Minneapolis, MN 55411

The Construction Manager:
(Name, legal status, address, and other information)

Kraus-Anderson Construction Company
501 South 8th Street
Minneapolis, MN 55405

The Architect:
(Name, legal status, address, and other information)

LSE Architects
1401 Glenwood Avenue
Minneapolis, MN 55405

The Owner and Contractor agree as follows.

ADDITIONS AND DELETIONS:
The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

This document is intended to be used in conjunction with AIA Documents A232™–2019, General Conditions of the Contract for Construction, Construction Manager as Adviser Edition; B132™–2019, Standard Form of Agreement Between Owner and Architect, Construction Manager as Adviser Edition; and C132™–2019, Standard Form of Agreement Between Owner and Construction Manager as Adviser. AIA Document A232™–2019 is adopted in this document by reference. Do not use with other general conditions unless this document is modified.

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TABLE OF ARTICLES

1 THE CONTRACT DOCUMENTS

2 THE WORK OF THIS CONTRACT

3 DATE OF COMMENCEMENT AND DATES OF SUBSTANTIAL COMPLETION

4 CONTRACT SUM

5 PAYMENTS

6 DISPUTE RESOLUTION

7 TERMINATION OR SUSPENSION

8 MISCELLANEOUS PROVISIONS

9 ENUMERATION OF CONTRACT DOCUMENTS

EXHIBIT A INSURANCE AND BONDS
EXHIBIT B DETERMINATION OF THE COST OF THE WORK

ARTICLE 1 THE CONTRACT DOCUMENTS

The Contract Documents consist of this Agreement, Conditions of the Contract (General, Supplementary, and other Conditions), Drawings, Specifications, Addenda issued prior to execution of this Agreement, other documents ("Contract" or "Contract Documents") listed in this Agreement, and Modifications issued after execution of this Agreement, all of which form the Contract, and are as fully a part of the Contract as if attached to this Agreement or repeated herein. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations, or agreements, either written or oral. An enumeration of the Contract Documents, other than Modifications, appears in Article 9.

§ 1.2 In the event that there are inconsistencies between any of the Project Contract Documents, all Contract Documents shall be construed together and shall be read with a purpose and intent to provide that the Contractor shall commit to fully complete its Project Work and services with the greater degree of commitment as referenced in the Contract Documents, including the plans and specifications, to work diligently to ensure completion of the Project in a timely and workmanlike manner and at the earliest stated times provided for in Project schedules, as they may be revised, and to ensure that Contractor, and all of its Subcontractors and suppliers complete the Project on schedule and within Project Contract Price, subject to approved change orders.

§ 1.3 Contractor acknowledges that it has had full, fair, and adequate opportunity to review all of the Project bidding and Contract Documents, that it has fully satisfied itself as to the scope and requirements of the Project, that it has fully and fairly investigated all Project site conditions and circumstances and Contract Documents, including any potential difficulties or interferences present in the same, that it has had the opportunity to ask questions during the bidding phase and that it has received adequate answers to any such questions, that it has had the opportunity to attend and fairly participate in all pre-bid conferences and pre-construction conferences, and that it has required the same of all of its Subcontractors.

ARTICLE 2 THE WORK OF THIS CONTRACT

The Contractor shall fully execute the Work described in the Contract Documents, except as specifically indicated in the Contract Documents to be the responsibility of others.

ARTICLE 3 DATE OF COMMENCEMENT AND DATES OF SUBSTANTIAL COMPLETION

§ 3.1 The date of commencement of the Work shall be:
(Check one of the following boxes.)

[ ] The date of this Agreement.

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[X] A date set forth in a notice to proceed issued by the Owner.

[ ] Established as follows:
(Insert a date or a means to determine the date of commencement of the Work.)

If a date of commencement of the Work is not selected, then the date of commencement shall be the date of this Agreement.

§ 3.2 The Contract Time shall be measured from the date of commencement of the Work.

§ 3.3 Substantial Completion of the Project or Portions Thereof
§ 3.3.1 Subject to adjustments of the Contract Time as provided in the Contract Documents, the date of Substantial Completion of the Work of all of the Contractors for the Project will be:
(Insert the date of Substantial Completion of the Work of all Contractors for the Project.)

Defined in EXH-D Project Schedule

§ 3.3.2 Subject to adjustments of the Contract Time as provided in the Contract Documents, if portions of the Work of all of the Contractors for the Project are to be completed prior to Substantial Completion of the entire Work of all of the Contractors for the Project, the Contractors shall achieve Substantial Completion of such portions by the following dates defined in EXH-D Project Schedule. Such portions of the Work not completed as defined in EXH-D Project Schedule shall be subject to liquidated damages as set forth in Article 4.5.

(Table deleted)
(Table deleted)
(Paragraphs deleted)
§ 3.4.3 If the Contractor fails to substantially complete the Work of this Contract, or portions thereof, as provided in this Section 3.4, liquidated damages, if any, shall be assessed as set forth in Section 4.5.

ARTICLE 4 CONTRACT SUM
§ 4.1 The Owner shall pay the Contractor the Contract Sum in current funds for the Contractor's performance of the
(Paragraphs deleted)
Contract as defined in EXH-B Project Charter, subject to additions and deductions as provided in the Contract Documents.
§ 4.2 Stipulated Sum
§ 4.2.1 The Contract Sum shall be four million, three hundred ninety-two thousand dollars ($ 4,392,000), subject to additions and deductions as provided in the Contract Documents.

§ 4.2.2 Alternates
§ 4.2.2.1 Alternates, if any, included in the Contract Sum are defined in EXH-B Project Charter.
(Table deleted)
§ 4.2.2.2 Subject to the conditions noted in EXH-B Project Charter, alternates may be accepted by the Owner following execution of this Agreement. Upon acceptance, the Owner shall issue a Modification to this Agreement.
(Paragraphs deleted)
(Table deleted)
§ 4.2.3 Allowances, if any, included in the Contract Sum are defined in EXH-B Project Charter.
(Identify each allowance.)

Item	Price

§ 4.2.4 Unit prices, if any are defined in EXH-B Project Charter.

(Table deleted)

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§ 4.3 Allowances, if any, included in the Contract Sum are defined in EXH-B Project Charter.

(Paragraph deleted)
(Table deleted)
(Paragraphs deleted)
§ 4.4 Unit prices, if any, are defined in EXH-B Project Charter.

(Paragraphs deleted)
(Table deleted)
(Paragraphs deleted)
(Table deleted)
(Paragraphs deleted)
(Table deleted)
(Paragraphs deleted)
(Table deleted)
(Paragraphs deleted)
§ 4.5 Liquidated damages, if any:
(Insert terms and conditions for liquidated damages, if any, to be assessed in accordance with Section 3.4.)

Contractor and Owner recognize that time is of the essence for the Project and the Owner will suffer financial loss if the Work is not completed in the time specified in the Contract Documents. The parties also recognize the delays, expenses, and difficulties involved in proving in a legal proceeding the actual loss suffered by the Owner if the Work is not completed on time. Accordingly, instead of requiring such proof, the Owner and Contractor agree that as liquidated damages for delay (but not as penalty), Contractor shall pay Owner One Thousand Dollars ($1,000.00) per calendar day for each day that expires after the time specified for Substantial Completion in EXH-D Project Schedule until such time the Work is determined to be substantially complete by the Owner.

After Substantial Completion, if Contractor neglects, refuses, or fails to complete the remaining Work within the Contract Time specified in the Contract Documents, the Contractor shall pay the Owner One Thousand Dollars ($1,000.00) per day that expires after the time specified in the Contract Documents for Final Completion and readiness for Final Payment until the Work is completed.

§ 4.6 Other:
(Insert provisions for bonus, cost savings or other incentives, if any, that might result in a change to the Contract Sum.)

None

ARTICLE 5 PAYMENTS

§ 5.1 Progress Payments

§ 5.1.1 Based upon Applications for Payment submitted to the Construction Manager by the Contractor, and Certificates for Payment issued by the Construction Manager and Architect and approval by the Owner's Representative, the Owner shall make progress payments on account of the Contract Sum, to the Contractor, as provided below and elsewhere in the Contract Documents.

§ 5.1.2 The period covered by each Application for Payment shall be one calendar month ending on the last day of the month.

§ 5.1.3 When an Application for Payment is received by the Construction Manager, payment of the amount certified shall be made by the Owner not later than forty-five (45) days after the Construction Manager receives the Application for Payment. Unless expressly otherwise agreed in this Contract, payments and payment disputes shall be governed by the Prompt Payment of Local Government Bills, Minnesota Statutes, Section 471.425 ("Prompt Payment Act").
(Federal, state or local laws may require payment within a certain period of time.)

§ 5.1.4 Progress Payments Where the Contract Sum is Based on a Stipulated Sum

§ 5.1.4.1 Each Application for Payment shall be based on the most recent schedule of values submitted by the Contractor on AIA G702 Application and Certificate for Payment in accordance with the Contract Documents. The schedule of

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values shall allocate the entire Contract Sum among the various portions of the Work. The schedule of values shall be prepared in such form, and supported by such data to substantiate its accuracy, as the Construction Manager and Architect may require. This schedule of values shall be used as a basis for reviewing the Contractor's Applications for Payment.

§ 5.1.4.2 Applications for Payment shall show the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment.

§ 5.1.4.3 In accordance with AIA Document A232™–2019, General Conditions of the Contract for Construction, Construction Manager as Adviser Edition, as modified and subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

§ 5.1.4.3.1 The amount of each progress payment shall first include:

.1 That portion of the Contract Sum properly allocable to completed Work;

.2 That portion of the Contract Sum properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction, or, if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing; and

.3 That portion of Construction Change Directives that the Architect determines, in the Architect's professional judgment, to be reasonably justified.

§ 5.1.4.3.2 The amount of each progress payment shall then be reduced by:

.1 The aggregate of any amounts previously paid by the Owner;

.2 The amount, if any, for Work that remains uncorrected and for which the Architect has previously withheld a Certificate for Payment as provided in Article 9 of AIA Document A232–2019;

.3 Any amount for which the Contractor does not intend to pay a Subcontractor or material supplier, unless the Work has been performed by others the Contractor intends to pay;

.4 For Work performed or defects discovered since the last payment application, any amount for which the Architect may withhold payment, or nullify a Certificate of Payment in whole or in part, as provided in Article 9 of AIA Document A232–2019; and

.5 Retainage withheld pursuant to Section 5.1.7.

(Paragraphs deleted)

§ 5.1.7 Retainage

§ 5.1.7.1 For each progress payment made prior to when the Work of this Contract is substantially complete, the Owner may withhold the following amount, as retainage, from the payment otherwise due:
(Insert a percentage or amount to be withheld as retainage from each Application for Payment. The amount of retainage may be limited by governing law.)

Five Percent (5%)

§ 5.1.7.1.1 The following items are not subject to retainage:
(Insert any items not subject to the withholding of retainage, such as general conditions, insurance, etc.)

For major items installed into the Work, the Contractor may request full payment for the items to ensure prompt delivery and fabrication. Such items shall be recommended by the Architect and approved by the Owner as not requiring retainage. Prompt payment for the items shall be documented by the Contractor to the Owner in the subsequent payment application by submitting a full lien release for the items. Major items may include mechanical units with long lead times, structural systems with long lead times, critical path systems or items, etc. Major items will be discussed and defined by Owner, Architect, Construction Manager and Contractor.

§ 5.1.7.2 Reduction or limitation of retainage, if any, shall be as follows:
(If the retainage established in Section 5.1.7.1 is to be modified prior to when the entire Work of this Contract is substantially complete, including modifications for completion of portions of the Work as provided in Section 3.4.2, insert provisions for such modifications.)

Prior to Substantial Completion and at the discretion of the Owner, retainage may be reduced. If the Work has been fifty percent (50%) completed as determined by the Architect and is satisfactory to the Owner, then ninety percent (90%) of the

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retained amount may be released to the Contractor for completed Work (with ten percent (10%) of the total retained by the Owner).

§ 5.1.7.3 Except as set forth in this Section 5.1.7.3, when the Work of this Contract is substantially complete, the Contractor may submit an Application for Payment that includes the retainage withheld from prior Applications for Payment pursuant to this Section 5.1.7. The Application for Payment submitted when the Work of this Contract is substantially complete shall not include retainage as follows:
(Insert any other conditions for release of retainage when the Work of this Contract is substantially complete, or upon Substantial Completion of the Work of all Contractors on the Project or portions thereof.)

Upon Substantial Completion, additional retainage may be returned to the Contractor as recommended by the Architect and Construction Manager and approved by the Owner to an amount sufficient to satisfactorily complete the Work. Retainage release will comply with Minnesota Statutes, Section 15.72 after Substantial Completion and punch list acceptance by the Owner.

§ 5.2 Final Payment
§ 5.2.1 Final Payment Where the Contract Sum is Based on a Stipulated Sum
§ 5.2.1.1 Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Contractor when

.1 the Contractor has fully performed the Contract except for the Contractor's responsibility to correct Work as provided in Article 12 of AIA Document A232–2019, and to satisfy other requirements, if any, which extend beyond final payment;
.2 a final Certificate for Payment or Project Certificate for Payment has been issued by the Architect; and
.3 all lien waivers and IC134 forms have been delivered to the Owner.

§ 5.2.1.2 The Owner's final payment to the Contractor shall be made no later than forty-five (45) days after the issuance of the Architect's final Certificate for Payment or Project Certificate for Payment, or as follows:

§ 5.2.2 Final Payment Where the Contract Sum is Based on the Cost of the Work with or without a Guaranteed Maximum Price
§ 5.2.2.1 Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Contractor when

.1 the Contractor has fully performed the Contract except for the Contractor's responsibility to correct Work as provided in Article 12 of AIA Document A232–2019, and to satisfy other requirements, if any, which extend beyond final payment;
.2 the Contractor has submitted a final accounting for the Cost of the Work, pursuant to Exhibit B, Determination of the Cost of the Work and a final Application for Payment; and
.3 a final Certificate for Payment or Project Certificate for Payment has been issued by the Architect in accordance with Exhibit B, Determination of the Cost of the Work.

§ 5.2.2.2 The Owner's final payment to the Contractor shall be made no later than 30 days after the issuance of the final Certificate for Payment or Project Certificate for Payment, or as follows:

§ 5.3 Payments due and unpaid under the Contract shall bear interest from the date payment is due at the rate stated below.
(Insert rate of interest agreed upon, if any.)

Zero %

ARTICLE 6 DISPUTE RESOLUTION
§ 6.1 Initial Decision Maker
The Architect will serve as Initial Decision Maker pursuant to Article 15 of AIA Document
(Paragraphs deleted)
A232–2019.

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§ 6.1.1 Mediation

The Owner or the Contractor may request mediation of any Claim submitted to the Initial Decision Maker before the decision becomes final and binding. The mediation shall be governed by the Construction Industry Mediation Rules of the American Arbitration Association in effect at the date of this contract. The request for mediation shall be made in writing by the party requesting mediation and the other party of this contract. The Owner and Contractor shall participate in mediation in good faith. The mediation shall be concluded within 60 days of the request. Mediation is not a condition precedent to commencing litigation. If litigation is commenced, the Owner and Contractor agree to mediate before any dispositive motion or trial.

§ 6.2 Binding Dispute Resolution

For any Claim subject to, but not resolved by, mediation pursuant to Article 15 of AIA Document A232–2019, the method of binding dispute resolution shall be as follows:
(Check the appropriate box.)

[ ] Arbitration pursuant to Article 15 of AIA Document A232–2019.

[X] Litigation in a state or federal court of competent jurisdiction located in Hennepin County, Minnesota.

[ ] Other: *(Specify)*

If the Owner and Contractor do not select a method of binding dispute resolution, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, Claims will be resolved by litigation in a court of competent jurisdiction.

ARTICLE 7 TERMINATION OR SUSPENSION

§ 7.1 Where the Contract Sum is a Stipulated Sum

§ 7.1.1 The Contract may be terminated by the Owner or the Contractor as provided in Article 14 of AIA Document A232–2019.

§ 7.1.1.1 If the Contract is terminated for the Owner's convenience in accordance with Article 14 of AIA Document A232–2019, then the Owner shall pay the Contractor a termination fee as follows:
(Insert the amount of, or method for determining, the fee, if any, payable to the Contractor following a termination for the Owner's convenience.)

Termination fee will be based on the percentage of Work completed and any materials purchased or in production at the time of termination. Said fee and justification shall be provided to the Owner by the Contractor within ten (10) days' notice of the termination.

§ 7.1.2 The Work may be suspended by the Owner as provided in Article 14 of AIA Document A232–2019.

(Paragraphs deleted)

ARTICLE 8 MISCELLANEOUS PROVISIONS

§ 8.1 Where reference is made in this Agreement to a provision of AIA Document A232–2019 or another Contract Document, the reference refers to that provision as amended or supplemented by other provisions of the Contract Documents.

§ 8.2 The Owner's representative:
(Name, address, email address, and other information)

Curtis Hartog, PE, Executive Director
Minneapolis Public Schools, SSD#1
Capital Planning, Construction & Maintenance
1250 West Broadway Avenue, Minneapolis, MN 55411

§ 8.3 The Contractor's representative:

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(Name, address, email address, and other information)

Natasha Voss
Project Manager
Master Mechanical, Inc
1027 Gemini Road
Eagan, MN 55121

§ 8.4 Neither the Owner's nor the Contractor's representative shall be changed without ten days' prior notice to the other party.

§ 8.5 Record Keeping—Availability and Retention
Pursuant to Minnesota Statutes, Section 16C.05, subd. 5, Contractor agrees that the books, records, documents and accounting procedures and practices of Contractor, that are relevant to the Contract or transaction, are subject to examination by the Owner, the Owner's auditor, and the state auditor for a minimum of six (6) years. Contractor shall maintain such records for a minimum of six (6) years after final payment.

§ 8.6 Data Practices
Pursuant to Minnesota Statutes, Section 13.05, subd. 11, all of the data created, collected, received, stored, used, maintained, or disseminated by Contractor in performing this contract is subject to the requirements of the Minnesota Government Data Practices Act ("MGDPA"), Minnesota Statutes Chapter 13, and Contractor must comply with those requirements as if it were a government entity. The remedies in Minnesota Statutes, Section 13.08 apply to Contractor. Contractor does not have a duty to provide access to public data to the public if the public data are available from the Owner, except as required by the terms of this contract.

§ 8.7 Non-Discrimination
Pursuant to Minnesota Statutes, Section 181.59, the Contractor will take affirmative action to ensure that applicants are selected, and that employees are treated during employment, without regard to their race, color, creed, religion, national origin, sex, sexual orientation, marital status, status with regard to public assistance, membership or activity in a local civil rights commission, disability or age. The Contractor agrees to be bound by the provisions of Minnesota Statutes, Section 181.59, that prohibits certain discriminatory practices and the terms of said section are incorporated into this contract.

§ 8.8 Prompt Payment to Subcontractors
In accordance with the Prompt Payment Act, each Prime Contractor must pay any subcontractor within ten (10) days of the Prime Contractor's receipt of payment from the municipality for undisputed services provided by the subcontractor. The Subcontract must require the Prime Contractor to pay interest of 1-1/2 percent per month or any part of a month to the subcontractor on any undisputed amount not paid on time to the subcontractor. The minimum monthly interest penalty payment for an unpaid balance of $100 or more is $10. For an unpaid balance of less than $100, the Prime Contractor shall pay the actual penalty due to the subcontractor. A subcontractor who prevails in a civil action to collect interest penalties from a Prime Contractor must be awarded its costs and disbursements, including attorney's fees, incurred in bringing the action.

§ 8.9 Prevailing Wage
Contractor agrees that all laborers or mechanics working on the Project shall receive at least the prevailing wage rate in accordance with Minnesota Statutes Section 177.42, *et seq*. Contractor agrees further that it will incorporate any and all necessary contract language in its agreements with any subcontractors to allow Contractor to monitor and enforce the prevailing wage requirement for subcontractors of any tier.

§ 8.5 Insurance and Bonds
§ 8.5.1 The Owner and the Contractor shall purchase and maintain insurance as set forth EXH-C Owner Insurance.

§ 8.5.2 The Contractor shall provide bonds as set forth in AIA Document A132™–2019, Exhibit A, and elsewhere in the Contract Documents.

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§ 8.6 Notice in electronic format, pursuant to Article 1 of AIA Document A232–2019, may be given in accordance with AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, if completed, or as otherwise set forth below:
(If other than in accordance with AIA Document E203–2013, insert requirements for delivering notice in electronic format such as name, title, and email address of the recipient and whether and how the system will be required to generate a read receipt for the transmission.)

email to Owner's representative identified in Section 8.2

§ 8.7 Relationship of the Parties
Where the Contract is based on the Cost of the Work plus the Contractor's Fee, with or without a Guaranteed Maximum Price, the Contractor accepts the relationship of trust and confidence established by this Agreement and covenants with the Owner to cooperate with the Architect and exercise the Contractor's skill and judgment in furthering the interests of the Owner; to furnish efficient business administration and supervision; to furnish at all times an adequate supply of workers and materials; and to perform the Work in an expeditious and economical manner consistent with the Owner's interests. The Owner agrees to furnish and approve, in a timely manner, information required by the Contractor and to make payments to the Contractor in accordance with the requirements of the Contract Documents.

§ 8.8 Other provisions:

Owner prohibits Contractor from using the Work in any marketing material or business development practice. Contractor is prohibited from communication with any news outlet or public without Owner's written approval.

Floor plans, designs, wiring, safety and security measures shall be kept confidential by the Contractor, the Subcontractors, the Sub-Subcontractors (of any tier) during and after completion of the Work.

ARTICLE 9 ENUMERATION OF CONTRACT DOCUMENTS

§ 9.1 This Agreement is comprised of the following documents:

.1 AIA Document A132™–2019, Standard Form of Agreement Between Owner and Contractor, Construction Manager as Adviser Edition

.2 AIA Document A132™–2019, Exhibit A, Insurance and Bonds Exhibit

.3 AIA Document A232™–2019, General Conditions of the Contract for Construction, Construction Manager as Adviser Edition

.4 AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, dated as indicated below:
(Insert the date of the E203-2013 incorporated into this Agreement.)

Not Applicable

.5 Drawings

Number	Title	Date
139	North High School Renovations & CTE Center Vol 1 of 2	November 13, 2024
209	North High School Renovations & CTE Center Vol 2 of 2	November 13, 2024

.6 Specifications

Section	Title	Date	Pages
All Specifications	North High School Renovations and CTE Center Bid Package 4	November 13, 2024	1414

.7 Addenda, if any:

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Number	Date	Pages
1	December 2, 2024	70
2	December 9, 2024	165

Portions of Addenda relating to bidding or proposal requirements are not part of the Contract Documents unless the bidding or proposal requirements are also enumerated in this Article 9.

.8 Other Exhibits:

EXH-B Project Charter
EXH-C Owner Insurance
EXH-D Project Schedule
(Check all boxes that apply and include appropriate information identifying the exhibit where required.)

[ ]
(Paragraphs deleted)
[ ] Supplementary and other Conditions of the Contract:

Document	Title	Date	Pages

.9 Other documents, if any, listed below:
(List here any additional documents that are intended to form part of the Contract Documents. AIA Document A232–2019 provides that the advertisement or invitation to bid, Instructions to Bidders, sample forms, the Contractor's bid or proposal, portions of Addenda relating to bidding or proposal requirements, and other information furnished by the Owner in anticipation of receiving bids or proposals, are not part of the Contract Documents unless enumerated in this Agreement. Any such documents should be listed here only if intended to be part of the Contract Documents.)

Contractors Bid Documents

This Agreement is entered into as of the day and year first written above.

OWNER *(Signature)*	Rob Harbeintner Digitally signed by Rob Harbeintner DN: C=US, E=rharbeintner@mastermachanical.com, O=Master Mechanical, OU=General Manager, CN=Rob Harbeintner Date: 2025.02.11 12:21:09-06'00' **CONTRACTOR** *(Signature)*
Tom Parent, Sr Operations Officer *(Printed name and title)*	Robert Harbeintner, President *(Printed name and title)*

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Additions and Deletions Report for

AIA® Document A132® – 2019

This Additions and Deletions Report, as defined on page 1 of the associated document, reproduces below all text the author has added to the standard form AIA document in order to complete it, as well as any text the author may have added to or deleted from the original AIA text. Added text is shown underlined. Deleted text is indicated with a horizontal line through the original AIA text.

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PAGE 1

AGREEMENT made as of the first___day of _February_____in the year 2025_

...

Minneapolis Public Schools Special School District #1
1250 West Broadway Avenue
Minneapolis, MN 55411

...

Master Mechanical, Inc
1027 Gemini Road
Eagan, MN 55121

...

North High School Phase 4 Work Scope 23-B Combined Mechanical
1500 James Avenue
Minneapolis, MN 55411

...

Kraus-Anderson Construction Company
501 South 8th Street
Minneapolis, MN 55405

...

LSE Architects
1401 Glenwood Avenue
Minneapolis, MN 55405

PAGE 2

The Contract Documents consist of this Agreement, Conditions of the Contract (General, Supplementary, and other Conditions), Drawings, Specifications, Addenda issued prior to execution of this Agreement, other documents ("Contract" or "Contract Documents") listed in this Agreement, and Modifications issued after execution of this Agreement, all of which form the Contract, and are as fully a part of the Contract as if attached to this Agreement or repeated herein. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations, or agreements, either written or oral. An enumeration of the Contract Documents, other than Modifications, appears in Article 9.

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§ 1.2 In the event that there are inconsistencies between any of the Project Contract Documents, all Contract Documents shall be construed together and shall be read with a purpose and intent to provide that the Contractor shall commit to fully complete its Project Work and services with the greater degree of commitment as referenced in the Contract Documents, including the plans and specifications, to work diligently to ensure completion of the Project in a timely and workmanlike manner and at the earliest stated times provided for in Project schedules, as they may be revised, and to ensure that Contractor, and all of its Subcontractors and suppliers complete the Project on schedule and within Project Contract Price, subject to approved change orders.

§ 1.3 Contractor acknowledges that it has had full, fair, and adequate opportunity to review all of the Project bidding and Contract Documents, that it has fully satisfied itself as to the scope and requirements of the Project, that it has fully and fairly investigated all Project site conditions and circumstances and Contract Documents, including any potential difficulties or interferences present in the same, that it has had the opportunity to ask questions during the bidding phase and that it has received adequate answers to any such questions, that it has had the opportunity to attend and fairly participate in all pre-bid conferences and pre-construction conferences, and that it has required the same of all of its Subcontractors.

PAGE 3

[**X**] A date set forth in a notice to proceed issued by the Owner.

...

Defined in EXH-D Project Schedule

§ 3.3.2 Subject to adjustments of the Contract Time as provided in the Contract Documents, if portions of the Work of all of the Contractors for the Project are to be completed prior to Substantial Completion of the entire Work of all of the Contractors for the Project, the Contractors shall achieve Substantial Completion of such portions by the following ~~dates:~~dates defined in EXH-D Project Schedule. Such portions of the Work not completed as defined in EXH-D Project Schedule shall be subject to liquidated damages as set forth in Article 4.5.

~~**Portion of Work** **Substantial Completion Date**~~

~~**§ 3.4 When the Work of this Contract, or any Portion Thereof, is Substantially Complete**~~
~~**§ 3.4.1** Subject to adjustments of the Contract Time as provided in the Contract Documents, the Contractor shall substantially complete the entire Work of this Contract:~~
~~*(Check one of the following boxes and complete the necessary information.)*~~

~~[–] Not later than (–) calendar days from the date of commencement of the Work.~~

~~[–] By the following date:~~

~~**§ 3.4.2** Subject to adjustments of the Contract Time as provided in the Contract Documents, if portions of the Work of this Contract are to be substantially complete prior to when the entire Work of this Contract shall be substantially complete, the Contractor shall substantially complete such portions by the following dates:~~

~~**Portion of Work** **Date to be substantially complete**~~

...

§ 4.1 The Owner shall pay the Contractor the Contract Sum in current funds for the Contractor's performance of the ~~Contract. The Contract Sum shall be one of the following:~~
~~*(Check the appropriate box.)*~~

~~[–] Stipulated Sum, in accordance with Section 4.2 below~~

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~~[–] Cost of the Work plus the Contractor's Fee, in accordance with Section 4.3 below~~

~~[–] Cost of the Work plus the Contractor's Fee with a Guaranteed Maximum Price, in accordance with Section 4.4 below~~

~~*(Based on the selection above, complete Section 4.2, 4.3 or 4.4 below.)*~~
Contract as defined in EXH-B Project Charter, subject to additions and deductions as provided in the Contract Documents.

...

§ 4.2.1 The Contract Sum shall be four million, three hundred ninety-two thousand dollars ($ 4,392,000), subject to additions and deductions as provided in the Contract Documents.

...

§ 4.2.2.1 Alternates, if any, included in the Contract ~~Sum:~~
Sum are defined in EXH-B Project Charter.

~~Item~~	~~Price~~

§ 4.2.2.2 Subject to the conditions noted ~~below, the following~~ in EXH-B Project Charter, alternates may be accepted by the Owner following execution of this Agreement. Upon acceptance, the Owner shall issue a Modification to this Agreement.
~~*(Insert below each alternate and the conditions that must be met for the Owner to accept the alternate.)*~~

~~Item~~	~~Price~~	~~Conditions for Acceptance~~

§ 4.2.3 Allowances, if any, included in the Contract ~~Sum:~~Sum are defined in EXH-B Project Charter.

...

§ 4.2.4 Unit prices, if ~~any:~~
~~(Identify the item and state the unit price, and quantity limitations, if any, to which the unit price will be applicable.)~~any are defined in EXH-B Project Charter.

~~Item~~	~~Units and Limitations~~	~~Price per Unit ($0.00)~~

§ 4.3 ~~Cost of the Work Plus Contractor's Fee without a Guaranteed Maximum Price~~Allowances, if any, included in the Contract Sum are defined in EXH-B Project Charter.
~~**§ 4.3.1** The Cost of the Work is as defined in Exhibit B, Determination of the Cost of the Work.~~

~~**§ 4.3.2** The Contractor's Fee:~~
~~*(State a lump sum, percentage of Cost of the Work or other provision for determining the Contractor's Fee.)*~~

~~**§ 4.3.3** The method of adjustment of the Contractor's Fee for changes in the Work:~~

~~**§ 4.3.4** Limitations, if any, on a Subcontractor's overhead and profit for increases in the cost of its portion of the Work:~~

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~~§ 4.3.5 Rental rates for Contractor-owned equipment shall not exceed ( ) percent (%) of the standard rental rate paid at the place of the Project.~~

~~§ 4.3.6 Unit prices, if any:~~
~~*(Identify the item and state the unit price and quantity limitations, if any, to which the unit price will be applicable.)*~~

~~Item~~	~~Units and Limitations~~	~~Price per Unit ($0.00)~~

~~§ 4.3.7 The Contractor shall prepare and submit to the Construction Manager, within 14 days of executing this Agreement, a written Control Estimate for the Owner's review and approval. The Control Estimate shall include the items in Section B.1 of Exhibit B, Determination of the Cost of the Work.~~

~~§ 4.4 Cost of the Work Plus Contractor's Fee with a Guaranteed Maximum Price~~Unit prices, if any, are defined in EXH-B Project Charter.
~~§ 4.4.1 The Cost of the Work is as defined in Exhibit B, Determination of the Cost of the Work.~~

~~§ 4.4.2 The Contractor's Fee:~~
~~*(State a lump sum, percentage of Cost of the Work or other provision for determining the Contractor's Fee.)*~~

~~§ 4.4.3 The method of adjustment of the Contractor's Fee for changes in the Work:~~

~~§ 4.4.4 Limitations, if any, on a Subcontractor's overhead and profit for increases in the cost of its portion of the Work:~~

~~§ 4.4.5 Rental rates for Contractor-owned equipment shall not exceed ( ) percent (%) of the standard rental rate paid at the place of the Project.~~

~~§ 4.4.6 Unit Prices, if any:~~
~~*(Identify the item and state the unit price and quantity limitations, if any, to which the unit price will be applicable.)*~~

~~Item~~	~~Units and Limitations~~	~~Price per Unit ($0.00)~~

~~§ 4.4.7 Guaranteed Maximum Price~~
~~§ 4.4.7.1 The Contract Sum is guaranteed by the Contractor not to exceed ($), subject to additions and deductions by Change Order as provided in the Contract Documents. This maximum sum is referred to in the Contract Documents as the Guaranteed Maximum Price. Costs which would cause the Guaranteed Maximum Price to be exceeded shall be paid by the Contractor without reimbursement by the Owner.~~

~~§ 4.4.7.2 Alternates~~
~~§ 4.4.7.2.1 Alternates, if any, included in the Guaranteed Maximum Price:~~

~~Item~~	~~Price~~

~~§ 4.4.7.2.2 Subject to the conditions noted below, the following alternates may be accepted by the Owner following execution of this Agreement. Upon acceptance, the Owner shall issue a Modification to this Agreement.~~
~~*(Insert below each alternate and the conditions that must be met for the Owner to accept the alternate.)*~~

~~Item~~	~~Price~~	~~Conditions for Acceptance~~

~~§ 4.4.7.3 Allowances, if any, included in the Guaranteed Maximum Price:~~
~~*(Identify each allowance.)*~~

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~~Item~~ ~~Price~~

~~§ 4.4.7.4 Assumptions, if any, upon which the Guaranteed Maximum Price is based:~~
~~*(Identify each assumption.)*~~

~~§ 4.4.8 To the extent that the Contract Documents are anticipated to require further development, the Guaranteed Maximum Price includes the costs attributable to such further development consistent with the Contract Documents and reasonably inferable therefrom. Such further development does not include changes in scope, systems, kinds and quality of materials, finishes, or equipment, all of which, if required, shall be incorporated by Change Order.~~

~~§ 4.4.9 The Owner shall authorize preparation of revisions to the Contract Documents that incorporate the agreed-upon assumptions contained in Section 4.4.7.4. The Owner shall promptly furnish such revised Contract Documents to the Contractor. The Contractor shall notify the Owner and Architect of any inconsistencies between the agreed-upon assumptions contained in Section 4.4.7.4 and the revised Contract Documents.~~

PAGE 4

Contractor and Owner recognize that time is of the essence for the Project and the Owner will suffer financial loss if the Work is not completed in the time specified in the Contract Documents. The parties also recognize the delays, expenses, and difficulties involved in proving in a legal proceeding the actual loss suffered by the Owner if the Work is not completed on time. Accordingly, instead of requiring such proof, the Owner and Contractor agree that as liquidated damages for delay (but not as penalty), Contractor shall pay Owner One Thousand Dollars ($1,000.00) per calendar day for each day that expires after the time specified for Substantial Completion in EXH-D Project Schedule until such time the Work is determined to be substantially complete by the Owner.

After Substantial Completion, if Contractor neglects, refuses, or fails to complete the remaining Work within the Contract Time specified in the Contract Documents, the Contractor shall pay the Owner One Thousand Dollars ($1,000.00) per day that expires after the time specified in the Contract Documents for Final Completion and readiness for Final Payment until the Work is completed.

...

None

...

§ 5.1.1 Based upon Applications for Payment submitted to the Construction Manager by the Contractor, and Certificates for Payment issued by the Construction Manager and ~~Architect,~~ Architect and approval by the Owner's Representative, the Owner shall make progress payments on account of the Contract Sum, to the Contractor, as provided below and elsewhere in the Contract Documents.

§ 5.1.2 The period covered by each Application for Payment shall be one calendar month ending on the last day of the ~~month, or as follows:~~
month.

§ 5.1.3 ~~Provided that~~ When an Application for Payment is received by the Construction ~~Manager not later than the day of a month, the Owner shall make payment of the amount certified to the Contractor not later than the day of the month. If an Application for Payment is received by the Construction Manager after the application date fixed above, payment of the amount certified~~ Manager, payment of the amount certified shall be made by the Owner not later than forty-five (45) days after the Construction Manager receives the Application for Payment. Unless expressly otherwise agreed in this Contract, payments and payment disputes shall be governed by the Prompt Payment of Local Government Bills, Minnesota Statutes, Section 471.425 ("Prompt Payment Act").

...

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§ 5.1.4.1 Each Application for Payment shall be based on the most recent schedule of values submitted by the Contractor on AIA G702 Application and Certificate for Payment in accordance with the Contract Documents. The schedule of values shall allocate the entire Contract Sum among the various portions of the Work. The schedule of values shall be prepared in such form, and supported by such data to substantiate its accuracy, as the Construction Manager and Architect may require. This schedule of values shall be used as a basis for reviewing the Contractor's Applications for Payment.
PAGE 5

§ 5.1.4.3 In accordance with AIA Document A232™–2019, General Conditions of the Contract for Construction, Construction Manager as Adviser Edition, as modified and subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

...

~~**§ 5.1.5 Progress Payments Where the Contract Sum is Based on the Cost of the Work without a Guaranteed Maximum Price**~~

~~**§ 5.1.5.1** With each Application for Payment, the Contractor shall submit the cost control information required in Exhibit B, Determination of the Cost of the Work, along with payrolls, petty cash accounts, receipted invoices, or invoices with check vouchers attached, and any other evidence required by the Owner, Construction Manager or Architect to demonstrate that payments already made by the Contractor on account of the Cost of the Work equal or exceed progress payments already received by the Contractor, plus payrolls for the period covered by the present Application for Payment, less that portion of the payments attributable to the Contractor's Fee.~~

~~**§ 5.1.5.2** Applications for Payment shall show the Cost of the Work actually incurred by the Contractor through the end of the period covered by the Application for Payment and for which the Contractor has made or intends to make actual payment prior to the next Application for Payment.~~

~~**§ 5.1.5.3** In accordance with AIA Document A232–2019 and subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:~~

~~**§ 5.1.5.3.1** The amount of each progress payment shall first include:~~

- ~~**.1** The Cost of the Work as described in Exhibit B, Determination of the Cost of the Work;~~
- ~~**.2** That portion of Construction Change Directives that the Architect determines, in the Architect's professional judgment, to be reasonably justified; and~~
- ~~**.3** The Contractor's Fee computed upon the Cost of the Work described in the preceding Section 5.1.5.3.1.1 at the rate stated in Section 4.3.2; or if the Contractor's Fee is stated as a fixed sum in Section 4.3.2 an amount which bears the same ratio to that fixed-sum Fee as the Cost of the Work included in Section 5.1.5.3.1.1 bears to a reasonable estimate of the probable Cost of the Work upon its completion.~~

~~**§ 5.1.5.3.2** The amount of each progress payment shall then be reduced by:~~

- ~~**.1** The aggregate of any amounts previously paid by the Owner;~~
- ~~**.2** The amount, if any, for Work that remains uncorrected and for which the Architect has previously withheld a Certificate for Payment as provided in Article 9 of AIA Document A232–2019;~~
- ~~**.3** Any amount for which the Contractor does not intend to pay a Subcontractor or material supplier, unless the Work has been performed by others the Contractor intends to pay;~~
- ~~**.4** For Work performed or defects discovered since the last payment application, any amount for which the Architect may withhold payment, or nullify a Certificate of Payment in whole or in part, as provided in Article 9 of AIA Document A232–2019;~~
- ~~**.5** The shortfall, if any, indicated by the Contractor in the documentation required by Section 5.1.5.1 to substantiate prior Applications for Payment, or resulting from errors subsequently discovered by the Owner's auditors in such documentation; and~~
- ~~**.6** Retainage withheld pursuant to Section 5.1.7.~~

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§ 5.1.5.4 The Owner, Construction Manager and Contractor shall agree upon a mutually acceptable procedure for review and approval of payments to Subcontractors and the percentage of retainage held on Subcontracts, and the Contractor shall execute subcontracts in accordance with those agreements.

§ 5.1.5.5 In taking action on the Contractor's Applications for Payment, the Construction Manager and Architect shall be entitled to rely on the accuracy and completeness of the information furnished by the Contractor, and such action shall not be deemed to be a representation that (1) the Construction Manager and Architect have made a detailed examination, audit or arithmetic verification of the documentation submitted in accordance with Article 5 or other supporting data; (2) that the Construction Manager and Architect have made exhaustive or continuous on-site inspections; or (3) that the Construction Manager and Architect have made examinations to ascertain how or for what purposes the Contractor has used amounts previously paid on account of the Contract. Such examinations, audits and verifications, if required by the Owner, will be performed by the Owner's auditors acting in the sole interest of the Owner.

§ 5.1.5.6 Except with the Owner's prior approval, the Contractor shall not make advance payments to suppliers for materials or equipment which have not been delivered and stored at the site.

§ 5.1.5.7 If final completion of the Work is materially delayed through no fault of the Contractor, then the Owner shall pay the Contractor any additional amounts in accordance with Article 9 of AIA Document A232–2019.

§ 5.1.6 Progress Payments Where the Contract Sum is Based on the Cost of the Work with a Guaranteed Maximum Price

§ 5.1.6.1 With each Application for Payment, the Contractor shall submit payrolls, petty cash accounts, receipted invoices or invoices with check vouchers attached, and any other evidence required by the Owner, Construction Manager or Architect to demonstrate that payments already made by the Contractor on account of the Cost of the Work equal or exceed progress payments already received by the Contractor plus payrolls for the period covered by the present Application for Payment, less that portion of the progress payments attributable to the Contractor's Fee.

§ 5.1.6.2 Each Application for Payment shall be based on the most recent schedule of values submitted by the Contractor in accordance with the Contract Documents. The schedule of values shall allocate the entire Guaranteed Maximum Price among: (1) the various portions of the Work; (2) any contingency for costs that are included in the Guaranteed Maximum Price but not otherwise allocated to another line item or included in a Change Order; and (3) the Contractor's Fee.

§ 5.1.6.2.1 The schedule of values shall be prepared in such form, and supported by such data to substantiate its accuracy, as the Construction Manager and Architect may require. This schedule of values shall be used as a basis for reviewing the Contractor's Applications for Payment.

§ 5.1.6.2.2 The allocation of the Guaranteed Maximum Price under this Section 5.1.6.2 shall not constitute a separate guaranteed maximum price for the Cost of the Work of each individual line item in the schedule of values.

§ 5.1.6.2.3 When the Contractor allocates costs from a contingency to another line item in the schedule of values, the Contractor shall submit supporting documentation to the Architect and Construction Manager.

§ 5.1.6.3 Applications for Payment shall show the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment. The percentage of completion shall be the lesser of (1) the percentage of that portion of the Work which has actually been completed; or (2) the percentage obtained by dividing (a) the expense that has actually been incurred by the Contractor on account of that portion of the Work and for which the Contractor has made payment or intends to make payment prior to the next Application for Payment by (b) the share of the Guaranteed Maximum Price allocated to that portion of the Work in the schedule of values.

§ 5.1.6.4 In accordance with AIA Document A232–2019, and subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

§ 5.1.6.4.1 The amount of each progress payment shall first include:

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.1 That portion of the Guaranteed Maximum Price properly allocable to completed Work as determined by multiplying the percentage of completion of each portion of the Work by the share of the Guaranteed Maximum Price allocated to that portion of the Work in the most recent schedule of values;

.2 That portion of the Guaranteed Maximum Price properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction or, if approved in writing in advance by the Owner, suitably stored off the site at a location agreed upon in writing;

.3 That portion of Construction Change Directives that the Architect determines, in the Architect's professional judgment, to be reasonably justified; and

.4 The Contractor's Fee, computed upon the Cost of the Work described in the preceding Sections 5.1.6.4.1.1 and 5.1.6.4.1.2 at the rate stated in Section 4.4.2 or, if the Contractor's Fee is stated as a fixed sum in that Section, an amount that bears the same ratio to that fixed-sum fee as the Cost of the Work included in Sections 5.1.6.4.1.1 and 5.1.6.4.1.2 bears to a reasonable estimate of the probable Cost of the Work upon its completion.

§ 5.1.6.4.2 The amount of each progress payment shall then be reduced by:

.1 The aggregate of any amounts previously paid by the Owner;

.2 The amount, if any, for Work that remains uncorrected and for which the Architect has previously withheld a Certificate for Payment as provided in Article 9 of AIA Document A232–2019;

.3 Any amount for which the Contractor does not intend to pay a Subcontractor or material supplier, unless the Work has been performed by others the Contractor intends to pay;

.4 For Work performed or defects discovered since the last payment application, any amount for which the Architect may withhold payment, or nullify a Certificate of Payment in whole or in part, as provided in Article 9 of AIA Document A232–2019;

.5 The shortfall, if any, indicated by the Contractor in the documentation required by Section 5.1.6.1 to substantiate prior Applications for Payment, or resulting from errors subsequently discovered by the Owner's auditors in such documentation; and

.6 Retainage withheld pursuant to Section 5.1.7.

§ 5.1.6.5 The Owner and the Contractor shall agree upon a mutually acceptable procedure for review and approval of payments to Subcontractors and the percentage of retainage held on Subcontracts, and the Contractor shall execute subcontracts in accordance with those agreements.

§ 5.1.6.6 In taking action on the Contractor's Applications for Payment, the Construction Manager and Architect shall be entitled to rely on the accuracy and completeness of the information furnished by the Contractor and such action shall not be deemed to be a representation that (1) the Construction Manager or Architect have made a detailed examination, audit, or arithmetic verification of the documentation submitted in accordance with Section 5.1.6.1 or other supporting data; (2) that the Construction Manager or Architect have made exhaustive or continuous on-site inspections; or (3) that the Construction Manager or Architect have made examinations to ascertain how or for what purposes the Contractor has used amounts previously paid on account of the Contract. Such examinations, audits, and verifications, if required by the Owner, will be performed by the Owner's auditors acting in the sole interest of the Owner.

§ 5.1.6.7 Except with the Owner's prior approval, the Contractor shall not make advance payments to suppliers for materials or equipment which have not been delivered and stored at the site.

§ 5.1.6.8 If final completion of the Work is materially delayed through no fault of the Contractor, then the Owner shall pay the Contractor any additional amounts in accordance with Article 9 of AIA Document A232-2019.

...

Five Percent (5%)

...

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For major items installed into the Work, the Contractor may request full payment for the items to ensure prompt delivery and fabrication. Such items shall be recommended by the Architect and approved by the Owner as not requiring retainage. Prompt payment for the items shall be documented by the Contractor to the Owner in the subsequent payment application by submitting a full lien release for the items. Major items may include mechanical units with long lead times, structural systems with long lead times, critical path systems or items, etc. Major items will be discussed and defined by Owner, Architect, Construction Manager and Contractor.

...

Prior to Substantial Completion and at the discretion of the Owner, retainage may be reduced. If the Work has been fifty percent (50%) completed as determined by the Architect and is satisfactory to the Owner, then ninety percent (90%) of the retained amount may be released to the Contractor for completed Work (with ten percent (10%) of the total retained by the Owner).

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Upon Substantial Completion, additional retainage may be returned to the Contractor as recommended by the Architect and Construction Manager and approved by the Owner to an amount sufficient to satisfactorily complete the Work. Retainage release will comply with Minnesota Statutes, Section 15.72 after Substantial Completion and punch list acceptance by the Owner.

...

.1 the Contractor has fully performed the Contract except for the Contractor's responsibility to correct Work as provided in Article 12 of AIA Document A232–2019, and to satisfy other requirements, if any, which extend beyond final payment; ~~and~~

.2 a final Certificate for Payment or Project Certificate for Payment has been issued by ~~the Architect.~~the Architect; and

.3 all lien waivers and IC134 forms have been delivered to the Owner.

§ 5.2.1.2 The Owner's final payment to the Contractor shall be made no later than ~~30~~ forty-five (45) days after the issuance of the Architect's final Certificate for Payment or Project Certificate for Payment, or as follows:

...

§ 5.3 Payments due and unpaid under the Contract shall bear interest from the date payment is due at the rate stated ~~below, or in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located.~~below.

...

Zero %

...

The Architect will serve as Initial Decision Maker pursuant to Article 15 of AIA Document ~~A232–2019, unless the parties appoint below another individual, not a party to this Agreement, to serve as Initial Decision Maker.~~
~~*(If the parties mutually agree, insert the name, address and other contact information of the Initial Decision Maker, if other than the Architect.)*~~

A232–2019.

§ 6.1.1 Mediation

The Owner or the Contractor may request mediation of any Claim submitted to the Initial Decision Maker before the decision becomes final and binding. The mediation shall be governed by the Construction Industry Mediation Rules of the American Arbitration Association in effect at the date of this contract. The request for mediation shall be made in

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writing by the party requesting mediation and the other party of this contract. The Owner and Contractor shall participate in mediation in good faith. The mediation shall be concluded within 60 days of the request. Mediation is not a condition precedent to commencing litigation. If litigation is commenced, the Owner and Contractor agree to mediate before any dispositive motion or trial.

PAGE 7

[ ] ~~Litigation in a court of competent jurisdiction.~~ [X] Litigation in a state or federal court of competent jurisdiction located in Hennepin County, Minnesota.

...

Termination fee will be based on the percentage of Work completed and any materials purchased or in production at the time of termination. Said fee and justification shall be provided to the Owner by the Contractor within ten (10) days' notice of the termination.

...

~~**§ 7.2 Where the Contract Sum is Based on the Cost of the Work with or without a Guaranteed Maximum Price**~~

~~**§ 7.2.1 Termination**~~

~~**§ 7.2.1.1** The Contract may be terminated by the Owner or the Contractor as provided in Article 14 of AIA Document A232–2019.~~

~~**§ 7.2.1.2 Termination by the Owner for Cause**~~

~~**§ 7.2.1.2.1** If the Owner terminates the Contract for cause as provided in Article 14 of AIA Document A232–2019, the Owner shall then only pay the Contractor an amount as follows:~~

- ~~**.1** Take the Cost of the Work incurred by the Contractor to the date of termination;~~
- ~~**.2** Add the Contractor's Fee, computed upon the Cost of the Work to the date of termination at the rate stated in Section 4.3.2 or 4.4.2, as applicable, or, if the Contractor's Fee is stated as a fixed sum in that Section, an amount that bears the same ratio to that fixed-sum Fee as the Cost of the Work at the time of termination bears to a reasonable estimate of the probable Cost of the Work upon its completion;~~
- ~~**.3** Subtract the aggregate of previous payments made by the Owner; and~~
- ~~**.4** Subtract the costs and damages incurred, or to be incurred, by the Owner under Article 14 of AIA Document A232–2019.~~

~~**§ 7.2.1.2.2** When the Contract Sum is based on the Cost of the Work with a Guaranteed Maximum Price, if the Owner terminates the Contract for cause as provided in Article 14 of AIA Document A232-2019, the amount, if any, to be paid to the Contractor under Article 14 of AIA Document A232-2019 shall not cause the Guaranteed Maximum Price to be exceeded, nor shall it exceed the amount calculated in Section 7.2.1.2.1.~~

~~**§ 7.2.1.2.3** The Owner shall also pay the Contractor fair compensation, either by purchase or rental at the election of the Owner, for any equipment owned by the Contractor that the Owner elects to retain and that is not otherwise included in the Cost of the Work under Section 7.2.1.2.1.1. To the extent that the Owner elects to take legal assignment of subcontracts and purchase orders (including rental agreements), the Contractor shall, as a condition of receiving the payments referred to in this Article 7, execute and deliver all such papers and take all such steps, including the legal assignment of such subcontracts and other contractual rights of the Contractor, as the Owner may require for the purpose of fully vesting in the Owner the rights and benefits of the Contractor under such subcontracts or purchase orders. All Subcontracts, purchase orders and rental agreements entered into by the Contractor will contain provisions allowing for assignment to the Owner as described above.~~

~~**§ 7.2.1.3 Termination by the Owner for Convenience**~~

~~If the Owner terminates the Contract for convenience in accordance with Article 14 of AIA Document A232–2019, then the Owner shall pay the Contractor a termination fee as follows:~~

~~*(Insert the amount of or method for determining the fee, if any, payable to the Contractor following a termination for the Owner's convenience.)*~~

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~~§ 7.3 Suspension~~

~~The Work may be suspended by the Owner as provided in Article 14 of AIA Document A232–2019; in such case, the Contract Sum and Contract Time shall be increased as provided in Article 14 of AIA Document A232–2019, except that the term "profit" shall be understood to mean the Contractor's Fee as described in Section 4.3.2 or 4.4.2, as applicable, of this Agreement.~~

...

Curtis Hartog, PE, Executive Director
Minneapolis Public Schools, SSD#1
Capital Planning, Construction & Maintenance
1250 West Broadway Avenue, Minneapolis, MN 55411
PAGE 8

Natasha Voss
Project Manager
Master Mechanical, Inc
1027 Gemini Road
Eagan, MN 55121

...

§ 8.5 Record Keeping—Availability and Retention

Pursuant to Minnesota Statutes, Section 16C.05, subd. 5, Contractor agrees that the books, records, documents and accounting procedures and practices of Contractor, that are relevant to the Contract or transaction, are subject to examination by the Owner, the Owner's auditor, and the state auditor for a minimum of six (6) years. Contractor shall maintain such records for a minimum of six (6) years after final payment.

§ 8.6 Data Practices

Pursuant to Minnesota Statutes, Section 13.05, subd. 11, all of the data created, collected, received, stored, used, maintained, or disseminated by Contractor in performing this contract is subject to the requirements of the Minnesota Government Data Practices Act ("MGDPA"), Minnesota Statutes Chapter 13, and Contractor must comply with those requirements as if it were a government entity. The remedies in Minnesota Statutes, Section 13.08 apply to Contractor. Contractor does not have a duty to provide access to public data to the public if the public data are available from the Owner, except as required by the terms of this contract.

§ 8.7 Non-Discrimination

Pursuant to Minnesota Statutes, Section 181.59, the Contractor will take affirmative action to ensure that applicants are selected, and that employees are treated during employment, without regard to their race, color, creed, religion, national origin, sex, sexual orientation, marital status, status with regard to public assistance, membership or activity in a local civil rights commission, disability or age. The Contractor agrees to be bound by the provisions of Minnesota Statutes, Section 181.59, that prohibits certain discriminatory practices and the terms of said section are incorporated into this contract.

§ 8.8 Prompt Payment to Subcontractors

In accordance with the Prompt Payment Act, each Prime Contractor must pay any subcontractor within ten (10) days of the Prime Contractor's receipt of payment from the municipality for undisputed services provided by the subcontractor. The Subcontract must require the Prime Contractor to pay interest of 1-1/2 percent per month or any part of a month to the subcontractor on any undisputed amount not paid on time to the subcontractor. The minimum monthly interest penalty payment for an unpaid balance of $100 or more is $10. For an unpaid balance of less than $100, the Prime Contractor shall pay the actual penalty due to the subcontractor. A subcontractor who prevails in a civil action to collect interest penalties from a Prime Contractor must be awarded its costs and disbursements, including attorney's fees, incurred in bringing the action.

§ 8.9 Prevailing Wage

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Contractor agrees that all laborers or mechanics working on the Project shall receive at least the prevailing wage rate in accordance with Minnesota Statutes Section 177.42, *et seq*. Contractor agrees further that it will incorporate any and all necessary contract language in its agreements with any subcontractors to allow Contractor to monitor and enforce the prevailing wage requirement for subcontractors of any tier.

§ 8.5.1 The Owner and the Contractor shall purchase and maintain insurance as set forth ~~in AIA Document A132™–2019, Standard Form of Agreement Between Owner and Contractor, Construction Manager as Adviser Edition, Exhibit A, Insurance and Bonds, and elsewhere in the Contract Documents.~~EXH-C Owner Insurance.

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§ 8.6 Notice in electronic format, pursuant to Article 1 of AIA Document A232–2019, may be given in accordance with ~~a building information modeling exhibit,~~ AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, if completed, or as otherwise set forth below:
(If other than in accordance with ~~a building information modeling exhibit,~~ AIA Document E203–2013, insert requirements for delivering notice in electronic format such as name, title, and email address of the recipient and whether and how the system will be required to generate a read receipt for the transmission.)

email to Owner's representative identified in Section 8.2

...

Owner prohibits Contractor from using the Work in any marketing material or business development practice. Contractor is prohibited from communication with any news outlet or public without Owner's written approval.

Floor plans, designs, wiring, safety and security measures shall be kept confidential by the Contractor, the Subcontractors, the Sub-Subcontractors (of any tier) during and after completion of the Work.

...

.4 ~~Building Information Modeling Exhibit, if completed:~~AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, dated as indicated below:
(Insert the date of the E203-2013 incorporated into this Agreement.)

Not Applicable

...

139		North High School Renovations & CTE Center Vol 1 of 2	November 13, 2024
209		North High School Renovations & CTE Center Vol 2 of 2	November 13, 2024

...

	All Specifications	North High School Renovations and CTE Center Bid Package 4	November 13, 2024	1414

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1	December 2, 2024	70
2	December 9, 2024	165

...

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EXH-B Project Charter
EXH-C Owner Insurance
EXH-D Project Schedule
(Check all boxes that apply and include appropriate information identifying the exhibit where required.)

~~*[ ] AIA Document A132™ 2019, Exhibit B, Determination of the Cost of the Work*~~

[ ] ~~AIA Document E235™ 2019, Sustainable Projects Exhibit, Construction Manager as Adviser Edition, dated as indicated below:~~
~~*(Insert the date of the E235-2019 incorporated into this Agreement.)*~~

~~[ ] The Sustainability Plan:~~

~~Title~~	~~Date~~	~~Pages~~

...

Contractors Bid Documents

...

Tom Parent, Sr Operations Officer

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Certification of Document's Authenticity

AIA® Document D401™ – 2003

I, , hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with its associated Additions and Deletions Report and this certification at 15:36:06 CT on 02/03/2025 under Order No. 4104251278 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document A132™ – 2019, Standard Form of Agreement Between Owner and Contractor, Construction Manager as Adviser Edition, other than those additions and deletions shown in the associated Additions and Deletions Report.



(Signed)

Curtis Hartog, Executive Director

(Title)

2/3/2025

(Dated)

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AIA® Document A132® – 2019 Exhibit A

Insurance and Bonds

This Insurance and Bonds Exhibit is part of the Agreement, between the Owner and the Contractor, dated the _first_ day of _February____ in the year _2025
(In words, indicate day, month, and year.)

for the following **PROJECT**:
(Name and location or address)

North High School Phase 4 Work Scope 23-B Combined Mechanical
1500 James Avenue, Minneapolis, MN 55411

THE OWNER:
(Name, legal status, and address)

Minneapolis Public Schools Special School District #1
1250 West Broadway Avenue
Minneapolis, MN 55411

THE CONTRACTOR:
(Name, legal status, and address)
Master Mechanical, Inc
1027 Gemini Road
Eagan, MN 55121

TABLE OF ARTICLES

A.1 GENERAL

A.2 OWNER'S INSURANCE

A.3 CONTRACTOR'S INSURANCE AND BONDS

A.4 SPECIAL TERMS AND CONDITIONS

ARTICLE A.1 GENERAL

The Owner and Contractor shall purchase and maintain insurance, and provide bonds, as set forth in this Exhibit. As used in this Exhibit, the term General Conditions refers to AIA Document A232™–2019, General Conditions of the Contract for Construction.

ARTICLE A.2 OWNER'S INSURANCE

§ A.2.1 General

Prior to commencement of the Work, the Owner shall secure the insurance, and provide evidence of the coverage, required under this Article A.2 and, upon the Contractor's request, provide a copy of the property insurance policy or policies required by Section A.2.3. The copy of the policy or policies provided shall contain all applicable conditions, definitions, exclusions, and endorsements.

§ A.2.2 Liability Insurance

The Owner shall be responsible for purchasing and maintaining the Owner's usual general liability insurance.

ADDITIONS AND DELETIONS:
The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

This document is intended to be used in conjunction with AIA Document A232™–2019, General Conditions of the Contract for Construction. Article 11 of A232™–2019 contains additional insurance provisions

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§ A.2.3 Required Property Insurance

§ A.2.3.1 Unless this obligation is placed on the Contractor pursuant to Section A.3.3.2.1, the Owner shall purchase and maintain, from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located, property insurance policy form and sufficient to cover the total value of the entire Project on a replacement cost basis. The Owner's property insurance coverage shall be no less than the amount of the initial Contract Sum, plus the value of subsequent Modifications and labor performed and materials or equipment supplied by others. The property insurance shall be maintained until Substantial Completion and thereafter as provided in Section A.2.3.1.3, unless otherwise provided in the Contract Documents or otherwise agreed in writing by the parties to this Agreement. This insurance shall include the interests of the Owner, Contractor, Subcontractors, and Sub-subcontractors in the Project as insureds. This insurance shall include the interests of mortgagees as loss payees.

§ A.2.3.1.1 Causes of Loss. The insurance required by this Section A.2.3.1 shall provide coverage for direct physical loss or damage, and shall not exclude the risks of fire, explosion, theft, vandalism, malicious mischief, collapse, earthquake, flood, or windstorm. The insurance shall also provide coverage for ensuing loss or resulting damage from error, omission, or deficiency in construction methods, design, specifications, workmanship, or materials. Sub-limits, if any, are as follows:
(Indicate below the cause of loss and any applicable sub-limit.)

Causes of Loss	Sub-Limit

§ A.2.3.1.2 Specific Required Coverages. The insurance required by this Section A.2.3.1 shall provide coverage for loss or damage to false work and other temporary structures, and to building systems from testing and startup. The insurance shall also cover debris removal, including demolition occasioned by enforcement of any applicable legal requirements, and reasonable compensation for the Architect's, Construction Manager's, and Contractor's services and expenses required as a result of such insured loss, including claim preparation expenses. Sub-limits, if any, are as follows:
(Indicate below type of coverage and any applicable sub-limit for specific required coverages.)

Coverage	Sub-Limit

§ A.2.3.1.3 Unless the parties agree otherwise, upon Substantial Completion, the Owner shall continue the insurance required by Section A.2.3.1 or, if necessary, replace the insurance policy required under Section A.2.3.1 with property insurance written for the total value of the Project that shall remain in effect until expiration of the period for correction of the Work set forth in Section 12.2.2 of the General Conditions.

§ A.2.3.1.4 Deductibles and Self-Insured Retentions. If the insurance required by this Section A.2.3 is subject to deductibles or self-insured retentions, the Owner shall be responsible for all loss not covered because of such deductibles or retentions.

§ A.2.3.2 Occupancy or Use Prior to Substantial Completion. The Owner's occupancy or use of any completed or partially completed portion of the Work prior to Substantial Completion shall not commence until the insurance company or companies providing the insurance under Section A.2.3.1 have consented in writing to the continuance of coverage. The Owner and the Contractor shall take no action with respect to partial occupancy or use that would cause cancellation, lapse, or reduction of insurance, unless they agree otherwise in writing.

§ A.2.3.3 Insurance for Existing Structures

If the Work involves remodeling an existing structure or constructing an addition to an existing structure, the Owner shall purchase and maintain, until the expiration of the period for correction of Work as set forth in Section 12.2.2 of the General Conditions, "all-risks" property insurance, on a replacement cost basis, protecting the existing structure against direct physical loss or damage from the causes of loss identified in Section A.2.3.1, notwithstanding the undertaking of the Work. The Owner shall be responsible for all co-insurance penalties.

§ A.2.4 Optional Extended Property Insurance.

The Owner shall purchase and maintain the insurance selected and described below.

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(Select the types of insurance the Owner is required to purchase and maintain by placing an X in the box(es) next to the description(s) of selected insurance. For each type of insurance selected, indicate applicable limits of coverage or other conditions in the fill point below the selected item.)

[ ] **§ A.2.4.1 Loss of Use, Business Interruption, and Delay in Completion Insurance**, to reimburse the Owner for loss of use of the Owner's property, or the inability to conduct normal operations due to a covered cause of loss.

[ ] **§ A.2.4.2 Ordinance or Law Insurance**, for the reasonable and necessary costs to satisfy the minimum requirements of the enforcement of any law or ordinance regulating the demolition, construction, repair, replacement or use of the Project.

[ ] **§ A.2.4.3 Expediting Cost Insurance**, for the reasonable and necessary costs for the temporary repair of damage to insured property, and to expedite the permanent repair or replacement of the damaged property.

[ ] **§ A.2.4.4 Extra Expense Insurance**, to provide reimbursement of the reasonable and necessary excess costs incurred during the period of restoration or repair of the damaged property that are over and above the total costs that would normally have been incurred during the same period of time had no loss or damage occurred.

[ ] **§ A.2.4.5 Civil Authority Insurance**, for losses or costs arising from an order of a civil authority prohibiting access to the Project, provided such order is the direct result of physical damage covered under the required property insurance.

[ ] **§ A.2.4.6 Ingress/Egress Insurance**, for loss due to the necessary interruption of the insured's business due to physical prevention of ingress to, or egress from, the Project as a direct result of physical damage.

[ ] **§ A.2.4.7 Soft Costs Insurance**, to reimburse the Owner for costs due to the delay of completion of the Work, arising out of physical loss or damage covered by the required property insurance: including construction loan fees; leasing and marketing expenses; additional fees, including those of architects, engineers, consultants, attorneys and accountants, needed for the completion of the construction, repairs, or reconstruction; and carrying costs such as property taxes, building permits, additional interest on loans, realty taxes, and insurance premiums over and above normal expenses.

§ A.2.5 Other Optional Insurance.

The Owner shall purchase and maintain the insurance selected below.

(Select the types of insurance the Owner is required to purchase and maintain by placing an X in the box(es) next to the description(s) of selected insurance.)

[ ] **§ A.2.5.1 Cyber Security Insurance** for loss to the Owner due to data security and privacy breach, including costs of investigating a potential or actual breach of confidential or private information.

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(Indicate applicable limits of coverage or other conditions in the fill point below.)

[ ] **§ A.2.5.2 Other Insurance**
(List below any other insurance coverage to be provided by the Owner and any applicable limits.)

Coverage	Limits

ARTICLE A.3 CONTRACTOR'S INSURANCE AND BONDS

§ A.3.1 General

§ A.3.1.1 Certificates of Insurance. The Contractor shall provide certificates of insurance acceptable to the Owner evidencing compliance with the requirements in this Article A.3 at the following times: (1) prior to commencement of the Work; (2) upon renewal or replacement of each required policy of insurance; and (3) upon the Owner's written request. An additional certificate evidencing continuation of commercial liability coverage, including coverage for completed operations, shall be submitted with the final Application for Payment and thereafter upon renewal or replacement of such coverage until the expiration of the periods required by Section A.3.2.1 and Section A.3.3.1. The certificates will show the Owner as an additional insured on the Contractor's Commercial General Liability and excess or umbrella liability policy or policies.

§ A.3.1.2 Deductibles and Self-Insured Retentions. The Contractor shall disclose to the Owner any deductible or self-insured retentions applicable to any insurance required to be provided by the Contractor.

§ A.3.1.3 Additional Insured Obligations. To the fullest extent permitted by law, the Contractor shall cause the commercial general liability coverage to include (1) the Owner, the Architect and the Architect's consultants, and the Construction Manager and the Construction Manager's consultants, as additional insureds for claims caused in whole or in part by the Contractor's negligent acts or omissions during the Contractor's operations; and (2) the Owner as an additional insured for claims caused in whole or in part by the Contractor's negligent acts or omissions for which loss occurs during completed operations. The additional insured coverage shall be primary and non-contributory to any of the Owner's general liability insurance policies and shall apply to both ongoing and completed operations. To the extent commercially available, the additional insured coverage shall be no less than that provided by Insurance Services Office, Inc. (ISO) forms CG 20 10 07 04, CG 20 37 07 04, and, with respect to the Architect and the Architect's consultants, and the Construction Manager and the Construction Manager's consultants, CG 20 32 07 04.

§ A.3.2 Contractor's Required Insurance Coverage

§ A.3.2.1 The Contractor shall purchase and maintain the types and limits of insurance as defined in EXH-C Owner Insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The Contractor shall maintain the required insurance until the expiration of the period for correction of Work as set forth in Section 12.2.2 of the General Conditions, unless a different duration is stated below:
(If the Contractor is required to maintain insurance for a duration other than the expiration of the period for correction of Work, state the duration.)

§ A.3.2.2 Commercial General Liability

§ A.3.2.2.1 Commercial General Liability insurance for the Project written on an occurrence form with policy limits as defined in EXH-C Owner Insurance providing coverage for claims including

- **.1** damages because of bodily injury, sickness or disease, including occupational sickness or disease, and death of any person;
- **.2** personal injury and advertising injury;
- **.3** damages because of physical damage to or destruction of tangible property, including the loss of use of such property;
- **.4** bodily injury or property damage arising out of completed operations; and
- **.5** the Contractor's indemnity obligations under Section 3.18 of the General Conditions.

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§ A.3.2.2.2 The Contractor's Commercial General Liability policy under this Section A.3.2.2 shall not contain an exclusion or restriction of coverage for the following:

.1 Claims by one insured against another insured, if the exclusion or restriction is based solely on the fact that the claimant is an insured, and there would otherwise be coverage for the claim.

.2 Claims for property damage to the Contractor's Work arising out of the products-completed operations hazard where the damaged Work or the Work out of which the damage arises was performed by a Subcontractor.

.3 Claims for bodily injury other than to employees of the insured.

.4 Claims for indemnity under Section 3.18 of the General Conditions arising out of injury to employees of the insured.

.5 Claims or loss excluded under a prior work endorsement or other similar exclusionary language.

.6 Claims or loss due to physical damage under a prior injury endorsement or similar exclusionary language.

.7 Claims related to residential, multi-family, or other habitational projects, if the Work is to be performed on such a project.

.8 Claims related to roofing, if the Work involves roofing.

.9 Claims related to exterior insulation finish systems (EIFS), synthetic stucco or similar exterior coatings or surfaces, if the Work involves such coatings or surfaces.

.10 Claims related to earth subsidence or movement, where the Work involves such hazards.

.11 Claims related to explosion, collapse and underground hazards, where the Work involves such hazards.

§ A.3.2.3 Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Contractor, with policy limits as defined in EXH-C Owner Insurance.

§ A.3.2.4 The Contractor may achieve the required limits and coverage for Commercial General Liability and Automobile Liability through a combination of primary and excess or umbrella liability insurance, provided such primary and excess or umbrella insurance policies result in the same or greater coverage as the coverages required under Section A.3.2.2 and A.3.2.3, and in no event shall any excess or umbrella liability insurance provide narrower coverage than the primary policy. The excess policy shall not require the exhaustion of the underlying limits only through the actual payment by the underlying insurers. Umbrella coverage as defined in EXH-C Owner Insurance.

§ A.3.2.5 Workers' Compensation at statutory limits for Coverage A as defined in EXH-C Owner Insurance.

§ A.3.2.6 Employers' Liability Coverage B as defined in EXH-C Owner Insurance.

§ A.3.2.7 If the Contractor is required to furnish professional services as part of the Work, the Contractor shall procure Professional Liability insurance covering performance of the professional services, with policy limits as defined in EXH-C Owner Insurance.

§ A.3.2.8 Insurance for the use or operation of manned or unmanned aircraft, if the Work requires such activities, with policy limits as defined in EXH-C Owner Insurance.

(Paragraphs deleted)

§ A.3.3 Contractor's Other Insurance Coverage

§ A.3.3.1 Insurance selected and described in this Section A.3.3 shall be purchased from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The Contractor shall maintain the required insurance until the expiration of the period for correction of Work as set forth in Section 12.2.2 of the General Conditions, unless a different duration is stated below:
(If the Contractor is required to maintain any of the types of insurance selected below for a duration other than the expiration of the period for correction of Work, state the duration.)

If Professional Liability insurance is required as part of the Contract, the Contractor shall maintain coverage for one year beyond the date of Substantial Completion.

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§ A.3.3.2 The Contractor shall purchase and maintain the types and limits of insurance as defined in EXH-C Owner Insurance.

(Paragraphs deleted)

§ A.3.4 Performance Bond and Payment Bond

The Contractor shall provide surety bonds, from a company or companies lawfully authorized to issue surety bonds in the jurisdiction where the Project is located, as follows:
(Specify type and penal sum of bonds.)

Type	Penal Sum ($0.00)
Payment Bond	$4,392,000
Performance Bond	$4,392,000

Payment and Performance Bonds shall be AIA Document A312™, Payment Bond and Performance Bond, or contain provisions identical to AIA Document A312™, current as of the date of this Agreement.

ARTICLE A.4 SPECIAL TERMS AND CONDITIONS

Special terms and conditions that modify this Insurance and Bonds Exhibit, if any, are as follows:

None

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Additions and Deletions Report for
AIA® Document A132® – 2019 Exhibit A

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PAGE 1

This Insurance and Bonds Exhibit is part of the Agreement, between the Owner and the Contractor, dated the _first_ day of _February_____in the year _2025

...

North High School Phase 4 Work Scope 23-B Combined Mechanical
1500 James Avenue, Minneapolis, MN 55411

...

Minneapolis Public Schools Special School District #1
1250 West Broadway Avenue
Minneapolis, MN 55411

...

Master Mechanical, Inc
1027 Gemini Road
Eagan, MN 55121

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§ A.2.3.1 Unless this obligation is placed on the Contractor pursuant to Section A.3.3.2.1, the Owner shall purchase and maintain, from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located, property insurance ~~written on a builder's risk "all-risks" completed value or equivalent~~ policy form and sufficient to cover the total value of the entire Project on a replacement cost basis. The Owner's property insurance coverage shall be no less than the amount of the initial Contract Sum, plus the value of subsequent Modifications and labor performed and materials or equipment supplied by others. The property insurance shall be maintained until Substantial Completion and thereafter as provided in Section A.2.3.1.3, unless otherwise provided in the Contract Documents or otherwise agreed in writing by the parties to this Agreement. This insurance shall include the interests of the Owner, Contractor, Subcontractors, and Sub-subcontractors in the Project as insureds. This insurance shall include the interests of mortgagees as loss payees.

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§ A.3.2.1 The Contractor shall purchase and maintain the ~~following~~ types and limits of insurance as defined in EXH-C Owner Insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The Contractor shall maintain the required insurance until the expiration of the period for correction of Work as set forth in Section 12.2.2 of the General Conditions, unless a different duration is stated below:

...

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§ A.3.2.2.1 Commercial General Liability insurance for the Project written on an occurrence form with policy limits ~~of not less than ($) each occurrence, ($) general aggregate, and ($) aggregate for products-completed operations hazard,~~ as defined in EXH-C Owner Insurance providing coverage for claims including

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§ A.3.2.3 Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Contractor, with policy limits ~~of not less than ($) per accident, for bodily injury, death of any person, and property damage arising out of the ownership, maintenance and use of those motor vehicles along with any other statutorily required automobile coverage.~~as defined in EXH-C Owner Insurance.

§ A.3.2.4 The Contractor may achieve the required limits and coverage for Commercial General Liability and Automobile Liability through a combination of primary and excess or umbrella liability insurance, provided such primary and excess or umbrella insurance policies result in the same or greater coverage as the coverages required under Section A.3.2.2 and A.3.2.3, and in no event shall any excess or umbrella liability insurance provide narrower coverage than the primary policy. The excess policy shall not require the exhaustion of the underlying limits only through the actual payment by the underlying insurers. Umbrella coverage as defined in EXH-C Owner Insurance.

§ A.3.2.5 Workers' Compensation at statutory ~~limits.~~limits for Coverage A as defined in EXH-C Owner Insurance.

§ A.3.2.6 Employers' Liability ~~with policy limits not less than ($) each accident, ($) each employee, and ($) policy limit.~~Coverage B as defined in EXH-C Owner Insurance.

§ A.3.2.7 ~~Jones Act, and the Longshore & Harbor Workers' Compensation Act, as required, if the Work involves hazards arising from work on or near navigable waterways, including vessels and docks~~ If the Contractor is required to furnish professional services as part of the Work, the Contractor shall procure Professional Liability insurance covering performance of the professional services, with policy limits as defined in EXH-C Owner Insurance.

§ A.3.2.8 ~~If the Contractor is required to furnish professional services as part of the Work, the Contractor shall procure Professional Liability insurance covering performance of the professional services, with policy limits of not less than ($) per claim and ($) in the aggregate.~~Insurance for the use or operation of manned or unmanned aircraft, if the Work requires such activities, with policy limits as defined in EXH-C Owner Insurance.

§ A.3.2.9 ~~If the Work involves the transport, dissemination, use, or release of pollutants, the Contractor shall procure Pollution Liability insurance, with policy limits of not less than ($) per claim and ($) in the aggregate.~~

§ A.3.2.10 ~~Coverage under Sections A.3.2.8 and A.3.2.9 may be procured through a Combined Professional Liability and Pollution Liability insurance policy, with combined policy limits of not less than ($) per claim and ($) in the aggregate.~~

§ A.3.2.11 ~~Insurance for maritime liability risks associated with the operation of a vessel, if the Work requires such activities, with policy limits of not less than ($) per claim and ($) in the aggregate.~~

§ A.3.2.12 ~~Insurance for the use or operation of manned or unmanned aircraft, if the Work requires such activities, with policy limits of not less than ($) per claim and ($) in the aggregate.~~

...

If Professional Liability insurance is required as part of the Contract, the Contractor shall maintain coverage for one year beyond the date of Substantial Completion.

§ A.3.3.2 The Contractor shall purchase and maintain the ~~following~~ types and limits of insurance ~~in accordance with Section A.3.3.1.~~as defined in EXH-C Owner Insurance.

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(Select the types of insurance the Contractor is required to purchase and maintain by placing an X in the box(es) next to the description(s) of selected insurance. Where policy limits are provided, include the policy limit in the appropriate fill point.)

[–] **§ A.3.3.2.1** If there is only one Contractor performing the Work on the Project, property insurance of the same type and scope satisfying the requirements identified in Section A.2.3, which, if selected in this section A.3.3.2.1, relieves the Owner of the responsibility to purchase and maintain such insurance except insurance required by Section A.2.3.1.3 and Section A.2.3.3. The Contractor shall comply with all obligations of the Owner under Section A.2.3 except to the extent provided below. The Contractor shall disclose to the Owner the amount of any deductible, and the Owner shall be responsible for losses within the deductible. Upon request, the Contractor shall provide the Owner with a copy of the property insurance policy or policies required. The Owner shall adjust and settle the loss with the insurer and be the trustee of the proceeds of the property insurance in accordance with Article 11 of the General Conditions unless otherwise set forth below:
(Where the Contractor's obligation to provide property insurance differs from the Owner's obligations as described under Section A.2.3, indicate such differences in the space below. Additionally, if a party other than the Owner will be responsible for adjusting and settling a loss with the insurer and acting as the trustee of the proceeds of property insurance in accordance with Article 11 of the General Conditions, indicate the responsible party below.)

[–] **§ A.3.3.2.2 Railroad Protective Liability Insurance**, with policy limits of not less than ($) per claim and ($) in the aggregate, for Work within fifty (50) feet of railroad property.

[–] **§ A.3.3.2.3 Asbestos Abatement Liability Insurance**, with policy limits of not less than ($) per claim and ($) in the aggregate, for liability arising from the encapsulation, removal, handling, storage, transportation, and disposal of asbestos-containing materials.

[–] **§ A.3.3.2.4** Insurance for physical damage to property while it is in storage and in transit to the construction site on an "all-risks" completed value form.

[–] **§ A.3.3.2.5** Property insurance on an "all-risks" completed value form, covering property owned by the Contractor and used on the Project, including scaffolding and other equipment.

[–] **§ A.3.3.2.6 Other Insurance**
(List below any other insurance coverage to be provided by the Contractor and any applicable limits.)

Coverage	**Limits**

§ A.3.4 Performance Bond and Payment Bond
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Payment Bond	$4,392,000
Performance Bond	$4,392,000

...

None

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AIA® Document A232® – 2019

General Conditions of the Contract for Construction, *Construction Manager as Adviser Edition*

for the following PROJECT:
(Name, and location or address)

North High School Phase 4 Work Scope 23-B Combined Mechanical
1500 James Avenue, Minneapolis, MN 55411

THE CONSTRUCTION MANAGER:
(Name, legal status, and address)

Kraus-Anderson Construction Company
501 South 8th Street, Minneapolis, MN 55404

THE OWNER:
(Name, legal status, and address)

Minneapolis Public Schools Special School District #1
1250 West Broadway Avenue
Minneapolis, MN 55411

THE ARCHITECT:
(Name, legal status, and address)

LSE Architects 1401 Glenwood Avenue
Minneapolis, MN 55405

ADDITIONS AND DELETIONS:
The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

This document is intended to be used in conjunction with AIA Documents A132™–2019, Standard Form of Agreement Between Owner and Contractor, Construction Manager as Adviser Edition; B132™–2019, Standard Form of Agreement Between Owner and Architect, Construction Manager as Adviser Edition; and C132™–2019, Standard Form of Agreement Between Owner and Construction Manager as Adviser.

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ARTICLE 1 GENERAL PROVISIONS

§ 1.1 Basic Definitions

§ 1.1.1 The Contract Documents. The Contract Documents are enumerated in the Agreement between the Owner and Contractor (hereinafter the Agreement) and consist of the Agreement, Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, Addenda issued prior to execution of the Contract, other documents listed in the Agreement, and Modifications issued after execution of the Contract. A Modification is (1) a written amendment to the Contract signed by both parties, (2) a Change Order, (3) a Construction Change Directive, or (4) a written order for a minor change in the Work issued by the Architect. Unless specifically enumerated in the Agreement, the Contract Documents do not include the advertisement or invitation to bid, Instructions to Bidders, sample forms, other information furnished by the Owner in anticipation of receiving bids or proposals, the Contractor's bid or proposal, or portions of addenda relating to bidding or proposal requirements.

§ 1.1.1.1 Notwithstanding the foregoing, it is understood and agreed that the Owner is an intended third-party beneficiary of all contracts between the Contractor and Subcontractors or suppliers who provide labor and/or materials for the Work.

§ 1.1.2 The Contract. The Contract Documents form the Contract for Construction. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations, or agreements, either written or oral. The Contract may be amended or modified only by a Modification. The Contract Documents shall not be construed to create a contractual relationship of any kind (1) between the Contractor and the Architect or the Architect's consultants, (2) between the Owner and the Construction Manager or the Construction Manager's consultants, (3) between the Owner and the Architect or the Architect's consultants, (4) between the Contractor and the Construction Manager or the Construction Manager's consultants, (5) between the Owner and a Subcontractor or Sub-subcontractor (6) between the Construction Manager and the Architect, or (7) between any persons or entities other than the Owner and Contractor. The Construction Manager and Architect shall, however, be entitled to performance and enforcement of obligations under the Contract intended to facilitate performance of their duties.

§ 1.1.3 The Work. The term "Work" means the construction and services required by the Contract Documents, whether completed or partially completed, and includes all other labor, materials, equipment, and services provided or to be provided by the Contractor to fulfill the Contractor's obligations. The Work may constitute the whole or a part of the Project.

§ 1.1.4 The Project. The Project is the total construction of which the Work performed under the Contract Documents may be the whole or a part and which may include construction by other Contractors, and by the Owner's own forces and Separate Contractors.

§ 1.1.5 Contractors. Contractors are persons or entities, other than the Contractor or Separate Contractors, who perform Work under contracts with the Owner that are administered by the Architect and Construction Manager.

§ 1.1.6 Separate Contractors. Separate Contractors are persons or entities who perform construction under separate contracts with the Owner not administered by the Architect and Construction Manager.

§ 1.1.7 The Drawings. The Drawings are the graphic and pictorial portions of the Contract Documents showing the design, location and dimensions of the Work, generally including plans, elevations, sections, details, schedules, and diagrams.

§ 1.1.8 The Specifications. The Specifications are that portion of the Contract Documents consisting of the written requirements for materials, equipment, systems, standards and workmanship for the Work, and performance of related services.

§ 1.1.9 Instruments of Service. Instruments of Service are representations, in any medium of expression now known or later developed, of the tangible and intangible creative work performed by the Architect and the Architect's consultants under their respective professional services agreements. Instruments of Service may include, without limitation, studies, surveys, models, sketches, drawings, specifications, and other similar materials.

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§ 1.1.10 Initial Decision Maker. The Initial Decision Maker is the person identified in the Agreement to render initial decisions on Claims in accordance with Section 15.2. The Architect will serve as the Initial Decision Maker pursuant to Section 15.2 of AIA Document A232–2019.

§ 1.2 Correlation and Intent of the Contract Documents

§ 1.2.1 The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work by the Contractor. The Contract Documents are complementary, and what is required by one shall be as binding as if required by all; performance by the Contractor shall be required only to the extent consistent with the Contract Documents and reasonably inferable from them as being necessary to produce the intended results.

§ 1.2.1.1 The invalidity of any provision of the Contract Documents shall not invalidate the Contract or its remaining provisions. In such case the Contract Documents shall be construed, to the fullest extent permitted by law, to give effect to the parties' intentions and purposes in executing the Contract.

§ 1.2.2 Organization of the Specifications into divisions, sections and articles, and arrangement of Drawings shall not control the Contractor in dividing the Work among Subcontractors or in establishing the extent of Work to be performed by any trade.

§ 1.2.3 Unless otherwise stated in the Contract Documents, words that have well-known technical or construction industry meanings are used in the Contract Documents in accordance with such recognized meanings.

§ 1.3 Capitalization

Terms capitalized in these General Conditions include those that are (1) specifically defined, (2) the titles of numbered articles, or (3) the titles of other documents published by the American Institute of Architects.

§ 1.4 Interpretation

In the interest of brevity the Contract Documents frequently omit modifying words such as "all" and "any" and articles such as "the" and "an," but the fact that a modifier or an article is absent from one statement and appears in another is not intended to affect the interpretation of either statement.

§ 1.4.1 In the case of inconsistency between Drawings and Specifications or within Contract Documents not clarified by Addenda, the better quality or greater quantity of Work shall be provided in accordance with the Architect's interpretation.

§ 1.5 Ownership and Use of Drawings, Specifications, and Other Instruments of Service

§ 1.5.1 The Architect and the Architect's consultants shall be deemed the authors and owners of their respective Instruments of Service, including the Drawings and Specifications, and retain all common law, statutory, and other reserved rights in their Instruments of Service, including copyrights. The Contractor, Subcontractors, sub-subcontractors, and suppliers shall not own or claim a copyright in the Instruments of Service. Submittal or distribution to meet official regulatory requirements or for other purposes in connection with the Project is not to be construed as publication in derogation of the Architect's or Architect's consultants' reserved rights. The Owner retains rights to the Instruments of Service pursuant to Article 7 of AIA Document B101-2017.

§ 1.5.2 The Contractor, Subcontractors, Sub-subcontractors, and suppliers are authorized to use and reproduce the Instruments of Service provided to them, subject to any protocols established pursuant to Sections 1.7 and 1.8, solely and exclusively for execution of the Work. All copies made under this authorization shall bear the copyright notice, if any, shown on the Instruments of Service. The Contractor, Subcontractors, Sub-subcontractors, and suppliers may not use the Instruments of Service on other projects or for additions to the Project outside the scope of the Work without the specific written consent of the Owner, Architect, and the Architect's consultants.

§ 1.5.3 The Architect shall furnish to the Contractor a version of the Instruments of Service in electronic form for the sole purpose of the construction of the Project for which the Instruments of Service were created.

§ 1.6 Notice

§ 1.6.1 Except as otherwise provided in Section 1.6.2, where the Contract Documents require one party to notify or give notice to the other party, such notice shall be provided in writing to the designated representative of the party to

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whom the notice is addressed and shall be deemed to have been duly served if delivered in person, by mail, by courier, or by electronic transmission if a method for electronic transmission is set forth in the Agreement.

§ 1.6.2 Notice of Claims as provided in Section 15.1.3 shall be provided in writing and shall be deemed to have been duly served only if delivered to the designated representative of the party to whom the notice is addressed by certified or registered mail, or by courier providing proof of delivery.

§ 1.7 Digital Data Use and Transmission

The parties shall agree upon protocols governing the transmission and use of Instruments of Service or any other information or documentation in digital form. The parties may use AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit or other form, to establish the protocols for the development, use, transmission, and exchange of digital data.

§ 1.8 Building Information Models Use and Reliance

Any use of, or reliance on, all or a portion of a building information model without agreement to protocols governing the use of, and reliance on, the information contained in the model and without having those protocols set forth in AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, and the requisite AIA Document G202™–2013, Project Building Information Modeling Protocol Form or other form, shall be at the using or relying party's sole risk and without liability to the other party and its contractors or consultants, the authors of, or contributors to, the building information model, and each of their agents and employees.

ARTICLE 2 OWNER

§ 2.1 General

§ 2.1.1 The Owner is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The Owner shall designate in writing a representative who shall have express authority to bind the Owner with respect to all matters requiring the Owner's approval or authorization in accordance with Owner's Delegation of Authority Policy, a copy of which will be provided at Contractor's request. Except as otherwise provided in Section 4.2.1, the Construction Manager and the Architect do not have such authority. The term "Owner" means the Owner or the Owner's authorized representative.

(Paragraph deleted)

§ 2.2 Evidence of the Owner's Financial Arrangements

§ 2.2.1 Prior to commencement of the Work, and upon written request by the Contractor, the Owner shall furnish to the Contractor reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Contract. The Contractor shall have no obligation to commence the Work until the Owner provides such evidence. If commencement of the Work is delayed under this Section 2.2.1, the Contract Time shall be extended appropriately.

§ 2.2.2 Following commencement of the Work and upon written request by the Contractor, the Owner shall furnish to the Contractor reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Contract only if (1) the Owner fails to make payments to the Contractor as the Contract Documents require; (2) the Contractor identifies in writing a reasonable concern regarding the Owner's ability to make payment when due; or (3) a change in the Work materially changes the Contract Sum. If the Owner fails to provide such evidence, as required, within fourteen days of the Contractor's request, the Contractor may immediately stop the Work and, in that event, shall notify the Owner that the Work has stopped. However, if the request is made because a change in the Work materially changes the Contract Sum under (3) above, the Contractor may immediately stop only that portion of the Work affected by the change until reasonable evidence is provided. If the Work is stopped under this Section 2.2.2, the Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable costs of shutdown, delay and start-up, plus interest as provided in the Contract Documents.

§ 2.2.3 After the Owner furnishes evidence of financial arrangements under this Section 2.2, the Owner shall not materially vary such financial arrangements without prior notice to the Contractor.

§ 2.2.4 Where the Owner has designated information furnished under this Section 2.2 as "confidential," the Contractor shall keep the information confidential and shall not disclose it to any other person. However, the Contractor may disclose "confidential" information, after seven (7) days' notice to the Owner, where disclosure is required by law, including a subpoena or other form of compulsory legal process issued by a court or governmental entity, or by court

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or arbitrator(s) order. The Contractor may also disclose "confidential" information to its employees, consultants, sureties, Subcontractors and their employees, Sub-subcontractors, and others who need to know the content of such information solely and exclusively for the Project and who agree to maintain the confidentiality of such information.

§ 2.3 Information and Services Required of the Owner

§ 2.3.1 Except for permits and fees that are the responsibility of the Contractor under the Contract Documents, including those required under Section 3.7.1, the Owner shall secure and pay for necessary approvals, easements, assessments and charges required for construction, use or occupancy of permanent structures or for permanent changes in existing facilities. Unless otherwise provided under the Contract Documents, the Owner, assisted by the Construction Manager, shall secure and pay for the building permit.

§ 2.3.2 The Owner shall retain an architect lawfully licensed to practice architecture, or an entity lawfully practicing architecture, in the jurisdiction where the Project is located. That person or entity is identified as the Architect in the Agreement and is referred to throughout the Contract Documents as if singular in number.

§ 2.3.3 The Owner shall retain a construction manager adviser lawfully practicing construction management in the jurisdiction where the Project is located. That person or entity is identified as the Construction Manager in the Agreement and is referred to throughout the Contract Documents as if singular in number.

§ 2.3.4 If the employment of the Construction Manager or Architect terminates, the Owner shall employ a successor construction manager or architect to whom the Contractor has no reasonable objection and whose status under the Contract Documents shall be that of the Construction Manager or Architect, respectively.

§ 2.3.5 If requested by the Contractor and reasonably required for the Project, the Owner shall furnish surveys describing physical characteristics, legal limitations and utility locations for the site of the Project, and a written legal description of the site. The Contractor shall exercise proper precautions relating to the safe performance of the Work.

§ 2.3.6 The Owner shall furnish information or services required of the Owner by the Contract Documents with reasonable promptness. The Owner shall also furnish any other information or services under the Owner's control and relevant to the Contractor's performance of the Work with reasonable promptness after receiving the Contractor's written request for such information or services. The Contractor is responsible for the timeliness of, or interference caused by, Subcontractors, Sub-subcontractors (of any tier), and others directly or indirectly under contract to the Contractor.

§ 2.3.7 Unless otherwise provided in the Contract Documents, the Owner shall furnish to the Contractor one copy of the Contract Documents for purposes of making reproductions pursuant to Section 1.5.2.

§ 2.3.8 The Owner shall forward all communications to the Contractor through the Construction Manager. Other communication shall be made as set forth in Section 4.2.6.

§ 2.4 Owner's Right to Stop the Work

If the Contractor fails to correct Work that is not in accordance with the requirements of the Contract Documents as required by Section 12.2 or repeatedly fails to carry out Work in accordance with the Contract Documents, the Owner may issue a written order to the Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, the right of the Owner to stop the Work shall not give rise to a duty on the part of the Owner to exercise this right for the benefit of the Contractor or any other person or entity, except to the extent required by Section 6.1.3.

§ 2.5 Owner's Right to Carry Out the Work

If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within a three-business-day (3) period after receipt of notice from the Owner to commence and continue correction of such default or neglect with diligence and promptness, the Owner may, without prejudice to other remedies the Owner may have, correct such default or neglect. Such action by the Owner and amounts charged to the Contractor are both subject to review by the Construction Manager and prior approval of the Architect, and the Construction Manager or Architect may, pursuant to Section 9.5.1, withhold or nullify a Certificate for Payment in whole or in part, to the extent reasonably necessary to reimburse the Owner for the reasonable cost of correcting such deficiencies, including Owner's expenses and compensation for the Construction Manager's and Architect's and their respective consultants'

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additional services and expenses made necessary by such default, neglect, or failure. If current and future payments are not sufficient to cover such amounts, the Contractor shall pay the difference to the Owner within ten (10) days following written request for payment delivered by the Owner to the Contractor. If the Contractor disagrees with the actions of the Owner or the Architect, or the amounts claimed as costs to the Owner, the Contractor may file a Claim pursuant to Article 15.

ARTICLE 3 CONTRACTOR

§ 3.1 General

§ 3.1.1 The Contractor is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The Contractor shall be lawfully licensed, if required in the jurisdiction where the Project is located. The Contractor shall designate in writing a representative who shall have express authority to bind the Contractor with respect to all matters under this Contract. The term "Contractor" means the Contractor or the Contractor's authorized representative.

§ 3.1.2 The Contractor shall perform the Work in accordance with the Contract Documents.

§ 3.1.3 The Contractor shall hire a professional utilities locator to investigate and verify all private utility locations prior to excavation and cutting into of existing Work. The Contractor is responsible for locating, terminating, and reinstallation of all private utilities. Private site utilities may not be in the Drawings and Project Manual and as such, verification of private utilities is the sole responsibility of the Contractor. Costs associated with moving and repairing of unknown and undocumented utilities will be by appropriate Change Order. The Contractor shall comply with Gopher State One Call, or other public utility service locator to locate all public utilities prior to any work on the site. This shall not relieve Contractor from obligations under Article 3.

§ 3.1.4 The Contractor shall not be relieved of its obligations to perform the Work in accordance with the Contract Documents either by activities or duties of the Construction Manager or Architect in their administration of the Contract, or by tests, inspections or approvals required or performed by persons or entities other than the Contractor.

§ 3.2 Review of Contract Documents and Field Conditions by Contractor

§ 3.2.1 The Contractor shall carefully study and compare the Contract Documents with each other and with information furnished by the Owner pursuant to Section 2.2.3, and shall immediately report to the Architect and Construction Manager errors, inconsistencies, or omissions discovered. The Contractor shall not be liable to the Owner or Architect for damage resulting from errors, inconsistencies, or omissions in the Contract Document unless the Contractor recognized such error, inconsistency, or omission and knowingly failed to report it to the Architect. If the Contractor performs any construction activity knowing or believing it involves a recognized error, inconsistency, or omission in the Contract Documents without such notice to the Architect, the Contractor shall assume full responsibility for such performance and shall bear the attributable costs for correction and shall bear responsibility for any additional costs, delays, and damages resulting from such failure to immediately report any such errors, inconsistencies, or omissions which the Contractor may discover. By executing the Contract, the Contractor represents that the Contractor has reviewed and understands the Contract Documents, has visited the Site and is familiar with local conditions under which the Work is to be performed, has correlated personal observations with the requirements of the Contract Documents, and has notified the Architect of and obtained clarification of any discrepancies which have become apparent during the bidding or proposal period.

§ 3.2.1.1 The Contractor shall take field measurements and verify field conditions and shall carefully compare such field measurements and conditions and other information known to the Contractor with the Contract Documents before commencing activities. Errors, inconsistencies, or omissions discovered shall be reported to the Architect immediately in writing.

§ 3.2.1.2 The Contractor shall carefully study and compare the Contract Documents with existing conditions at the job site and shall immediately report in writing to the Architect any error, inconsistency, or omission which the Contractor may discover or any materials, systems, procedures, or methods of construction, either shown on the Drawings or specified, which the Contractor has reason to believe are incorrect, inadequate, obsolete, unsuitable for the purpose intended or which the Contractor has reason to believe would constitute or result in a violation of the Contractor's warranty under Section 3.5 or applicable law. The Contractor shall not proceed with any work in such areas until written instructions are received from the Architect.

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§ 3.2.2 The Contractor shall perform the Work in accordance with the Contract Documents and submittals accepted pursuant to Section 3.12.

§ 3.2.3 The Owner shall be entitled to deduct from the Contract Sum amounts paid to the Architect for the Architect to evaluate and respond to the Contractor's requests for interpretation or information where such information was available to the Contractor from a careful study and comparison of the Contract Documents, Filed Conditions, Owner Provided Information, Contractor Prepared Coordination Drawings, or prior Project Correspondence or Documentation.

§ 3.2.4 If the Contractor believes that any portions of the Contract Documents do not comply with applicable laws, statutes, ordinances, building codes, and rules and regulations, or any orders by code enforcement officials or the Owner or its designees acting in the capacity of building code inspectors or Referenced Standards, the Contractor must promptly notify the Owner and the Architect of the non-compliance as provided in Section 3.2.6 and request direction before proceeding with the affected Work.

§ 3.2.5 The Contractor must promptly notify the Owner and the Architect in writing of any apparent errors, inconsistencies, omissions, ambiguities, construction impracticalities or code violations discovered as a result of the Contractor's review of the Contract Documents including any differences between actual and indicated dimensions, locations and descriptions, and must give the Owner and the Architect timely notice in writing of same and of any corrections, clarifications, additional Drawings or Specifications, or other information required to define the Work in greater detail or to permit the proper progress of the Work. The Contractor must provide similar notice with respect to any variance between its review of the Site and physical data and Site conditions observed.

§ 3.2.6 If the Contractor performs any Work involving an apparent error, inconsistency, ambiguity, construction impracticality, omission or code violation in the Contract Documents of which the Contractor is aware, or which could reasonably have been discovered by the review required by Section 3.2, without prompt written notice to the Owner and the Architect and request for correction, clarification or additional information, as appropriate, the Contractor does so at its own risk and expense and all Claims relating thereafter are specifically waived.

§ 3.3 Supervision and Construction Procedures

§ 3.3.1 The Contractor shall supervise and direct the Work, using the Contractor's best skill and attention. The Contractor shall be solely responsible for, and have control over, construction means, methods, techniques, sequences, and procedures, and for coordinating all portions of the Work under the Contract. If the Contract Documents give specific instructions concerning construction means, methods, techniques, sequences, or procedures, the Contractor shall evaluate the jobsite safety thereof and shall be solely responsible for the jobsite safety of such means, methods, techniques, sequences, or procedures. If the Contractor determines that such means, methods, techniques, sequences or procedures may not be safe, the Contractor shall give timely notice to the Owner, the Construction Manager, and the Architect, and shall propose alternative means, methods, techniques, sequences, or procedures. The Architect shall evaluate the proposed alternative solely for conformance with the design intent for the completed construction. The Construction Manager shall review the proposed alternative for sequencing, constructability, and coordination impacts on the other Contractors. Unless the Architect or the Construction Manager objects to the Contractor's proposed alternative, the Contractor shall perform the Work using its alternative means, methods, techniques, sequences, or procedures.

§ 3.3.2 The Contractor shall be responsible to the Owner for acts and omissions of the Contractor's employees, Subcontractors and their agents and employees, and other persons or entities performing portions of the Work for, or on behalf of, the Contractor or any of its Subcontractors.

§ 3.3.3 The Contractor shall be responsible for inspection of portions of the Project already performed to determine that such portions are in proper condition to receive subsequent Work.

§ 3.3.4 The Contractor shall at all times staff the Project adequately to allow the Project to be managed and completed in a timely and professional manner. The Contractor shall have competent supervision on the job during work hours and readily available at all times upon call.

§ 3.3.5 The Contractor shall at all times make reasonable provisions to protect any Work performed by any separate contractors, adjacent property, and the existing building (if any) from damage due to the Work or due to the weather.

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§ 3.3.6 The Owner or its approved representative (heretofore referred to as Owner's Representative) shall have access to the Work site and all Work. No supervision or inspection by the Owner or the Owner's Representative, nor the authority to act, nor any other actions taken by the Owner's Representative shall relieve the Contractor of any of its obligations under the Contract Documents or give rise to any duty on the part of the Owner.

§ 3.3.7 The Contract shall take appropriate precautions to ensure that the Work does not materially disrupt any ongoing operation by the Owner at the Project (if any) except to the extent any such disruption is a necessary result of performing a particular portion of the Work, in which case the Contractor shall provide the Owner with reasonable advanced written notice and shall take all commercially reasonable measures to minimize the impact on the Owner and the Owner's operations.

§ 3.4 Labor and Materials

§ 3.4.1 Unless otherwise provided in the Contract Documents, the Contractor shall provide and pay for labor, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation, and other facilities and services necessary for proper execution and completion of the Work, whether temporary or permanent and whether or not incorporated or to be incorporated in the Work. Should the Contract Documents require Work to be performed after regular working hours or should the Contractor elect to perform Work after regular working hours, the additional cost of such Work shall be borne by the Contractor.

§ 3.4.2 Except in the case of minor changes in the Work approved by the Architect in accordance with Section 3.12.8 or ordered by the Architect in accordance with Section 7.4, the Contractor may make substitutions only with the consent of the Owner, after evaluation by the Architect, in consultation with the Construction Manager, and in accordance with a Change Order or Construction Change Directive.

§ 3.4.3 The Contractor shall enforce strict discipline and good order among the Contractor's employees and other persons carrying out the Work. The Contractor shall not permit employment of unfit persons or persons not properly skilled in tasks assigned to them.

§ 3.4.4 The Contractor shall be responsible for all additional costs incurred to incorporate into the Project substitute materials, products, or equipment approved by Owner during the bidding period.

§ 3.4.5 In the event of a Change related to substitute or additional materials, and which shall comply with Article 7, the Contractor shall exercise reasonable efforts, consistent with the provisions of the Contract Documents to obtain the maximum available case discounts on all materials, provided that, in doing so, the Contractor shall not accept or use materials for incorporation into the Project which are of a type or quality not reasonably contemplated under the terms of the Contract Documents.

§ 3.4.6 After award of the Contract, a request for substitution of a material, product, or piece of equipment at no change in the Contract Sum will not be approved by the Owner or the Architect, unless the specified item is no longer manufactured, the specified item is unavailable as a result of an act of government such as a declaration of a national emergency, or delivery of the specified items is substantially delayed as a result of labor disputes affecting the manufacturer, unusual delay in transportation, or any other cause beyond control of the Contractor or a Subcontractor or material supplier which the Architect determines justified the delay. Requests will not be approved where the delay in delivery results from failure to promptly place subcontracts and material orders. Requests for substitution shall be submitted in writing to the Architect and shall clearly describe the proposed substitution, state the reason for the unavailability of a specified item and be accompanied by such additional data and information as may be necessary in the discretion of the Owner and the Architect to establish the acceptability of the proposed substitute.

§ 3.4.7 The Owner shall be entitled to deduct from the Contract Sum amounts paid to the Architect to evaluate the Contractor's proposed Substitutions and for changes made to the Contract Documents as a result of Owner's acceptance of such Substitutions.

§ 3.5 Warranty

§ 3.5.1 The Contractor warrants to the Owner, Construction Manager, and Architect that materials and equipment furnished under the Contract will be of good quality and new unless the Contract Documents require or permit otherwise. The Contractor further warrants that the Work will conform to the requirements of the Contract Documents

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and will be free from defects, except for those inherent in the quality of the Work the Contract Documents require or permit. Work, materials, or equipment not conforming to these requirements may be considered defective. The Contractor's warranty excludes remedy for damage or defect caused by abuse, alterations to the Work not executed by the Contractor, improper or insufficient maintenance, improper operation, or normal wear and tear and normal usage. If required by the Construction Manager or Architect, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment.

§ 3.5.2 All material, equipment, or other special warranties required by the Contract Documents shall be issued in the name of the Owner, or shall be transferable to the Owner, and shall commence in accordance with Section 9.8.4. The Contractor shall arrange for the Owner to have the benefit of and right to enforce all warranties by Subcontractors, Sub-subcontractors, suppliers, and manufacturers.

§ 3.5.3 Manufacturers' warranties and warranties by other shall not relieve the Contractor of any of its responsibilities.

§ 3.5.4 The Contractor's general warranty and any additional or special warranties are not limited by the Contractor's obligations to specifically correct defective or nonconforming Work as provided in Article 12, nor are they limited by any other remedies provided in the Contract Documents. The Contractor shall also be liable for any damage to property or persons (including death) including consequential and direct damages relating to any breach of the Contractor's general warranty or any additional or special warranties required by the Contract Documents.

§ 3.5.5 The Contractor must furnish all special warranties required by the Contract Documents to the Owner no later than Substantial Completion. The Owner may require additional special warranties in connection with the approval of "Or-Equals" or Substitutions, Allowance items, Work that is defective or nonconforming, or the acceptance of nonconforming Work pursuant to Article 12.

§ 3.6 Taxes

The Contractor shall pay sales, consumer, use and similar taxes for the Work or portions thereof provided by the Contractor that are legally enacted when bids are received or negotiations concluded, whether or not yet effective or merely scheduled to go into effect.

§ 3.7 Permits, Fees, Notices, and Compliance with Laws

§ 3.7.1 Unless otherwise provided in the Contract Documents, the Owner, assisted by the Construction Manager, shall secure and pay for the building permit. The Contractor shall secure and pay for other permits, fees, licenses, and inspections by government agencies necessary for proper execution and completion of the Work that are customarily secured after execution of the Contract and legally required at the time bids are received or negotiations concluded. The Contractor shall be responsible for the Sewer Access (SAC) and Water Access (WAC) fees for the Project. The Contractor shall pay the SAC/WAC costs to the authorities having jurisdiction from the Allowance in the Base Bid for such charges as defined in the Construction Documents.

§ 3.7.2 The Contractor shall comply with and give notices required by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities applicable to performance of the Work.

§ 3.7.3 If the Contractor performs Work knowing or believing it to be contrary to applicable laws, statutes, ordinances, building codes, rules and regulations, or lawful orders of public authorities, without such notice to the Architect and Owner, the Contractor shall assume full responsibility for such Work and shall bear the attributable costs, delays, and damages resulting from such failure to immediately notify the Architect and Owner of any such violation..

§ 3.7.4 Concealed or Unknown Conditions. If the Contractor encounters conditions at the site that are (1) subsurface or otherwise concealed physical conditions that differ materially from those indicated in the Contract Documents or (2) unknown physical conditions of an unusual nature that differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents, the Contractor shall promptly provide notice to the Owner, Construction Manager, and the Architect before conditions are disturbed and in no event later than ten (10) days after first observance of the conditions. The Architect and Construction Manager will promptly investigate such conditions and, if the Architect, in consultation with the Construction Manager, determines that they differ materially and cause an increase or decrease in the Contractor's cost of, or time required for, performance of any part of the Work, will recommend that an equitable adjustment be made in the Contract Sum or Contract Time, or both. If the Architect, in consultation with the Construction Manager,

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determines that the conditions at the site are not materially different from those indicated in the Contract Documents and that no change in the terms of the Contract is justified, the Architect shall promptly notify the Owner, Construction Manager, and Contractor, stating the reasons. If the Owner or Contractor disputes the Architect's determination or recommendation, either party may submit a Claim as provided in Article 15.

§ 3.7.5 If, in the course of the Work, the Contractor encounters human remains or recognizes the existence of burial markers, archaeological sites or wetlands not indicated in the Contract Documents, the Contractor shall immediately suspend any operations that would affect them and shall notify the Owner, Construction Manager, and Architect. Upon receipt of such notice, the Owner shall promptly take any action necessary to obtain governmental authorization required to resume the operations. The Contractor shall continue to suspend such operations until otherwise instructed by the Owner but shall continue with all other operations that do not affect those remains or features. Requests for adjustments in the Contract Sum and Contract Time arising from the existence of such remains or features may be made as provided in Article 15.

§ 3.8 Allowances

§ 3.8.1 The Contractor shall include in the Contract Sum all allowances stated in the Contract Documents. Items covered by allowances shall be supplied for such amounts and by such persons or entities as the Owner may direct, but the Contractor shall not be required to employ persons or entities to whom the Contractor has reasonable objection.

§ 3.8.2 Unless otherwise provided in the Contract Documents:

- **.1** allowances shall cover the cost to the Contractor of materials and equipment delivered at the site and all required taxes, less applicable trade discounts;
- **.2** Contractor's costs for unloading and handling at the site, labor, installation costs, overhead, profit, and other expenses contemplated for stated allowance amounts shall be included in the Contract Sum but not in the allowances; and
- **.3** whenever costs are more than or less than allowances, the Contract Sum shall be adjusted accordingly by Change Order. The amount of the Change Order shall reflect (1) the difference between actual costs and the allowances under Section 3.8.2.1 and (2) changes in Contractor's costs under Section 3.8.2.2.

§ 3.8.3 Materials and equipment under an allowance shall be selected by the Owner with reasonable promptness.

§ 3.9 Superintendent

§ 3.9.1 The Contractor shall employ a competent superintendent and necessary assistants who shall be in attendance at the Project site during performance of the Work, including that performed by all Subcontractors. The superintendent shall represent the Contractor, and communications given to the superintendent shall be as binding as if given to the Contractor. Important communications including and not limited to communications regarding design changes, alterations, substitutions, clarifications, cost changes, etc. shall be confirmed in writing by the Contractor. Other communications shall be similarly confirmed on written request in each case.

§ 3.9.2 The Contractor, as soon as practicable after award of the Contract, shall notify the Owner and Architect, through the Construction Manager, of the name and qualifications of a proposed superintendent. Within 14 days of receipt of the information, the Construction Manager may notify the Contractor, stating whether the Owner, the Construction Manager, or the Architect (1) has reasonable objection to the proposed superintendent or (2) require additional time for review. Failure of the Construction Manager to provide notice within the 14-day period shall constitute notice of no reasonable objection.

§ 3.9.3 The Contractor shall not employ a proposed superintendent or any other management personnel to whom the Owner, Construction Manager, or Architect has made reasonable and timely objection. The Contractor shall not change the superintendent without the Owner's consent, which shall not unreasonably be withheld or delayed.

§ 3.9.4 If requested by the Owner, the Contractor shall replace the superintendent at no additional cost to the Owner. No other change in this position shall be made without notice to and written consent of the Owner.

§ 3.10 Contractor's Construction and Submittal Schedules

§ 3.10.1 The Contractor, promptly after being awarded the Contract, shall submit for the Owner's and Architect's information, and the Construction Manager's use in developing the Project schedule, a Contractor's construction schedule for the Work. The schedule shall contain detail appropriate for the Project, including (1) the date of

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commencement of the Work, interim schedule milestone dates, critical path schedule milestones, major construction milestones, including and not limited to Civil, Demolition, Structural, Mechanical, Electrical, and Plumbing, and the date of Substantial Completion; (2) an apportionment of the Work by construction activity; and (3) the time required for completion of each portion of the Work. The schedule shall provide for the orderly progression of the Work to completion and shall not exceed time limits current under the Contract Documents. The schedule shall be revised at appropriate intervals as required by the conditions of the Work and Project. The Contractor shall cooperate with the Construction Manager in scheduling and performing the Contractor's Work to avoid conflict with, and as to cause no delay in, the work or activities of other Contractors, or the construction or operations of the Owner's own forces or Separate Contractors.

§ 3.10.2 The Contractor, promptly after being awarded the Contract and thereafter as necessary to maintain a current submittal schedule, shall submit a submittal schedule for the Construction Manager's and Architect's approval. The Architect and Construction Manager's approval shall not be unreasonably delayed or withheld. The submittal schedule shall (1) be coordinated with the Contractor's construction schedule, and (2) allow the Construction Manager and Architect reasonable time to review submittals. If the Contractor fails to submit a submittal schedule, or fails to provide submittals in accordance with the approved submittal schedule, the Contractor shall not be entitled to any increase in Contract Sum or extension of Contract Time based on the time required for review of submittals.

§ 3.10.3 The Contractor shall participate with other Contractors, the Construction Manager, and the Owner in reviewing and coordinating all schedules for incorporation into the Project schedule that is prepared by the Construction Manager. The Contractor shall make revisions to the construction schedule and submittal schedule as deemed necessary by the Construction Manager to conform to the Project schedule.

§ 3.10.4 The Contractor shall perform the Work in general accordance with the most recent schedules submitted to and accepted in writing by the Owner, Construction Manager, and Architect, and incorporated into the approved Project schedule.

§ 3.11 Documents and Samples at the Site

§ 3.11.1 The Contractor shall make available, at the Project site, one record copy of the Contract Documents, including Change Orders, Construction Change Directives, and other Modifications, in good order and updated daily to indicate field changes and selections made during construction, and in addition accepted and approved Shop Drawings, Product Data, Samples, and similar required submittals. These shall be in electronic form or paper copy, available to the Construction Manager, Architect, and Owner as required to complete routine inspections by Architect, Construction Manager and Owner prior to any approval of payments to the Contractor, and delivered to the Construction Manager for submittal to the Owner upon completion of the Work. The Architect and Contractor must verify that all "as-built" Drawings, Specifications, Addenda, Change Orders, and other Modifications are up-to-date before Contractor's Application for Payment is acceptable and before the Owner incurs any duty to pay Contractor in accordance with the Contract. The record documents shall be a separate set of documents labeled "Record Documents" and used only for record purposes and kept clean and undamaged.

§ 3.11.2 No review or receipt of such records by the Architect or Owner shall be considered a waiver of any deviation from the Contract Documents or approved shop drawings, or any way relieve the Contractor from its responsibility to perform the Work in accordance with the Contract Documents.

§ 3.12 Shop Drawings, Product Data, and Samples

§ 3.12.1 Shop Drawings are drawings, diagrams, schedules, and other data specially prepared for the Work by the Contractor or a Subcontractor, Sub-subcontractor, manufacturer, supplier, or distributor to illustrate some portion of the Work.

§ 3.12.2 Product Data are illustrations, standard schedules, performance charts, instructions, brochures, diagrams, and other information furnished by the Contractor to illustrate materials or equipment for some portion of the Work.

§ 3.12.3 Samples are physical examples that illustrate materials, equipment, or workmanship, and establish standards by which the Work will be judged.

§ 3.12.4 Shop Drawings, Product Data, Samples, and similar submittals are not Contract Documents. Their purpose is to demonstrate how the Contractor proposes to conform to the information given and the design concept expressed in the Contract Documents for those portions of the Work for which the Contract Documents require submittals. Review

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by the Architect and Construction Manager is subject to the limitations of Sections 4.2.10 through 4.2.12. Informational submittals upon which the Construction Manager and Architect are not expected to take responsive action may be so identified in the Contract Documents. Submittals that are not required by the Contract Documents may be returned by the Construction Manager or Architect without action.

§ 3.12.5 The Contractor shall review for compliance with the Contract Documents, approve, and submit to the Construction Manager, Shop Drawings, Product Data, Samples, and similar submittals required by the Contract Documents, in accordance with the Project submittal schedule approved by the Construction Manager and Architect or, in the absence of an approved Project submittal schedule, with reasonable promptness and in such sequence as to cause no delay in the Work or in the activities of other Contractors, Separate Contractors, or the Owner's own forces. The Contractor shall cooperate with the Construction Manager in the coordination of the Contractor's Shop Drawings, Product Data, Samples, and similar submittals with related documents submitted by other Contractors. The Contractor must provide the Owner and the Architect with copies of all submittals made to regulatory agencies.

§ 3.12.6 By submitting Shop Drawings, Product Data, Samples, and similar submittals, the Contractor represents to the Owner, Construction Manager, and Architect, that the Contractor has (1) reviewed and approved them, (2) determined and verified materials, field measurements and field construction criteria related thereto, or will do so, and (3) checked and coordinated the information contained within such submittals with the requirements of the Work and of the Contract Documents.

§ 3.12.7 The Contractor shall perform no portion of the Work for which the Contract Documents require submittal and review of Shop Drawings, Product Data, Samples, or similar submittals, until the respective submittal has been reviewed and accepted by the Architect. The Contractor must correct at its cost, and without any adjustment in Contract Time, any Work the correction of which is required due to the Contractor's failure to obtain approval of a submittal required to have been obtained prior to proceeding with the Work, including, but not limited to, correction of any conflicts in the Work resulting from such failure.

§ 3.12.8 The Work shall be in accordance with accepted submittals except that the Contractor shall not be relieved of responsibility for deviations from the requirements of the Contract Documents by the Architect's acceptance of Shop Drawings, Product Data, Samples, or similar submittals, unless the Contractor has specifically notified the Construction Manager and Architect of such deviation at the time of submittal and (1) the Architect has given written acceptance to the specific deviation as a minor change in the Work, or (2) a Change Order or Construction Change Directive has been issued authorizing the deviation. The Contractor shall not be relieved of responsibility for errors or omissions in Shop Drawings, Product Data, Samples, or similar submittals, by the Architect's acceptance thereof.

§ 3.12.9 The Contractor shall direct specific attention, in writing or on resubmitted Shop Drawings, Product Data, Samples, or similar submittals, to revisions other than those requested by the Construction Manager and Architect on previous submittals. In the absence of such notice, the Architect's acceptance of a resubmission shall not apply to such revisions.

§ 3.12.10 The Contractor shall not be required to provide professional services that constitute the practice of architecture or engineering unless such services are specifically required by the Contract Documents for a portion of the Work or unless the Contractor needs to provide such services in order to carry out the Contractor's responsibilities for construction means, methods, techniques, sequences, and procedures. The Contractor shall not be required to provide professional services in violation of applicable law.

§ 3.12.10.1 If professional design services or certifications by a design professional related to systems, materials, or equipment are specifically required of the Contractor by the Contract Documents, the Owner and the Architect will specify all performance and design criteria that such services must satisfy. The Contractor shall be entitled to rely upon the adequacy and accuracy of the performance and design criteria provided in the Contract Documents. The Contractor shall cause such services or certifications to be provided by an appropriately licensed design professional, whose signature and seal shall appear on all drawings, calculations, specifications, certifications, Shop Drawings, and other submittals prepared by such professional. Shop Drawings, and other submittals related to the Work, designed or certified by such professional, if prepared by others, shall bear such professional's written approval when submitted to the Architect. The Owner, the Architect, and the Construction Manager shall be entitled to rely upon the adequacy and accuracy of the services, certifications, and approvals performed or provided by such design professionals, provided the Owner and Architect have specified to the Contractor the performance and design criteria that such services must

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satisfy. Pursuant to this Section 3.12.10, the Architect will review and approve or take other appropriate action on submittals only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Construction Manager shall review submittals for sequencing, constructability, and coordination impacts on other Contractors.

§ 3.12.10.2 If the Contract Documents require the Contractor's design professional to certify that the Work has been performed in accordance with the design criteria, the Contractor shall furnish such certifications to the Construction Manager and Architect at the time and in the form specified by the Architect.

§ 3.13 Use of Site

§ 3.13.1 The Contractor shall confine operations at the site to areas permitted by applicable laws, statutes, ordinances, codes, rules and regulations, lawful orders of public authorities, and the Contract Documents and shall not unreasonably encumber the site with materials or equipment.

§ 3.13.2 The Contractor shall coordinate the Contractor's operations with, and secure the approval of, the Construction Manager before using any portion of the site.

§ 3.13.3 Except as may be specifically provided in the Contract Documents, the Contractor shall provide all necessary temporary facilities, including power, water, sanitation, scaffolding, storage, and security. If Owner makes any such facilities available to Contractor, it is without representation or warranty as to their adequacy for Contractor's use, and Contractor shall indemnify, defend, and hold Owner harmless from and against any claims arising out of Contractor's use of such facilities.

§ 3.14 Cutting and Patching

§ 3.14.1 The Contractor shall be responsible for cutting, fitting, or patching required to complete the Work or to make its parts fit together properly. All areas requiring cutting, fitting, or patching shall be restored to the condition existing prior to the cutting, fitting, or patching, unless otherwise required by the Contract Documents.

§ 3.14.2 The Contractor shall not damage or endanger a portion of the Work or fully or partially completed construction of the Owner, Separate Contractors, or of other Contractors by cutting, patching, or otherwise altering such construction, or by excavation. The Contractor shall not cut or otherwise alter construction by the Owner, Separate Contractors, or by other Contractors except with written consent of the Construction Manager, Owner, and such other Contractors or Separate Contractors. Consent shall not be unreasonably withheld. The Contractor shall hire a professional utilities locator to verify locations of all public and private utilities prior to initiating any cutting work. The Contractor shall not unreasonably withhold, from the Separate Contractors, other Contractors, or the Owner, its consent to cutting or otherwise altering the Work.

§ 3.15 Cleaning Up

§ 3.15.1 The Contractor shall keep the premises and surrounding area continuously free from accumulation of waste materials and rubbish caused by operations under the Contract. At completion of the Work, the Contractor shall remove from and about the Project waste materials, rubbish, Contractor-generated waste materials, the Contractor's generated hazardous waste materials, the Contractor's tools, construction equipment, machinery, and surplus materials from and about the Project.

§ 3.15.2 If the Contractor fails to clean up as provided in the Contract Documents, the Owner, or Construction Manager with the Owner's approval, may do so and the Owner shall be entitled to reimbursement from the Contractor.

§ 3.16 Access to Work

The Contractor shall provide the Owner, Construction Manager, and Architect with access to the Work in preparation and progress wherever located.

§ 3.17 Royalties, Patents and Copyrights

The Contractor shall pay all royalties and license fees. The Contractor shall defend suits or claims for infringement of copyrights and patent rights and shall hold the Owner, Construction Manager, and Architect harmless from loss on account thereof, but shall not be responsible for defense or loss when a particular design, process, or product of a particular manufacturer or manufacturers is required by the Contract Documents, or where the copyright violations are contained in Drawings, Specifications, or other documents prepared by the Owner, Architect, or Construction

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Manager. However, if an infringement of a copyright or patent is discovered by, or made known to, the Contractor, the Contractor shall be responsible for the loss unless the information is promptly furnished to the Architect through the Construction Manager.

§ 3.18 Indemnification

§ 3.18.1 To the fullest extent permitted by law, the Contractor shall indemnify, defend and hold harmless the Owner, Construction Manager, Architect, Construction Manager's and Architect's consultants, and agents and employees of any of them from and against claims, damages, losses, and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), but only to the extent caused by the negligent acts or omissions of the Contractor, a Subcontractor, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss, or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity which would otherwise exist as to a party or person described in this Section 3.18. The Contractor, furthermore, agrees to obtain, maintain, and pay for such general liability coverage and endorsements (including product and completed operations coverage) as will ensure the provisions of this Section 3.18.1. The Contractor agrees to reimburse the Owner, its agents and employees for all costs and disbursements, including attorneys' fees, paid or incurred to enforce the provisions of this Section 3.18.1.

§ 3.18.2 In claims against any person or entity indemnified under this Section 3.18 by an employee of the Contractor, a Subcontractor, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, the indemnification obligation under Section 3.18.1 shall not be limited by a limitation on amount or type of damages, compensation, or benefits payable by or for the Contractor or a Subcontractor under workers' compensation acts, disability benefit acts, or other employee benefit acts.

§ 3.18.3 To the fullest extent permitted by law and without limiting any other indemnification obligations of the Contractor, except to the extent caused by the uncured failure of the Owner to make payment when due and owing, the Contractor shall indemnify and defend the Owner, its officers, directors, assigns, lenders, agents, and employees from any liens, charges (including attorneys' fees) or encumbrances (including but not limited to mechanic's and materialmen's liens or bond claims) arising out of or in connection with the performance of the Work by Contractor, its Subcontractors, or its material suppliers. Upon request of the Owner, the Contractor shall within sixty (60) days remove any liens filed against the Owner or its property. If the Contractor fails to do so, the Owner is authorized by the Contractor to remove or satisfy any such liens, and the Contractor shall pay to the Owner all costs and damages incurred by the Owner to do so, including attorneys' fees.

ARTICLE 4 ARCHITECT AND CONSTRUCTION MANAGER

§ 4.1 General

§ 4.1.1 The Architect is the person or entity retained by the Owner pursuant to Section 2.3.2 and identified as such in the Agreement.

§ 4.1.2 The Construction Manager is the person or entity retained by the Owner pursuant to Section 2.3.3 and identified as such in the Agreement.

§ 4.1.3 Duties, responsibilities, and limitations of authority of the Construction Manager and Architect as set forth in the Contract Documents shall not be restricted, modified, or extended without written consent of the Owner, Construction Manager, Architect, and Contractor. Consent shall not be unreasonably withheld.

§ 4.2 Administration of the Contract

§ 4.2.1 The Construction Manager and Architect will provide administration of the Contract as described in the Contract Documents and will be the Owner's consultants (1) during construction; (2) until final payment is due; and (3) with the Owner's concurrence, from time to time during the correction period described in Section 12.2. The Architect and Construction Manager will advise and consult with the Owner. The Construction Manager and Architect will have authority to act on behalf of the Owner only to the extent provided in the Contract Documents, unless otherwise modified in writing in accordance with other provisions of the Contract.

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§ 4.2.2 The Architect will visit the site at intervals appropriate to the stage of construction, or as otherwise agreed with the Owner, to become generally familiar with the progress and quality of the Work completed, to endeavor to guard the Owner against defects and deficiencies in the Work, and to determine in general if the Work is being performed in a manner indicating that the Work, when completed, will be in accordance with the Contract Documents. However, the Architect will not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. On the basis of the site visits, the Architect will keep the Owner and the Construction Manager reasonably informed about the progress and quality of the portion of the Work completed, and promptly report to the Owner and Construction Manager known deviations from the Contract Documents and defects and deficiencies observed in the Work.

§ 4.2.2.2 The Contractor shall reimburse the Owner for compensation paid to the Architect for additional site visits made necessary by fault, neglect, or request of the Contractor.

§ 4.2.3 The Construction Manager shall provide one or more representatives who shall be in attendance at the Project site whenever the Work is being performed. The Construction Manager will determine in general if the Work observed is being performed in accordance with the Contract Documents, will keep the Owner and Architect reasonably informed of the progress of the Work, and will promptly report to the Owner and Architect known deviations from the Contract Documents and the most recent Project schedule, and defects and deficiencies observed in the Work.

§ 4.2.4 The Construction Manager will schedule and coordinate the activities of the Contractor and other Contractors in accordance with the latest approved Project schedule.

§ 4.2.5 The Construction Manager, except to the extent required by Section 4.2.4, and Architect will not have control over, charge of, or responsibility for, the construction means, methods, techniques, sequences or procedures, or for the safety precautions and programs in connection with the Work, since these are solely the Contractor's rights and responsibilities under the Contract Documents, and neither will be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. Neither the Construction Manager nor the Architect will have control over or charge of, or be responsible for acts or omissions of, the Contractor, Subcontractors, or their agents or employees, or of any other persons or entities performing portions of the Work.

§ 4.2.6 Communications. The Owner shall communicate with the Contractor and the Construction Manager's consultants through the Construction Manager about matters arising out of or relating to the Contract Documents. The Owner and Construction Manager shall include the Architect in all communications that relate to or affect the Architect's services or professional responsibilities. The Owner shall promptly notify the Architect of the substance of any direct communications between the Owner and the Construction Manager otherwise relating to the Project. Communications by and with the Architect's consultants shall be through the Architect. Communications by and with Subcontractors and suppliers shall be through the Contractor. Communications by and with other Contractors shall be through the Construction Manager. Communications by and with the Owner's own forces and Separate Contractors shall be through the Owner unless otherwise provided. The Contract Documents may specify other communication protocols. The Owner may require the Architect, Construction Manager and the Contractor to comply with Owner requirements in regards to public communications and site signage.

§ 4.2.7 The Construction Manager and Architect will review and certify all Applications for Payment by the Contractor, in accordance with the provisions of Article 9.

§ 4.2.8 The Architect and Construction Manager have authority to reject Work that does not conform to the Contract Documents, and will notify each other about the rejection. Whenever the Construction Manager considers it necessary or advisable for implementation of the intent of the Contract Documents, the Construction Manager will have authority to require additional inspection or testing of the Work in accordance with Sections 13.4.2 and 13.4.3, upon written authorization of the Owner, whether or not the Work is fabricated, installed or completed. The foregoing authority of the Construction Manager will be subject to the provisions of Sections 4.2.18 through 4.2.20 inclusive, with respect to interpretations and decisions of the Architect. However, neither the Architect's nor the Construction Manager's authority to act under this Section 4.2.8 nor a decision made by either of them in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect or the Construction Manager to the Contractor, Subcontractors, suppliers, their agents or employees, or other persons performing any of the Work.

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§ 4.2.9 Utilizing the submittal schedule provided by the Contractor, the Construction Manager shall prepare, and revise as necessary, a Project submittal schedule incorporating information from other Contractors, the Owner, Owner's consultants, Owner's Separate Contractors and vendors, governmental agencies, and participants in the Project under the management of the Construction Manager. The Project submittal schedule and any revisions shall be submitted to the Architect for approval.

§ 4.2.10 The Construction Manager will receive and promptly review for conformance with the submittal requirements of the Contract Documents, all submittals from the Contractor such as Shop Drawings, Product Data, and Samples. Where there are other Contractors, the Construction Manager will also check and coordinate the information contained within each submittal received from the Contractor and other Contractors, and transmit to the Architect those recommended for approval. By submitting Shop Drawings, Product Data, Samples, and similar submittals, the Construction Manager represents to the Owner and Architect that the Construction Manager has reviewed and recommended them for approval. The Construction Manager's actions will be taken in accordance with the Project submittal schedule approved by the Architect or, in the absence of an approved Project submittal schedule, with reasonable promptness while allowing sufficient time to permit adequate review by the Architect.

§ 4.2.11 The Architect will, and the Owner may, review and approve, or take other appropriate action upon, the Contractor's submittals such as Shop Drawings, Product Data, and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Architect's or Owner's action will be taken with such reasonable promptness as to cause no delay in the Work or in the activities of the Owner, Contractor or separate contractors, while allowing sufficient time in the Architect's professional judgment to permit adequate review. Upon the Architect's or the Owner's completed review, the Architect shall transmit its submittal review to the Construction Manager.

§ 4.2.12 Review of the Contractor's submittals by the Construction Manager and Architect is not conducted for the purpose of determining the accuracy and completeness of other details such as dimensions and quantities, or for substantiating instructions for installation or performance of equipment or systems, all of which remain the responsibility of the Contractor as required by the Contract Documents. The Construction Manager and Architect's review of the Contractor's submittals shall not relieve the Contractor of the obligations under Sections 3.3, 3.5, and 3.12. The Construction Manager and Architect's review shall not constitute approval of safety precautions or of any construction means, methods, techniques, sequences, or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

§ 4.2.13 The Construction Manager will prepare Change Orders and Construction Change Directives.

§ 4.2.14 The Construction Manager and the Architect will take appropriate action on Change Orders or Construction Change Directives in accordance with Article 7, and the Architect will have authority to order minor changes in the Work as provided in Section 7.4. The Architect, in consultation with the Construction Manager, will investigate and make determinations and recommendations regarding concealed and unknown conditions as provided in Section 3.7.4.

§ 4.2.15 Utilizing the documents provided by the Contractor, the Construction Manager will maintain at the site for the Owner one copy of all Contract Documents, approved Shop Drawings, Product Data, Samples, and similar required submittals, in good order and marked currently to record all changes and selections made during construction. These will be available to the Architect and the Contractor, and will be delivered to the Owner upon completion of the Project.

§ 4.2.16 The Construction Manager will assist the Architect in conducting inspections to determine the date or dates of Substantial Completion and the date of final completion; issue Certificates of Substantial Completion in conjunction with the Architect pursuant to Section 9.8; and receive and forward to the Owner written warranties and related documents required by the Contract and assembled by the Contractor pursuant to Section 9.10. The Construction Manager will forward to the Architect a final Application and Certificate for Payment or final Project Application and Project Certificate for Payment upon the Contractor's compliance with the requirements of the Contract Documents.

§ 4.2.17 If the Owner and Architect agree, the Architect will provide one or more Project representatives to assist in carrying out the Architect's responsibilities at the site. The Owner shall notify the Construction Manager of any change in the duties, responsibilities and limitations of authority of the Project representatives.

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§ 4.2.18 The Architect will interpret and decide matters concerning performance under the requirements of, the Contract Documents on written request of the Construction Manager, Owner, or Contractor through the Construction Manager. The Architect's response to such requests will be made with reasonable promptness and within any time limits agreed upon. If no agreement is made concerning the time within which interpretations required of the Architect shall be furnished in compliance with this Section 4.2.18, then delay shall not be recognized on account of failure by the Architect to furnish such interpretations until fifteen (15) days after written request is made to them.

§ 4.2.19 Architect's decisions on matters relating to aesthetic effect will be final if consistent with the intent expressed in the Contract Documents.

§ 4.2.20 Architect will review and respond to requests for information about the Contract Documents. The Architect's response to such requests will be made in writing within any time limits agreed upon or otherwise with reasonable promptness. If appropriate, the Architect will prepare and issue supplemental Drawings and Specifications in response to the requests for information.

(Paragraph deleted)

ARTICLE 5 SUBCONTRACTORS

§ 5.1 Definitions

§ 5.1.1 A Subcontractor is a person or entity who has a direct contract with the Contractor to perform a portion of the Work at the site. The term "Subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Subcontractor or an authorized representative of the Subcontractor. The term "Subcontractor" does not include other Contractors or Separate Contractors or the subcontractors of other Contractors or Separate Contractors.

§ 5.1.2 A Sub-subcontractor is a person or entity who has a direct or indirect contract with a Subcontractor to perform a portion of the Work at the site. The term "Sub-subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Sub-subcontractor or an authorized representative of the Sub-subcontractor.

§ 5.2 Award of Subcontracts and Other Contracts for Portions of the Work

§ 5.2.1 Unless otherwise stated in the Contract Documents, the Contractor, as soon as practicable after award of the Contract, shall notify in writing the Construction Manager, for review by the Owner, Construction Manager and Architect, of the persons or entities proposed for each principal portion of the Work, including those who are to furnish materials or equipment fabricated to a special design. Within 14 days of receipt of the information, the Construction Manager may notify the Contractor whether the Owner, the Construction Manager or the Architect (1) has reasonable objection to any such proposed person or entity or, (2) requires additional time for review. Failure of the Construction Manager to provide notice within the 14-day period shall constitute notice of no reasonable objection. The Contractor shall not employ any Subcontractor or use any material to which the Architect, Construction Manager or Owner may object. Prior to the employment of any Subcontractor, the Contractor must obtain the Owner's approval of such Subcontractor for the designated portion of the Work.

§ 5.2.2 The Contractor shall not contract with a proposed person or entity to whom the Owner, Construction Manager or Architect has made reasonable and timely objection. The Contractor shall not be required to contract with anyone to whom the Contractor has made reasonable objection.

§ 5.2.3 If the Owner, Construction Manager or Architect has reasonable objection to a person or entity proposed by the Contractor, the Contractor shall propose another to whom the Owner, Construction Manager or Architect has no reasonable objection. The Contract Sum shall be increased or decreased by the difference in cost occasioned by such change, and an appropriate Change Order shall be issued. However, no increase in the Contract Sum or Contract Time shall be allowed for such change unless the Contractor has acted promptly and responsively in submitting names as required. Notwithstanding the foregoing, the Contractor shall have a continuing duty to the Owner, Construction Manager and Architect to find and propose such persons or entities as shall not result in material increase in the Contract Sum, or a material decrease in the quality of Work contemplated under the Contract Documents.

§ 5.2.4 The Contractor shall not substitute a Subcontractor, person, or entity for one previously selected if the Owner, Construction Manager or Architect makes reasonable objection to such substitution. Any proposed substitution of a Subcontractor, person, or entity for one previously selected shall be made in a separate writing to the Owner, Construction Manager and Architect. No substitution shall be deemed approved/accepted without written

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confirmation from the Owner, Construction Manager and Architect. Neither acceptance of, nor objection to a Subcontractor or Sub-subcontractor, material supplier, or other person or organization by the Owner, Construction Manager and Architect shall limit the responsibility of the Contractor to furnish materials, products, equipment, and services in conformance with the requirements of the Contract Documents.

§ 5.3 Subcontractual Relations

§ 5.3.1 By appropriate written agreement, the Contractor shall require each Subcontractor, to the extent of the Work to be performed by the Subcontractor, to be bound to the Contractor by terms of the Contract Documents, and to assume toward the Contractor all the obligations and responsibilities, including the responsibility for safety of the Subcontractor's Work, that the Contractor, by these Contract Documents, assumes toward the Owner, Construction Manager and Architect. Each subcontract agreement shall preserve and protect the rights of the Owner, Construction Manager and Architect under the Contract Documents with respect to the Work to be performed by the Subcontractor so that subcontracting thereof will not prejudice such rights, and shall allow to the Subcontractor, unless specifically provided otherwise in the subcontract agreement, the benefit of all rights, remedies, and redress against the Contractor that the Contractor, by the Contract Documents, has against the Owner. Where appropriate, the Contractor shall require each Subcontractor to enter into similar agreements with Sub-subcontractors. The Contractor shall make available to each proposed Subcontractor, prior to the execution of the subcontract agreement, copies of the Contract Documents to which the Subcontractor will be bound, and, upon written request of the Subcontractor, identify to the Subcontractor terms and conditions of the proposed subcontract agreement that may be at variance with the Contract Documents. Subcontractors shall similarly make copies of applicable portions of such documents available to their respective proposed Sub-subcontractors.

§ 5.3.2 The Contractor is responsible for the performance of, the actions of, the timeliness of, or interference caused by, Subcontractors, Sub-subcontractors (of any tier), and others directly or indirectly under contract to the Contractor.

§ 5.4 Contingent Assignment of Subcontracts

§ 5.4.1 Each subcontract agreement for a portion of the Work is assigned by the Contractor to the Owner, provided that

.1 assignment is effective only after termination of the Contract by the Owner for cause pursuant to Section 14.2 and only for those subcontract agreements that the Owner accepts by notifying the Subcontractor and Contractor; and

.2 assignment is subject to the prior rights of the surety, if any, obligated under bond relating to the Contract.

When the Owner accepts the assignment of a subcontract agreement, the Owner assumes the Contractor's rights and obligations under the subcontract.

§ 5.4.2 Upon such assignment, if the Work has been suspended for more than 30 days, the Subcontractor's compensation shall be equitably adjusted for increases in cost resulting from the suspension.

§ 5.4.3 Upon assignment to the Owner under this Section 5.4, the Owner may further assign the subcontract to a successor Contractor or other entity. If the Owner assigns the subcontract to a successor Contractor or other entity, the Owner shall nevertheless remain legally responsible for all of the successor Contractor's obligations under the subcontract.

ARTICLE 6 CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTORS

§ 6.1 Owner's Right to Perform Construction with Own Forces and to Award Other Contracts

§ 6.1.1 The Owner reserves the right to perform construction or operations related to the Project with the Owner's own forces, and with Separate Contractors retained under Conditions of the Contract substantially similar to those of this Contract, including those provisions of the Conditions of the Contract related to insurance and waiver of subrogation.

§ 6.1.2 When the Owner performs construction or operations with the Owner's own forces or Separate Contractors, the Owner shall provide for coordination of such forces and Separate Contractors with the Work of the Contractor, who shall cooperate with them.

§ 6.1.3 Unless otherwise provided in the Contract Documents, when the Owner performs construction or operations related to the Project with the Owner's own forces or with Separate Contractors, the Owner or its Separate Contractors

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shall have the same obligations and rights that the Contractor has under the Conditions of the Contract, including, without excluding others, those stated in Article 3, this Article 6, and Articles 10, 11, and 12.

§ 6.2 Mutual Responsibility

§ 6.2.1 The Contractor shall afford the Owner's own forces, Separate Contractors, Construction Manager and other Contractors reasonable opportunity for introduction and storage of their materials and equipment and performance of their activities, and shall connect and coordinate the Contractor's construction and operations with theirs as required by the Contract Documents.

§ 6.2.2 If part of the Contractor's Work depends for proper execution or results upon construction or operations by the Owner's own forces, Separate Contractors or other Contractors, the Contractor shall, prior to proceeding with that portion of the Work, promptly notify the Construction Manager and Architect of apparent discrepancies or defects in the construction or operations by the Owner or Separate Contractor or other Contractors that would render it unsuitable for proper execution and results of the Contractor's Work. Failure of the Contractor to notify the Construction Manager and the Architect of apparent discrepancies or defects prior to proceeding with the Work shall constitute an acknowledgment that the Owner's or Separate Contractor's or other Contractors' completed or partially completed construction is fit and proper to receive the Contractor's Work. The Contractor shall not be responsible for discrepancies or defects in the construction or operations by the Owner or Separate Contractors or other Contractors that are not reasonably discoverable.

§ 6.2.3 Costs caused by delays or by improperly timed activities or defective construction shall be borne by the party responsible therefor.

§ 6.2.4 The Contractor shall promptly remedy damage that the Contractor wrongfully causes to completed or partially completed construction, or to property of the Owner, Separate Contractors, or other Contractors as provided in Section 10.2.5.

§ 6.2.5 Claims and other disputes and matters in question between the Contractor and a separate contractor shall be subject to the provisions of Article 15 provided the separate contractor has reciprocal obligations.

§ 6.2.6 The Owner, Separate Contractors, and other Contractors shall have the same responsibilities for cutting and patching as are described for the Contractor in Section 3.14.

§ 6.3 Owner's Right to Clean Up

If a dispute arises among the Contractor, Separate Contractors, other Contractors, and the Owner as to the responsibility under their respective contracts for maintaining the premises and surrounding area free from waste materials and rubbish as described in Section 3.15, the Owner may clean up allocate the cost among those responsible as the Architect determines to be just..

ARTICLE 7 CHANGES IN THE WORK

§ 7.1 General

§ 7.1.1 Changes in the Work may be accomplished after execution of the Contract, and without invalidating the Contract, by Change Order, Construction Change Directive or order for a minor change in the Work, subject to the limitations stated in this Article 7 and elsewhere in the Contract Documents.

§ 7.1.2 A Change Order shall be based upon agreement among the Owner, Construction Manager, Architect and Contractor. A Construction Change Directive requires agreement by the Owner, Construction Manager and Architect and may or may not be agreed to by the Contractor.

§ 7.1.3 Changes in the Work shall be performed under applicable provisions of the Contract Documents. The Contractor shall proceed promptly with changes in the Work, unless otherwise provided in the Change Order, Construction Change Directive, or order for a minor change in the Work.

§ 7.1.4 The amount of credit to be allowed by the Contractor to the Owner for any deletion or change which results in a net decrease in the Contract Sum will be the amount of the actual net cost as confirmed by the Architect after consultation with the Owner and Construction Manager. When both additions and credits covering related Work or

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substitutions are involved in any one change, the allowance for both overhead and profit shall be figured on the basis of the net increase or decrease, if any, with respect to that change.

§ 7.1.5 In Section 7.3.6, the allowance for the combined overhead and profit included in the total cost to the Owner shall be based on the following schedule:

.1 For the Contractor, for Work performed by the Contractor's own forces, ten percent (10%) of the cost;

.2 For the Contractor, for Work performed by the Contractor's Subcontractor, five percent (5%) of the amount due the Subcontractor;

.3 For each Subcontractor or Sub-subcontractor involved for Work performed by the Subcontractor's or Sub-subcontractor's own forces, ten percent (10%) of the cost;

.4 For each Subcontractor for Work performed by the Subcontractor's Sub-subcontractor, five percent (5%) of the amount due the Subcontractor;

.5 Costs to which overhead and profit is to be applied shall be determined in accordance with Section 7.3.6;

.6 In order to facilitate checking of quotations for extras or credits, all proposals, expect those so minor that their propriety can be seen by inspection, shall be accompanied by a complete itemization of costs, including labor, materials and subcontracts. Labor and materials shall be itemized in the manner prescribed above. Where major cost items are subcontracts, they shall be itemized also. In no case will a change involving over $500 be approved without such itemization.

§ 7.2 Change Orders and Change Proposals

§ 7.2.1 A Change Order is a written instrument prepared by the Construction Manager and signed by the Owner, Construction Manager, Architect, and Contractor, stating their agreement upon all of the following:

.1 The change in the Work;

.2 The amount of the adjustment, if any, in the Contract Sum; and

.3 The extent of the adjustment, if any, in the Contract Time.

§ 7.2.2 Change Order shall be prepared on AIA Document G731.

§ 7.2.3 The Contractor must submit Change Proposals covering a contemplated Change Order within ten (10) days after request of the Owner, or the Architect or within ten (10) days of the event, or Contractor's discovery of a condition, whichever is earlier, giving rise to the Contractor's claim for a change in the Contract Sum or Contract Time. No increase in the Contract Sum or extension of the Contract Time will be allowed the Contractor for the cost or time involved in making Change Proposals. Change Proposals will define or confirm in detail the Work which is proposed to be added, deleted, or changed and must include any adjustment which the Contractor believes to be necessary in (i) the Contract Sum, or (ii) the Contract Time. Any proposed adjustment must include detailed documentation including, but not limited to: cost, properly itemized and supported by sufficient substantiating data to permit evaluation including cost of labor, materials, supplies and equipment, rental cost of machinery and equipment, additional bond cost, plus a fixed fee for profit and overhead (which includes office overhead and Site-specific overhead and general conditions) of ten percent (10%) if the Work is performed by the Contractor, or five percent (5%) if the Work is performed by a Subcontractor or Sub-subcontractor. The Subcontractor's or Sub-subcontractor's overhead and profit in turn must not exceed a total aggregate of ten percent (10%). Change Proposals will be binding upon the Contractor and may be accepted or rejected by the Owner in its discretion. The Owner may, at its option, instruct the Contractor through a Construction Change Directive to proceed with the Work involved in the Change Proposal in accordance with Section 7.3 without accepting the Change Proposal in its entirety.

§ 7.2.4 If the Owner determines that a Change Proposal is appropriate, the Architect will prepare and submit a request for a Change Order or Contract Amendment providing for an appropriate adjustment in the Contract Sum or Contract Time, or both, for further action by the Owner. No such change is effective until the Owner and Architect sign the Change Order.

§ 7.3 Construction Change Directives

§ 7.3.1 A Construction Change Directive is a written order prepared by the Construction Manager and signed by the Owner, Construction Manager and Architect, directing a change in the Work prior to agreement on adjustment, if any, in the Contract Sum or Contract Time, or both. The Owner may by Construction Change Directive, without

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invalidating the Contract, order changes in the Work within the general scope of the Contract consisting of additions, deletions, or other revisions, the Contract Sum and Contract Time being adjusted accordingly.

§ 7.3.2 A Construction Change Directive shall be used in the absence of total agreement on the terms of a Change Order.

§ 7.3.3 If the Construction Change Directive provides for an adjustment to the Contract Sum, the adjustment shall be based on one of the following methods:

.1 Mutual acceptance of a lump sum properly itemized and supported by sufficient substantiating data to permit evaluation;

.2 Unit prices stated in the Contract Documents or subsequently agreed upon;

.3 Cost to be determined in a manner agreed upon by the parties and a mutually acceptable fixed or percentage fee; or

.4 As provided in Section 7.3.4.

§ 7.3.4 If the Contractor does not respond promptly or disagrees with the method for adjustment in the Contract Sum, the Owner and the Construction Manager shall determine the adjustment on the basis of reasonable expenditures and savings of those performing the Work attributable to the change, including, in case of an increase in the Contract Sum, an amount for overhead and profit as set forth in the Agreement, or if no such amount is set forth in the Agreement, a reasonable amount. In such case, and also under Section 7.3.3.3, the Contractor shall keep and present, in such form as the Construction Manager may prescribe, an itemized accounting together with appropriate supporting data. Unless otherwise provided in the Contract Documents, costs for the purposes of this Section 7.3.4 shall be limited to the following:

.1 Costs of labor, including applicable payroll taxes, fringe benefits required by agreement or custom, workers' compensation insurance, and other employee costs approved by the Construction Manager and Architect;

.2 Costs of materials, supplies, and equipment, including cost of transportation, whether incorporated or consumed;

.3 Rental costs of machinery and equipment, exclusive of hand tools, whether rented from the Contractor or others (at rates approved by the Owner);

.4 Costs of premiums for all bonds and insurance, permit fees, and sales, use, or similar taxes, directly related to the change; and

.5 Costs of supervision and field office personnel directly attributable to the change.

§ 7.3.5 If the Contractor disagrees with the adjustment in the Contract Time, the Contractor may make a Claim in accordance with applicable provisions of Article 15.

§ 7.3.6 Upon receipt of a Construction Change Directive, the Contractor shall promptly proceed with the change in the Work involved and advise the Construction Manager of the Contractor's agreement or disagreement with the method, if any, provided in the Construction Change Directive for determining the proposed adjustment in the Contract Sum or Contract Time.

§ 7.3.7 A Construction Change Directive signed by the Contractor indicates the Contractor's agreement therewith, including adjustment in Contract Sum and Contract Time or the method for determining them. Such agreement shall be effective immediately.

§ 7.3.8 The amount of credit to be allowed by the Contractor to the Owner for a deletion or change that results in a net decrease in the Contract Sum shall be actual net cost as confirmed by the Construction Manager and Architect. When both additions and credits covering related Work or substitutions are involved in a change, the allowance for overhead and profit shall be figured on the basis of net increase, if any, with respect to that change.

§ 7.3.9 Pending final determination of the total cost of a Construction Change Directive to the Owner, the Contractor may request payment for Work completed under the Construction Change Directive in Applications for Payment up to and not exceeding $25,000. The Construction Manager and Architect will make an interim determination for purposes of monthly certification for payment for those costs and certify for payment the amount that the Construction Manager and Architect determine to be reasonably justified. The interim determination of cost shall adjust the Contract Sum on

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the same basis as a Change Order, subject to the right of either party to disagree and assert a Claim in accordance with Article 15.

§ 7.3.10 When the Owner and Contractor agree with a determination made by the Construction Manager and Architect concerning the adjustments in the Contract Sum and Contract Time, or otherwise reach agreement upon the adjustments, such agreement shall be effective immediately and the Construction Manager shall prepare a Change Order. Change Orders may be issued for all or any part of a Construction Change Directive.

§ 7.4 Minor Changes in the Work

The Architect may order minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. The Architect's order for minor changes shall be in writing and approved by the Owner. If the Contractor believes that the proposed minor change in the Work will affect the Contract Sum or Contract Time, the Contractor shall notify the Construction Manager and shall not proceed to implement the change in the Work. If the Contractor performs the Work set forth in the Architect's order for a minor change without prior notice to the Construction Manager that such change will affect the Contract Sum or Contract Time, the Contractor waives any adjustment to the Contract Sum or extension of the Contract Time.

ARTICLE 8 TIME

§ 8.1 Definitions

§ 8.1.1 Unless otherwise provided, Contract Time is the period of time, including authorized adjustments, allotted in the Contract Documents for Substantial Completion of the Work.

§ 8.1.2 The date of commencement of the Work is the date established in the Agreement. The date shall not be postponed by the failure to act of the Contractor or of persons or entities for whom the Contractor is responsible.

§ 8.1.3 The date of Substantial Completion is the date certified by the Architect in accordance with Section 9.8.

§ 8.1.4 The term "day" shall mean calendar day of 24 hours beginning at 12:00 midnight. Calendar days as stated in the Contract Documents, shall include all days of a seven (7) day week including Saturdays, Sundays, and holidays. The term "Milestone Date" is, in each instance, the date established in the Contract Documents for the Substantial completion of all or a designated portion of the Work.

§ 8.2 Progress and Completion

§ 8.2.1 Time limits stated in the Contract Documents are of the essence of the Contract. By executing the Agreement, the Contractor confirms that the Contract Time is a reasonable period for performing the Work.

§ 8.2.2 The Contractor shall not knowingly, except by agreement or instruction of the Owner in writing, commence the Work prior to the effective date of insurance required to be furnished by the Contractor and Owner.

§ 8.2.3 The Contractor shall proceed expeditiously with adequate forces and shall achieve Substantial Completion within the Contract Time and shall achieve specific contractual Milestone Dates (if any), Substantial Completion and final Completion within the time stated in the Contract Documents.

§ 8.2.4 Contractor understands and agrees that all Work must be performed in an orderly and closely coordinated sequence so that the dates for Substantial Completion, Final Completion, and Milestone Dates (if any) may be met by the Contractor.

§ 8.2.5 Timely final completion of the Project is of critical importance to the Owner. The Contractor agrees that it shall substantially complete all Work under the Contract documents within the time established herein and that it shall finally complete the Work in the detail required and in the time required by the Contract Documents.

§ 8.2.6 To the extent that the Contract Documents contain or provide for specific contractual Milestone Dates in addition to Final and Substantial Completion dates, such dates shall be adhered to and shall be the last acceptable dates for those milestones and completions, unless modified by the Owner.

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§ 8.2.7 Notwithstanding anything to the contrary contained in the Contract Documents, in the event that any Contractor fails, or appears likely, in the reasonable opinion of the Owner and Construction Manager, to fail to complete a critical portion of their Work on time or to complete any dates for Substantial Completion, Final Completion, or Milestone Dates as evidenced by the latest update of the CPM Schedule Report, the Owner shall have the right to select and require Contractor's performance under any or all of the following operations:

.1 Require the Contractor to substantiate their capability to get back on schedule within two (2) days;

.2 Require the Contractor, at no additional cost to the Owner, to increase their work force, work overtime and/or extra shifts and do whatever else is required by the Owner until the Contractor gets back on schedule as established by the CPM Schedule Report (including any updates thereto);

.3 Withhold progress payments or portions thereof until such time as the contractor returns to schedule, but only related to Substantial Completion or Final Completion;

.4 Contact or visit the factory, plant, or distribution center whose production or delivery schedule may be critical to the scheduled completion of a portion of the contract work and expedite such production delivery at Contractor's expense; or

.5 Require the Contractor to complete, in detail, and submit weekly a Short Interval Schedule (SIS) showing: (1) planning for the next two weeks; (2) work completed for the previous week; (3) sufficient detail to evaluate daily milestone (if any) and manpower/equipment loading, and shall identify/tie into the monthly updated CPM Schedule Report.

Any costs incurred by the Contractor in fulfilling the option(s) selected by the Owner shall be at the Contractor's expense.

§ 8.3 Delays and Extensions of Time

§ 8.3.1 If the Contractor is delayed at any time in the progress of the Work by (1) an act or neglect of the Owner, Architect, Construction Manager, or an employee of any of them, or of the Owner's own forces, Separate Contractors, or other Contractors; (2) by changes ordered in the Work; (3) by labor disputes, fire, unusual delay in deliveries, unavoidable casualties, adverse weather conditions documented in accordance with Section 15.1.6.2, or other causes beyond the Contractor's control; or (4) by other causes that the Contractor asserts and the Architect, based on the recommendation of the Construction Manager, determines justify delay, then subject to the conditions hereinafter set forth, the Contract Time shall be extended by Change Order for such reasonable time as the Architect may determine. Requests for extensions of time for causes enumerated above will be considered by the Architect subject to the following:

.1 Only those conditions enumerated above over which the Contractor has no control will be considered. The burden of proof to substantiate the claim for an extension shall rest with the Contractor, including evidence that the cause was beyond their control. It shall be deemed the Contractor has control over the supply of labor, materials, equipment, methods, techniques, and over their Subcontractors and suppliers;

.2 In the event of Changes in the Work, any consideration for a time extension will be made only at the time of authorizing the changes, and no later than when the Change Order is prepared, and only if the Change Order significantly affects the time and progress of the entire Work. For changes which do not affect the entire Work, time extension may be granted only for the area, phase, unit, or element affected by the change, if due to a valid reason for a time extension;

.3 Any unusual delay in deliveries will not be considered unless it is solely due to transportation issues wholly outside of Contractor's, Subcontractor's, Sub-subcontractor's or Supplier's control. An extension of time will not be granted for delays in deliveries where said delivery was not properly scheduled or when orders were not promptly and properly placed;

.4 With respect to a claim for an extension of time as a result of climatic conditions, the Contractor shall recognize the location of the site and the existence, as normal, or variations from "average" conditions. Foul weather in itself will not be a valid reason for a time extension. Requests for time extensions because of delay resulting from weather extremes will not be considered unless a substantial variation from usual weather conditions occurs for a significant period of time, during phases of the Work when operation necessarily were suspended to a significant degree when they would otherwise have been in progress. In considering the time extension, the weather conditions both before and after the period in which the delay is claimed will be evaluated with credit given to Owner for unseasonably favorable weather;

.5 Delays resulting from a labor dispute will not result in a time extension of a longer period than the dispute, plus a reasonable time for mobilization if justified and necessary as approved by the

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Architect, and may be less depending on the impact of the dispute, including what operations were suspended or curtailed;

.6 No time extension will be granted as a result of improper scheduling or for failure to have shop drawings or samples submitted in ample time for review under a reasonable and agreed upon schedule; or

.7 Delays by Subcontractors or suppliers will not be considered justification for a time extension, except for the same valid reasons and conditions enumerated under Section 8.3.1.

§ 8.3.2 Claims relating to time shall be made in accordance with applicable provisions of Article 15.

§ 8.3.3 This Section 8.3 does not preclude recovery of damages for delay by either party under other provisions of the Contract Documents.

§ 8.3.4 The Contractor shall be responsible for all Owner incurred costs associated with a Contractor related to delay in completion of the Project. These costs may include, but are not limited to, Owner staff overtime, Consultant additional fees, additional testing, and/or additional rental or storage costs. A Change Order or Construction Change Directive will be issued to cover these costs. If a Change Order is not agreed to by the Contractor, the Owner, after presenting documentation to the Contractor, may deduct these amounts without a Change Order from the Contract Sum.

ARTICLE 9 PAYMENTS AND COMPLETION

§ 9.1 Contract Sum

§ 9.1.1 The Contract Sum is stated in the Agreement and, including authorized adjustments, is the total amount payable by the Owner to the Contractor for performance of the Work under the Contract Documents.

§ 9.1.2 If unit prices are stated in the Contract Documents or subsequently agreed upon, and if quantities originally contemplated are materially changed so that application of such unit prices to the actual quantities causes substantial inequity to the Owner or Contractor, the applicable unit prices shall be equitably adjusted.

§ 9.2 Schedule of Values

Before the first Application for Payment, the Contractor shall submit to the Architect and Construction Manager a schedule of values allocated to various portions of the Work, prepared in the form, and supported by the data to substantiate its accuracy, required by the Construction Manager and the Architect. The schedule, unless objected to by the Construction Manager or Architect, shall be used as a basis for reviewing the Contractor's Applications for Payment. The Construction Manager shall forward to the Architect the Contractor's schedule of values. Any changes to the schedule of values shall be submitted to the Construction Manager and supported by such data to substantiate its accuracy as the Construction Manager and the Architect may require, and unless objected to by the Construction Manager or the Architect, shall be used as a basis for reviewing the Contractor's subsequent Applications for Payment. The Contractor, after receipt of Notice to Proceed, shall meet with the Owner, Construction Manager and the Architect for the purpose of reviewing the Project CPM Schedule and the Contract Schedule of Values. The Contractor shall develop a CPM Schedule for completing their portion of the Work, in conjunction with all other Contractors or Bid Packages, at the Pre-Construction Meeting(s). The Schedule of Values is to be broken down into specification sections and by labor and materials.

§ 9.3 Applications for Payment

§ 9.3.1 At least fifteen days before the date established for each progress payment, the Contractor shall submit to the Construction Manager an itemized Application for Payment for operations completed in accordance with the Schedule of Values. Such application shall be notarized and supported by all data substantiating the Contractor's right to payment that the Owner, Construction Manager or Architect require, such as copies of requisitions, and releases of waivers of lien from Subcontractors and material suppliers, and reflecting retainage if provided for elsewhere in the Contract Documents. The form of Application for Payment shall be a notarized AIA Document G732–2019, Application and Certificate for Payment, supported by AIA Document G703–1992, Continuation Sheet.

§ 9.3.1.1 As provided in Section 7.3.9, such applications may include requests for payment on account of changes in the Work that have been properly authorized by Construction Change Directives, or by interim determinations of the Construction Manager and Architect, but not yet included in Change Orders.

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§ 9.3.1.2 Such applications shall not include requests for payment of amounts the Contractor does not intend to pay a Subcontractor or supplier because of a dispute or other reason, unless such Work has been performed by others whom the Contractor intends to pay.

§ 9.3.1.3 Following certification of the Application for Payment by the Architect and Construction Manager, the Owner shall pay ninety-five percent (95%) of its value, retaining five percent (5%) until Final Completion.

§ 9.3.1.4 Contractor shall provide lien waivers for itself for the current payment application and for Subcontractors, Sub-subcontractors, and suppliers for the previous payment application before the Contractor has earned or has the right to receive payment for the specific items of work or materials covered by the lien waivers. All lien waivers shall be provided in the form required by the Owner. This Section 9.3.1.4 shall not limit other obligations of the Contractor contained elsewhere to provide lien waivers.

§ 9.3.2 Unless otherwise provided in the Contract Documents, payments shall be made on account of materials and equipment delivered and suitably stored at the site for subsequent incorporation in the Work. If approved in advance by the Owner, payment may similarly be made for materials and equipment suitably stored off the site at a location agreed upon in writing. Payment for materials and equipment stored on or off the site shall be conditioned upon compliance by the Contractor with procedures satisfactory to the Owner to establish the Owner's title to such materials and equipment or otherwise protect the Owner's interest, and shall include the costs of applicable insurance, storage, and transportation to the site, for such materials and equipment stored off the site.

§ 9.3.3 The Contractor warrants that title to all Work covered by an Application for Payment will pass to the Owner no later than the time of payment. The Contractor further warrants that upon submittal of an Application for Payment all Work for which Certificates for Payment have been previously issued and payments received from the Owner shall, to the best of the Contractor's knowledge, information, and belief, be free and clear of liens, claims, security interests, or encumbrances, in favor of the Contractor, Subcontractors, suppliers, or other persons or entities that provided labor, materials and equipment relating to the Work.

§ 9.3.4 In each Application for Payment, the Contractor shall certify as follows:

> "That there are no known mechanics' or materialmen's liens or stop notice claims outstanding by the application or any of its subcontractors of any tier, or any of the applicant's or subcontractor's material suppliers, or laborers at the date of this application, that all due and payable bills with respect to the Work have been paid or are included in the amount requested in current application, and that, except for such bills, not paid by Owner, but so included, there is no known basis for the filing of any mechanics' or materialmen's liens or stop notice claims on the Work, and that waivers from Contractor, its subcontractors of any tier, or any of the applicant's or subcontractor's material suppliers and laborers have been obtained in such form as to constitute an effective waiver of liens or stop notice claims, under the laws of the State of Minnesota to the extent of payments made by Owner to Contractor."

Notwithstanding the foregoing Section 9.3.4, Contractor acknowledges its obligation to provide a Payment Bond in accordance with the Contract Documents, and that Contractor's failure to pay any of its Subcontractors, Sub-subcontractors, suppliers, or laborers will be resolved through a claim under the Payment Bond.

§ 9.4 Certificates for Payment

§ 9.4.1 Where there is only one Contractor, the Construction Manager will, within seven days after the Construction Manager's receipt of the Contractor's Application for Payment, review the Application, certify the amount the Construction Manager determines is due the Contractor, and forward the Contractor's Application and Certificate for Payment to the Architect. Within seven days after the Architect receives the Contractor's Application for Payment from the Construction Manager, the Architect will either (1) issue to the Owner a Certificate for Payment, in the full amount of the Application for Payment, with a copy to the Construction Manager; or (2) issue to the Owner a Certificate for Payment for such amount as the Architect determines is properly due, and notify the Construction Manager and Owner of the Architect's reasons for withholding certification in part as provided in Section 9.5.1; or (3) withhold certification of the entire Application for Payment, and notify the Construction Manager and Owner of the Architect's reason for withholding certification in whole as provided in Section 9.5.1. The Construction Manager will promptly forward to the Contractor the Architect's notice of withholding certification.

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§ 9.4.2 Where there is more than one Contractor performing portions of the Project, the Construction Manager will, within seven days after the Construction Manager receives all of the Contractors' Applications for Payment: (1) review the Applications and certify the amount the Construction Manager determines is due each of the Contractors; (2) prepare a Summary of Contractors' Applications for Payment by combining information from each Contractor's application with information from similar applications for progress payments from the other Contractors; (3) prepare a Project Application and Certificate for Payment; (4) certify the amount the Construction Manager determines is due all Contractors; and (5) forward the Summary of Contractors' Applications for Payment and Project Application and Certificate for Payment to the Architect.

§ 9.4.2.1 Within seven days after the Architect receives the Project Application and Project Certificate for Payment and the Summary of Contractors' Applications for Payment from the Construction Manager, the Architect will either (1) issue to the Owner a Project Certificate for Payment, with a copy to the Construction Manager; or (2) issue to the Owner a Project Certificate for Payment for such amount as the Architect determines is properly due, and notify the Construction Manager and Owner of the Architect's reasons for withholding certification in part as provided in Section 9.5.1; or (3) withhold certification of the entire Project Application for Payment, and notify the Construction Manager and Owner of the Architect's reason for withholding certification in whole as provided in Section 9.5.1. The Construction Manager will promptly forward the Architect's notice of withholding certification to the Contractors.

§ 9.4.3 The Construction Manager's certification of an Application for Payment or, in the case of more than one Contractor, a Project Application and Certificate for Payment, shall be based upon the Construction Manager's evaluation of the Work and the data in the Application or Applications for Payment. The Construction Manager's certification will constitute a representation that, to the best of the Construction Manager's knowledge, information, and belief, the Work has progressed to the point indicated, the quality of the Work is in accordance with the Contract Documents, and that the Contractor is, or Contractors are, entitled to payment in the amount certified.

§ 9.4.4 The Architect's issuance of a Certificate for Payment or, in the case of more than one Contractor, Project Application and Certificate for Payment, shall be based upon the Architect's evaluation of the Work, the recommendation of the Construction Manager, and data in the Application for Payment or Project Application for Payment. The Architect's certification will constitute a representation that, to the best of the Architect's knowledge, information, and belief, the Work has progressed to the point indicated, the quality of the Work is in accordance with the Contract Documents, and that the Contractor is, or Contractors are, entitled to payment in the amount certified.

§ 9.4.5 The representations made pursuant to Sections 9.4.3 and 9.4.4 are subject to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, to results of subsequent tests and inspections, to correction of minor deviations from the Contract Documents prior to completion, and to specific qualifications expressed by the Construction Manager or Architect.

§ 9.4.6 The issuance of a Certificate for Payment or a Project Certificate for Payment will not be a representation that the Construction Manager or Architect has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work; (2) reviewed construction means, methods, techniques, sequences, or procedures; (3) reviewed copies of requisitions received from Subcontractors and suppliers and other data requested by the Owner to substantiate the Contractor's right to payment; or (4) made examination to ascertain how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

§ 9.5 Decisions to Withhold Certification

§ 9.5.1 The Construction Manager or Architect may withhold a Certificate for Payment or Project Certificate for Payment in whole or in part, to the extent reasonably necessary to protect the Owner, if in the Construction Manager's or Architect's opinion the representations to the Owner required by Section 9.4.3 and 9.4.4 cannot be made. If the Construction Manager or Architect is unable to certify payment in the amount of the Application, the Construction Manager will notify the Contractor and Owner as provided in Section 9.4.1 and 9.4.2. If the Contractor, Construction Manager and Architect cannot agree on a revised amount, the Architect will promptly issue a Certificate for Payment or a Project Certificate for Payment for the amount for which the Architect is able to make such representations to the Owner. The Construction Manager or Architect may also withhold a Certificate for Payment or, because of subsequently discovered evidence, may nullify the whole or a part of a Certificate for Payment or Project Certificate for Payment previously issued, to such extent as may be necessary in the Construction Manager's or Architect's opinion to protect the Owner from loss for which the Contractor is responsible, including loss resulting from the acts and omissions described in Section 3.3.2 because of

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.1 defective Work not remedied;
.2 third party claims filed or reasonable evidence indicating probable filing of such claims, unless security acceptable to the Owner is provided by the Contractor;
.3 failure of the Contractor to make payments properly to Subcontractors or suppliers for labor, materials or equipment;
.4 reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Sum;
.5 damage to the Owner or a Separate Contractor or other Contractor;
.6 reasonable evidence that the Work will not be completed within the Contract Time, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay; or
.7 repeated failure to carry out the Work in accordance with the Contract Documents.

§ 9.5.2 When either party disputes the Architect's decision regarding a Certificate for Payment under Section 9.5.1, in whole or in part, that party may submit a Claim in accordance with Article 15.

§ 9.5.3 When the reasons for withholding certification are removed, certification will be made for amounts previously withheld.

§ 9.5.4 If the Architect or Construction Manager withholds certification for payment under Section 9.5.1, the Owner may, at its sole option, issue joint checks to the Contractor and to any Subcontractor or supplier to whom the Contractor failed to make payment for Work properly performed or material or equipment suitably delivered. If the Owner makes payments by joint check, the Owner shall notify the Architect and the Construction Manager, and both will reflect such payment on the next Certificate for Payment.

§ 9.6 Progress Payments

§ 9.6.1 After the Architect has issued a Certificate for Payment or Project Certificate for Payment, the Owner shall make payment within thirty (30) days of receipt by Owner of Certificate of Payment in the manner and within the time provided in the Contract Documents, and shall so notify the Construction Manager and Architect.

§ 9.6.2 The Contractor shall pay each Subcontractor, no later than seven days after receipt of payment from the Owner, the amount to which the Subcontractor is entitled, reflecting percentages actually retained from payments to the Contractor on account of the Subcontractor's portion of the Work. The Contractor shall, by appropriate agreement with each Subcontractor, require each Subcontractor to make payments to Sub-subcontractors in a similar manner. Per Minnesota Statutes, Section 471.425, within ten (10) days of Contractor's receipt of payment from Owner, the Contractor must pay any Subcontractor for any undisputed services provided by the Subcontractor. The Contractor shall pay interest of one and one-half percent (1-1/2%) per month, or any part of a month, to the Subcontractor on any undisputed amount not paid on time to the subcontractor. The minimum monthly interest penalty payment for an unpaid balance of $100 or more is $10.00. For an unpaid balance of less than $100, the Contractor shall pay the actual interest penalty due to the Subcontractor. Contractor is advised that by reason of Minnesota Statutes, Section 471.425, subd. 4a, if a Subcontractor prevails in a civil action to collect interest penalties from a prime contractor, the Subcontractor must be awarded its costs and disbursements, including attorneys' fees incurred in bringing the action.

§ 9.6.3 The Construction Manager will, on request, furnish to a Subcontractor, if practicable, information regarding percentages of completion or amounts applied for by the Contractor and action taken thereon by the Owner, Construction Manager and Architect on account of portions of the Work done by such Subcontractor.

§ 9.6.4 The Owner has the right to request written evidence from the Contractor that the Contractor has properly paid Subcontractors and suppliers amounts paid by the Owner to the Contractor for subcontracted Work. If the Contractor fails to furnish such evidence within seven days, the Owner shall have the right to contact Subcontractors and suppliers to ascertain whether they have been properly paid. Neither the Owner, Construction Manager nor Architect shall have an obligation to pay, or to see to the payment of money to, a Subcontractor or supplier, except as may otherwise be required by law.

§ 9.6.5 The Contractor's payments to material and equipment suppliers shall be treated in a manner similar to that provided in Sections 9.6.2, 9.6.3 and 9.6.4.

§ 9.6.6 A Certificate for Payment, a progress payment, or partial or entire use or occupancy of the Project by the Owner shall not constitute acceptance of Work not in accordance with the Contract Documents.

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§ 9.6.7 Unless the Contractor provides the Owner with a payment bond in the full penal sum of the Contract Sum, payments received by the Contractor for Work properly performed by Subcontractors or provided by suppliers shall be held by the Contractor for those Subcontractors or suppliers who performed Work or furnished materials, or both, under contract with the Contractor for which payment was made by the Owner. Nothing contained herein shall require money to be placed in a separate account and not commingled with money of the Contractor, create any fiduciary liability or tort liability on the part of the Contractor for breach of trust, or entitle any person or entity to an award of punitive damages against the Contractor for breach of the requirements of this provision.

§ 9.6.8 Provided the Owner has fulfilled its payment obligations under the Contract Documents, the Contractor shall defend and indemnify the Owner from all loss, liability, damage or expense, including reasonable attorney's fees and litigation expenses, arising out of any lien claim or other claim for payment by any Subcontractor or supplier of any tier. Upon receipt of notice of a lien claim or other claim for payment, the Owner shall notify the Contractor. If approved by the applicable court, when required, the Contractor may substitute a surety bond for the property against which the lien or other claim for payment has been asserted.

§ 9.7 Failure of Payment

If the Construction Manager and Architect do not issue a Certificate for Payment or a Project Certificate for Payment, through no fault of the Contractor, within fourteen days after the Construction Manager's receipt of the Contractor's Application for Payment, or if the Owner does not pay the Contractor within thirty (30) days after the date established in the Contract Documents, the amount certified by the Construction Manager and Architect then the Contractor may, upon ten (10) additional days' notice to the Owner, Construction Manager and Architect, stop the Work until payment of the amount owing has been received. The Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable costs of shutdown, delay and start-up which shall be accomplished as provided in Article 7.

§ 9.8 Substantial Completion

§ 9.8.1 Substantial Completion is the stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Contract Documents so the Owner can occupy or utilize the Work for its intended use and when the Architect issues a Certificate of Substantial Completion.

§ 9.8.2 When the Contractor considers that the Work, or a portion thereof which the Owner agrees to accept separately, is substantially complete, the Contractor shall notify the Construction Manager, and the Contractor and Construction Manager shall jointly prepare and submit to the Architect a comprehensive list of items to be completed or corrected. The Contractor shall proceed promptly to complete and correct items on the list. Failure to include an item on such list does not alter the responsibility of the Contractor to complete all Work in accordance with the Contract Documents. Upon receipt of the Contractor's list, the Architect, assisted by the Construction Manager, will make an inspection to determine whether the Work or designated portion thereof is substantially complete. If the Architect's inspection discloses any item, whether or not included on the Contractor's list, which is not in accordance with the requirements of the Contract documents, the Contractor shall, before issuance of the Certificate of Substantial Completion, complete or correct such item, upon notification by the Architect. The Contractor shall then submit a request for another inspection by the Architect, assisted by the Construction Manager, to determine Substantial Completion. When the Work or designated portion thereof is substantially complete, the Architect will prepare a Certificate of Substantial Completion which shall establish the date of Substantial Completion, shall establish responsibilities of the Owner and Contractor for security, maintenance, heat, utilities, damage to the Work and insurance, and shall fix the time within which the Contractor shall finish all items on the list accompanying the Certificate. Warranties required by the Contract Document shall commence on the date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion.

§ 9.8.3 Upon receipt of the list, the Architect, assisted by the Construction Manager, will make an inspection to determine whether the Work or designated portion thereof is substantially complete. If the Architect's inspection discloses any item, whether or not included on the list, which is not sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work or designated portion thereof for its intended use, the Contractor shall, before issuance of the Certificate of Substantial Completion, complete or correct such item upon notification by the Architect. In such case, the Contractor shall then submit a request for another inspection by the Architect, assisted by the Construction Manager, to determine Substantial Completion.

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§ 9.8.4 When the Architect, assisted by the Construction Manager, determines that the Work of all of the Contractors, or designated portion thereof, is substantially complete, the Construction Manager will prepare, and the Construction Manager and Architect shall execute, a Certificate of Substantial Completion that shall establish the date of Substantial Completion; establish responsibilities of the Owner and Contractor for security, maintenance, heat, utilities, damage to the Work and insurance; and fix the time within which the Contractor shall finish all items on the list accompanying the Certificate. Warranties required by the Contract Documents shall commence on the date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion.

§ 9.8.5 The Certificate of Substantial Completion shall be submitted to the Owner and Contractor for their written acceptance of responsibilities assigned to them in the Certificate. Upon such acceptance, and consent of surety if any, the Owner shall make payment of retainage applying to the Work or designated portion thereof. Such payment shall be adjusted for Work that is incomplete or not in accordance with the requirements of the Contract Documents.

§ 9.8.6 Upon Substantial completion of the Work or designated portion thereof and upon application by the Contractor and certification by the Architect, the Owner shall make payment, reflecting adjustment in retainage, pursuant to Minnesota Statutes, Section 15.72, for such Work or portion thereof as provided in the Contract Documents.

§ 9.8.7 The Architect, assisted by the Construction Manager, shall make one (1) inspection for Substantial Completion and Final Completion in accordance with the AIA Document B101–2017 Owner Architect Agreement. If additional inspections are required due to the Contractor's failure to complete previously listed corrective or uncompleted work, the Architect's expense for conducting such re-inspections and related time in processing, reviewing, and revision of requirements shall be charged to the Contractor and such payment shall be accomplished by a deductive Change Order to the Contractor.

§ 9.9 Partial Occupancy or Use

§ 9.9.1 The Owner may occupy or use any completed or partially completed portion of the Work at any stage when such portion is designated by separate agreement with the Contractor, provided such occupancy or use is consented to by the insurer and authorized by public authorities having jurisdiction over the Project. Such partial occupancy or use may commence whether or not the portion is substantially complete, provided the Owner and Contractor have accepted in writing the responsibilities assigned to each of them for payments, retainage if any, security, maintenance, heat, utilities, damage to the Work and insurance, and have agreed in writing concerning the period for correction of the Work and commencement of warranties required by the Contract Documents. When the Contractor considers a portion substantially complete, the Contractor and Construction Manager shall jointly prepare and submit a list to the Architect as provided under Section 9.8.2. Consent of the Contractor to partial occupancy or use shall not be unreasonably withheld. The stage of the progress of the Work shall be determined by written agreement between the Owner and Contractor or, if no agreement is reached, by decision of the Architect after consultation with the Construction Manager.

§ 9.9.2 Immediately prior to such partial occupancy or use, the Owner, Construction Manager, Contractor, and Architect shall jointly inspect the area to be occupied or portion of the Work to be used in order to determine and record the condition of the Work.

§ 9.9.3 Unless otherwise agreed upon, partial occupancy or use of a portion or portions of the Work shall not constitute acceptance of Work not complying with the requirements of the Contract Documents.

§ 9.10 Final Completion and Final Payment

§ 9.10.1 Upon completion of the Work, the Contractor shall forward to the Construction Manager a notice that the Work is ready for final inspection and acceptance, and shall also forward to the Construction Manager a final Contractor's Application for Payment. Upon receipt, the Construction Manager shall perform an inspection to confirm the completion of Work of the Contractor. The Construction Manager shall make recommendations to the Architect when the Work of all of the Contractors is ready for final inspection, and shall then forward the Contractors' notices and Application for Payment or Project Application for Payment, to the Architect, who will promptly make such inspection. When the Architect finds the Work acceptable under the Contract Documents and the Contract fully performed, the Construction Manager and Architect will promptly issue a final Certificate for Payment or Project Certificate for Payment stating that to the best of their knowledge, information and belief, and on the basis of their observations, on-site visits and inspections, the Work has been completed in accordance with the Contract Documents

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and that the entire balance found to be due the Contractor and noted in the final Certificate is due and payable. The Construction Manager's and Architect's final Certificate for Payment or Project Certificate for Payment will constitute a further representation that conditions listed in Section 9.10.2 as precedent to the Contractor's being entitled to final payment have been fulfilled.

§ 9.10.2 Neither final payment nor any remaining retained percentage shall become due until the Contractor submits to the Architect through the Construction Manager (1) an affidavit that payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which the Owner or the Owner's property might be responsible or encumbered (less amounts withheld by Owner) have been paid or otherwise satisfied, (2) a certificate evidencing that insurance required by the Contract Documents to remain in force after final payment is currently in effect and will not be cancelled or allowed to expire until at least (60) days' prior written notice has been given to the Owner, (3) a written statement that the Contractor knows of no reason that the insurance will not be renewable to cover the period required by the Contract Documents, (4) consent of surety, if any, to final payment (5) documentation of any special warranties, such as manufacturers' warranties or specific Subcontractor warranties, including a summary listing all applicable warranties both standard and extended, itemized by specification section and included at the front of the Operation and Maintenance manuals, and (6) other data establishing payment or satisfaction of obligations, such as receipts and releases and waivers of liens, claims, security interests, or encumbrances arising out of the Contract, to the extent and in such form as may be designated by the Owner. If a Subcontractor refuses to furnish a release or waiver required by the Owner, the Contractor may furnish a bond satisfactory to the Owner to indemnify the Owner against such lien, claim, security interest, or encumbrance. If a lien, claim, security interest, or encumbrance remains unsatisfied after payments are made, the Contractor shall refund to the Owner all money that the Owner may be compelled to pay in discharging the lien, claim, security interest, or encumbrance, including all costs and reasonable attorneys' fees.

§ 9.10.3 If, after Substantial Completion of the Work, final completion thereof is materially delayed through no fault of the Contractor or by issuance of Change Orders affecting final completion, and the Construction Manager and Architect so confirm, the Owner shall, upon application by the Contractor and certification by the Construction Manager and Architect, and without terminating the Contract, make payment of the balance due for that portion of the Work fully completed, corrected, and accepted. If the remaining balance for Work not fully completed or corrected is less than retainage stipulated in the Contract Documents, and if bonds have been furnished, the written consent of the surety to payment of the balance due for that portion of the Work fully completed and accepted shall be submitted by the Contractor to the Architect through the Construction Manager prior to certification of such payment. Such payment shall be made under terms and conditions governing final payment, except that it shall not constitute a waiver of Claims.

§ 9.10.4 The making of final payment shall constitute a waiver of Claims by the Owner except those arising from

- **.1** liens, Claims, security interests, or encumbrances arising out of the Contract and unsettled;
- **.2** failure of the Work to comply with the requirements of the Contract Documents;
- **.3** terms of special warranties required by the Contract Documents; or
- **.4** audits performed by the Owner, if permitted by the Contract Documents, after final payment.

§ 9.10.5 Acceptance of final payment by the Contractor, a Subcontractor, or a supplier, shall constitute a waiver of claims by that payee except those previously made in writing and identified by that payee as unsettled at the time of final Application for Payment.

§ 9.11 Damages for Delay

§ 9.11.1 The Contractor shall be responsible for damages incurred by the Owner and any other separate contractors for delay resulting from the Contractor's failure to complete the Work within the contract Time or resulting from the progress of the Work failing to substantially conform to the Project Construction Schedule. These damages are not included in liquidated damages and represent additional direct costs incurred by the Owner for the delay. These damages may include Owner incurred costs for temporary classrooms, temporary facilities, moving of programs, etc.

ARTICLE 10 PROTECTION OF PERSONS AND PROPERTY

§ 10.1 Safety Precautions and Programs

§ 10.1.1 The Contractor shall be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the performance of the Contract. The Contractor shall submit the Contractor's safety program to the Construction Manager for review and coordination with the safety programs of other Contractors. The Construction Manager's responsibilities for review and coordination of safety programs shall not extend to direct control over or charge of the acts or omissions of the Contractors, Subcontractors, agents or employees of the

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Contractors or Subcontractors, or any other persons performing portions of the Work and not directly employed by the Construction Manager.

§ 10.1.2 The Contractor shall comply with all applicable laws and regulations. Notwithstanding any language to the contrary, the Owner shall not have any responsibility for job site inspections or safety recommendations. Any inspections or observations by the Owner, Construction Manager or the Architect are solely for the benefit of the Owner and shall not create any duties or obligations to anyone else.

§ 10.2 Safety of Persons and Property

§ 10.2.1 The Contractor shall take reasonable precautions for safety of, and shall provide reasonable protection to prevent damage, injury, or loss to

- **.1** employees on the Work and other persons who may be affected thereby;
- **.2** the Work and materials and equipment to be incorporated therein, whether in storage on or off the site, under care, custody, or control of the Contractor, a Subcontractor, or a Sub-subcontractor;
- **.3** other property at the site or adjacent thereto, such as trees, shrubs, lawns, walks, pavements, roadways, structures, and utilities not designated for removal, relocation, or replacement in the course of construction; and
- **.4** construction or operations by the Owner, Separate Contractors, or other Contractors.

§ 10.2.2 The Contractor shall comply with, and give notices required by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities, bearing on safety of persons or property or their protection from damage, injury, or loss.

§ 10.2.3 The Contractor shall implement, erect, and maintain, as required by existing conditions and performance of the Contract, reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards; promulgating safety regulations; and notifying the owners and users of adjacent sites and utilities of the safeguards.

§ 10.2.4 When use or storage of explosives or other hazardous materials or equipment or unusual methods are necessary for execution of the Work, the Contractor shall exercise utmost care and carry on such activities under supervision of properly qualified personnel.

§ 10.2.5 The Contractor shall promptly remedy damage and loss (other than damage or loss insured under property insurance required by the Contract Documents) to property referred to in Sections 10.2.1.2, 10.2.1.3 and 10.2.1.4 caused in whole or in part by the Contractor, a Subcontractor, a Sub-subcontractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable and for which the Contractor is responsible under Sections 10.2.1.2, 10.2.1.3 and 10.2.1.4. The Contractor may make a Claim for the cost to remedy the damage or loss to the extent such damage or loss is attributable to acts or omissions of the Owner, Construction Manager or Architect or anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable, and not attributable to the fault or negligence of the Contractor. The foregoing obligations of the Contractor are in addition to the Contractor's obligations under Section 3.18.

§ 10.2.6 The Contractor shall designate a responsible member of the Contractor's organization at the site whose duty shall be the prevention of accidents. This person shall be the Contractor's superintendent unless otherwise designated by the Contractor in writing to the Owner, Construction Manager and Architect.

§ 10.2.7 The Contractor shall not permit any part of the construction or site to be loaded so as to cause damage or create an unsafe condition.

§ 10.2.8 Injury or Damage to Person or Property

If either party suffers injury or damages to person or property because of an act or omission of the other party, of any of the other party's employees or agents, or of others for whose acts such party is legally responsible, notice of the injury or damage, whether or not insured, shall be given to the other party within a reasonable time not exceeding ten (10) days after first observance. The notice shall provide sufficient detail to enable the other party to investigate the matter. If a Claim for additional cost or time related to this Claim is to be asserted, it shall be filed as provided in Sections 15.1.4 and 15.1.5.

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§ 10.3 Hazardous Materials

§ 10.3.1 In the event the Contractor encounters on the site material reasonably believed to be asbestos or polychlorinated biphenyl (PCB) which has not been rendered harmless, the Contractor shall immediately stop Work in the area affected and report the condition to the Owner, Construction Manager and Architect in writing. The Work in the affected area shall not thereafter be resumed except by written agreement of the Owner and Contractor if in fact the material is asbestos or polychlorinated biphenyl (PCB) and has not been rendered harmless. The Work in the affected area shall be resumed in the absence of asbestos or polychlorinated biphenyl (PCB), or when it has been rendered harmless, by written agreement of the Owner and Contractor.

.1 Except where otherwise stated in the Contract Documents, no hazardous material work of any nature shall be performed by the Contractor pursuant to this Contract.

.2 The term "hazardous materials" includes, but is not limited to, asbestos, toxic chemicals, acids, alkalis, irritants, contaminants, or other pollutants, together with any other waste, material, substance, pollutants, or contaminant, all or a portion of which is or would be designated as hazardous waste or substance under applicable local, state, or federal laws, ordinances, codes, rules, or regulations.

§ 10.3.2 To the fullest extent permitted by law, the Owner shall indemnify and hold harmless the Contractor, Construction Manager, Architect, their consultants, and agents and employees of any of them from and against claims, damages, losses, and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work on Owner's property if in fact the material is asbestos or polychlorinated biphenyl (PCB) and has not been rendered harmless, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), including loss of use resulting therefrom, but only to the extent caused in whole or in part by negligent acts or omissions of the Owner, anyone directly or indirectly employed by the Owner, or anyone for whose acts the Owner may be liable, regardless of whether or not such claim, damage, loss, or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity which would otherwise exist as to a party or person described in this Subparagraph 10.3.2.

§ 10.3.3 If reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a material or substance encountered on the site by the contractor, the Contractor shall, upon recognizing the condition, immediately stop Work on Owner's property and report the condition to the Owner, Construction Manager and Architect in writing. The Owner, Construction Manager, Contractor, and Architect shall then proceed in the same manner described in Subparagraph 10.3.1.

(Paragraph deleted)

§ 10.3.5 The Contractor shall reimburse the Owner for the cost and expense the Owner incurs (1) for remediation of hazardous materials or substances the Contractor brings to the site and negligently handles, or (2) where the Contractor fails to perform its obligations under Section 10.3.1, except to the extent that the cost and expense are due to the Owner's fault or negligence. Owner shall be responsible for obtaining the services of a licensed laboratory to verify a presence or absence of the material or substance reported by the Contractor and, in the event such material or substance is found to be present, to verify that it has been rendered harmless.

§ 10.3.6 Regulations concerning the availability of information and employee training in the use and handling of "hazardous substances" and "harmful physical agents", as set forth in the Employee Right-to-Know Act of 1983, Minnesota Statutes, Sections 182.65 to 182.676 are incorporated herein by reference as if fully set forth herein.

§ 10.3.7 The Contractor shall furnish three Material Safety Data Sheets to the Owner for each material used in the Work that is classified by the Employee Right-to-Know Act of 1983 as a "hazardous substance" or a "harmful physical agent."

§ 10.3.8 The Contractor shall label, in generally accepted and/or standardized fashion, all containers on the work site containing "hazardous substances" or as "harmful physical agents." This shall include factory containers and all subsequent containers used in the Work.

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§ 10.4 Emergencies

In an emergency affecting safety of persons or property, the Contractor shall act to prevent threatened damage, injury, or loss. Additional compensation or extension of time claimed by the Contractor on account of an emergency shall be determined as provided in Article 15 and Article 7.

ARTICLE 11 INSURANCE AND BONDS

§ 11.1 Contractor's Insurance and Bonds

§ 11.1.1 The Contractor shall purchase and maintain insurance of the types and limits of liability, containing the endorsements, and subject to the terms and conditions, as described in the Agreement, in EXH-C Owner Insurance or elsewhere in the Contract Documents. The Contractor shall purchase and maintain the required insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located and which carry a Best's rating of A- or higher or are otherwise acceptable to the Owner. The Owner, Construction Manager and Construction Manager's consultants, and the Architect and Architect's consultants, shall be named as additional insureds under the Contractor's commercial general liability policy or as otherwise described in the Contract Documents.

§ 11.1.2 The Contractor shall provide surety bonds of the types, for such penal sums, and subject to such terms and conditions as required by the Contract Documents. The Contractor shall purchase and maintain the required bonds from a company or companies lawfully authorized to issue surety bonds in the jurisdiction where the Project is located.

§ 11.1.3 Upon the request of any person or entity appearing to be a potential beneficiary of bonds covering payment of obligations arising under the Contract, the Contractor shall promptly furnish a copy of the bonds or shall authorize a copy to be furnished. The Contractor shall furnish Certificates of Insurance acceptable to the Owner which shall specifically set forth evidence of all coverage required by Article 11 and EXH-C Owner Insurance and shall be filed with the Owner and Construction Manager prior to commencement of the Work and thereafter upon renewal or replacement of each required policy of insurance.

The Contractor shall not allow insurance required by this Agreement to lapse, be canceled, reduced in limits or coverage, non-renewed, or materially changed or have restrictive modifications added during the life of this Agreement, including the periods of required coverage. The Contractor shall furnish to the Owner and Construction Manager copies of any endorsements that are subsequently issued amending coverage and limits.

If any of the foregoing insurance coverages are required to remain in force after final payment and are reasonably available, all additional certificates evidencing continuation of such coverage shall be submitted with the final Application for Payment. Information concerning reduction of coverage shall be furnished by the Contractor with reasonable promptness in accordance with the Contractor's information and belief.

§ 11.1.3.1 Acceptable insurance certificates are AIA Document G705, CICC of Minnesota Form 701, and/or ACORD form of the American Insurance Institute.

Failure of the Owner to collect certificates does not void the requirements to obtain insurance.

The acceptance of any certificate of insurance by the Owner shall not relieve or decrease the liability of the Contractor hereunder. It is to be understood the Owner, Construction Manager and Architect do not in any way represent that the insurance specified in these articles are sufficient or adequate to protect the Contractor's interest or liabilities, but are merely minimum requirements.

The Contractor shall furnish to the Owner copies of any endorsements that are subsequently issued amending coverage and limits.

§ 11.1.4 In the event the Contractor fails to procure or maintain any insurance coverage required under this Agreement, the Owner may purchase such coverage and deduct the cost thereof from any monies due to the Contractor, or terminate this Agreement under Paragraph 14.2. The Contractor shall be liable to the Owner for providing all coverage, defense, and payments that would have been provided by any insurance that the Contractor failed to procure and maintain as required by the Contract Documents.

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§ 11.1.5 Compliance by the Contractor with the foregoing insurance requirements shall not relieve it from liability for amounts in excess of the limits of insurance.

§ 11.1.6 The Contractor and any of its Subcontractors, Sub-subcontractors, agents and employees, and any separate contractors described in Article 6, if any, and any of their subcontractors, sub-subcontractors, agents and employees shall waive any of their subrogation rights on their Workers Compensation Policy in favor of the Owner, Construction Manager and Architect. The policies shall provide such waivers of subrogation by endorsement or otherwise. A waiver of subrogation shall be effective as to a person or entity even though that person or entity would otherwise have a duty of indemnification, contractual, or otherwise, did not pay the insurance premium directly or indirectly, and whether or not the person or entity had an insurable interest.

§ 11.2 Owner's Insurance

§ 11.2.1 The Owner shall purchase and maintain insurance of the types and limits of liability, containing the endorsements, and subject to the terms and conditions, as described in the Agreement or elsewhere in the Contract Documents. The Owner shall purchase and maintain the required insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The Owner may self-insure and maintain the Owner's usual liability insurance. Optionally, the Owner may purchase and maintain other insurance for self-protection against claims which may arise from operations under the Contract. The Contractor shall not be responsible for purchasing and maintaining this optional Owner's liability insurance unless specifically required by the Contract Documents.

§ 11.2.2 Failure to Purchase Required Property Insurance. If the Owner fails to purchase and maintain the required property insurance, with all of the coverages and in the amounts described in the Agreement or elsewhere in the Contract Documents, the Owner shall inform both the Contractor and the Construction Manager, separately and in writing, prior to commencement of the Work. Upon receipt of notice from the Owner, the Contractor may delay commencement of the Work and may obtain insurance that will protect the interests of the Contractor, Subcontractors, and Sub-Subcontractors in the Work. When the failure to provide coverage has been cured or resolved, the Contract Sum and Contract Time shall be equitably adjusted. In the event the Owner fails to procure coverage, the Owner waives all rights against the Contractor, Subcontractors, and Sub-subcontractors to the extent the loss to the Owner would have been covered by the insurance to have been procured by the Owner. The cost of the insurance shall be charged to the Owner by a Change Order. If the Owner does not provide written notice, and the Contractor is damaged by the failure or neglect of the Owner to purchase or maintain the required insurance, the Owner shall reimburse the Contractor for all reasonable costs and damages attributable thereto.

§ 11.2.3 Notice of Cancellation or Expiration of Owner's Required Property Insurance. Within three (3) business days of the date the Owner becomes aware of an impending or actual cancellation or expiration of any property insurance required by the Contract Documents, the Owner shall provide notice directly to the Contractor, and separately to the Construction Manager, of such impending or actual cancellation or expiration. Unless the lapse in coverage arises from an act or omission of the Contractor: (1) the Contractor, upon receipt of notice from the Owner, shall have the right to stop the Work until the lapse in coverage has been cured by the procurement of replacement coverage by either the Owner or the Contractor; (2) the Contract Time and Contract Sum shall be equitably adjusted; and (3) the Owner waives all rights against the Contractor, Subcontractors, and Sub-subcontractors to the extent any loss to the Owner would have been covered by the insurance had it not expired or been cancelled. If the Contractor purchases replacement coverage, the cost of the insurance shall be charged to the Owner by an appropriate Change Order. The furnishing of notice by the Owner shall not relieve the Owner of any contractual obligation to provide required insurance.

§ 11.3 Waivers of Subrogation

§ 11.3.1 The Owner and Contractor waive all rights against (1) each other and any of their subcontractors, sub-subcontractors, agents, and employees, each of the other; (2) the Construction Manager and Construction Manager's consultants; (3) the Architect and Architect's consultants; (4) other Contractors and any of their subcontractors, sub-subcontractors, agents, and employees; and (5) Separate Contractors, if any, and any of their subcontractors, sub-subcontractors, agents, and employees, for damages caused by fire, or other causes of loss, to the extent those losses are covered by property insurance required by the Agreement or other property insurance applicable to the Project, except such rights as they have to proceeds of such insurance. The Owner or Contractor, as appropriate, shall require similar written waivers in favor of the individuals and entities identified above from the Construction Manager, Construction Manager's consultants, Architect, Architect's consultants, other Contractors,

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Separate Contractors, subcontractors, and sub-subcontractors. The policies of insurance purchased and maintained by each person or entity agreeing to waive claims pursuant to this Section 11.3.1 shall not prohibit this waiver of subrogation. This waiver of subrogation shall be effective as to a person or entity (1) even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, (2) even though that person or entity did not pay the insurance premium directly or indirectly, or (3) whether or not the person or entity had an insurable interest in the damaged property.

(Paragraph deleted)

§ 11.4 Loss of Use, Business Interruption, and Delay in Completion Insurance

The Owner, at the Owner's option, may purchase and maintain insurance that will protect the Owner against loss of use of the Owner's property, or the inability to conduct normal operations, due to fire or other causes of loss. The Owner waives all rights of action against the Contractor, Architect, and Construction Manager for loss of use of the Owner's property, due to fire or other hazards however caused.

§ 11.5 Adjustment and Settlement of Insured Loss

§ 11.5.1 A loss insured under the property insurance required by the Agreement shall be adjusted by the Owner as fiduciary and made payable to the Owner as fiduciary for the insureds, as their interests may appear, subject to requirements of any applicable mortgagee clause and of Section 11.5.2. The Owner shall pay the Construction Manager, Architect and Contractor their just shares of insurance proceeds received by the Owner, and by appropriate agreements the Construction Manager, Architect and Contractor shall make payments to their consultants and Subcontractors in similar manner.

§ 11.5.2 Prior to settlement of an insured loss, the Owner shall notify the Contractor of the terms of the proposed settlement as well as the proposed allocation of the insurance proceeds. The Contractor shall have 14 days from receipt of notice to object to the proposed settlement or allocation of the proceeds. If the Contractor does not object, the Owner shall settle the loss and the Contractor shall be bound by the settlement and allocation. Upon receipt, the Owner shall make the appropriate distributions. Thereafter, if no other agreement is made or the Owner does not terminate the Contract for convenience, the Owner and Contractor shall execute a Change Order for reconstruction of the damaged or destroyed Work in the amount allocated for that purpose. If the Contractor timely objects to either the terms of the proposed settlement or the allocation of the proceeds, the Owner may proceed to settle the insured loss, and any dispute between the Owner and Contractor arising out of the settlement or allocation of the proceeds shall be resolved pursuant to Article 15. Pending resolution of any dispute, the Owner may issue a Construction Change Directive for the reconstruction of the damaged or destroyed Work.

§ 11.6 Bonds

§ 11.6.1 Contractor shall furnish a Performance Bond and a Payment Bond to the Owner in the amount of one hundred percent (100%) of the Contract Sum and issued by a Surety Company authorized to do business in the State of Minnesota, rated "A" or better, and approved by the Owner. The Performance Bond shall be in accordance with Minnesota Statutory requirements, and shall be in the form included in the Project Manual. The Bonds shall allow for any additions or deductions to the Contract Sum.

§ 11.6.2 In order to be acceptable as a surety, Contractor's bonding company bust hold a "Certificate of Authority acceptable to the U.S. Treasury Department and be listed in the Department's current publication of "Bond Qualifiers" with underwriting limitations not less than ten percent (10%) above the Contract Sum.

§ 11.6.3 The surety of the Bonds shall be by a corporate surety company authorized to do business in the state in which Work is being performed under this Contract and acceptable to the Owner. The conditions of the bonds shall meet requirements of the statutes of the state where Work is being performed and all other applicable provisions of state law.

§ 11.6.4 The Contractor shall furnish two (2) originals of the Bonds to the Owner, with copies to the Architect and Construction Manager, within ten (10) days after notification of award and before execution of the Contract. Failure to do so shall constitute a violation of terms of the proposal and provide grounds for forfeiture of bid security.

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ARTICLE 12 UNCOVERING AND CORRECTION OF WORK

§ 12.1 Uncovering of Work

§ 12.1.1 If a portion of the Work is covered contrary to the Construction Manager's or Architect's request or to requirements specifically expressed in the Contract Documents, it must, if requested in writing by either, be uncovered for their examination and be replaced at the Contractor's expense without change in the Contract Time.

§ 12.1.2 If a portion of the Work has been covered that the Construction Manager or Architect has not specifically requested to examine prior to its being covered, the Construction Manager or Architect may request to see such Work and it shall be uncovered by the Contractor. If such Work is in accordance with the Contract Documents, the Contractor shall be entitled to an equitable adjustment to the Contract Sum and Contract Time as may be appropriate. If such Work is not in accordance with the Contract Documents, the costs of uncovering the Work, and the cost of correction, shall be at the Contractor's expense.

§ 12.2 Correction of Work

§ 12.2.1 Before Substantial Completion

The Contractor shall promptly correct Work rejected by the Construction Manager or Architect or failing to conform to the requirements of the Contract Documents, discovered before Substantial Completion, and whether or not fabricated, installed or completed. The Contractor shall bear costs of correcting such rejected Work, including additional testing and inspections, the cost of uncovering and replacement, and compensation for the Construction Manager's and Architect's services and expenses made necessary thereby.

§ 12.2.2 After Substantial Completion

(Paragraphs deleted)

§ 12.2.2.1 If within one year after the date of Substantial Completion of the Work or designated portion thereof, or after the date for commencement of warranties established under Section 9.9.1, or by terms of any applicable special warranty required by the Contract Documents, any of the Work is found to be not in accordance with the requirements of the Contract Documents, the Contractor shall correct it promptly (and any other property damaged or removed in effecting the correction) after receipt of notice from the Owner, Construction Manager or Architect to do so, unless the Owner has previously given the Contractor a written acceptance of such condition. The Owner, Construction Manager or Architect shall give such notice promptly after discovery of the condition. This period of one year shall be extended with respect to portions of Work first performed after Substantial completion by the period of time between Substantial completion and the actual performance of the Work. This obligation under this Subparagraph 12.2.2.1 shall survive acceptance of the Work under the contract and termination of the Contract. The Owner, Construction Manager or Architect shall give such notice promptly after discovery of the condition. The expiration of the above one year or any other specified time period, or any other period prescribed by the law, shall not relieve the Contractor of the obligation form the expense to correct any latent defect in the work or deficiencies which are not readily ascertained, including but not limited to, defective materials and quality of work performed, defects attributable to material substitutions for special materials, substandard performance or otherwise not in compliance with the Contract Documents. Such latent defects or deficiencies shall be corrected as provided in this Paragraph 12.2. Following the correction or replacement of any of the Work, as above specified, the Contractor shall correct any defects or deficiencies in the corrected or replaced materials and workmanship which is found within one year after the date of correction or replacement.

§ 12.2.3 The Contractor shall remove from the site portions of the Work that are not in accordance with the requirements of the Contract Documents and are neither corrected by the Contractor nor accepted by the Owner.

§ 12.2.4 If the Contractor fails to correct nonconforming Work within a reasonable time, the Owner may correct it in accordance with Paragraph 2.4. If the Contractor does not proceed with correction of such nonconforming Work within a reasonable time fixed by written notice from the Architect or Construction Manager, the Owner may correct or remove it and store the salvageable materials or equipment all at the Contractor's expense. If the Contractor does not pay costs of such removal and storage within ten (10) days after written notice, the Owner may upon ten (10) additional days' written notice sell such materials and equipment at auction or at private sale and shall account for the proceeds thereof, after deducting costs and damages that should have been borne by the Contractor, the Contract Sum shall be reduced by the deficiency. If payments then or thereafter due the Contractor are not sufficient to cover such amount, the Contractor shall pay the difference to the Owner.

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§ 12.2.5 The Contractor shall bear the cost of correcting destroyed or damaged construction whether completed or partially completed, of the Owner or separate contractors caused by the Contractor's correction or removal of Work which is not in accordance with the requirements of the Contract Documents.

§ 12.2.6 Nothing contained in this Section 12.2 shall be construed to establish a period of limitation with respect to other obligations the Contractor has under the Contract Documents. Establishment of the one-year period for correction of Work as described in Section 12.2.2 relates only to the specific obligation of the Contractor to correct the Work, and has no relationship to the time within which the obligation to comply with the Contract Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Contractor's liability with respect to the Contractor's obligations other than specifically to correct the Work.

§ 12.3 Acceptance of Nonconforming Work

If the Owner prefers to accept Work that is not in accordance with the requirements of the Contract Documents, the Owner may do so instead of requiring its removal and correction, in which case the Contract Sum will be reduced as appropriate and equitable. Such adjustment shall be effected whether or not final payment has been made.

ARTICLE 13 MISCELLANEOUS PROVISIONS

§ 13.1 Governing Law

The Contract shall be governed by the law of the place where the Project is located excluding that jurisdiction's choice of law rules. If the parties have selected arbitration as the method of binding dispute resolution, the Federal Arbitration Act shall govern Section 15.4.

§ 13.2 Successors and Assigns

§ 13.2.1 The Owner and Contractor respectively bind themselves, their partners, successors, assigns, and legal representatives to covenants, agreements, and obligations contained in the Contract Documents. Except as provided in Section 13.2.2, neither party to the Contract shall assign the Contract as a whole without written consent of the other. If either party attempts to make an assignment without such consent, that party shall nevertheless remain legally responsible for all obligations under the Contract.

§ 13.2.2 The Owner may, without consent of the Contractor, assign the Contract to a lender providing construction financing for the Project, if the lender assumes the Owner's rights and obligations under the Contract Documents. The Contractor shall execute all consents reasonably required to facilitate the assignment.

§ 13.3 Rights and Remedies

§ 13.3.1 Duties and obligations imposed by the Contract Documents and rights and remedies available thereunder shall be in addition to and not a limitation of duties, obligations, rights, and remedies otherwise imposed or available by law.

§ 13.3.2 No action or failure to act by the Owner, Construction Manager, Architect, or Contractor shall constitute a waiver of a right or duty afforded them under the Contract, nor shall such action or failure to act constitute approval of or acquiescence in a breach thereunder, except as may be specifically agreed upon in writing.

§ 13.4 Tests and Inspections

§ 13.4.1 Tests, inspections, and approvals of portions of the Work shall be made as required by the Contract Documents and by applicable laws, statutes, ordinances, codes, rules, and regulations or lawful orders of public authorities. The Owner, Construction Manager or Architect shall make arrangements for such tests, inspections, and approvals with an independent testing laboratory or entity acceptable to the Owner, or with the appropriate public authority. Timely notice shall be given to the Construction Manager and Architect of when and where tests and inspections are to be made so that the Construction Manager and Architect may observe such procedures. The Owner shall bear costs of tests, inspections, or approvals that do not become requirements until after bids are received or negotiations concluded. The Owner shall directly arrange and pay for tests, inspections, or approvals where building codes or applicable laws or regulations so require.

§ 13.4.2 If the Construction Manager, Architect, Owner, or public authorities having jurisdiction determine that portions of the Work require additional testing, inspection, or approval not included under Section 13.4.1, the Construction Manager and Architect will, upon written authorization from the Owner, instruct the Contractor to make arrangements for such additional testing, inspection, or approval, by an entity acceptable to the Owner, and the

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Contractor shall give a minimum of two (2) working days' notice to the Construction Manager and Architect of when and where tests and inspections are to be made so that the Construction Manager and Architect may observe procedures. The Owner shall bear such costs, except as provided in Section 13.4.3.

§ 13.4.3 If procedures for testing, inspection, or approval under Sections 13.4.1 and 13.4.2 reveal failure of the portions of the Work to comply with requirements established by the Contract Documents, all costs made necessary by such failure, including those of repeated procedures and compensation for the Construction Manager's and Architect's services and expenses, shall be at the Contractor's expense.

§ 13.4.4 Required certificates of testing, inspection, or approval shall, unless otherwise required by the Contract Documents, be secured by the Contractor and promptly delivered to the Construction Manager for transmittal to the Architect.

§ 13.4.5 If the Construction Manager or Architect is to observe tests, inspections, or approvals required by the Contract Documents, the Construction Manager or Architect will do so promptly and, where practicable, at the normal place of testing.

§ 13.4.6 Tests or inspections conducted pursuant to the Contract Documents shall be made promptly to avoid unreasonable delay in the Work.

§ 13.5 Interest

All payments to the Contractor shall be governed by the Prompt Payment of Local Government Bills, Minnesota Statutes, Section 471.125 ("Prompt Payment Act") and Article 5 of the A132–2019 Agreement on this Project.

§ 13.6 Non-Discrimination

§ 13.6.1 All contracts between the Owner and companies providing goods and services under the Contract Documents shall contain the following equal opportunity and civil right clause:

> "During the performance of this Agreement, the provider agrees to the following: No contractor, material supplier, vendor, or other person shall on the basis of sex, race, creed, color, religion, national origin, age, marital status, sexual orientation, or disability be excluded from full employment rights in, participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program, service, or activity under the provisions of any and all applicable Federal and State laws against discrimination, including the Minnesota Human Rights Act and the Civil Rights Act of 1964."

Upon request, the Contractor shall furnish all information and reports required by the Owner, or by the rules and regulations of investigation to ascertain compliance with all applicable rules and regulations. The Contractor shall also comply with any applicable licensing requirements of the Minnesota Department of Human Services in employment of personnel.

The Contractor acknowledges that the violation of the above-stated paragraph is a misdemeanor pursuant to Minnesota Statutes, Section 181.59.

This Agreement may be cancelled or terminated by the Owner or any other person authorized to grant the contracts for employment under this Agreement, and all money due, or to become due under this Agreement may be forfeited for a second or any subsequent violation of the non-discriminatory terms stated above.

§ 13.6.2 During the completion of the work and all other services required by the Contract Documents, the Contractor agrees that no contractor, material supplier, vendor, or other person shall, on the basis of sex, race, creed, color, religion, national origin, age, marital status, sexual orientation, or disability be excluded from full employment rights in participation in, be denied the benefits of, or be otherwise subjected to discrimination under the provisions of any and all applicable Federal and State laws against discrimination, including the Minnesota Human Rights Act and the Civil Rights Act of 1964. Upon request, the Architect, Construction Manager and Contractor shall furnish all information and reports required by the Owner, or by the rules and regulations of investigation to ascertain compliance with all applicable rules and regulations. The Contractor shall also comply with any applicable licensing requirements of the Minnesota Department of Human Services in employment of personnel.

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Contractor acknowledges that the violation of the above-states paragraph is a misdemeanor pursuant to Minnesota Statutes Section 181.59.

The Contract Documents may be cancelled or terminated by the Owner or any other person authorized to grant the contracts for employment under this Agreement, and all money due, or to become due under the Agreement may be forfeited for a second or any subsequent violation of the non-discriminatory terms stated above.

§ 13.7 No action or failure to act by the Owner shall constitute a waiver of a right or duty afforded the Owner under the Contract Documents, nor shall such action or failure to act constitute approval of or acquiescence of the Owner in a breach of the Contract Documents, except as may be specifically agreed in writing. None of the approval of any Application for Payment, the making of any payment, the giving of any approval or consent, the use or occupancy of the Work, or any part thereof, the making of final payment, or any other action or inaction on the part of the Owner, Construction Manager or Architect shall constitute a waiver of claims by or rights of the Owner or an acceptance of any Work that is not in accordance with the Contract Documents. The Contractor shall not be relieved from its obligations to perform the Work in accordance with the Contract Documents either by the activities or duties of the representations of the Owner, Construction Manager or Architect, or by inspections, tests, or approvals required or performed by the Owner, Construction Manager or Architect or anyone else.

ARTICLE 14 TERMINATION OR SUSPENSION OF THE CONTRACT

§ 14.1 Termination by the Contractor

§ 14.1.1 The Contractor may terminate the Contract if the Work is stopped for a period of 30 consecutive days through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, their agents or employees, or any other persons or entities performing portions of the Work, for any of the following reasons:

.1 Issuance of an order of a court or other public authority having jurisdiction that requires all Work to be stopped;

.2 An act of government, such as a declaration of national emergency, that requires all Work to be stopped;

.3 Because the Construction Manager has not certified or the Architect has not issued a Certificate for Payment and has not notified the Contractor of the reason for withholding certification as provided in Section 9.4, or because the Owner has not made payment on a Certificate for Payment within the time stated in the Contract Documents; or

.4 The Owner has failed to furnish to the Contractor reasonable evidence as required by Section 2.2.

§ 14.1.2 The Contractor may terminate the Contract if, through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, their agents or employees, or any other persons or entities performing portions of the Work, repeated suspensions, delays, or interruptions of the entire Work by the Owner as described in Section 14.3, constitute in the aggregate more than 100 percent of the total number of days scheduled for completion, or 120 days in any 365-day period, whichever is less.

§ 14.1.3 If one of the reasons described in Section 14.1.1 or 14.1.2 exists, the Contractor may, upon seven days' notice to the Owner, Construction Manager and Architect, terminate the Contract and recover from the Owner payment for Work executed, as well as reasonable overhead and profit on Work not executed, and costs incurred by reason of such termination.

§ 14.1.4 If the Work is stopped for a period of 60 consecutive days through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, or their agents or employees, or any other persons performing portions of the Work because the Owner has repeatedly failed to fulfill the Owner's obligations under the Contract Documents with respect to matters important to the progress of the Work, the Contractor may, upon seven additional days' notice to the Owner, Construction Manager and Architect, terminate the Contract and recover from the Owner as provided in Section 14.1.3.

§ 14.1.5 No Right to Stop Work for Non-Payment

The Contractor has no right to stop Work as a consequence of non-payment. In the event of any disagreement between the Contractor and Owner involving the Contractor's entitlement to payment, the Contractor's only remedy is to file a Claim in accordance with Article 15. The Contractor must diligently proceed with the Work pending resolution of the Claim. If, however, an Application for Payment has been approved for payment by the Owner, and the Owner fails to make payment within sixty (60) days of the approval for payment by the Owner, the Contractor may upon ten (10)

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days written notice to the Owner, stop work if payment is not made by the Owner within ten (10) days following the notice.

§ 14.2 Termination by the Owner for Cause

§ 14.2.1 The Owner may terminate the Contract if the Contractor

.1 repeatedly refuses or fails to supply enough properly skilled workers or proper materials;

.2 fails to make payment to Subcontractors or suppliers in accordance with the respective agreements between the Contractor and the Subcontractors or suppliers;

.3 repeatedly disregards applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of a public authority; or

.4 otherwise is guilty of substantial breach of a provision of the Contract Documents.

§ 14.2.2 When any of the reasons described in Section 14.2.1 exist, after consultation with the Construction Manager, and upon certification by the Architect that sufficient cause exists to justify such action, the Owner may, without prejudice to any other rights or remedies of the Owner and after giving the Contractor and the Contractor's surety, if any, seven days' notice, terminate employment of the Contractor and may, subject to any prior rights of the surety:

.1 Exclude the Contractor from the site and take possession of all materials, equipment, tools, and construction equipment and machinery thereon owned by the Contractor;

.2 Accept assignment of subcontracts pursuant to Section 5.4; and

.3 Finish the Work by whatever reasonable method the Owner may deem expedient. Upon written request of the Contractor, the Owner shall furnish to the Contractor a detailed accounting of the costs incurred by the Owner in finishing the Work.

§ 14.2.3 When the Owner terminates the Contract for one of the reasons stated in Section 14.2.1, the Contractor shall not be entitled to receive further payment until the Work is finished.

§ 14.2.4 If the unpaid balance of the Contract Sum exceeds costs of finishing the Work, including compensation for the Construction Manager's and Architect's services and expenses made necessary thereby, and other damages incurred by the Owner and not expressly waived, such excess shall be paid to the Contractor. If such costs and damages exceed the unpaid balance, the Contractor shall pay the difference to the Owner. The amount to be paid to the Contractor or Owner, as the case may be, shall, upon application, be certified by the Initial Decision Maker after consultation with the Construction Manager, and this obligation for payment shall survive termination of the Contract.

§ 14.3 Suspension by the Owner for Convenience

§ 14.3.1 The Owner may, without cause, order the Contractor in writing to suspend, delay or interrupt the Work, in whole or in part for such period of time as the Owner may determine.

§ 14.3.2 The Contract Sum and the Contract Time shall be adjusted for increases or decreases in the cost and time caused by suspension, delay, or interruption under Section 14.3.1. Adjustment of the Contract Sum shall include reasonable profit. No adjustment shall be made to the extent:

.1 that performance is, was, or would have been, so suspended, delayed, or interrupted, by another cause for which the Contractor is responsible; or

.2 that an equitable adjustment is made or denied under another provision of this Contract.

§ 14.4 Termination by the Owner for Convenience

§ 14.4.1 The Owner may, at any time, terminate the Contract for the Owner's convenience and without cause.

§ 14.4.2 Upon receipt of notice from the Owner of such termination for the Owner's convenience, the Contractor shall

.1 cease operations as directed by the Owner in the notice;

.2 take actions necessary, or that the Owner may direct, for the protection and preservation of the Work; and

.3 except for Work directed to be performed prior to the effective date of termination stated in the notice, terminate all existing subcontracts and purchase orders and enter into no further subcontracts and purchase orders.

(Paragraph deleted)

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ARTICLE 15 CLAIMS AND DISPUTES

§ 15.1 Claims

§ 15.1.1 Definition. A Claim is a demand or assertion by the Contractor seeking, as a matter of right, payment of money, a change in the Contract Time, or other relief with respect to the terms of the Contract. The responsibility to substantiate Claims shall rest with the Contractor. Nothing in this paragraph 15.1.1 is intended to apply to or in any way limit the Owner's right to make Claims related to or arising out of the Contract. This Section 15.1.1 does not require the Owner to file a Claim in order to impose liquidated damages in accordance with the Contract Documents.

§ 15.1.2 Time Limits on Claims

The Owner and Contractor shall commence all Claims and causes of action against the other and arising out of or related to the Contract, whether in contract, tort, breach of warranty or otherwise, in accordance with the requirements of the binding dispute resolution method selected in the Agreement and within the period specified by applicable law, but in any case not more than 10 years after the date of Substantial Completion of the Work. The Owner and Contractor waive all Claims and causes of action not commenced in accordance with this Section 15.1.2.

§ 15.1.3 Notice of Claims

§ 15.1.3.1 Claims by Contractor, where the condition giving rise to the Claim is first discovered prior to expiration of the period for correction of the Work set forth in Section 12.2.2, shall be initiated by written notice to the Owner and to the Initial Decision Maker with a copy sent to the Construction Manager and Architect, if the Architect is not serving as the Initial Decision Maker. Claims by the Contractor under this Section 15.1.3.1 shall be initiated within ten (10) days after occurrence of the event giving rise to such Claim or within ten (10) days after the Contractor first recognizes the condition giving rise to the Claim, whichever is later. Any additional Claim made after and relating to the initial Claim has been implemented by Change Order will not be considered unless submitted in a timely manner. As a condition to making a claim for additional costs, the Contractor shall maintain and produce accurate records to substantiate all additional costs actually incurred. If a Claim for actual costs is approved, the Owner shall pay the Contractor actual costs incurred, plus either (a) ten percent (10%) for overhead and profit for work performed by the Contractor, or (b) five percent (5%) overhead and profit for work performed by a Subcontractor, as applicable.

§ 15.1.3.2 Claims by either the Owner or Contractor, where the condition giving rise to the Claim is first discovered after expiration of the period for correction of the Work set forth in Section 12.2.2, shall be initiated by written notice to the other party. In such event, no decision by the Initial Decision Maker is required.

§ 15.1.4 Continuing Contract Performance

§ 15.1.4.1 Pending final resolution of a Claim, except as otherwise agreed in writing or as provided in Section 9.7 and Article 14, the Contractor shall proceed diligently with performance of the Contract and the Owner shall continue to make payments in accordance with the Contract Documents. Subject to Paragraph 15.1.5, no such continuing performance by the Contractor, nor payment by the Owner shall be deemed a waiver of, or to otherwise impair any such Claim.

§ 15.1.4.2 The Contract Sum and Contract Time shall be adjusted in accordance with the Initial Decision Maker's decision, subject to the right of either party to proceed in accordance with this Article 15. The Architect will issue Certificates for Payment in accordance with the decision of the Initial Decision Maker.

§ 15.1.5 Claims for Additional Cost. If the Contractor wishes to make a Claim for an increase in the Contract Sum, notice as provided in Section 15.1.3 shall be given before proceeding to execute the portion of the Work that is the subject of the Claim. Prior notice is not required for Claims relating to an emergency endangering life or property arising under Section 10.4.

§ 15.1.6 Claims for Additional Time

§ 15.1.6.1 If the Contractor wishes to make a Claim for any increase in the Contract Time, notice as provided in Section 15.1.3 shall be given. The Contractor's Claim shall include an estimate of cost and of probable effect of delay on progress of the Work. In the case of a continuing delay only one Claim is necessary.

§ 15.1.6.2 If adverse weather conditions are the basis for a Claim for additional time, such Claim shall be documented by data substantiating that weather conditions were abnormal for the period of time, could not have been reasonably anticipated and had an adverse effect on the scheduled construction.

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(Paragraphs deleted)

§ 15.2 Initial Decision

§ 15.2.1 Claims, excluding those where the condition giving rise to the Claim is first discovered after expiration of the period for correction of the Work set forth in Section 12.2.2 or arising under Sections 10.3, 10.4, and 11.5, shall be referred to the Initial Decision Maker for initial decision. The Architect will serve as the Initial Decision Maker, unless otherwise indicated in the Agreement. Except for those Claims excluded by this Section 15.2.1, an initial decision shall be required as a condition precedent to mediation of any Claim. If an initial decision has not been rendered within 30 days after the Claim has been referred to the Initial Decision Maker, the party asserting the Claim may demand mediation and binding dispute resolution without a decision having been rendered. Unless the Initial Decision Maker and all affected parties agree, the Initial Decision Maker will not decide disputes between the Contractor and persons or entities other than the Owner.

§ 15.2.2 The Initial Decision Maker will review Claims and within ten days of the receipt of a Claim take one or more of the following actions: (1) request additional supporting data from the claimant or a response with supporting data from the other party, (2) reject the Claim in whole or in part, (3) approve the Claim, (4) suggest a compromise, or (5) advise the parties that the Initial Decision Maker is unable to resolve the Claim if the Initial Decision Maker lacks sufficient information to evaluate the merits of the Claim or if the Initial Decision Maker concludes that, in the Initial Decision Maker's sole discretion, it would be inappropriate for the Initial Decision Maker to resolve the Claim.

§ 15.2.3 In evaluating Claims, the Initial Decision Maker may, but shall not be obligated to, consult with or seek information from either party or from persons with special knowledge or expertise who may assist the Initial Decision Maker in rendering a decision. The Initial Decision Maker may request the Owner to authorize retention of such persons at the Owner's expense.

§ 15.2.4 If the Initial Decision Maker requests a party to provide a response to a Claim or to furnish additional supporting data, such party shall respond, within ten days after receipt of the request, and shall either (1) provide a response on the requested supporting data, (2) advise the Initial Decision Maker when the response or supporting data will be furnished, or (3) advise the Initial Decision Maker that no supporting data will be furnished. Upon receipt of the response or supporting data, if any, the Initial Decision Maker will either reject or approve the Claim in whole or in part.

§ 15.2.5 The Initial Decision Maker will render an initial decision approving or rejecting the Claim, or indicating that the Initial Decision Maker is unable to resolve the Claim. This initial decision shall (1) be in writing; (2) state the reasons therefor; and (3) notify the parties, the Construction Manager, and the Architect, if the Architect is not serving as the Initial Decision Maker, of any change in the Contract Sum or Contract Time or both. The initial decision shall be final and binding on the parties but subject to mediation and, if the parties fail to resolve their dispute through mediation, to binding dispute resolution.

§ 15.2.6 In the event of a Claim against the Contractor, the Owner may, but is not obligated to notify the surety, if any, of the nature and amount of the Claim. If the Claim relates to a possibility of a Contractor's default, the Owner may, but is not obligated to notify the surety and initiate a Claim on the performance bond.

(Paragraphs deleted)

§ 15.3 Mediation

§ 15.3.1 Any claim, dispute or other matter in question or arising out of or related to the Contract shall be subject to mediation. Mediation is not a condition precedent to commencing litigation, but if litigation is commenced before mediation is held, the Parties agree to mediate before any dispositive motions or trial.

§ 15.3.2 The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located unless another location is mutually agreed upon. Agreements reached in mediation and ratified by the Owner's Council shall be enforceable as settlement agreements in any court having jurisdiction thereof.

(Paragraphs deleted)

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Additions and Deletions Report for
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PAGE 1

North High School Phase 4 Work Scope 23-B Combined Mechanical
1500 James Avenue, Minneapolis, MN 55411

...

Kraus-Anderson Construction Company
501 South 8th Street, Minneapolis, MN 55404

...

Minneapolis Public Schools Special School District #1
1250 West Broadway Avenue
Minneapolis, MN 55411

...

LSE Architects 1401 Glenwood Avenue
Minneapolis, MN 55405

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§ 1.1.1.1 Notwithstanding the foregoing, it is understood and agreed that the Owner is an intended third-party beneficiary of all contracts between the Contractor and Subcontractors or suppliers who provide labor and/or materials for the Work.

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§ 1.1.10 Initial Decision Maker. The Initial Decision Maker is the person identified in the Agreement to render initial decisions on Claims in accordance with Section 15.2. The ~~Initial Decision Maker shall not show partiality to the Owner or Contractor and shall not be liable for results of interpretations or decisions rendered in good faith.~~Architect will serve as the Initial Decision Maker pursuant to Section 15.2 of AIA Document A232–2019.

...

§ 1.2.1 The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work by the Contractor. The Contract Documents are complementary, and what is required by one shall be as binding as if required by all; performance by the Contractor shall be required only to the extent consistent with the Contract Documents and reasonably inferable from them as being necessary to produce the ~~indicated~~ intended results.

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§ 1.2.1.1 The invalidity of any provision of the Contract Documents shall not invalidate the Contract or its remaining provisions. ~~If it is determined that any provision of the Contract Documents violates any law, or is otherwise invalid or unenforceable, then that provision shall be revised to the extent necessary to make that provision legal and enforceable.~~ In such case the Contract Documents shall be construed, to the fullest extent permitted by law, to give effect to the parties' intentions and purposes in executing the Contract.

...

§ 1.4.1 In the case of inconsistency between Drawings and Specifications or within Contract Documents not clarified by Addenda, the better quality or greater quantity of Work shall be provided in accordance with the Architect's interpretation.

§ 1.5.1 The Architect and the Architect's consultants shall be deemed the authors and owners of their respective Instruments of Service, including the Drawings and Specifications, and retain all common law, statutory, and other reserved rights in their Instruments of Service, including copyrights. The Contractor, Subcontractors, sub-subcontractors, and suppliers shall not own or claim a copyright in the Instruments of Service. Submittal or distribution to meet official regulatory requirements or for other purposes in connection with the Project is not to be construed as publication in derogation of the Architect's or Architect's consultants' reserved rights. The Owner retains rights to the Instruments of Service pursuant to Article 7 of AIA Document B101-2017.

...

§ 1.5.3 The Architect shall furnish to the Contractor a version of the Instruments of Service in electronic form for the sole purpose of the construction of the Project for which the Instruments of Service were created.

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The parties shall agree upon ~~written~~ protocols governing the transmission and use ~~of, and reliance on,~~ of Instruments of Service or any other information or documentation in digital form. The parties may use AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit or other form, to establish the protocols for the development, use, transmission, and exchange of digital data.

...

Any use of, or reliance on, all or a portion of a building information model without agreement to ~~written~~ protocols governing the use of, and reliance on, the information contained in the model and without having those protocols set forth in AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, and the requisite AIA Document G202™–2013, Project Building Information Modeling Protocol Form or other form, shall be at the using or relying party's sole risk and without liability to the other party and its contractors or consultants, the authors of, or contributors to, the building information model, and each of their agents and employees.

...

§ 2.1.1 The Owner is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The Owner shall designate in writing a representative who shall have express authority to bind the Owner with respect to all matters requiring the Owner's approval or ~~authorization.~~ authorization in accordance with Owner's Delegation of Authority Policy, a copy of which will be provided at Contractor's request. Except as otherwise provided in Section 4.2.1, the Construction Manager and the Architect do not have such authority. The term "Owner" means the Owner or the Owner's authorized representative.

~~**§ 2.1.2** The Owner shall furnish to the Contractor, within fifteen days after receipt of a written request, information necessary and relevant for the Contractor to evaluate, give notice of, or enforce mechanic's lien rights. Such information shall include a correct statement of the record legal title to the property on which the Project is located, usually referred to as the site, and the Owner's interest therein.~~

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§ 2.3.5 ~~The~~ If requested by the Contractor and reasonably required for the Project, the Owner shall furnish surveys describing physical characteristics, legal limitations and utility locations for the site of the Project, and a written legal description of the site. The Contractor ~~shall be entitled to rely on the accuracy of information furnished by the Owner but~~ shall exercise proper precautions relating to the safe performance of the Work.

§ 2.3.6 The Owner shall furnish information or services required of the Owner by the Contract Documents with reasonable promptness. The Owner shall also furnish any other information or services under the Owner's control and relevant to the Contractor's performance of the Work with reasonable promptness after receiving the Contractor's written request for such information or services. The Contractor is responsible for the timeliness of, or interference caused by, Subcontractors, Sub-subcontractors (of any tier), and others directly or indirectly under contract to the Contractor.

...

If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within a ~~ten-day~~ three-business-day (3) period after receipt of notice from the Owner to commence and continue correction of such default or neglect with diligence and promptness, the Owner may, without prejudice to other remedies the Owner may have, correct such default or neglect. Such action by the Owner and amounts charged to the Contractor are both subject to review by the Construction Manager and prior approval of the Architect, and the Construction Manager or Architect may, pursuant to Section 9.5.1, withhold or nullify a Certificate for Payment in whole or in part, to the extent reasonably necessary to reimburse the Owner for the reasonable cost of correcting such deficiencies, including Owner's expenses and compensation for the Construction Manager's and Architect's and their respective consultants' additional services and expenses made necessary by such default, neglect, or failure. If current and future payments are not sufficient to cover such amounts, the Contractor shall pay the difference to the ~~Owner.~~ Owner within ten (10) days following written request for payment delivered by the Owner to the Contractor. If the Contractor disagrees with the actions of the Owner or the Architect, or the amounts claimed as costs to the Owner, the Contractor may file a Claim pursuant to Article 15.

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§ 3.1.3 The Contractor shall ~~not be relieved of its obligations to perform the Work in accordance with the Contract Documents either by activities or duties of the Construction Manager or Architect in their administration of the Contract, or by tests, inspections or approvals required or performed by persons or entities other than the Contractor.~~hire a professional utilities locator to investigate and verify all private utility locations prior to excavation and cutting into of existing Work. The Contractor is responsible for locating, terminating, and reinstallation of all private utilities. Private site utilities may not be in the Drawings and Project Manual and as such, verification of private utilities is the sole responsibility of the Contractor. Costs associated with moving and repairing of unknown and undocumented utilities will be by appropriate Change Order. The Contractor shall comply with Gopher State One Call, or other public utility service locator to locate all public utilities prior to any work on the site. This shall not relieve Contractor from obligations under Article 3.

§ 3.1.4 The Contractor shall not be relieved of its obligations to perform the Work in accordance with the Contract Documents either by activities or duties of the Construction Manager or Architect in their administration of the Contract, or by tests, inspections or approvals required or performed by persons or entities other than the Contractor.

...

§ 3.2.1 ~~Execution of the Contract by the Contractor is a representation that the Contractor has visited the site, become generally~~ The Contractor shall carefully study and compare the Contract Documents with each other and with information furnished by the Owner pursuant to Section 2.2.3, and shall immediately report to the Architect and Construction Manager errors, inconsistencies, or omissions discovered. The Contractor shall not be liable to the Owner or Architect for damage resulting from errors, inconsistencies, or omissions in the Contract Document unless the Contractor recognized such error, inconsistency, or omission and knowingly failed to report it to the Architect. If the Contractor performs any construction activity knowing or believing it involves a recognized error, inconsistency, or omission in the Contract Documents without such notice to the Architect, the Contractor shall assume full responsibility for such performance and shall bear the attributable costs for correction and shall bear responsibility for any additional costs, delays, and damages resulting from such failure to immediately report any such errors,

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inconsistencies, or omissions which the Contractor may discover. By executing the Contract, the Contractor represents that the Contractor has reviewed and understands the Contract Documents, has visited the Site and is familiar with local conditions under which the Work is to be performed, ~~and correlated personal observations with requirements of the Contract Documents.~~has correlated personal observations with the requirements of the Contract Documents, and has notified the Architect of and obtained clarification of any discrepancies which have become apparent during the bidding or proposal period.

§ 3.2.1.1 The Contractor shall take field measurements and verify field conditions and shall carefully compare such field measurements and conditions and other information known to the Contractor with the Contract Documents before commencing activities. Errors, inconsistencies, or omissions discovered shall be reported to the Architect immediately in writing.

§ 3.2.1.2 The Contractor shall carefully study and compare the Contract Documents with existing conditions at the job site and shall immediately report in writing to the Architect any error, inconsistency, or omission which the Contractor may discover or any materials, systems, procedures, or methods of construction, either shown on the Drawings or specified, which the Contractor has reason to believe are incorrect, inadequate, obsolete, unsuitable for the purpose intended or which the Contractor has reason to believe would constitute or result in a violation of the Contractor's warranty under Section 3.5 or applicable law. The Contractor shall not proceed with any work in such areas until written instructions are received from the Architect.

§ 3.2.2 ~~Because the Contract Documents are complementary, the Contractor shall, before starting each portion of the Work, carefully study and compare the various Contract Documents relative to that portion of the Work, as well as the information furnished by the Owner pursuant to Section 2.3.5, shall take field measurements of any existing conditions related to that portion of the Work, and shall observe any conditions at the site affecting it. These obligations are for the purpose of facilitating coordination and construction by the Contractor and are not for the purpose of discovering errors, omissions, or inconsistencies in the Contract Documents; however, the Contractor shall promptly report to the Construction Manager and Architect any errors, inconsistencies or omissions discovered by or made known to the Contractor as a request for information submitted to the Construction Manager in such form as the Construction Manager and Architect may require. It is recognized that the Contractor's review is made in the Contractor's capacity as a contractor and not as a licensed design professional, unless otherwise specifically provided in the Contract Documents.~~The Contractor shall perform the Work in accordance with the Contract Documents and submittals accepted pursuant to Section 3.12.

§ 3.2.3 The ~~Contractor is not required to ascertain that the Contract Documents are in accordance with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, but the Contractor shall promptly report to the Construction Manager and Architect any nonconformity discovered by or made known to the Contractor as a request for information submitted to Construction Manager in such form as the Construction Manager and Architect may require.~~Owner shall be entitled to deduct from the Contract Sum amounts paid to the Architect for the Architect to evaluate and respond to the Contractor's requests for interpretation or information where such information was available to the Contractor from a careful study and comparison of the Contract Documents, Filed Conditions, Owner Provided Information, Contractor Prepared Coordination Drawings, or prior Project Correspondence or Documentation.

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§ 3.2.4 If the Contractor believes that ~~additional cost or time is involved because of clarifications or instructions the Architect issues in response to the Contractor's notices or requests for information pursuant to Sections 3.2.2 or 3.2.3, the Contractor shall submit Claims as provided in Article 15. If the Contractor fails to perform the obligations of Sections 3.2.2 or 3.2.3, the Contractor shall pay such costs and damages to the Owner, subject to section 15.1.7, as would have been avoided if the Contractor had performed such obligations. If the Contractor performs those obligations, the Contractor shall not be liable to the Owner or Architect for damages resulting from errors, inconsistencies or omissions in the Contract Documents, for differences between field measurements or conditions and the Contract Documents, or for nonconformities of the Contract Documents to applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities.~~any portions of the Contract Documents do not comply with applicable laws, statutes, ordinances, building codes, and rules and regulations, or any orders by code enforcement officials or the Owner or its designees acting in the capacity of building code inspectors or Referenced Standards, the Contractor must promptly notify the Owner and the Architect of the non-compliance as provided in Section 3.2.6 and request direction before proceeding with the affected Work.

§ 3.2.5 The Contractor must promptly notify the Owner and the Architect in writing of any apparent errors, inconsistencies, omissions, ambiguities, construction impracticalities or code violations discovered as a result of the Contractor's review of the Contract Documents including any differences between actual and indicated dimensions, locations and descriptions, and must give the Owner and the Architect timely notice in writing of same and of any corrections, clarifications, additional Drawings or Specifications, or other information required to define the Work in greater detail or to permit the proper progress of the Work. The Contractor must provide similar notice with respect to any variance between its review of the Site and physical data and Site conditions observed.

§ 3.2.6 If the Contractor performs any Work involving an apparent error, inconsistency, ambiguity, construction impracticality, omission or code violation in the Contract Documents of which the Contractor is aware, or which could reasonably have been discovered by the review required by Section 3.2, without prompt written notice to the Owner and the Architect and request for correction, clarification or additional information, as appropriate, the Contractor does so at its own risk and expense and all Claims relating thereafter are specifically waived.

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§ 3.3.4 The Contractor shall at all times staff the Project adequately to allow the Project to be managed and completed in a timely and professional manner. The Contractor shall have competent supervision on the job during work hours and readily available at all times upon call.

§ 3.3.5 The Contractor shall at all times make reasonable provisions to protect any Work performed by any separate contractors, adjacent property, and the existing building (if any) from damage due to the Work or due to the weather.

§ 3.3.6 The Owner or its approved representative (heretofore referred to as Owner's Representative) shall have access to the Work site and all Work. No supervision or inspection by the Owner or the Owner's Representative, nor the authority to act, nor any other actions taken by the Owner's Representative shall relieve the Contractor of any of its obligations under the Contract Documents or give rise to any duty on the part of the Owner.

§ 3.3.7 The Contract shall take appropriate precautions to ensure that the Work does not materially disrupt any ongoing operation by the Owner at the Project (if any) except to the extent any such disruption is a necessary result of performing a particular portion of the Work, in which case the Contractor shall provide the Owner with reasonable advanced written notice and shall take all commercially reasonable measures to minimize the impact on the Owner and the Owner's operations.

§ 3.4.1 Unless otherwise provided in the Contract Documents, the Contractor shall provide and pay for labor, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation, and other facilities and services necessary for proper execution and completion of the Work, whether temporary or permanent and whether or not incorporated or to be incorporated in the Work. Should the Contract Documents require Work to be performed after regular working hours or should the Contractor elect to perform Work after regular working hours, the additional cost of such Work shall be borne by the Contractor.

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§ 3.4.4 The Contractor shall be responsible for all additional costs incurred to incorporate into the Project substitute materials, products, or equipment approved by Owner during the bidding period.

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§ 3.4.5 In the event of a Change related to substitute or additional materials, and which shall comply with Article 7, the Contractor shall exercise reasonable efforts, consistent with the provisions of the Contract Documents to obtain the maximum available case discounts on all materials, provided that, in doing so, the Contractor shall not accept or use materials for incorporation into the Project which are of a type or quality not reasonably contemplated under the terms of the Contract Documents.

§ 3.4.6 After award of the Contract, a request for substitution of a material, product, or piece of equipment at no change in the Contract Sum will not be approved by the Owner or the Architect, unless the specified item is no longer manufactured, the specified item is unavailable as a result of an act of government such as a declaration of a national emergency, or delivery of the specified items is substantially delayed as a result of labor disputes affecting the manufacturer, unusual delay in transportation, or any other cause beyond control of the Contractor or a Subcontractor or material supplier which the Architect determines justified the delay. Requests will not be approved where the delay in delivery results from failure to promptly place subcontracts and material orders. Requests for substitution shall be submitted in writing to the Architect and shall clearly describe the proposed substitution, state the reason for the unavailability of a specified item and be accompanied by such additional data and information as may be necessary in the discretion of the Owner and the Architect to establish the acceptability of the proposed substitute.

§ 3.4.7 The Owner shall be entitled to deduct from the Contract Sum amounts paid to the Architect to evaluate the Contractor's proposed Substitutions and for changes made to the Contract Documents as a result of Owner's acceptance of such Substitutions.

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§ 3.5.2 All material, equipment, or other special warranties required by the Contract Documents shall be issued in the name of the Owner, or shall be transferable to the Owner, and shall commence in accordance with Section 9.8.4. The Contractor shall arrange for the Owner to have the benefit of and right to enforce all warranties by Subcontractors, Sub-subcontractors, suppliers, and manufacturers.

§ 3.5.3 Manufacturers' warranties and warranties by other shall not relieve the Contractor of any of its responsibilities.

§ 3.5.4 The Contractor's general warranty and any additional or special warranties are not limited by the Contractor's obligations to specifically correct defective or nonconforming Work as provided in Article 12, nor are they limited by any other remedies provided in the Contract Documents. The Contractor shall also be liable for any damage to property or persons (including death) including consequential and direct damages relating to any breach of the Contractor's general warranty or any additional or special warranties required by the Contract Documents.

§ 3.5.5 The Contractor must furnish all special warranties required by the Contract Documents to the Owner no later than Substantial Completion. The Owner may require additional special warranties in connection with the approval of "Or-Equals" or Substitutions, Allowance items, Work that is defective or nonconforming, or the acceptance of nonconforming Work pursuant to Article 12.

...

§ 3.7.1 Unless otherwise provided in the Contract Documents, the Owner, assisted by the Construction Manager, shall secure and pay for the building permit. The Contractor shall secure and pay for other permits, fees, licenses, and inspections by government agencies necessary for proper execution and completion of the Work that are customarily secured after execution of the Contract and legally required at the time bids are received or negotiations concluded. The Contractor shall be responsible for the Sewer Access (SAC) and Water Access (WAC) fees for the Project. The Contractor shall pay the SAC/WAC costs to the authorities having jurisdiction from the Allowance in the Base Bid for such charges as defined in the Construction Documents.

...

§ 3.7.3 If the Contractor performs Work knowing or believing it to be contrary to applicable laws, statutes, ordinances, building codes, rules and regulations, or lawful orders of public authorities, without such notice to the Architect and Owner, the Contractor shall assume ~~appropriate~~ full responsibility for such Work and shall bear the ~~costs attributable~~

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~~to correction.~~attributable costs, delays, and damages resulting from such failure to immediately notify the Architect and Owner of any such violation..

§ 3.7.4 Concealed or Unknown Conditions. If the Contractor encounters conditions at the site that are (1) subsurface or otherwise concealed physical conditions that differ materially from those indicated in the Contract Documents or (2) unknown physical conditions of an unusual nature that differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents, the Contractor shall promptly provide notice to the Owner, Construction Manager, and the Architect before conditions are disturbed and in no event later than ~~14~~ ten (10) days after first observance of the conditions. The Architect and Construction Manager will promptly investigate such conditions and, if the Architect, in consultation with the Construction Manager, determines that they differ materially and cause an increase or decrease in the Contractor's cost of, or time required for, performance of any part of the Work, will recommend that an equitable adjustment be made in the Contract Sum or Contract Time, or both. If the Architect, in consultation with the Construction Manager, determines that the conditions at the site are not materially different from those indicated in the Contract Documents and that no change in the terms of the Contract is justified, the Architect shall promptly notify the Owner, Construction Manager, and Contractor, stating the reasons. If the Owner or Contractor disputes the Architect's determination or recommendation, either party may submit a Claim as provided in Article 15.

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§ 3.9.1 The Contractor shall employ a competent superintendent and necessary assistants who shall be in attendance at the Project site during performance of the ~~Work.~~ Work, including that performed by all Subcontractors. The superintendent shall represent the Contractor, and communications given to the superintendent shall be as binding as if given to the Contractor. Important communications including and not limited to communications regarding design changes, alterations, substitutions, clarifications, cost changes, etc. shall be confirmed in writing by the Contractor. Other communications shall be similarly confirmed on written request in each case.

...

§ 3.9.3 The Contractor shall not employ a proposed superintendent or any other management personnel to whom the Owner, Construction Manager, or Architect has made reasonable and timely objection. The Contractor shall not change the superintendent without the Owner's consent, which shall not unreasonably be withheld or delayed.

§ 3.9.4 If requested by the Owner, the Contractor shall replace the superintendent at no additional cost to the Owner. No other change in this position shall be made without notice to and written consent of the Owner.

...

§ 3.10.1 The Contractor, promptly after being awarded the Contract, shall submit for the Owner's and Architect's information, and the Construction Manager's use in developing the Project schedule, a Contractor's construction schedule for the Work. The schedule shall contain detail appropriate for the Project, including (1) the date of commencement of the Work, interim schedule milestone dates, critical path schedule milestones, major construction milestones, including and not limited to Civil, Demolition, Structural, Mechanical, Electrical, and Plumbing, and the date of Substantial Completion; (2) an apportionment of the Work by construction activity; and (3) the time required for completion of each portion of the Work. The schedule shall provide for the orderly progression of the Work to completion and shall not exceed time limits current under the Contract Documents. The schedule shall be revised at appropriate intervals as required by the conditions of the Work and Project. The Contractor shall cooperate with the Construction Manager in scheduling and performing the Contractor's Work to avoid conflict with, and as to cause no delay in, the work or activities of other Contractors, or the construction or operations of the Owner's own forces or Separate Contractors.

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§ 3.10.4 The Contractor shall perform the Work in general accordance with the most recent schedules submitted to and accepted in writing by the Owner, Construction Manager, and Architect, and incorporated into the approved Project schedule.

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~~The Contractor shall make available, at the Project site, the Contract Documents, including Change Orders, Construction Change Directives, and other Modifications, in good order and marked currently to indicate field changes and selections made during construction, and the approved Shop Drawings, Product Data, Samples, and similar required submittals. These shall be in electronic form or paper copy, available to the Construction Manager, Architect, and Owner, and delivered to the Construction Manager for submittal to the Owner upon completion of the Work as a record of the Work as constructed.~~**§ 3.11.1** The Contractor shall make available, at the Project site, one record copy of the Contract Documents, including Change Orders, Construction Change Directives, and other Modifications, in good order and updated daily to indicate field changes and selections made during construction, and in addition accepted and approved Shop Drawings, Product Data, Samples, and similar required submittals. These shall be in electronic form or paper copy, available to the Construction Manager, Architect, and Owner as required to complete routine inspections by Architect, Construction Manager and Owner prior to any approval of payments to the Contractor, and delivered to the Construction Manager for submittal to the Owner upon completion of the Work. The Architect and Contractor must verify that all "as-built" Drawings, Specifications, Addenda, Change Orders, and other Modifications are up-to-date before Contractor's Application for Payment is acceptable and before the Owner incurs any duty to pay Contractor in accordance with the Contract. The record documents shall be a separate set of documents labeled "Record Documents" and used only for record purposes and kept clean and undamaged.
§ 3.11.2 No review or receipt of such records by the Architect or Owner shall be considered a waiver of any deviation from the Contract Documents or approved shop drawings, or any way relieve the Contractor from its responsibility to perform the Work in accordance with the Contract Documents.
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§ 3.12.5 The Contractor shall review for compliance with the Contract Documents, approve, and submit to the Construction Manager, Shop Drawings, Product Data, Samples, and similar submittals required by the Contract Documents, in accordance with the Project submittal schedule approved by the Construction Manager and Architect or, in the absence of an approved Project submittal schedule, with reasonable promptness and in such sequence as to cause no delay in the Work or in the activities of other Contractors, Separate Contractors, or the Owner's own forces. The Contractor shall cooperate with the Construction Manager in the coordination of the Contractor's Shop Drawings, Product Data, Samples, and similar submittals with related documents submitted by other Contractors. The Contractor must provide the Owner and the Architect with copies of all submittals made to regulatory agencies.

...

§ 3.12.7 The Contractor shall perform no portion of the Work for which the Contract Documents require submittal and review of Shop Drawings, Product Data, Samples, or similar submittals, until the respective submittal has been reviewed and ~~approved by the Architect.~~accepted by the Architect. The Contractor must correct at its cost, and without any adjustment in Contract Time, any Work the correction of which is required due to the Contractor's failure to obtain approval of a submittal required to have been obtained prior to proceeding with the Work, including, but not limited to, correction of any conflicts in the Work resulting from such failure.

§ 3.12.8 The Work shall be in accordance with ~~approved~~ accepted submittals except that the Contractor shall not be relieved of responsibility for deviations from the requirements of the Contract Documents by the Architect's ~~approval~~ acceptance of Shop Drawings, Product Data, Samples, or similar submittals, unless the Contractor has specifically notified the Construction Manager and Architect of such deviation at the time of submittal and (1) the Architect has given written ~~approval~~ acceptance to the specific deviation as a minor change in the Work, or (2) a Change Order or Construction Change Directive has been issued authorizing the deviation. The Contractor shall not be relieved of responsibility for errors or omissions in Shop Drawings, Product Data, Samples, or similar submittals, by the Architect's ~~approval~~ acceptance thereof.

§ 3.12.9 The Contractor shall direct specific attention, in writing or on resubmitted Shop Drawings, Product Data, Samples, or similar submittals, to revisions other than those requested by the Construction Manager and Architect on previous submittals. In the absence of such notice, the Architect's ~~approval~~ acceptance of a resubmission shall not apply to such revisions.
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§ 3.13.3 Except as may be specifically provided in the Contract Documents, the Contractor shall provide all necessary temporary facilities, including power, water, sanitation, scaffolding, storage, and security. If Owner makes any such

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facilities available to Contractor, it is without representation or warranty as to their adequacy for Contractor's use, and Contractor shall indemnify, defend, and hold Owner harmless from and against any claims arising out of Contractor's use of such facilities.

...

§ 3.14.2 The Contractor shall not damage or endanger a portion of the Work or fully or partially completed construction of the Owner, Separate Contractors, or of other Contractors by cutting, patching, or otherwise altering such construction, or by excavation. The Contractor shall not cut or otherwise alter construction by the Owner, Separate Contractors, or by other Contractors except with written consent of the Construction Manager, Owner, and such other Contractors or Separate Contractors. Consent shall not be unreasonably withheld. The Contractor shall hire a professional utilities locator to verify locations of all public and private utilities prior to initiating any cutting work. The Contractor shall not unreasonably withhold, from the Separate Contractors, other Contractors, or the Owner, its consent to cutting or otherwise altering the Work.

...

§ 3.15.1 The Contractor shall keep the premises and surrounding area continuously free from accumulation of waste materials and rubbish caused by operations under the Contract. At completion of the Work, the Contractor shall remove from and about the Project waste materials, rubbish, Contractor-generated waste materials, the Contractor's generated hazardous waste materials, the Contractor's tools, construction equipment, machinery, and surplus materials from and about the Project.

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§ 3.18.1 To the fullest extent permitted by law, the Contractor shall ~~indemnify~~ indemnify, defend and hold harmless the Owner, Construction Manager, Architect, Construction Manager's and Architect's consultants, and agents and employees of any of them from and against claims, damages, losses, and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), but only to the extent caused by the negligent acts or omissions of the Contractor, a Subcontractor, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss, or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity ~~that~~ which would otherwise exist as to a party or person described in this Section 3.18. The Contractor, furthermore, agrees to obtain, maintain, and pay for such general liability coverage and endorsements (including product and completed operations coverage) as will ensure the provisions of this Section 3.18.1. The Contractor agrees to reimburse the Owner, its agents and employees for all costs and disbursements, including attorneys' fees, paid or incurred to enforce the provisions of this Section 3.18.1.

...

§ 3.18.3 To the fullest extent permitted by law and without limiting any other indemnification obligations of the Contractor, except to the extent caused by the uncured failure of the Owner to make payment when due and owing, the Contractor shall indemnify and defend the Owner, its officers, directors, assigns, lenders, agents, and employees from any liens, charges (including attorneys' fees) or encumbrances (including but not limited to mechanic's and materialmen's liens or bond claims) arising out of or in connection with the performance of the Work by Contractor, its Subcontractors, or its material suppliers. Upon request of the Owner, the Contractor shall within sixty (60) days remove any liens filed against the Owner or its property. If the Contractor fails to do so, the Owner is authorized by the Contractor to remove or satisfy any such liens, and the Contractor shall pay to the Owner all costs and damages incurred by the Owner to do so, including attorneys' fees.

...

§ 4.2.1 The Construction Manager and Architect will provide administration of the Contract as described in the Contract Documents and will be the Owner's ~~representatives during construction until the date the Architect issues the final Certificate for Payment.~~ consultants (1) during construction; (2) until final payment is due; and (3) with the

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Owner's concurrence, from time to time during the correction period described in Section 12.2. The Architect and Construction Manager will advise and consult with the Owner. The Construction Manager and Architect will have authority to act on behalf of the Owner only to the extent provided in the Contract ~~Documents.~~Documents, unless otherwise modified in writing in accordance with other provisions of the Contract.

§ 4.2.2 The Architect will visit the site at intervals appropriate to the stage of construction, or as otherwise agreed with the Owner, to become generally familiar with the progress and quality of the ~~portion of the Work completed,~~ Work completed, to endeavor to guard the Owner against defects and deficiencies in the Work, and to determine in general if the Work ~~observed~~ is being performed in a manner indicating that the Work, when ~~fully~~ completed, will be in accordance with the Contract Documents. However, the Architect will not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. On the basis of the site visits, the Architect will keep the Owner and the Construction Manager reasonably informed about the progress and quality of the portion of the Work completed, and promptly report to the Owner and Construction Manager known deviations from the Contract Documents and defects and deficiencies observed in the Work.

§ 4.2.2.2 The Contractor shall reimburse the Owner for compensation paid to the Architect for additional site visits made necessary by fault, neglect, or request of the Contractor.
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§ 4.2.6 Communications. The Owner shall communicate with the Contractor and the Construction Manager's consultants through the Construction Manager about matters arising out of or relating to the Contract Documents. The Owner and Construction Manager shall include the Architect in all communications that relate to or affect the Architect's services or professional responsibilities. The Owner shall promptly notify the Architect of the substance of any direct communications between the Owner and the Construction Manager otherwise relating to the Project. Communications by and with the Architect's consultants shall be through the Architect. Communications by and with Subcontractors and suppliers shall be through the Contractor. Communications by and with other Contractors shall be through the Construction Manager. Communications by and with the Owner's own forces and Separate Contractors shall be through the ~~Owner.~~ Owner unless otherwise provided. The Contract Documents may specify other communication protocols. The Owner may require the Architect, Construction Manager and the Contractor to comply with Owner requirements in regards to public communications and site signage.

...

§ 4.2.8 The Architect and Construction Manager have authority to reject Work that does not conform to the Contract Documents, and will notify each other about the rejection. Whenever the Construction Manager considers it necessary or ~~advisable,~~ advisable for implementation of the intent of the Contract Documents, the Construction Manager will have authority to require additional inspection or testing of the Work in accordance with Sections 13.4.2 and 13.4.3, upon written authorization of the Owner, whether or not the Work is fabricated, installed or completed. The foregoing authority of the Construction Manager will be subject to the provisions of Sections 4.2.18 through 4.2.20 inclusive, with respect to interpretations and decisions of the Architect. However, neither the Architect's nor the Construction Manager's authority to act under this Section 4.2.8 nor a decision made by either of them in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect or the Construction Manager to the Contractor, Subcontractors, suppliers, their agents or employees, or other persons performing any of the Work.
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§ 4.2.11 The Architect ~~will~~ will, and the Owner may, review and approve, or take other appropriate action upon, the Contractor's submittals such as Shop Drawings, Product Data, and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Architect's ~~action will be taken in accordance with the submittal schedule approved by the Architect or, in the absence of an approved submittal schedule, with reasonable promptness~~ or Owner's action will be taken with such reasonable promptness as to cause no delay in the Work or in the activities of the Owner, Contractor or separate contractors, while allowing sufficient time in the Architect's professional judgment to permit adequate review. Upon the Architect's or the Owner's completed review, the Architect shall transmit its submittal review to the Construction Manager.
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§ 4.2.18 The Architect will interpret and decide matters concerning performance ~~under, and~~ under the requirements of, the Contract Documents on written request of the Construction Manager, Owner, or Contractor through the Construction Manager. The Architect's response to such requests will be made ~~in writing within any time limits agreed upon or otherwise with reasonable promptness.~~ with reasonable promptness and within any time limits agreed upon. If no agreement is made concerning the time within which interpretations required of the Architect shall be furnished in compliance with this Section 4.2.18, then delay shall not be recognized on account of failure by the Architect to furnish such interpretations until fifteen (15) days after written request is made to them.

§ 4.2.19 ~~Interpretations and decisions of the Architect will be consistent with the intent of, and reasonably inferable from, the Contract Documents and will be in writing or in the form of drawings. When making such interpretations and decisions, the Architect will endeavor to secure faithful performance by both Owner and Contractor, will not show partiality to either, and will not be liable for results of interpretations or decisions so rendered in good faith.~~Architect's decisions on matters relating to aesthetic effect will be final if consistent with the intent expressed in the Contract Documents.

§ 4.2.20 ~~The Architect's decisions on matters relating to aesthetic effect will be final if consistent with the intent expressed in the Contract Documents.~~Architect will review and respond to requests for information about the Contract Documents. The Architect's response to such requests will be made in writing within any time limits agreed upon or otherwise with reasonable promptness. If appropriate, the Architect will prepare and issue supplemental Drawings and Specifications in response to the requests for information.

~~**§ 4.2.21** The Construction Manager will receive and review requests for information from the Contractor, and forward each request for information to the Architect, with the Construction Manager's recommendation. The Architect will review and respond in writing, through the Construction Manager, to requests for information about the Contract Documents. The Construction Manager's recommendation and the Architect's response to each request will be made in writing within any time limits agreed upon or otherwise with reasonable promptness. If appropriate, the Architect will prepare and issue supplemental Drawings and Specifications in response to the requests for information.~~

...

§ 5.2.1 Unless otherwise stated in the Contract Documents, the Contractor, as soon as practicable after award of the Contract, shall notify in writing the Construction Manager, for review by the Owner, Construction Manager and Architect, of the persons or entities proposed for each principal portion of the Work, including those who are to furnish materials or equipment fabricated to a special design. Within 14 days of receipt of the information, the Construction Manager may notify the Contractor whether the Owner, the Construction Manager or the Architect (1) has reasonable objection to any such proposed person or entity or, (2) requires additional time for review. Failure of the Construction Manager to provide notice within the 14-day period shall constitute notice of no reasonable objection. The Contractor shall not employ any Subcontractor or use any material to which the Architect, Construction Manager or Owner may object. Prior to the employment of any Subcontractor, the Contractor must obtain the Owner's approval of such Subcontractor for the designated portion of the Work.

...

§ 5.2.3 If the Owner, Construction Manager or Architect has reasonable objection to a person or entity proposed by the Contractor, the Contractor shall propose another to whom the Owner, Construction Manager or Architect has no reasonable objection. ~~If the proposed but rejected Subcontractor was reasonably capable of performing the Work, the Contract Sum and Contract Time~~ The Contract Sum shall be increased or decreased by the ~~difference, if any,~~ difference in cost occasioned by such change, and an appropriate Change Order shall be ~~issued before commencement of the substitute Subcontractor's Work.~~ issued. However, no increase in the Contract Sum or Contract Time shall be allowed for such change unless the Contractor has acted promptly and responsively in submitting names as required. Notwithstanding the foregoing, the Contractor shall have a continuing duty to the Owner, Construction Manager and Architect to find and propose such persons or entities as shall not result in material increase in the Contract Sum, or a material decrease in the quality of Work contemplated under the Contract Documents.

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§ 5.2.4 The Contractor shall not substitute a Subcontractor, person, or entity for one previously selected if the Owner, Construction Manager or Architect makes reasonable objection to such substitution. Any proposed substitution of a Subcontractor, person, or entity for one previously selected shall be made in a separate writing to the Owner, Construction Manager and Architect. No substitution shall be deemed approved/accepted without written confirmation from the Owner, Construction Manager and Architect. Neither acceptance of, nor objection to a Subcontractor or Sub-subcontractor, material supplier, or other person or organization by the Owner, Construction Manager and Architect shall limit the responsibility of the Contractor to furnish materials, products, equipment, and services in conformance with the requirements of the Contract Documents.

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~~By appropriate written agreement, the Contractor shall require each Subcontractor, to the extent of the Work to be performed by the Subcontractor, to be bound to the Contractor by terms of the Contract Documents, and to assume toward the Contractor all the obligations and responsibilities, including the responsibility for safety of the Subcontractor's Work, that the Contractor, by these Contract Documents, assumes toward the Owner, Construction Manager and Architect. Each subcontract agreement shall preserve and protect the rights of the Owner, Construction Manager and Architect under the Contract Documents with respect to the Work to be performed by the Subcontractor so that subcontracting thereof will not prejudice such rights, and shall allow to the Subcontractor, unless specifically provided otherwise in the subcontract agreement, the benefit of all rights, remedies, and redress against the Contractor that the Contractor, by the Contract Documents, has against the Owner. Where appropriate, the Contractor shall require each Subcontractor to enter into similar agreements with Sub-subcontractors. The Contractor shall make available to each proposed Subcontractor, prior to the execution of the subcontract agreement, copies of the Contract Documents to which the Subcontractor will be bound, and, upon written request of the Subcontractor, identify to the Subcontractor terms and conditions of the proposed subcontract agreement that may be at variance with the Contract Documents. Subcontractors will similarly make copies of applicable portions of such documents available to their respective proposed Sub-subcontractors.~~**§ 5.3.1** By appropriate written agreement, the Contractor shall require each Subcontractor, to the extent of the Work to be performed by the Subcontractor, to be bound to the Contractor by terms of the Contract Documents, and to assume toward the Contractor all the obligations and responsibilities, including the responsibility for safety of the Subcontractor's Work, that the Contractor, by these Contract Documents, assumes toward the Owner, Construction Manager and Architect. Each subcontract agreement shall preserve and protect the rights of the Owner, Construction Manager and Architect under the Contract Documents with respect to the Work to be performed by the Subcontractor so that subcontracting thereof will not prejudice such rights, and shall allow to the Subcontractor, unless specifically provided otherwise in the subcontract agreement, the benefit of all rights, remedies, and redress against the Contractor that the Contractor, by the Contract Documents, has against the Owner. Where appropriate, the Contractor shall require each Subcontractor to enter into similar agreements with Sub-subcontractors. The Contractor shall make available to each proposed Subcontractor, prior to the execution of the subcontract agreement, copies of the Contract Documents to which the Subcontractor will be bound, and, upon written request of the Subcontractor, identify to the Subcontractor terms and conditions of the proposed subcontract agreement that may be at variance with the Contract Documents. Subcontractors shall similarly make copies of applicable portions of such documents available to their respective proposed Sub-subcontractors.

§ 5.3.2 The Contractor is responsible for the performance of, the actions of, the timeliness of, or interference caused by, Subcontractors, Sub-subcontractors (of any tier), and others directly or indirectly under contract to the Contractor.

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§ 6.2.2 If part of the Contractor's Work depends for proper execution or results upon construction or operations by the Owner's own forces, Separate Contractors or other Contractors, the Contractor shall, prior to proceeding with that portion of the Work, promptly notify the Construction Manager and Architect of apparent discrepancies or defects in the construction or operations by the Owner or Separate Contractor or other Contractors that would render it unsuitable for proper execution and results of the Contractor's Work. Failure of the Contractor to notify the Construction Manager and the Architect of apparent discrepancies or defects prior to proceeding with the Work shall constitute an acknowledgment that the Owner's or Separate Contractor's or other Contractors' completed or partially completed construction is fit and proper to receive the Contractor's Work. The Contractor shall not be responsible for discrepancies or defects in the construction or operations by the Owner or Separate Contractors or other Contractors that are not ~~apparent.~~reasonably discoverable.

§ 6.2.3 ~~The Contractor shall reimburse the Owner for costs the Owner incurs, including costs that are payable to a Separate Contractors or to other Contractors, because of the Contractor's delays, improperly timed activities or~~

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~~defective construction. The Owner shall be responsible to the Contractor for costs the Contractor incurs because of delays, improperly timed activities, damage to the Work or defective construction by the Owner's own forces, Separate Contractors, or other Contractors.~~Costs caused by delays or by improperly timed activities or defective construction shall be borne by the party responsible therefor.

...

§ 6.2.5 ~~The Owner, Separate Contractors, and other Contractors shall have the same responsibilities for cutting and patching as are described for the Contractor in Section 3.14.~~Claims and other disputes and matters in question between the Contractor and a separate contractor shall be subject to the provisions of Article 15 provided the separate contractor has reciprocal obligations.

§ 6.2.6 The Owner, Separate Contractors, and other Contractors shall have the same responsibilities for cutting and patching as are described for the Contractor in Section 3.14.

...

If a dispute arises among the Contractor, Separate Contractors, other Contractors, and the Owner as to the responsibility under their respective contracts for maintaining the premises and surrounding area free from waste materials and ~~rubbish, the Owner may clean up and the Construction Manager, with notice to the Architect, will allocate the cost among those responsible.~~rubbish as described in Section 3.15, the Owner may clean up allocate the cost among those responsible as the Architect determines to be just..

...

§ 7.1.2 A Change Order shall be based upon agreement among the Owner, Construction Manager, Architect and Contractor. A Construction Change Directive requires agreement by the Owner, Construction Manager and Architect and may or may not be agreed to by the Contractor. ~~An order for a minor change in the Work may be issued by the Architect alone.~~

...

§ 7.1.4 The amount of credit to be allowed by the Contractor to the Owner for any deletion or change which results in a net decrease in the Contract Sum will be the amount of the actual net cost as confirmed by the Architect after consultation with the Owner and Construction Manager. When both additions and credits covering related Work or substitutions are involved in any one change, the allowance for both overhead and profit shall be figured on the basis of the net increase or decrease, if any, with respect to that change.

§ 7.1.5 In Section 7.3.6, the allowance for the combined overhead and profit included in the total cost to the Owner shall be based on the following schedule:

.1 For the Contractor, for Work performed by the Contractor's own forces, ten percent (10%) of the cost;

.2 For the Contractor, for Work performed by the Contractor's Subcontractor, five percent (5%) of the amount due the Subcontractor;

.3 For each Subcontractor or Sub-subcontractor involved for Work performed by the Subcontractor's or Sub-subcontractor's own forces, ten percent (10%) of the cost;

.4 For each Subcontractor for Work performed by the Subcontractor's Sub-subcontractor, five percent (5%) of the amount due the Subcontractor;

.5 Costs to which overhead and profit is to be applied shall be determined in accordance with Section 7.3.6;

.6 In order to facilitate checking of quotations for extras or credits, all proposals, expect those so minor that their propriety can be seen by inspection, shall be accompanied by a complete itemization of costs, including labor, materials and subcontracts. Labor and materials shall be itemized in the manner prescribed above. Where major cost items are subcontracts, they shall be itemized also. In no case will a change involving over $500 be approved without such itemization.

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§ 7.2 Change Orders and Change Proposals

~~A Change Order is a written instrument prepared by the Construction Manager and signed by the Owner, Construction Manager, Architect, and Contractor, stating their agreement upon all of the following:~~**§ 7.2.1** A Change Order is a written instrument prepared by the Construction Manager and signed by the Owner, Construction Manager, Architect, and Contractor, stating their agreement upon all of the following:

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.3 The extent of the adjustment, if any, in the Contract Time.

§ 7.2.2 Change Order shall be prepared on AIA Document G731.

§ 7.2.3 The Contractor must submit Change Proposals covering a contemplated Change Order within ten (10) days after request of the Owner, or the Architect or within ten (10) days of the event, or Contractor's discovery of a condition, whichever is earlier, giving rise to the Contractor's claim for a change in the Contract Sum or Contract Time. No increase in the Contract Sum or extension of the Contract Time will be allowed the Contractor for the cost or time involved in making Change Proposals. Change Proposals will define or confirm in detail the Work which is proposed to be added, deleted, or changed and must include any adjustment which the Contractor believes to be necessary in (i) the Contract Sum, or (ii) the Contract Time. Any proposed adjustment must include detailed documentation including, but not limited to: cost, properly itemized and supported by sufficient substantiating data to permit evaluation including cost of labor, materials, supplies and equipment, rental cost of machinery and equipment, additional bond cost, plus a fixed fee for profit and overhead (which includes office overhead and Site-specific overhead and general conditions) of ten percent (10%) if the Work is performed by the Contractor, or five percent (5%) if the Work is performed by a Subcontractor or Sub-subcontractor. The Subcontractor's or Sub-subcontractor's overhead and profit in turn must not exceed a total aggregate of ten percent (10%). Change Proposals will be binding upon the Contractor and may be accepted or rejected by the Owner in its discretion. The Owner may, at its option, instruct the Contractor through a Construction Change Directive to proceed with the Work involved in the Change Proposal in accordance with Section 7.3 without accepting the Change Proposal in its entirety.

§ 7.2.4 If the Owner determines that a Change Proposal is appropriate, the Architect will prepare and submit a request for a Change Order or Contract Amendment providing for an appropriate adjustment in the Contract Sum or Contract Time, or both, for further action by the Owner. No such change is effective until the Owner and Architect sign the Change Order.

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§ 7.3.4 If the Contractor does not respond promptly or disagrees with the method for adjustment in the Contract Sum, the Owner and the Construction Manager shall determine the adjustment on the basis of reasonable expenditures and savings of those performing the Work attributable to the change, including, in case of an increase in the Contract Sum, an amount for overhead and profit as set forth in the Agreement, or if no such amount is set forth in the Agreement, a reasonable amount. In such case, and also under Section 7.3.3.3, the Contractor shall keep and present, in such form as the Construction Manager may prescribe, an itemized accounting together with appropriate supporting data. Unless otherwise provided in the Contract Documents, costs for the purposes of this Section 7.3.4 shall be limited to the following:

...

.3 Rental costs of machinery and equipment, exclusive of hand tools, whether rented from the Contractor or ~~others;~~others (at rates approved by the Owner);

...

§ 7.3.7 A Construction Change Directive signed by the Contractor indicates the Contractor's agreement therewith, including adjustment in Contract Sum and Contract Time or the method for determining them. Such agreement shall be effective ~~immediately and shall be recorded as a Change Order.~~immediately.

...

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§ 7.3.9 Pending final determination of the total cost of a Construction Change Directive to the Owner, the Contractor may request payment for Work completed under the Construction Change Directive in Applications for ~~Payment.~~ Payment up to and not exceeding $25,000. The Construction Manager and Architect will make an interim determination for purposes of monthly certification for payment for those costs and certify for payment the amount that the Construction Manager and Architect determine to be reasonably justified. The interim determination of cost shall adjust the Contract Sum on the same basis as a Change Order, subject to the right of either party to disagree and assert a Claim in accordance with Article 15.

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The Architect may order minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. The Architect's order for minor changes shall be in ~~writing.~~ writing and approved by the Owner. If the Contractor believes that the proposed minor change in the Work will affect the Contract Sum or Contract Time, the Contractor shall notify the Construction Manager and shall not proceed to implement the change in the Work. If the Contractor performs the Work set forth in the Architect's order for a minor change without prior notice to the Construction Manager that such change will affect the Contract Sum or Contract Time, the Contractor waives any adjustment to the Contract Sum or extension of the Contract Time.

...

§ 8.1.2 The date of commencement of the Work is the date established in the Agreement. The date shall not be postponed by the failure to act of the Contractor or of persons or entities for whom the Contractor is responsible.

...

§ 8.1.4 The term "day" ~~as used in the Contract Documents shall mean calendar day unless otherwise specifically defined.~~shall mean calendar day of 24 hours beginning at 12:00 midnight. Calendar days as stated in the Contract Documents, shall include all days of a seven (7) day week including Saturdays, Sundays, and holidays. The term "Milestone Date" is, in each instance, the date established in the Contract Documents for the Substantial completion of all or a designated portion of the Work.

...

§ 8.2.3 The Contractor shall proceed expeditiously with adequate forces and shall achieve Substantial Completion within the Contract ~~Time.~~Time and shall achieve specific contractual Milestone Dates (if any), Substantial Completion and final Completion within the time stated in the Contract Documents.

§ 8.2.4 Contractor understands and agrees that all Work must be performed in an orderly and closely coordinated sequence so that the dates for Substantial Completion, Final Completion, and Milestone Dates (if any) may be met by the Contractor.

§ 8.2.5 Timely final completion of the Project is of critical importance to the Owner. The Contractor agrees that it shall substantially complete all Work under the Contract documents within the time established herein and that it shall finally complete the Work in the detail required and in the time required by the Contract Documents.

§ 8.2.6 To the extent that the Contract Documents contain or provide for specific contractual Milestone Dates in addition to Final and Substantial Completion dates, such dates shall be adhered to and shall be the last acceptable dates for those milestones and completions, unless modified by the Owner.

§ 8.2.7 Notwithstanding anything to the contrary contained in the Contract Documents, in the event that any Contractor fails, or appears likely, in the reasonable opinion of the Owner and Construction Manager, to fail to complete a critical portion of their Work on time or to complete any dates for Substantial Completion, Final Completion, or Milestone Dates as evidenced by the latest update of the CPM Schedule Report, the Owner shall have the right to select and require Contractor's performance under any or all of the following operations:

.1 Require the Contractor to substantiate their capability to get back on schedule within two (2) days;

.2 Require the Contractor, at no additional cost to the Owner, to increase their work force, work overtime and/or extra shifts and do whatever else is required by the Owner until the Contractor gets

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back on schedule as established by the CPM Schedule Report (including any updates thereto);

.3 Withhold progress payments or portions thereof until such time as the contractor returns to schedule, but only related to Substantial Completion or Final Completion;

.4 Contact or visit the factory, plant, or distribution center whose production or delivery schedule may be critical to the scheduled completion of a portion of the contract work and expedite such production delivery at Contractor's expense; or

.5 Require the Contractor to complete, in detail, and submit weekly a Short Interval Schedule (SIS) showing: (1) planning for the next two weeks; (2) work completed for the previous week; (3) sufficient detail to evaluate daily milestone (if any) and manpower/equipment loading, and shall identify/tie into the monthly updated CPM Schedule Report.

Any costs incurred by the Contractor in fulfilling the option(s) selected by the Owner shall be at the Contractor's expense.

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§ 8.3.1 If the Contractor is delayed at any time in the ~~commencement or~~ progress of the Work by (1) an act or neglect of the Owner, Architect, Construction Manager, or an employee of any of them, or of the Owner's own forces, Separate Contractors, or other Contractors; (2) by changes ordered in the Work; (3) by labor disputes, fire, unusual delay in deliveries, unavoidable casualties, adverse weather conditions documented in accordance with Section 15.1.6.2, or other causes beyond the Contractor's control; ~~(4) by delay authorized by the Owner pending mediation and binding dispute resolution; or (5)~~ or (4) by other causes that the Contractor asserts and the Architect, based on the recommendation of the Construction Manager, determines justify delay, then subject to the conditions hereinafter set forth, the Contract Time shall be extended by Change Order for such reasonable time as the Architect may determine. Requests for extensions of time for causes enumerated above will be considered by the Architect subject to the following:

.1 Only those conditions enumerated above over which the Contractor has no control will be considered. The burden of proof to substantiate the claim for an extension shall rest with the Contractor, including evidence that the cause was beyond their control. It shall be deemed the Contractor has control over the supply of labor, materials, equipment, methods, techniques, and over their Subcontractors and suppliers;

.2 In the event of Changes in the Work, any consideration for a time extension will be made only at the time of authorizing the changes, and no later than when the Change Order is prepared, and only if the Change Order significantly affects the time and progress of the entire Work. For changes which do not affect the entire Work, time extension may be granted only for the area, phase, unit, or element affected by the change, if due to a valid reason for a time extension;

.3 Any unusual delay in deliveries will not be considered unless it is solely due to transportation issues wholly outside of Contractor's, Subcontractor's, Sub-subcontractor's or Supplier's control. An extension of time will not be granted for delays in deliveries where said delivery was not properly scheduled or when orders were not promptly and properly placed;

.4 With respect to a claim for an extension of time as a result of climatic conditions, the Contractor shall recognize the location of the site and the existence, as normal, or variations from "average" conditions. Foul weather in itself will not be a valid reason for a time extension. Requests for time extensions because of delay resulting from weather extremes will not be considered unless a substantial variation from usual weather conditions occurs for a significant period of time, during phases of the Work when operation necessarily were suspended to a significant degree when they would otherwise have been in progress. In considering the time extension, the weather conditions both before and after the period in which the delay is claimed will be evaluated with credit given to Owner for unseasonably favorable weather;

.5 Delays resulting from a labor dispute will not result in a time extension of a longer period than the dispute, plus a reasonable time for mobilization if justified and necessary as approved by the Architect, and may be less depending on the impact of the dispute, including what operations were suspended or curtailed;

.6 No time extension will be granted as a result of improper scheduling or for failure to have shop drawings or samples submitted in ample time for review under a reasonable and agreed upon schedule; or

.7 Delays by Subcontractors or suppliers will not be considered justification for a time extension, except for the same valid reasons and conditions enumerated under Section 8.3.1.

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§ 8.3.4 The Contractor shall be responsible for all Owner incurred costs associated with a Contractor related to delay in completion of the Project. These costs may include, but are not limited to, Owner staff overtime, Consultant additional fees, additional testing, and/or additional rental or storage costs. A Change Order or Construction Change Directive will be issued to cover these costs. If a Change Order is not agreed to by the Contractor, the Owner, after presenting documentation to the Contractor, may deduct these amounts without a Change Order from the Contract Sum.

...

~~Where the Contract is based on a stipulated sum or Guaranteed Maximum Price, the Contractor shall submit a schedule of values to the Construction Manager, before the first Application for Payment, allocating the entire Contract Sum to the various portions of the Work. The schedule of values shall be~~ Before the first Application for Payment, the Contractor shall submit to the Architect and Construction Manager a schedule of values allocated to various portions of the Work, prepared in the form, and supported by the data to substantiate its accuracy, required by the Construction Manager and the Architect. ~~This~~ The schedule, unless objected to by the Construction Manager or Architect, shall be used as a basis for reviewing the Contractor's Applications for Payment. The Construction Manager shall forward to the Architect the Contractor's schedule of values. Any changes to the schedule of values shall be submitted to the Construction Manager and supported by such data to substantiate its accuracy as the Construction Manager and the Architect may require, and unless objected to by the Construction Manager or the Architect, shall be used as a basis for reviewing the Contractor's subsequent Applications for Payment. The Contractor, after receipt of Notice to Proceed, shall meet with the Owner, Construction Manager and the Architect for the purpose of reviewing the Project CPM Schedule and the Contract Schedule of Values. The Contractor shall develop a CPM Schedule for completing their portion of the Work, in conjunction with all other Contractors or Bid Packages, at the Pre-Construction Meeting(s). The Schedule of Values is to be broken down into specification sections and by labor and materials.

...

§ 9.3.1 At least fifteen days before the date established for each progress payment, the Contractor shall submit to the Construction Manager an itemized Application for Payment ~~prepared in accordance with the schedule of values, if required under Section 9.2, for completed portions of the Work. The application shall be notarized, if required,~~ for operations completed in accordance with the Schedule of Values. Such application shall be notarized and supported by all data substantiating the Contractor's right to payment that the Owner, Construction Manager or Architect require, such as copies of requisitions, and releases of waivers of lien from Subcontractors and ~~suppliers, and shall reflect retainage if provided for in the Contract Documents.~~material suppliers, and reflecting retainage if provided for elsewhere in the Contract Documents. The form of Application for Payment shall be a notarized AIA Document G732–2019, Application and Certificate for Payment, supported by AIA Document G703–1992, Continuation Sheet.

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§ 9.3.1.2 ~~Applications for Payment~~ Such applications shall not include requests for payment ~~for portions of the Work for which the~~ of amounts the Contractor does not intend to pay a Subcontractor ~~or supplier,~~ or supplier because of a dispute or other reason, unless such Work has been performed by others whom the Contractor intends to pay.

§ 9.3.1.3 Following certification of the Application for Payment by the Architect and Construction Manager, the Owner shall pay ninety-five percent (95%) of its value, retaining five percent (5%) until Final Completion.

§ 9.3.1.4 Contractor shall provide lien waivers for itself for the current payment application and for Subcontractors, Sub-subcontractors, and suppliers for the previous payment application before the Contractor has earned or has the right to receive payment for the specific items of work or materials covered by the lien waivers. All lien waivers shall be provided in the form required by the Owner. This Section 9.3.1.4 shall not limit other obligations of the Contractor contained elsewhere to provide lien waivers.

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§ 9.3.4 In each Application for Payment, the Contractor shall certify as follows:

"That there are no known mechanics' or materialmen's liens or stop notice claims outstanding by the application or any of its subcontractors of any tier, or any of the applicant's or subcontractor's material suppliers, or laborers at the date of this application, that all due and payable bills with respect to the Work have been paid or are included in the amount requested in current application, and that, except for such bills, not paid by Owner, but so included, there is no known basis for the filing of any mechanics' or materialmen's liens or stop notice claims on the Work, and that waivers from Contractor, its subcontractors of any tier, or any of the applicant's or subcontractor's material suppliers and laborers have been obtained in such form as to constitute an effective waiver of liens or stop notice claims, under the laws of the State of Minnesota to the extent of payments made by Owner to Contractor."

Notwithstanding the foregoing Section 9.3.4, Contractor acknowledges its obligation to provide a Payment Bond in accordance with the Contract Documents, and that Contractor's failure to pay any of its Subcontractors, Sub-subcontractors, suppliers, or laborers will be resolved through a claim under the Payment Bond.

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§ 9.6.1 After the Architect has issued a Certificate for Payment or Project Certificate for Payment, the Owner shall make payment within thirty (30) days of receipt by Owner of Certificate of Payment in the manner and within the time provided in the Contract Documents, and shall so notify the Construction Manager and Architect.

§ 9.6.2 The Contractor shall pay each Subcontractor, no later than seven days after receipt of payment from the Owner, the amount to which the Subcontractor is entitled, reflecting percentages actually retained from payments to the Contractor on account of the Subcontractor's portion of the Work. The Contractor shall, by appropriate agreement with each Subcontractor, require each Subcontractor to make payments to Sub-subcontractors in a similar manner. Per Minnesota Statutes, Section 471.425, within ten (10) days of Contractor's receipt of payment from Owner, the Contractor must pay any Subcontractor for any undisputed services provided by the Subcontractor. The Contractor shall pay interest of one and one-half percent (1-1/2%) per month, or any part of a month, to the Subcontractor on any undisputed amount not paid on time to the subcontractor. The minimum monthly interest penalty payment for an unpaid balance of $100 or more is $10.00. For an unpaid balance of less than $100, the Contractor shall pay the actual interest penalty due to the Subcontractor. Contractor is advised that by reason of Minnesota Statutes, Section 471.425, subd. 4a, if a Subcontractor prevails in a civil action to collect interest penalties from a prime contractor, the Subcontractor must be awarded its costs and disbursements, including attorneys' fees incurred in bringing the action.

...

§ 9.6.5 The Contractor's payments to material and equipment suppliers shall be treated in a manner similar to that provided in Sections 9.6.2, 9.6.3 and 9.6.4.

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If the Construction Manager and Architect do not issue a Certificate for Payment or a Project Certificate for Payment, through no fault of the Contractor, within fourteen days after the Construction Manager's receipt of the Contractor's Application for Payment, or if the Owner does not pay the Contractor within ~~seven~~ thirty (30) days after the date established in the Contract Documents, the amount certified by the Construction Manager and Architect ~~or awarded by binding dispute resolution,~~ then the Contractor may, upon ~~seven~~ ten (10) additional days' notice to the Owner, Construction Manager and Architect, stop the Work until payment of the amount owing has been received. The Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable costs of shutdown, delay and ~~start-up, plus interest as provided for in the Contract Documents.~~start-up which shall be accomplished as provided in Article 7.

...

§ 9.8.1 Substantial Completion is the stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Contract Documents so the Owner can occupy or utilize the Work for its intended ~~use.~~use and when the Architect issues a Certificate of Substantial Completion.

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§ 9.8.2 When the Contractor considers that the Work, or a portion thereof which the Owner agrees to accept separately, is substantially complete, the Contractor shall notify the Construction Manager, and the Contractor and Construction Manager shall jointly prepare and submit to the Architect a comprehensive list of items to be completed or ~~corrected prior to final payment.~~ corrected. The Contractor shall proceed promptly to complete and correct items on the list. Failure to include an item on such list does not alter the responsibility of the Contractor to complete all Work in accordance with the Contract Documents. Upon receipt of the Contractor's list, the Architect, assisted by the Construction Manager, will make an inspection to determine whether the Work or designated portion thereof is substantially complete. If the Architect's inspection discloses any item, whether or not included on the Contractor's list, which is not in accordance with the requirements of the Contract documents, the Contractor shall, before issuance of the Certificate of Substantial Completion, complete or correct such item, upon notification by the Architect. The Contractor shall then submit a request for another inspection by the Architect, assisted by the Construction Manager, to determine Substantial Completion. When the Work or designated portion thereof is substantially complete, the Architect will prepare a Certificate of Substantial Completion which shall establish the date of Substantial Completion, shall establish responsibilities of the Owner and Contractor for security, maintenance, heat, utilities, damage to the Work and insurance, and shall fix the time within which the Contractor shall finish all items on the list accompanying the Certificate. Warranties required by the Contract Document shall commence on the date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion.

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§ 9.8.6 Upon Substantial completion of the Work or designated portion thereof and upon application by the Contractor and certification by the Architect, the Owner shall make payment, reflecting adjustment in retainage, pursuant to Minnesota Statutes, Section 15.72, for such Work or portion thereof as provided in the Contract Documents.

§ 9.8.7 The Architect, assisted by the Construction Manager, shall make one (1) inspection for Substantial Completion and Final Completion in accordance with the AIA Document B101–2017 Owner Architect Agreement. If additional inspections are required due to the Contractor's failure to complete previously listed corrective or uncompleted work, the Architect's expense for conducting such re-inspections and related time in processing, reviewing, and revision of requirements shall be charged to the Contractor and such payment shall be accomplished by a deductive Change Order to the Contractor.

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§ 9.10.1 Upon completion of the Work, the Contractor shall forward to the Construction Manager a notice that the Work is ready for final inspection and acceptance, and shall also forward to the Construction Manager a final Contractor's Application for Payment. Upon receipt, the Construction Manager shall perform an inspection to confirm the completion of Work of the Contractor. The Construction Manager shall make recommendations to the Architect when the Work of all of the Contractors is ready for final inspection, and shall then forward the Contractors' notices and Application for Payment or Project Application for Payment, to the Architect, who will promptly make such inspection. When the Architect finds the Work acceptable under the Contract Documents and the Contract fully performed, the Construction Manager and Architect will promptly issue a final Certificate for Payment or Project Certificate for Payment stating that to the best of their knowledge, information and belief, and on the basis of their observations, on-site visits and inspections, the Work has been completed in accordance with the Contract Documents and that the entire balance found to be due the Contractor and noted in the final Certificate is due and payable. The Construction Manager's and Architect's final Certificate for Payment or Project Certificate for Payment will constitute a further representation that conditions listed in Section 9.10.2 as precedent to the Contractor's being entitled to final payment have been fulfilled.

§ 9.10.2 Neither final payment nor any remaining retained percentage shall become due until the Contractor submits to the Architect through the Construction Manager (1) an affidavit that payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which the Owner or the Owner's property might be responsible or encumbered (less amounts withheld by Owner) have been paid or otherwise satisfied, (2) a certificate evidencing that insurance required by the Contract Documents to remain in force after final payment is currently in ~~effect,~~ effect and will not be cancelled or allowed to expire until at least (60) days' prior written notice has been given to the Owner, (3) a written statement that the Contractor knows of no reason that the insurance will not be renewable to cover the period required by the Contract Documents, (4) consent of surety, if any, to final payment (5) documentation of any special

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warranties, such as manufacturers' warranties or specific Subcontractor warranties, ~~and (6), if required by the Owner,~~ including a summary listing all applicable warranties both standard and extended, itemized by specification section and included at the front of the Operation and Maintenance manuals, and (6) other data establishing payment or satisfaction of obligations, such as receipts and releases and waivers of liens, claims, security interests, or encumbrances arising out of the Contract, to the extent and in such form as may be designated by the Owner. If a Subcontractor refuses to furnish a release or waiver required by the Owner, the Contractor may furnish a bond satisfactory to the Owner to indemnify the Owner against such lien, claim, security interest, or encumbrance. If a lien, claim, security interest, or encumbrance remains unsatisfied after payments are made, the Contractor shall refund to the Owner all money that the Owner may be compelled to pay in discharging the lien, claim, security interest, or encumbrance, including all costs and reasonable attorneys' fees.

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§ 9.11 Damages for Delay

§ 9.11.1 The Contractor shall be responsible for damages incurred by the Owner and any other separate contractors for delay resulting from the Contractor's failure to complete the Work within the contract Time or resulting from the progress of the Work failing to substantially conform to the Project Construction Schedule. These damages are not included in liquidated damages and represent additional direct costs incurred by the Owner for the delay. These damages may include Owner incurred costs for temporary classrooms, temporary facilities, moving of programs, etc.

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~~The Contractor shall be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the performance of the Contract. The Contractor shall submit the Contractor's safety program to the Construction Manager for review and coordination with the safety programs of other Contractors. The Construction Manager's responsibilities for review and coordination of safety programs shall not extend to direct control over or charge of the acts or omissions of the Contractors, Subcontractors, agents or employees of the Contractors or Subcontractors, or any other persons performing portions of the Work and not directly employed by the Construction Manager.~~**§ 10.1.1** The Contractor shall be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the performance of the Contract. The Contractor shall submit the Contractor's safety program to the Construction Manager for review and coordination with the safety programs of other Contractors. The Construction Manager's responsibilities for review and coordination of safety programs shall not extend to direct control over or charge of the acts or omissions of the Contractors, Subcontractors, agents or employees of the Contractors or Subcontractors, or any other persons performing portions of the Work and not directly employed by the Construction Manager.

§ 10.1.2 The Contractor shall comply with all applicable laws and regulations. Notwithstanding any language to the contrary, the Owner shall not have any responsibility for job site inspections or safety recommendations. Any inspections or observations by the Owner, Construction Manager or the Architect are solely for the benefit of the Owner and shall not create any duties or obligations to anyone else.

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If either party suffers injury or ~~damage~~ damages to person or property because of an act or omission of the other party, of any of the other party's employees or agents, or of others for whose acts such party is legally responsible, notice of the injury or damage, whether or not insured, shall be given to the other party within a reasonable time not exceeding ~~21~~ ten (10) days after ~~discovery.~~ first observance. The notice shall provide sufficient detail to enable the other party to investigate the matter. If a Claim for additional cost or time related to this Claim is to be asserted, it shall be filed as provided in Sections 15.1.4 and 15.1.5.

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§ 10.3.1 ~~The Contractor is responsible for compliance with any requirements included in the Contract Documents regarding hazardous materials or substances. If the Contractor encounters a hazardous material or substance not addressed in the Contract Documents and if reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a material or substance, including but not limited to asbestos or polychlorinated biphenyl (PCB), encountered on the site by the Contractor, the Contractor shall, upon recognizing the condition, immediately stop Work in the affected area and notify~~ In the event the Contractor encounters on the site material reasonably believed to be asbestos or polychlorinated biphenyl (PCB) which has not been rendered harmless,

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the Contractor shall immediately stop Work in the area affected and report the condition to the Owner, Construction Manager and Architect ~~of the condition.~~in writing. The Work in the affected area shall not thereafter be resumed except by written agreement of the Owner and Contractor if in fact the material is asbestos or polychlorinated biphenyl (PCB) and has not been rendered harmless. The Work in the affected area shall be resumed in the absence of asbestos or polychlorinated biphenyl (PCB), or when it has been rendered harmless, by written agreement of the Owner and Contractor.

.1 Except where otherwise stated in the Contract Documents, no hazardous material work of any nature shall be performed by the Contractor pursuant to this Contract.

.2 The term "hazardous materials" includes, but is not limited to, asbestos, toxic chemicals, acids, alkalis, irritants, contaminants, or other pollutants, together with any other waste, material, substance, pollutants, or contaminant, all or a portion of which is or would be designated as hazardous waste or substance under applicable local, state, or federal laws, ordinances, codes, rules, or regulations.

§ 10.3.2 ~~Upon receipt of the Contractor's notice, the Owner shall obtain the services of a licensed laboratory to verify the presence or absence of the material or substance reported by the Contractor and, in the event such material or substance is found to be present, to cause it to be rendered harmless. Unless otherwise required by the Contract Documents, the Owner shall furnish in writing to the Contractor, Construction Manager and Architect the names and qualifications of persons or entities who are to perform tests verifying the presence or absence of the material or substance or who are to perform the task of removal or safe containment of the material or substance. The Contractor, the Construction Manager and the Architect will promptly reply to the Owner in writing stating whether or not any of them has reasonable objection to the persons or entities proposed by the Owner. If the Contractor, Construction Manager or Architect has an objection to a person or entity proposed by the Owner, the Owner shall propose another to whom the Contractor, the Construction Manager and the Architect have no reasonable objection. When the material or substance has been rendered harmless, Work in the affected area shall resume upon written agreement of the Owner and Contractor. By Change Order, the Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable additional costs of shutdown, delay, and start-up.~~To the fullest extent permitted by law, the Owner shall indemnify and hold harmless the Contractor, Construction Manager, Architect, their consultants, and agents and employees of any of them from and against claims, damages, losses, and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work on Owner's property if in fact the material is asbestos or polychlorinated biphenyl (PCB) and has not been rendered harmless, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), including loss of use resulting therefrom, but only to the extent caused in whole or in part by negligent acts or omissions of the Owner, anyone directly or indirectly employed by the Owner, or anyone for whose acts the Owner may be liable, regardless of whether or not such claim, damage, loss, or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity which would otherwise exist as to a party or person described in this Subparagraph 10.3.2.

§ 10.3.3 ~~To the fullest extent permitted by law, the Owner shall indemnify and hold harmless the Contractor, Subcontractors, Construction Manager, Architect, their consultants, and agents and employees of any of them from and against claims, damages, losses, and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work in the affected area if in fact the material or substance presents the risk of bodily injury or death as described in Section 10.3.1 and has not been rendered harmless, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), except to the extent that such damage, loss, or expense is due to the fault or negligence of the party seeking indemnity.~~If reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a material or substance encountered on the site by the contractor, the Contractor shall, upon recognizing the condition, immediately stop Work on Owner's property and report the condition to the Owner, Construction Manager and Architect in writing. The Owner, Construction Manager, Contractor, and Architect shall then proceed in the same manner described in Subparagraph 10.3.1.

§ 10.3.4 ~~The Owner shall not be responsible under this Section 10.3 for hazardous materials or substances the Contractor brings to the site unless such materials or substances are required by the Contract Documents. The Owner shall be responsible for hazardous materials or substances required by the Contract Documents, except to the extent of the Contractor's fault or negligence in the use and handling of such materials or substances.~~

§ 10.3.5 The Contractor shall reimburse the Owner for the cost and expense the Owner incurs (1) for remediation of hazardous materials or substances the Contractor brings to the site and negligently handles, or (2) where the

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Contractor fails to perform its obligations under Section 10.3.1, except to the extent that the cost and expense are due to the Owner's fault or negligence. Owner shall be responsible for obtaining the services of a licensed laboratory to verify a presence or absence of the material or substance reported by the Contractor and, in the event such material or substance is found to be present, to verify that it has been rendered harmless.

§ 10.3.6 ~~If, without negligence on the part of the Contractor, the Contractor is held liable by a government agency for the cost of remediation of a hazardous material or substance solely by reason of performing Work as required by the Contract Documents, the Owner shall reimburse the Contractor for all cost and expense thereby incurred.~~Regulations concerning the availability of information and employee training in the use and handling of "hazardous substances" and "harmful physical agents", as set forth in the Employee Right-to-Know Act of 1983, Minnesota Statutes, Sections 182.65 to 182.676 are incorporated herein by reference as if fully set forth herein.

§ 10.3.7 The Contractor shall furnish three Material Safety Data Sheets to the Owner for each material used in the Work that is classified by the Employee Right-to-Know Act of 1983 as a "hazardous substance" or a "harmful physical agent."

§ 10.3.8 The Contractor shall label, in generally accepted and/or standardized fashion, all containers on the work site containing "hazardous substances" or as "harmful physical agents." This shall include factory containers and all subsequent containers used in the Work.

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In an emergency affecting safety of persons or property, the Contractor shall ~~act, at the Contractor's discretion,~~ act to prevent threatened damage, injury, or loss. Additional compensation or extension of time claimed by the Contractor on account of an emergency shall be determined as provided in Article 15 and Article 7.

...

§ 11.1.1 The Contractor shall purchase and maintain insurance of the types and limits of liability, containing the endorsements, and subject to the terms and conditions, as described in the ~~Agreement~~ Agreement, in EXH-C Owner Insurance or elsewhere in the Contract Documents. The Contractor shall purchase and maintain the required insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is ~~located.~~ located and which carry a Best's rating of A- or higher or are otherwise acceptable to the Owner. The Owner, Construction Manager and Construction Manager's consultants, and the Architect and Architect's consultants, shall be named as additional insureds under the Contractor's commercial general liability policy or as otherwise described in the Contract Documents.

...

§ 11.1.3 Upon the request of any person or entity appearing to be a potential beneficiary of bonds covering payment of obligations arising under the Contract, the Contractor shall promptly furnish a copy of the bonds or shall authorize a copy to be furnished. The Contractor shall furnish Certificates of Insurance acceptable to the Owner which shall specifically set forth evidence of all coverage required by Article 11 and EXH-C Owner Insurance and shall be filed with the Owner and Construction Manager prior to commencement of the Work and thereafter upon renewal or replacement of each required policy of insurance.

The Contractor shall not allow insurance required by this Agreement to lapse, be canceled, reduced in limits or coverage, non-renewed, or materially changed or have restrictive modifications added during the life of this Agreement, including the periods of required coverage. The Contractor shall furnish to the Owner and Construction Manager copies of any endorsements that are subsequently issued amending coverage and limits.

If any of the foregoing insurance coverages are required to remain in force after final payment and are reasonably available, all additional certificates evidencing continuation of such coverage shall be submitted with the final Application for Payment. Information concerning reduction of coverage shall be furnished by the Contractor with reasonable promptness in accordance with the Contractor's information and belief.

§ 11.1.3.1 Acceptable insurance certificates are AIA Document G705, CICC of Minnesota Form 701, and/or ACORD form of the American Insurance Institute.

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Failure of the Owner to collect certificates does not void the requirements to obtain insurance.

The acceptance of any certificate of insurance by the Owner shall not relieve or decrease the liability of the Contractor hereunder. It is to be understood the Owner, Construction Manager and Architect do not in any way represent that the insurance specified in these articles are sufficient or adequate to protect the Contractor's interest or liabilities, but are merely minimum requirements.

The Contractor shall furnish to the Owner copies of any endorsements that are subsequently issued amending coverage and limits.

§ 11.1.4 ~~Notice of Cancellation or Expiration of Contractor's Required Insurance.~~ ~~Within three (3) business days of the date the Contractor becomes aware of an impending or actual cancellation or expiration of any insurance required by the Contract Documents, the Contractor shall provide notice directly to the Owner, and separately to the Construction Manager, of such impending or actual cancellation or expiration. Upon receipt of notice from the Contractor, the Owner shall, unless the lapse in coverage arises from an act or omission of the Owner, have the right to stop the Work until the lapse in coverage has been cured by the procurement of replacement coverage by the Contractor. The furnishing of notice by the Contractor shall not relieve the Contractor of any contractual obligation to provide any required coverage.~~In the event the Contractor fails to procure or maintain any insurance coverage required under this Agreement, the Owner may purchase such coverage and deduct the cost thereof from any monies due to the Contractor, or terminate this Agreement under Paragraph 14.2. The Contractor shall be liable to the Owner for providing all coverage, defense, and payments that would have been provided by any insurance that the Contractor failed to procure and maintain as required by the Contract Documents.

§ 11.1.5 Compliance by the Contractor with the foregoing insurance requirements shall not relieve it from liability for amounts in excess of the limits of insurance.

§ 11.1.6 The Contractor and any of its Subcontractors, Sub-subcontractors, agents and employees, and any separate contractors described in Article 6, if any, and any of their subcontractors, sub-subcontractors, agents and employees shall waive any of their subrogation rights on their Workers Compensation Policy in favor of the Owner, Construction Manager and Architect. The policies shall provide such waivers of subrogation by endorsement or otherwise. A waiver of subrogation shall be effective as to a person or entity even though that person or entity would otherwise have a duty of indemnification, contractual, or otherwise, did not pay the insurance premium directly or indirectly, and whether or not the person or entity had an insurable interest.
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§ 11.2.1 The Owner shall purchase and maintain insurance of the types and limits of liability, containing the endorsements, and subject to the terms and conditions, as described in the Agreement or elsewhere in the Contract Documents. The Owner shall purchase and maintain the required insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The Owner may self-insure and maintain the Owner's usual liability insurance. Optionally, the Owner may purchase and maintain other insurance for self-protection against claims which may arise from operations under the Contract. The Contractor shall not be responsible for purchasing and maintaining this optional Owner's liability insurance unless specifically required by the Contract Documents.
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~~§ 11.3.2~~ ~~If during the Project construction period the Owner insures properties, real or personal or both, at or adjacent to the site by property insurance under policies separate from those insuring the Project, or if after final payment property insurance is to be provided on the completed Project through a policy or policies other than those insuring the Project during the construction period, to the extent permissible by such policies, the Owner waives all rights in accordance with the terms of Section 11.3.1 for damages caused by fire or other causes of loss covered by this separate property insurance.~~

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§ 11.5.2 Prior to settlement of an insured loss, the Owner shall notify the Contractor of the terms of the proposed settlement as well as the proposed allocation of the insurance proceeds. The Contractor shall have 14 days from receipt of notice to object to the proposed settlement or allocation of the proceeds. If the Contractor does not object, the Owner shall settle the loss and the Contractor shall be bound by the settlement and allocation. Upon receipt, the Owner shall ~~deposit the insurance proceeds in a separate account and~~ make the appropriate distributions. Thereafter, if no other agreement is made or the Owner does not terminate the Contract for convenience, the Owner and Contractor shall execute a Change Order for reconstruction of the damaged or destroyed Work in the amount allocated for that purpose. If the Contractor timely objects to either the terms of the proposed settlement or the allocation of the proceeds, the Owner may proceed to settle the insured loss, and any dispute between the Owner and Contractor arising out of the settlement or allocation of the proceeds shall be resolved pursuant to Article 15. Pending resolution of any dispute, the Owner may issue a Construction Change Directive for the reconstruction of the damaged or destroyed Work.

§ 11.6 Bonds

§ 11.6.1 Contractor shall furnish a Performance Bond and a Payment Bond to the Owner in the amount of one hundred percent (100%) of the Contract Sum and issued by a Surety Company authorized to do business in the State of Minnesota, rated "A" or better, and approved by the Owner. The Performance Bond shall be in accordance with Minnesota Statutory requirements, and shall be in the form included in the Project Manual. The Bonds shall allow for any additions or deductions to the Contract Sum.

§ 11.6.2 In order to be acceptable as a surety, Contractor's bonding company bust hold a "Certificate of Authority acceptable to the U.S. Treasury Department and be listed in the Department's current publication of "Bond Qualifiers" with underwriting limitations not less than ten percent (10%) above the Contract Sum.

§ 11.6.3 The surety of the Bonds shall be by a corporate surety company authorized to do business in the state in which Work is being performed under this Contract and acceptable to the Owner. The conditions of the bonds shall meet requirements of the statutes of the state where Work is being performed and all other applicable provisions of state law.

§ 11.6.4 The Contractor shall furnish two (2) originals of the Bonds to the Owner, with copies to the Architect and Construction Manager, within ten (10) days after notification of award and before execution of the Contract. Failure to do so shall constitute a violation of terms of the proposal and provide grounds for forfeiture of bid security.

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The Contractor shall promptly correct Work rejected by the Construction Manager or Architect or failing to conform to the requirements of the Contract Documents, discovered before Substantial Completion, and whether or not fabricated, installed or completed. ~~Costs~~ The Contractor shall bear costs of correcting such rejected Work, including additional testing and inspections, the cost of uncovering and replacement, and compensation for the Construction Manager's and Architect's services and expenses made necessary ~~thereby, shall be at the Contractor's expense.~~thereby.

...

~~**§ 12.2.2.1** In addition to the Contractor's obligations under Section 3.5, if, within one year after the date of Substantial Completion of the Work or designated portion thereof, or after the date for commencement of warranties established under Section 9.9.1, or by terms of any applicable special warranty required by the Contract Documents, any of the Work is found to be not in accordance with the requirements of the Contract Documents, the Contractor shall correct it promptly after receipt of notice from the Owner to do so, unless the Owner has previously given the Contractor a written acceptance of such condition. The Owner shall give such notice promptly after discovery of the condition. During the one-year period for correction of Work, if the Owner fails to notify the Contractor and give the Contractor an opportunity to make the correction, the Owner waives the rights to require correction by the Contractor and to make a claim for breach of warranty. If the Contractor fails to correct nonconforming Work within a reasonable time during that period after receipt of notice from the Owner, Construction Manager or Architect, the Owner may correct it in accordance with Section 2.5.~~

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~~**§ 12.2.2.2** The one-year period for correction of Work shall be extended with respect to portions of Work first performed after Substantial Completion by the period of time between Substantial Completion and the actual completion of that portion of the Work.~~

~~**§ 12.2.2.3** The one-year period for correction of Work shall not be extended by corrective Work performed by the Contractor pursuant to this Section 12.2.~~

§ 12.2.2.1 If within one year after the date of Substantial Completion of the Work or designated portion thereof, or after the date for commencement of warranties established under Section 9.9.1, or by terms of any applicable special warranty required by the Contract Documents, any of the Work is found to be not in accordance with the requirements of the Contract Documents, the Contractor shall correct it promptly (and any other property damaged or removed in effecting the correction) after receipt of notice from the Owner, Construction Manager or Architect to do so, unless the Owner has previously given the Contractor a written acceptance of such condition. The Owner, Construction Manager or Architect shall give such notice promptly after discovery of the condition. This period of one year shall be extended with respect to portions of Work first performed after Substantial completion by the period of time between Substantial completion and the actual performance of the Work. This obligation under this Subparagraph 12.2.2.1 shall survive acceptance of the Work under the contract and termination of the Contract. The Owner, Construction Manager or Architect shall give such notice promptly after discovery of the condition. The expiration of the above one year or any other specified time period, or any other period prescribed by the law, shall not relieve the Contractor of the obligation form the expense to correct any latent defect in the work or deficiencies which are not readily ascertained, including but not limited to, defective materials and quality of work performed, defects attributable to material substitutions for special materials, substandard performance or otherwise not in compliance with the Contract Documents. Such latent defects or deficiencies shall be corrected as provided in this Paragraph 12.2. Following the correction or replacement of any of the Work, as above specified, the Contractor shall correct any defects or deficiencies in the corrected or replaced materials and workmanship which is found within one year after the date of correction or replacement.

§ 12.2.4 ~~The Contractor shall bear the cost of correcting destroyed or damaged construction of the Owner, Separate Contractors, or other Contractors, whether completed or partially completed, caused by the Contractor's correction or removal of Work that is not in accordance with the requirements of the Contract Documents.~~ If the Contractor fails to correct nonconforming Work within a reasonable time, the Owner may correct it in accordance with Paragraph 2.4. If the Contractor does not proceed with correction of such nonconforming Work within a reasonable time fixed by written notice from the Architect or Construction Manager, the Owner may correct or remove it and store the salvageable materials or equipment all at the Contractor's expense. If the Contractor does not pay costs of such removal and storage within ten (10) days after written notice, the Owner may upon ten (10) additional days' written notice sell such materials and equipment at auction or at private sale and shall account for the proceeds thereof, after deducting costs and damages that should have been borne by the Contractor, the Contract Sum shall be reduced by the deficiency. If payments then or thereafter due the Contractor are not sufficient to cover such amount, the Contractor shall pay the difference to the Owner.

§ 12.2.5 ~~Nothing contained in this Section 12.2 shall be construed to establish a period of limitation with respect to other obligations the Contractor has under the Contract Documents. Establishment of the one-year period for correction of Work as described in Section 12.2.2 relates only to the specific obligation of the Contractor to correct the Work, and has no relationship to the time within which the obligation to comply with the Contract Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Contractor's liability with respect to the Contractor's obligations other than specifically to correct the Work.~~ The Contractor shall bear the cost of correcting destroyed or damaged construction whether completed or partially completed, of the Owner or separate contractors caused by the Contractor's correction or removal of Work which is not in accordance with the requirements of the Contract Documents.

§ 12.2.6 Nothing contained in this Section 12.2 shall be construed to establish a period of limitation with respect to other obligations the Contractor has under the Contract Documents. Establishment of the one-year period for correction of Work as described in Section 12.2.2 relates only to the specific obligation of the Contractor to correct the Work, and has no relationship to the time within which the obligation to comply with the Contract Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Contractor's liability with respect to the Contractor's obligations other than specifically to correct the Work.

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§ 13.4.1 Tests, inspections, and approvals of portions of the Work shall be made as required by the Contract Documents and by applicable laws, statutes, ordinances, codes, rules, and regulations or lawful orders of public authorities. ~~Unless otherwise provided, the Contractor~~ The Owner, Construction Manager or Architect shall make arrangements for such tests, inspections, and approvals with an independent testing laboratory or entity acceptable to the Owner, or with the appropriate public ~~authority, and shall bear all related costs of tests, inspections, and approvals. The Contractor shall give the Construction Manager and Architect timely notice~~ authority. Timely notice shall be given to the Construction Manager and Architect of when and where tests and inspections are to be made so that the Construction Manager and Architect may ~~be present for~~ observe such procedures. The Owner shall bear costs of tests, inspections, or approvals that do not become requirements until after bids are received or negotiations concluded. The Owner shall directly arrange and pay for tests, inspections, or approvals where building codes or applicable laws or regulations so require.

§ 13.4.2 If the Construction Manager, Architect, Owner, or public authorities having jurisdiction determine that portions of the Work require additional testing, inspection, or approval not included under Section 13.4.1, the Construction Manager and Architect will, upon written authorization from the Owner, instruct the Contractor to make arrangements for such additional testing, inspection, or approval, by an entity acceptable to the Owner, and the Contractor shall give ~~timely~~ a minimum of two (2) working days' notice to the Construction Manager and Architect of when and where tests and inspections are to be made so that the Construction Manager and Architect may ~~be present for such procedures. Such~~ observe procedures. The Owner shall bear such costs, except as provided in Section ~~13.4.3, shall be at the Owner's expense.~~13.4.3.

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~~Payments due and unpaid under the Contract Documents shall bear interest from the date payment is due at the rate the parties agree upon in writing or, in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located.~~All payments to the Contractor shall be governed by the Prompt Payment of Local Government Bills, Minnesota Statutes, Section 471.125 ("Prompt Payment Act") and Article 5 of the A132–2019 Agreement on this Project.

§ 13.6 Non-Discrimination

§ 13.6.1 All contracts between the Owner and companies providing goods and services under the Contract Documents shall contain the following equal opportunity and civil right clause:

> "During the performance of this Agreement, the provider agrees to the following: No contractor, material supplier, vendor, or other person shall on the basis of sex, race, creed, color, religion, national origin, age, marital status, sexual orientation, or disability be excluded from full employment rights in, participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program, service, or activity under the provisions of any and all applicable Federal and State laws against discrimination, including the Minnesota Human Rights Act and the Civil Rights Act of 1964."

Upon request, the Contractor shall furnish all information and reports required by the Owner, or by the rules and regulations of investigation to ascertain compliance with all applicable rules and regulations. The Contractor shall also comply with any applicable licensing requirements of the Minnesota Department of Human Services in employment of personnel.

The Contractor acknowledges that the violation of the above-stated paragraph is a misdemeanor pursuant to Minnesota Statutes, Section 181.59.

This Agreement may be cancelled or terminated by the Owner or any other person authorized to grant the contracts for employment under this Agreement, and all money due, or to become due under this Agreement may be forfeited for a second or any subsequent violation of the non-discriminatory terms stated above.

§ 13.6.2 During the completion of the work and all other services required by the Contract Documents, the Contractor agrees that no contractor, material supplier, vendor, or other person shall, on the basis of sex, race, creed, color, religion, national origin, age, marital status, sexual orientation, or disability be excluded from full employment rights in participation in, be denied the benefits of, or be otherwise subjected to discrimination under the provisions of any and all applicable Federal and State laws against discrimination, including the Minnesota Human Rights Act and the

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Civil Rights Act of 1964. Upon request, the Architect, Construction Manager and Contractor shall furnish all information and reports required by the Owner, or by the rules and regulations of investigation to ascertain compliance with all applicable rules and regulations. The Contractor shall also comply with any applicable licensing requirements of the Minnesota Department of Human Services in employment of personnel.

Contractor acknowledges that the violation of the above-states paragraph is a misdemeanor pursuant to Minnesota Statutes Section 181.59.

The Contract Documents may be cancelled or terminated by the Owner or any other person authorized to grant the contracts for employment under this Agreement, and all money due, or to become due under the Agreement may be forfeited for a second or any subsequent violation of the non-discriminatory terms stated above.

§ 13.7 No action or failure to act by the Owner shall constitute a waiver of a right or duty afforded the Owner under the Contract Documents, nor shall such action or failure to act constitute approval of or acquiescence of the Owner in a breach of the Contract Documents, except as may be specifically agreed in writing. None of the approval of any Application for Payment, the making of any payment, the giving of any approval or consent, the use or occupancy of the Work, or any part thereof, the making of final payment, or any other action or inaction on the part of the Owner, Construction Manager or Architect shall constitute a waiver of claims by or rights of the Owner or an acceptance of any Work that is not in accordance with the Contract Documents. The Contractor shall not be relieved from its obligations to perform the Work in accordance with the Contract Documents either by the activities or duties of the representations of the Owner, Construction Manager or Architect, or by inspections, tests, or approvals required or performed by the Owner, Construction Manager or Architect or anyone else.

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§ 14.1.5 No Right to Stop Work for Non-Payment

The Contractor has no right to stop Work as a consequence of non-payment. In the event of any disagreement between the Contractor and Owner involving the Contractor's entitlement to payment, the Contractor's only remedy is to file a Claim in accordance with Article 15. The Contractor must diligently proceed with the Work pending resolution of the Claim. If, however, an Application for Payment has been approved for payment by the Owner, and the Owner fails to make payment within sixty (60) days of the approval for payment by the Owner, the Contractor may upon ten (10) days written notice to the Owner, stop work if payment is not made by the Owner within ten (10) days following the notice.

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§ 14.3.2 The Contract Sum and the Contract Time shall be adjusted for increases or decreases in the cost and time caused by suspension, delay, or interruption under Section 14.3.1. Adjustment of the Contract Sum shall include reasonable profit. No adjustment shall be made to the extent:

...

~~**§ 14.4.3** In case of such termination for the Owner's convenience, the Owner shall pay the Contractor for Work properly executed; costs incurred by reason of the termination, including costs attributable to termination of Subcontracts; and the termination fee, if any, set forth in the Agreement.~~

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§ 15.1.1 Definition. A Claim is a demand or assertion by ~~one of the parties~~ the Contractor seeking, as a matter of right, payment of money, a change in the Contract Time, or other relief with respect to the terms ~~of the Contract. The term "Claim" also includes other disputes and matters in question between the Owner and Contractor arising out~~ of ~~or relating to~~ the Contract. The responsibility to substantiate Claims shall rest with ~~the party making the Claim.~~ the Contractor. Nothing in this paragraph 15.1.1 is intended to apply to or in any way limit the Owner's right to make Claims related to or arising out of the Contract. This Section 15.1.1 does not require the Owner to file a Claim in order to impose liquidated damages in accordance with the Contract Documents.

...

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§ 15.1.3.1 Claims by ~~either the Owner or~~ Contractor, where the condition giving rise to the Claim is first discovered prior to expiration of the period for correction of the Work set forth in Section 12.2.2, shall be initiated by written notice to the ~~other party~~ Owner and to the Initial Decision Maker with a copy sent to the Construction Manager and Architect, if the Architect is not serving as the Initial Decision Maker. Claims by ~~either party~~ the Contractor under this Section 15.1.3.1 shall be initiated within ~~21~~ ten (10) days after occurrence of the event giving rise to such Claim or within ~~21~~ ten (10) days after the ~~claimant~~ Contractor first recognizes the condition giving rise to the Claim, whichever is later. Any additional Claim made after and relating to the initial Claim has been implemented by Change Order will not be considered unless submitted in a timely manner. As a condition to making a claim for additional costs, the Contractor shall maintain and produce accurate records to substantiate all additional costs actually incurred. If a Claim for actual costs is approved, the Owner shall pay the Contractor actual costs incurred, plus either (a) ten percent (10%) for overhead and profit for work performed by the Contractor, or (b) five percent (5%) overhead and profit for work performed by a Subcontractor, as applicable.

§ 15.1.3.2 Claims by either the Owner or Contractor, where the condition giving rise to the Claim is first discovered after expiration of the period for correction of the Work set forth in Section 12.2.2, shall be initiated by written notice to the other party. In such event, no decision by the Initial Decision Maker is required.

...

§ 15.1.4.1 Pending final resolution of a Claim, except as otherwise agreed in writing or as provided in Section 9.7 and Article 14, the Contractor shall proceed diligently with performance of the Contract and the Owner shall continue to make payments in accordance with the Contract Documents. Subject to Paragraph 15.1.5, no such continuing performance by the Contractor, nor payment by the Owner shall be deemed a waiver of, or to otherwise impair any such Claim.

...

§ 15.1.6.1 If the Contractor wishes to make a Claim for ~~an~~ any increase in the Contract Time, notice as provided in Section 15.1.3 shall be given. The Contractor's Claim shall include an estimate of cost and of probable effect of delay on progress of the Work. In the case of a continuing delay only one Claim is necessary.
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~~**§ 15.1.7 Waiver of Claims for Consequential Damages.** The Contractor and Owner waive Claims against each other for consequential damages arising out of or relating to this Contract. This mutual waiver includes~~

- ~~.1 damages incurred by the Owner for rental expenses, for losses of use, income, profit, financing, business and reputation, and for loss of management or employee productivity or of the services of such persons; and~~
- ~~.2 damages incurred by the Contractor for principal office expenses including the compensation of personnel stationed there, for losses of financing, business and reputation, and for loss of profit except anticipated profit arising directly from the Work.~~

~~This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination in accordance with Article 14. Nothing contained in this Section 15.1.7 shall be deemed to preclude assessment of liquidated damages, when applicable, in accordance with the requirements of the Contract Documents.~~

...

§ 15.2.6 ~~Either party may file for mediation of an initial decision at any time, subject to the terms of Section 15.2.6.1.~~In the event of a Claim against the Contractor, the Owner may, but is not obligated to notify the surety, if any, of the nature and amount of the Claim. If the Claim relates to a possibility of a Contractor's default, the Owner may, but is not obligated to notify the surety and initiate a Claim on the performance bond.

~~**§ 15.2.6.1** Either party may, within 30 days from the date of receipt of an initial decision, demand in writing that the other party file for mediation. If such a demand is made and the party receiving the demand fails to file for mediation~~

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~~within 30 days of receipt thereof, then both parties waive their rights to mediate or pursue binding dispute resolution proceedings with respect to the initial decision.~~

~~**§ 15.2.7** In the event of a Claim against the Contractor, the Owner may, but is not obligated to, notify the surety, if any, of the nature and amount of the Claim. If the Claim relates to a possibility of a Contractor's default, the Owner may, but is not obligated to, notify the surety and request the surety's assistance in resolving the controversy.~~

~~**§ 15.2.8** If a Claim relates to or is the subject of a mechanic's lien, the party asserting such Claim may proceed in accordance with applicable law to comply with the lien notice or filing deadlines.~~

§ 15.3.1 ~~Claims, disputes, or other matters in controversy~~ Any claim, dispute or other matter in question or arising out of or related to the ~~Contract, except those waived as provided for in Sections 9.10.4, 9.10.5, and 15.1.7, shall be subject to mediation as a condition precedent to binding dispute resolution.~~Contract shall be subject to mediation. Mediation is not a condition precedent to commencing litigation, but if litigation is commenced before mediation is held, the Parties agree to mediate before any dispositive motions or trial.

§ 15.3.2 The parties shall ~~endeavor to resolve their Claims by mediation which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Mediation Procedures in effect on the date of the Agreement. A request for mediation shall be made in writing, delivered to the other party to the Contract, and filed with the person or entity administering the mediation. The request may be made concurrently with the filing of binding dispute resolution proceedings but, in such event, mediation shall proceed in advance of binding dispute resolution proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order. If an arbitration is stayed pursuant to this Section 15.3.2, the parties may nonetheless proceed to the selection of the arbitrator(s) and agree upon a schedule for later proceedings.~~share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located unless another location is mutually agreed upon. Agreements reached in mediation and ratified by the Owner's Council shall be enforceable as settlement agreements in any court having jurisdiction thereof.

~~**§ 15.3.3** Either party may, within 30 days from the date that mediation has been concluded without resolution of the dispute or 60 days after mediation has been demanded without resolution of the dispute, demand in writing that the other party file for binding dispute resolution. If such a demand is made and the party receiving the demand fails to file for binding dispute resolution within 60 days after receipt thereof, then both parties waive their rights to binding dispute resolution proceedings with respect to the initial decision.~~

~~**§ 15.3.4** The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.~~

~~**§ 15.4 Arbitration**~~

~~**§ 15.4.1** If the parties have selected arbitration as the method for binding dispute resolution in the Agreement, any Claim subject to, but not resolved by, mediation shall be subject to arbitration which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Arbitration Rules in effect on the date of the Agreement. The Arbitration shall be conducted in the place where the Project is located, unless another location is mutually agreed upon. A demand for arbitration shall be made in writing, delivered to the other party to the Contract, and filed with the person or entity administering the arbitration. The party filing a notice of demand for arbitration must assert in the demand all Claims then known to that party on which arbitration is permitted to be demanded.~~

~~**§ 15.4.1.1** A demand for arbitration shall be made no earlier than concurrently with the filing of a request for mediation, but in no event shall it be made after the date when the institution of legal or equitable proceedings based on the Claim would be barred by the applicable statute of limitations. For statute of limitations purposes, receipt of a written demand for arbitration by the person or entity administering the arbitration shall constitute the institution of legal or equitable proceedings based on the Claim.~~

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~~**§ 15.4.2** The award rendered by the arbitrator or arbitrators shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.~~

~~**§ 15.4.3** The foregoing agreement to arbitrate and other agreements to arbitrate with an additional person or entity duly consented to by parties to the Agreement, shall be specifically enforceable under applicable law in any court having jurisdiction thereof.~~

~~**§ 15.4.4 Consolidation or Joinder**~~

~~**§ 15.4.4.1** Subject to the rules of the American Arbitration Association or other applicable arbitration rules, either party may consolidate an arbitration conducted under this Agreement with any other arbitration to which it is a party provided that (1) the arbitration agreement governing the other arbitration permits consolidation, (2) the arbitrations to be consolidated substantially involve common questions of law or fact, and (3) the arbitrations employ materially similar procedural rules and methods for selecting arbitrator(s).~~

~~**§ 15.4.4.2** Subject to the rules of the American Arbitration Association or other applicable arbitration rules, either party may include by joinder persons or entities substantially involved in a common question of law or fact whose presence is required if complete relief is to be accorded in arbitration, provided that the party sought to be joined consents in writing to such joinder. Consent to arbitration involving an additional person or entity shall not constitute consent to arbitration of any claim, dispute or other matter in question not described in the written consent.~~

~~**§ 15.4.4.3** The Owner and Contractor grant to any person or entity made a party to an arbitration conducted under this Section 15.4, whether by joinder or consolidation, the same rights of joinder and consolidation as those of the Owner and Contractor under this Agreement.~~

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Certification of Document's Authenticity

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I, , hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with its associated Additions and Deletions Report and this certification at 15:37:56 CT on 02/03/2025 under Order No. 4104251278 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document A232™ – 2019, General Conditions of the Contract for Construction, Construction Manager as Adviser Edition, other than those additions and deletions shown in the associated Additions and Deletions Report.



(Signed)

Curtis Hartog, Executive Director

(Title)

2/3/2025

(Dated)

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Exhibit B – Project Charter

FY21 North High School Renovations-Bid Pack 4

Work Scope 23-B Combined Mechanical

Description

Perform combined mechanical in accordance with Work Scope 23-B for the North High School Phase 4 renovations

Contract Sum

The Contract Sum shall be $4,392,000

Alternates

Item	Price	Status
Alt #1: Health Office	$457,000	rejected
Alt #2: Athletic and Counseling Offices	$397,000	rejected
Alt #3: Electrical panel replacements	$0	accepted
Alt #4: AHU-41 replacement	$292,000	accepted
Alt #5: Direct digital controls	$511,000	accepted

EXHIBIT C Owner Insurance

Insurance Requirements

1. CONSULTANT'S INSURANCE – to be used with AIA B101-2017, AIA C103-2015, or similar non-contractor consultants:
   The Consultant shall at its own expense maintain in effect at all times during the performance of the Work under the Agreement at least the following coverage and limits of insurance:

   a. Worker's Compensation and Employer's Liability Insurance

      i. Coverage A is statutory.

      ii. Coverage B
      $500,000 Each Accident
      $500,000 Each Employee
      $500,000 Policy Limit (Disease)

   b. Comprehensive General Liability Insurance *

General Aggregate	$1,000,000
Products/Completed Operations Aggregate	$1,000,000
Per Occurrence	$1,000,000
Medical Payments	$10,000

   * The Owner should be named as an additional insured for Comprehensive General Liability Insurance.

   c. Automobile Insurance

Per Occurrence	$1,000,000
PIP	Basic
Underinsured Motorist	$1,000,000
Uninsured Motorist	$1,000,000

   d. Professional Liability Insurance

      i. Per Claim $2,000,000

ii. For projects with an estimated construction Contract Sum of over $10,000,000 or major structural work an aggregate is required as follows:
Aggregate $4,000,000

e. Umbrella Liability Insurance

i. Per Occurrence $2,000,000

ii. For projects with an estimated construction Contract Sum of over $10,000,000 or major structural work an aggregate is required as follows:
Aggregate $2,000,000

f. Manned or Unmanned Aircraft Coverage (if used)

i. Per Claim $1,000,000

ii. Aggregate $1,000,000

For specialty consultants used for commissioning activities, studies, asbestos surveys and security, items A, B, C and F shall apply.

Special Asbestos Abatement Liability Insurance is required for Asbestos Abatement Contractors. The limits are $1,500,000 per claim, for liability arising from the encapsulation, removal, handling, storage, transportation, and disposal of asbestos-containing materials.

2. CONSULTANT'S OBLIGATIONS

Consultant shall not violate or knowingly permit any violation of any conditions or terms of the policies of insurance required to be carried under the terms hereof and shall endeavor to satisfy the requirements of the insurance companies issuing them. In the event Consultant neglects, refuses or fails to provide or maintain any of the insurance required to be carried under the Agreement, or if such insurance is canceled for any reason, the Owner or the Owner's lender(s) shall have the right, but not the duty, to procure or maintain the same.

In the event the Owner or the Owner's lender(s) do procure or maintain such insurance, the Owner or the Owner's lender(s) shall have, in additional to any and all other available remedies, the right to recover from the Consultant (including the right of set-off against sums otherwise due the Consultant) all of the costs associated with procuring or maintaining such insurance.

3. PROFESSIONAL LIABILITY INSURANCE

   a. Professional Liability Coverage of $2,000,000 shall be maintained for one (1) year from the date of Substantial Completion. If the Consultant discontinues its business and if directed by Owner in writing, Consultant shall purchase such insurance in such amount for an extended discovery period beyond the one (1) year after the date of Substantial Completion, with the premium cost to be a reimbursable expense paid by the Owner. The limit of liability for such policy may not be reduced below $2,000,000 without the Owner giving its prior, written consent. All policies of insurance that Consultant is required under the terms of this Exhibit C Owner's Insurance to secure and maintain shall bear the endorsement "Not to be canceled until sixty (60) calendar days after Owner has received a written notice from insurer as evidence by a return receipt of registered or certified mail."

   b. The Owner shall not be responsible for obtaining or paying premiums or other expenses in connection with insurance required to be carried under the Agreement or normally carried by the Consultant's consultants, and the obligation to obtain such insurance and to pay such premiums and other expenses shall be solely that of the Consultant.

   c. The Consultant shall bear all the costs of any and all deductible amounts under any insurance policies required to be carried under the Agreement and shall remain solely and fully liable for the full amount of any claim or item not compensated by insurance (to the extent that any amount resulted from damages that arose out of the Consultant's sole negligence.)

4. COVERAGE
   The coverage's referred to above are set forth in full in the respective policy forms, and the foregoing descriptions of such policies are not intended to be complete.

5. GENERALLY

   a. The Consultant thereby represents and warrants to the Owner that, as of the date of the execution of the Agreement, the Consultant is not aware of any claims or potential claims which have been made, filed or threatened against any of the insurance or for damages covered by any of the insurance required to be carried under the Agreement that would affect the Consultant's ability to provide the insurance coverage required by this agreement.

b. It is understood that the provisions in the Agreement requiring the Consultant to carry insurance shall not be construed as in any manner waiving or restricting the liability of the Consultant as to any obligations imposed under the Agreement, including, but not limited to, obligations imposed under the provisions of Article 11 of the AIA A201-2017 General Conditions.

Insurance requirements for Contractors

1. CONTRACTOR'S INSURANCE – to be used with AIA A101-2017
   The Contractor shall at its own expense maintain in effect at all times during the performance of the Work under the Agreement at least the following coverage and limits of insurance:

   a. Commercial General Liability

      i. General Aggregate $1,500,000

      ii. Products/Completed Operations Aggregate $1,500,000

      iii. Per Occurrence $1,500,000

      The Owner shall be named as additional insured for Commercial General Liability Insurance

   b. Automobile Insurance

      i. Per Occurrence $1,000,000

      ii. PIP Basic

      iii. Underinsured Motorist $1,000,000

      iv. Uninsured Motorist $1,000,000

   c. Workers Compensation

      i. Coverage A is statutory.

      ii. Coverage B $500,000 Each Accident

      iii. $500,000 Each Employee

d. Professional Liability (if the Contractor is hiring professionals)

   i. Per Claim $2,000,000

   For Projects with an estimated construction cost of over $10,000,000 or major structural work, additional Aggregate coverage of $4,000,000 is required.

e. Manned or Unmanned Aircraft Coverage (if used)

   i. Per Claim $1,000,000

   ii. Aggregate $1,000,000

f. Property Insurance

   i. Per Claim $1,000,000

   ii. Aggregate $1,000,000

   This insurance is only required for materials stored offsite and not incorporated into the project at delivery. For material stored on site, no additional insurance is required.

g. Builders “all risk” Insurance

   i. Per Claim $2,000,000

   ii. Aggregate $4,000,000

   This insurance is only required for additions exceeding $10,000,000. Renovations to existing schools are not required to have builders all risk insurance.

h. Umbrella Liability

   i. Aggregate limit $5,000,000

   This insurance is required only for projects larger than $10,000,000 in total construction costs.

Exhibit D – Project Schedule

FY21 North High School Renovations-Bid Pack 4 Work Scope 23-B Combined Mechanical

OP#:25-2512

Description

Perform combined mechanical in accordance with Work Scope 23-B for the North High School Phase 4 renovations.

Schedule

Start Construction: On or about March 2025 but within 5 days of notice to proceed as directed by the Construction Manager. Please refer to schedule provided in Specifications.

To be completed in 2025-June 2025 to August 2025

Base Bid Level 1 Area E

Base Bid Level 2 Area F, Area G, Area E

Area D Bathrooms March 2025 – May 2025 and September 2025 to December 2025.

Base Bid Level 2 Area E classrooms March 2025-May 2025

Base Bid Area Level 1 Area C – June 2026-August 2026

Base Bid Level 2 Area G – June 2026-August 2026

Bae Bid Level2 Area D – January 2026-August 2026

Alternate #3 – March 2025 through August 2026

Alternate #4 – June 2025-August 2025

Alternate #5 – June 2025-August 2026

Substantial Completion: August 21, 2026.

Major School Days

Recordkeeping Day – March 28, 2025

Spring Break – March 31 – April 4, 2025

Memorial Day – May 26, 2025

Last Day of School – June 6, 2025

Juneteenth – June 19, 2025

Independence Day – July 4, 2025

Last day for Staff – June 30, 2025

Labor Day – September 1, 2025

First Day of School – September 2, 2025

Rosh Hashanah – September 23, 2025
Yom Kippur – October 2, 2025
MEA – October 16-17, 2025
Recordkeeping Day – November 4, 2025
Thanksgiving – November 26-28, 2025
Winter Break – December 22, 2025 to January 2, 2026
Martin Luther King Day – January 19, 2026
Recordkeeping Day – January 23, 2026
Presidents Day – February 16, 2026
Professional Development – February 17, 2026
Eid al-Fitr – March 20, 2026
Recordkeeping Day – March 27, 2026
Memorial Day – May 25, 2026
Professional Development – May 26, 2026
Eid al Adha – May 27, 2026
Juneteenth – June 19, 2026
Independence Day – July 4, 2026
Labor Day – September 7, 2026
First day of School – September 8, 2026

Substantial Completion

The Work will be substantially complete on or before August 21, 2026

Contract Summary of Approval

Contract Group: IT Department

Contract Type: Services

VENDOR DETAILS

Vendor Name:	Matrix NDI
Reason Vendor Selected:	State, Cooperative or Joint Power Contract
Vetted/State/Cooperatives End Date:	

CONTRACT INFORMATION

Contract Purpose:	District wide Phone System
Contract Description:	New phone system
Amendment Description:	N/A
Deliverables/Outcomes:	Zoom Licenses – 3 years
Site(s) Affected:	District wide
Effective Start Date:	7/1/2025
Effective End Date:	6/30/2028
Contract Manager:	Tim Wilson

FUNDING INFORMATION

Shopping Cart No.:	TBD
Contract Value:	$975,870.78
Original Contract Amount:	Click or tap to enter text
Accumulative Contract Value:	Click or tap to enter text
Primary Fund Source:	Bond Funds

APPROVED BY

Tim Wilson	Executive Director, IT Services		3/4/2025
LEVEL 1 APPROVER	TITLE	SIGNATURE	DATE
Tom Parent	Senior Information Officer		
LEVEL 2 APPROVER	TITLE	SIGNATURE	DATE

Special School District No. 1
Minneapolis Public Schools
Zoom licenses - 3 year contract with two year renewal
OMNIA SW R191902
March 4, 2025

QTY	DESCRIPTION	Price Per	EXTENDED PRICE
	YEAR 1		
1	Zoom Phone Pay As You Go - Commited Usage - 1 Year Prepay Zoom Video Communications, Inc. - ZP-PROPAYG-USG-1-1YP	$40,263.00	$ 40,263.00
5,000	Zoom Phone Common Area Only - Annual Tier Start: 5000 Tier End 7499 Zoom Video Communications, Inc. - PAR7-ZP-COMM-1YR	$30.00	$ 150,000.00
8,650	Zoom Phone US/Canada Telephone Number Annual Tier 8 (7500-9999 Users) Zoom Video Communications, Inc. - ZP-USCA-TN -7500-1YP	$3.97	$ 34,340.50
83	Zoom Contact Center Essentials Annual Tier Start: 10 Tier End 99 Zoom Video Communications, Inc. - ZCX-ESS-NH -2-1YR	$570.00	$ 47,310.00
2	Zoom US/Canada Virtual Service Phone Number Annual Tier Start: 1 Tier End 9 Zoom Video Communications, Inc. - ZCX-USCAVSN-1-1YR	$60.00	$ 120.00
1	Zoom Contact Center Annual Prepay Monthly Usage Zoom Video Communications, Inc. - ZCX-PAYGUSG-1-1YR	$1,200.00	$ 1,200.00
350	Zoom Phone Pro with Phone Number and US/Canada Unlimited Calling Plan Annual Tier 3 (100-499 Users). Provides 1 US/CA DID per license. Zoom Video Communications, Inc. - ZP-USCA-UN -100-1YP	$99.00	$ 34,650.00
1	USF-Fee (estimate) Zoom Video Communications, Inc. - ZCX-CS200G-1-1YRUSF FEE	$12,196.76	$ 12,196.76
1	ZCX-CS-200G-1-1YR-2 Zoom Contact Center Cloud Storage Annual Prepay 200GB Monthly Usage Zoom Video Communications, Inc. - ZCX-CS200G-1-1YR	$403.00	$ 403.00
1	Admin Fee		$ 4,807.00
	YEAR 1 TOTAL:		**$ 325,290.26**

YEAR 2 and YEAR 3 match this pricing

YEAR 2 SUBTOTAL:	**$**	**325,290.26**
YEAR 3 SUBTOTAL:	**$**	**325,290.26**
THREE YEAR TOTAL	**$**	**975,870.78**

Auto Renew: Yes
Initial Paid Subscription Term: 36 Months
Renewal Subscription Term: 24 Months
Paid Period Start Date: 03/03/2025

Licensee agrees that any order for public sector customers will be governed by the terms and conditions of the Zoom Terms of Service which are found at https://www.carahsoft.com/application/files/3115/7246/0744/Zoom_TOS_-_Final_10.19.pdf as well as Zoom Service's description, located at https://explore.zoom.us/en/services-description/.

The Privacy Policy has been updated and may be found here https://zoomgov.com/privacy.
The Terms of Service for non public sector customers may be found here https://zoom.us/terms as well as Zoom Service's description, located at https://explore.zoom.us/en/services-description/.

Overage charges can be incurred for cloud recording and audio conferencing licenses. Policy and pricing information may be found here https://support.zoom.us/hc/en-us/articles/360060661511-Cloud-recording-storage-capacity https://zoom.us/zoomconference/rates

Please note provisioning of Zoom licenses can take 4-7 business days

Special School District 1 Signature and Date_____

Matrix Signature and Date_____

FY25 Justice Page Middle School Renovation

Contract Sum: $455,500.00

Architect: Miller Dunwiddie

Project Name and Number

Justice Page Middle School Renovation
1 West 49th Street
Minneapolis, MN 55419
Minneapolis Public Schools Project Number 25PAGE001

Description

Provide consulting services for the development of concept schematic design services for improvements to the lower level including the kitchen, cafeteria, gymnasium, and restrooms.

Contract Documents

AIA Document B101-2017
Exhibit A – Project Charter
Exhibit B – Project Design Milestones & Deliverables
Exhibit C – Owner Insurance
Exhibit D – Owner Requirements
AIA Document G202-2013

AIA® Document B101® – 2017

Standard Form of Agreement Between Owner and Architect

AGREEMENT made as of the eleventh day of March in the year 2025
(In words, indicate day, month and year.)

BETWEEN the Architect's client identified as the Owner:
(Name, legal status, address and other information)

Minneapolis Public Schools
Special School District #1
1250 West Broadway Avenue
Minneapolis, MN 55411

and the Architect:
(Name, legal status, address and other information)

Miller Dunwiddie
100 Washington Ave South
Suite 500
Minneapolis, MN 55401

for the following Project:
(Name, location and detailed description)

Justice Page Middle School
1 West 49th Street
Minneapolis, MN 55419

The Owner and Architect agree as follows.

The standards of professional services are set forth in this document and schedule of exhibits as follows:

EXH-A Project Charter
EXH-B Project Design Milestones & Deliverables
EXH-C Owner Insurance
EXH-D Owner Requirements

ADDITIONS AND DELETIONS:
The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

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ARTICLE 1 INITIAL INFORMATION

§ 1.1 This Agreement is based on the Initial Information set forth in this Section 1.1.
(For each item in this section, insert the information or a statement such as "not applicable" or "unknown at time of execution.")

§ 1.1.1 The Owner's program for the Project:
(Insert the Owner's program, identify documentation that establishes the Owner's program, or state the manner in which the program will be developed.)

Defined in EXH-A Project Charter

§ 1.1.2 The Project's physical characteristics:
(Identify or describe pertinent information about the Project's physical characteristics, such as size; location; dimensions; geotechnical reports; site boundaries; topographic surveys; traffic and utility studies; availability of public and private utilities and services; legal description of the site, etc.)

Defined in EXH-A Project Charter

§ 1.1.3 The Owner's budget for the Cost of the Work, as defined in Section 6.1:
(Provide total and, if known, a line item breakdown.)

Defined in EXH-A Project Charter

§ 1.1.4 The Owner's anticipated design and construction milestone dates:

.1 Design phase milestone dates, if any:

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Defined in EXH-B Project Design Milestones & Deliverables

.2 Construction commencement date:

Defined in EXH-A Project Charter and EXH-B Project Design Milestones & Deliverables

.3 Substantial Completion date or dates:

Defined in EXH-A Project Charter

.4 Other milestone dates:

Defined in EXH-B Project Design Milestones & Deliverables

§ 1.1.5 The Owner intends the following procurement and delivery method for the Project:
(Identify method such as competitive bid or negotiated contract, as well as any requirements for accelerated or fast-track design and construction, multiple bid packages, or phased construction.)

Defined in EXH-A Project Charter

§ 1.1.6 The Owner's anticipated Sustainable Objective for the Project:
(Identify and describe the Owner's Sustainable Objective for the Project, if any.)

Sustainable Design solutions which optimize or promote improved energy efficiency, occupant well-being, comfort, health, and improved long-term maintenance serviceability as standard to LEED rating system and B3 requirements are valued. Owner will not pursue LEED certification or complete B3 compliance. The Architect is not required to provide additional services for Sustainable Design.
(Paragraph Deleted)

§ 1.1.6.1 If the Owner identifies a Sustainable Objective, the Owner and Architect shall complete and incorporate AIA Document E204™–2017, Sustainable Projects Exhibit, into this Agreement to define the terms, conditions and services related to the Owner's Sustainable Objective. If E204–2017 is incorporated into this agreement, the Owner and Architect shall incorporate the completed E204–2017 into the agreements with the consultants and contractors performing services or Work in any way associated with the Sustainable Objective.

§ 1.1.7 The Owner identifies the following representative in accordance with Section 5.3:
(List name, address, and other contact information.)

Diedra Geye
Project Manager
Minneapolis Public Schools
1250 West Broadway Avenue
Minneapolis, MN 55411

§ 1.1.8 The persons or entities, in addition to the Owner's representative, who are required to review the Architect's submittals to the Owner are as follows:
(List name, address, and other contact information.)

N/A

§ 1.1.9 The Owner shall retain the following consultants and contractors:
(List name, legal status, address, and other contact information.)

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.1 Geotechnical Engineer:

.2 Civil Engineer:

.3 Other, if any:
(List any other consultants and contractors retained by the Owner.)

Commissioning Agent, Geotechnical Engineer, Special Inspections, Hazardous Materials Abatement, Special Testing, and Investigative Analysis

§ 1.1.10 The Architect identifies the following representative in accordance with Section 2.3:
(List name, address, and other contact information.)

Abby Hammes
Miller Dunwiddie
100 Washington Ave South
Suite 500
Minneapolis, MN 55401
ahammes@millerdunwiddie.com

§ 1.1.11 The Architect shall retain the consultants identified in EXH-A Project Charter.

(Paragraphs Deleted)

§ 1.1.12 Other Initial Information on which the Agreement is based:

Professional Consultant Team as defined in EXH-A Project Charter

§ 1.2 The Owner and Architect may rely on the Initial Information. Both parties, however, recognize that the Initial Information may materially change and, in that event, the Owner and the Architect shall appropriately adjust the Architect's services, schedule for the Architect's services, and the Architect's compensation. The Owner shall adjust the Owner's budget for the Cost of the Work and the Owner's anticipated design and construction milestones, as necessary, to accommodate material changes in the Initial Information.

§ 1.3 The parties shall agree upon protocols governing the transmission and use of Instruments of Service or any other information or documentation in digital form. The parties will use AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, to establish the protocols for the development, use, transmission, and exchange of digital data.

§ 1.3.1 Any use of, or reliance on, all or a portion of a building information model without agreement to protocols governing the use of, and reliance on, the information contained in the model and without having those protocols set

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forth in AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, and the requisite AIA Document G202™–2013, Project Building Information Modeling Protocol Form, shall be at the using or relying party's sole risk and without liability to the other party and its contractors or consultants, the authors of, or contributors to, the building information model, and each of their agents and employees.

ARTICLE 2 ARCHITECT'S RESPONSIBILITIES

§ 2.1 The Architect shall provide professional services as set forth in this Agreement. The Architect represents that it is properly licensed in the jurisdiction where the Project is located to provide the services required by this Agreement, or shall cause such services to be performed by appropriately licensed design professionals.

§ 2.2 The Architect shall perform its services consistent with the professional skill and care ordinarily provided by architects practicing in the same or similar locality under the same or similar circumstances. The Architect shall perform its services as expeditiously as is consistent with such professional skill and care and the orderly progress of the Project.

§ 2.3 The Architect shall identify a representative authorized to act on behalf of the Architect with respect to the Project.

§ 2.4 Except with the Owner's knowledge and consent, the Architect shall not engage in any activity, or accept any employment, interest or contribution that would reasonably appear to compromise the Architect's professional judgment with respect to this Project.

§ 2.5 The Architect shall maintain insurance as defined in EXH-C Owner Insurance until termination of this Agreement and for the period of the statutes of repose set forth in Minnesota Statute 541.051, so long as such insurance is commercially available and reasonably affordable. If any of the requirements set forth below are in addition to the types and limits the Architect normally maintains, the Owner shall pay the Architect as set forth in Section 11.9.

§ 2.5.1 Commercial General Liability with policy limits as defined in EXH-C Owner Insurance.

§ 2.5.2 Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Architect with policy limits as defined in EXH-C Owner Insurance.

§ 2.5.3 The Architect may achieve the required limits and coverage for Commercial General Liability and Automobile Liability through a combination of primary and excess or umbrella liability insurance, provided such primary and excess or umbrella liability insurance policies result in the same or greater coverage as the coverages required under Sections 2.5.1 and 2.5.2, and in no event shall any excess or umbrella liability insurance provide narrower coverage than the primary policy. The excess policy shall not require the exhaustion of the underlying limits only through the actual payment by the underlying insurers. Defined in EXH-C Owner Insurance.

§ 2.5.4 Workers' Compensation at statutory limits. Defined in EXH-C Owner Insurance.

§ 2.5.5 Employers' Liability with policy limits as defined in EXH-C Owner Insurance.

§ 2.5.6 Professional Liability covering negligent acts, errors and omissions in the performance of professional services with policy limits as defined in EXH-C Owner Insurance.

§ 2.5.7 Additional Insured Obligations. To the fullest extent permitted by law, the Architect shall cause the primary and excess or umbrella polices for Commercial General Liability and Automobile Liability to include the Owner as an additional insured for claims caused in whole or in part by the Architect's negligent acts or omissions. The additional insured coverage shall be primary and non-contributory to any of the Owner's insurance policies and shall apply to both ongoing and completed operations.

§ 2.5.8 The Architect shall provide certificates of insurance to the Owner that evidence compliance with the requirements in this Section 2.5.

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ARTICLE 3 SCOPE OF ARCHITECT'S BASIC SERVICES

§ 3.1 The Architect's Basic Services consist of those described in this Article 3 and include usual and customary structural, mechanical, and electrical engineering services. Services not set forth in this Article 3 are Supplemental or Additional Services. The Architect's Basic Services are defined in EXH-B Project Design Milestones & Deliverables.

§ 3.1.1 The Architect shall manage the Architect's services, research applicable design criteria, attend Project meetings, communicate with members of the Project team, and report progress to the Owner.

§ 3.1.2 The Architect shall coordinate its services with those services provided by the Owner and the Owner's consultants. The Architect shall be entitled to rely on, and shall not be responsible for, the accuracy, completeness, and timeliness of, services and information furnished by the Owner and the Owner's consultants. The Architect shall provide prompt (within 7-10 business days of discovery) written notice to the Owner if the Architect becomes aware of any error, omission, or inconsistency in such services or information. The Architect is encouraged to provide prompt written notice to the Owner within this timeframe; it is most critical during the construction administration phase.

§ 3.1.3 As soon as practicable after the date of this Agreement, the Architect shall submit for the Owner's approval a schedule for the performance of the Architect's services. The schedule initially shall include anticipated dates for the commencement of construction and for Substantial Completion of the Work as set forth in the Initial Information and defined in EXH-B Project Design Milestones & Deliverables. The schedule shall include allowances for periods of time required for the Owner's review, for the performance of the Owner's consultants, and for approval of submissions by authorities having jurisdiction over the Project. Once approved by the Owner, time limits established by the schedule shall not, except for reasonable cause, be exceeded by the Architect or Owner. With the Owner's approval, the Architect shall adjust the schedule, if necessary, as the Project proceeds until the commencement of construction.

§ 3.1.4 The Architect shall not be responsible for an Owner's directive or substitution, or for the Owner's acceptance of non-conforming Work, made or given without the Architect's written approval.

§ 3.1.5 The Architect shall contact governmental authorities required to approve the Construction Documents and entities providing utility services to the Project. The Architect shall respond to applicable design requirements imposed by those authorities and entities and initiate governmental planning review processes as defined in EXH-B Project Design Milestones & Deliverables.

§ 3.1.6 The Architect shall assist the Owner in connection with the Owner's responsibility for filing documents required for the approval of governmental authorities having jurisdiction over the Project.

§ 3.1.7 The Architect shall fully cooperate and coordinate with the Owner and its hired Commissioning Agent during all phases of design, construction, and commissioning to achieve the Project's final completion and full systems operability and ongoing use per the approved final design. The Architect is responsible for the duration of the contract to provide adequate support to its sub-consultants who provide services integral to commissioning.

§ 3.1.8 The Architect shall assist the Owner in connection with the Owner's responsibility to communicate the project design and construction to the school community, school neighbors, and neighborhood associations.

§ 3.1.9 The Owner shall provide available historical building documentation and the Architect shall field verify building elements as a basis for design. Additional design fees and reimbursable expenses incurred by the Architect related to remedying or addressing incorrectly identified building elements following the Architect's completion of field verification shall be borne solely by the Architect. Field verification shall include (1) field measurements of readily visible elements, (2) removing and replacing lay-in ceiling tiles, and (3) opening and closing access panels. The Architect is encouraged to identify areas that are not readily visible and merit further destructive testing that may include (1) drilling holes to use a scope camera to see inside a wall, (2) cutting small holes to identify sub surface conditions, or (3) moving non-functioning equipment to facilitate investigation. The Owner will perform any requested destructive testing. The Architect is responsible for field verification for the portion of the building within

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the scope of services. Field verification and destructive testing shall not be required for portions of the building or building systems that are not within the scope of services as defined in AIA G202-2013 Article
(Paragraph Deleted)

3.3.

§ 3.2 Schematic Design Phase Services

§ 3.2.1 The Architect shall review the program and other information furnished by the Owner, and shall review laws, codes, and regulations applicable to the Architect's services. The Architect shall submit reports, documents for review, and deliverables as defined in EXH-B Project Design Milestones & Deliverables, AIA contracts G201-2013, G202-2013, and E203-2013.

§ 3.2.2 The Architect shall prepare a preliminary evaluation of the Owner's program, schedule, budget for the Cost of the Work, Project site, the proposed procurement and delivery method, and other Initial Information, each in terms of the other, to ascertain the requirements of the Project. The Architect shall notify the Owner of (1) any inconsistencies discovered in the information, and (2) other information or consulting services that may be reasonably needed for the Project.

§ 3.2.3 The Architect shall present its preliminary evaluation to the Owner and shall discuss with the Owner alternative approaches to design and construction of the Project. The Architect shall reach an understanding with the Owner regarding the requirements of the Project.

§ 3.2.4 Based on the Project requirements agreed upon with the Owner, the Architect shall prepare and present, for the Owner's approval, a preliminary design illustrating the scale and relationship of the Project components.

§ 3.2.5 Based on the Owner's approval of the preliminary design, the Architect shall prepare Schematic Design Documents for the Owner's approval. The Schematic Design Documents shall consist of drawings and other documents including a site plan, if appropriate, and preliminary building plans, sections and elevations; and may include some combination of study models, perspective sketches, or digital representations. Preliminary selections of major building systems and construction materials shall be noted on the drawings or described in writing.

§ 3.2.5.1 The Architect shall consider sustainable design alternatives, such as material choices and building orientation, together with other considerations based on program and aesthetics, in developing a design that is consistent with the Owner's program, schedule and budget for the Cost of the Work. The Owner may obtain more advanced sustainable design services as a Supplemental Service under Section 4.1.1.

§ 3.2.5.2 The Architect shall consider the value of alternative materials, building systems and equipment, together with other considerations based on program and aesthetics, in developing a design for the Project that is consistent with the Owner's program, schedule, and budget for the Cost of the Work.

§ 3.2.6 The Architect shall submit to the Owner an estimate of the Cost of the Work prepared in accordance with Section 6.3.

§ 3.2.7 The Architect shall submit the Schematic Design Documents to the Owner as defined in EXH-B Design Milestones & Deliverables, and request the Owner's approval before proceeding with Design Development Documents as defined in EXH-B Design Milestones & Deliverables.

§ 3.3 Design Development Phase Services

§ 3.3.1 Based on the Owner's approval of the Schematic Design Documents, and on the Owner's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, the Architect shall prepare Design Development Documents for the Owner's approval. The Design Development Documents shall illustrate and describe the development of the approved Schematic Design Documents and shall consist of drawings and other documents including plans, sections, elevations, typical construction details, and diagrammatic layouts of building systems to fix and describe the size and character of the Project as to architectural, structural, mechanical and electrical systems, and other appropriate elements. The Design Development Documents shall also include outline specifications that identify major materials and systems and establish, in general, their quality levels. The Architect

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shall submit reports, documents for review, and deliverables as defined in EXH-B Project Design Milestones & Deliverables and AIA contracts G201-2013, G202-2013, and E203-2013.

§ 3.3.2 The Architect shall update the estimate of the Cost of the Work prepared in accordance with Section 6.3.

§ 3.3.3 The Architect shall submit the Design Development Documents to the Owner, advise the Owner of any adjustments to the estimate of the Cost of the Work as defined in EXH-B Project Design Milestones & Deliverables, and request the Owner's approval before proceeding with Construction Documents as defined in EXH-B Design Milestones & Deliverables.

§ 3.4 Construction Documents Phase Services

§ 3.4.1 Based on the Owner's approval of the Design Development Documents, and on the Owner's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, the Architect shall prepare Construction Documents for the Owner's approval. The Construction Documents shall illustrate and describe the further development of the approved Design Development Documents and shall consist of Drawings and Specifications setting forth in detail the quality levels and performance criteria of materials and systems and other requirements for the construction of the Work. The Owner and Architect acknowledge that, in order to perform the Work, the Contractor will provide additional information, including Shop Drawings, Product Data, Samples and other similar submittals, which the Architect shall review in accordance with Section 3.6.4.

§ 3.4.2 The Architect shall incorporate the design requirements of governmental authorities having jurisdiction over the Project into the Construction Documents.

§ 3.4.3 During the development of the Construction Documents, the Architect shall assist the Owner in the development and preparation of (1) procurement information that describes the time, place, and conditions of bidding, including bidding or proposal forms; (2) the form of agreement between the Owner and Contractor; and (3) the Conditions of the Contract for Construction (General, Supplementary and other Conditions). The Architect shall also compile a project manual that includes the Conditions of the Contract for Construction and Specifications, and may include bidding requirements and sample forms.

§ 3.4.4 The Architect shall update the estimate for the Cost of the Work prepared in accordance with Section 6.3.

§ 3.4.5 The Architect shall submit the Construction Documents to the Owner, advise the Owner of any adjustments to the estimate of the Cost of the Work, take any action required under Section 6.5, and request the Owner's approval. The Architect shall submit construction documents which are estimated to bid within 5% of the budgeted construction cost. The Cost of Work submittal is defined in EXH-B Project Design Milestones & Deliverables.

§ 3.5 Procurement Phase Services

§ 3.5.1 General

The Architect shall assist the Owner in establishing a list of prospective contractors. Following the Owner's approval of the Construction Documents, the Architect shall assist the Owner in (1) obtaining either competitive bids or negotiated proposals; (2) confirming responsible and responsiveness of bids or proposals; (3) determining the successful bid or proposal, if any; (4) awarding and preparing contracts for construction; and, (5) Any review of bid anomalies or irregularities requiring legal review shall be provided by the Owner.

§ 3.5.2 Competitive Bidding

§ 3.5.2.1 Bidding Documents shall consist of bidding requirements and proposed Contract Documents.

§ 3.5.2.2 The Architect shall assist the Owner in bidding the Project by:

- **.1** facilitating the distribution of Bidding Documents to prospective bidders;
- **.2** organizing and conducting a pre-bid conference for prospective bidders;
- **.3** preparing responses to questions from prospective bidders and providing clarifications and interpretations of the Bidding Documents to the prospective bidders in the form of addenda; and,
- **.4** organizing and conducting the opening of the bids, and subsequently documenting and distributing the bidding results, as directed by the Owner.

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§ 3.5.2.3 If the Bidding Documents permit substitutions, upon the Owner's written authorization, the Architect shall consider requests for substitutions and prepare and distribute addenda identifying approved substitutions to all prospective bidders.

§ 3.5.3 Negotiated Proposals

§ 3.5.3.1 Proposal Documents shall consist of proposal requirements and proposed Contract Documents.

§ 3.5.3.2 The Architect shall assist the Owner in obtaining proposals by:

.1 facilitating the distribution of Proposal Documents for distribution to prospective contractors and requesting their return upon completion of the negotiation process;

.2 organizing and participating in selection interviews with prospective contractors;

.3 preparing responses to questions from prospective contractors and providing clarifications and interpretations of the Proposal Documents to the prospective contractors in the form of addenda; and,

.4 participating in negotiations with prospective contractors, and subsequently preparing a summary report of the negotiation results, as directed by the Owner.

§ 3.5.3.3 If the Proposal Documents permit substitutions, upon the Owner's written authorization, the Architect shall, as an Additional Service, consider requests for substitutions and prepare and distribute addenda identifying approved substitutions to all prospective contractors.

§ 3.6 Construction Phase Services

§ 3.6.1 General

§ 3.6.1.1 The Architect shall provide administration of the Contract between the Owner and the Contractor as set forth below and in AIA Document A201™–2017, General Conditions of the Contract for Construction. If the Owner and Contractor modify AIA Document A201–2017, those modifications shall not affect the Architect's services under this Agreement unless the Owner and the Architect amend this Agreement.

§ 3.6.1.2 The Architect shall advise, lead, and consult with the Owner during the Construction Phase Services. The Architect shall have authority to act on behalf of the Owner only to the extent provided in this Agreement. The Architect shall not have control over, charge of, or responsibility for the construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work, nor shall the Architect be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The Architect shall be responsible for the Architect's negligent acts, errors, or omissions, but shall not have control over or charge of, and shall not be responsible for, acts or omissions of the Contractor or of any other persons or entities performing portions of the Work.

§ 3.6.1.3 Subject to Section 4.2 and except as provided in Section 3.6.6.5, the Architect's responsibility to provide Construction Phase Services commences with the award of the Contract for Construction and the Owner's written notice to proceed to Construction Administration and terminates on the date the Architect authorizes the Contractor's final Certificate for Payment.

§ 3.6.2 Evaluations of the Work

§ 3.6.2.1 The Architect shall visit the site at intervals appropriate to the stage of construction, or as otherwise required in Section 4.2.3, to become generally familiar with the progress and quality of the portion of the Work completed, and to determine, in general, if the Work observed is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the Architect shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. On the basis of the site visits, the Architect shall keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, and promptly report to the Owner (1) known deviations from the Contract Documents, (2) known deviations from the most recent construction schedule submitted by the Contractor, and (3) defects and deficiencies observed in the Work.

§ 3.6.2.2 The Architect has the authority and obligation to reject Work that does not conform to the Contract Documents unless the Owner accepts non-conforming work in writing after consulting with the Architect. Whenever the Architect considers it necessary or advisable, the Architect shall have the authority and obligation to require inspection or testing of the Work in accordance with the provisions of the Contract Documents, whether or not the Work is fabricated, installed or completed. However, neither this authority and obligation of the Architect nor a

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decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect to the Contractor, Subcontractors, suppliers, their agents or employees, or other persons or entities performing portions of the Work.

§ 3.6.2.3 The Architect shall interpret and decide matters concerning performance under, and requirements of, the Contract Documents on written request of either the Owner or Contractor. The Architect's response to such requests shall be made in writing within five business days of requests or otherwise with reasonable promptness.

§ 3.6.2.4 Interpretations and decisions of the Architect shall be consistent with the intent of, and reasonably inferable from, the Contract Documents and shall be in writing or in the form of drawings. When making such interpretations and decisions, the Architect shall endeavor to secure faithful performance by both Owner and Contractor, shall not show partiality to either, and shall not be liable for results of interpretations or decisions rendered in good faith. The Architect's decisions on matters relating to aesthetic effect shall be final if consistent with the intent expressed in the Contract Documents.

§ 3.6.2.5 Unless the Owner and Contractor designate another person to serve as an Initial Decision Maker, as that term is defined in AIA Document A201–2017, the Architect shall render initial decisions on Claims between the Owner and Contractor as provided in the Contract Documents.

§ 3.6.3 Certificates for Payment to Contractor

§ 3.6.3.1 The Architect shall review and certify the amounts due the Contractor and shall issue certificates in such amounts. The Architect's certification for payment shall constitute a representation to the Owner, based on the Architect's evaluation of the Work as provided in Section 3.6.2 and on the data comprising the Contractor's Application for Payment, that, to the best of the Architect's knowledge, information and belief, the Work has progressed to the point indicated, the quality of the Work is in accordance with the Contract Documents, and that the Contractor is entitled to payment in the amount certified. The foregoing representations are subject to (1) an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, (2) results of subsequent documented tests and inspections, (3) correction of minor deviations from the Contract Documents prior to completion, and (4) specific qualifications expressed by the Architect. The Architect's certification on the Certificate for Payment shall be that the percentages of Work shown on the application are completed, to the best of the Architect's knowledge, information, and belief. No judgement is made by the Architect as to the value of the Work or the value of uncompleted Work.

§ 3.6.3.2 The issuance of a Certificate for Payment shall not be a representation that the Architect has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work, (2) reviewed construction means, methods, techniques, sequences or procedures, (3) reviewed copies of requisitions received from Subcontractors and suppliers and other data requested by the Owner to substantiate the Contractor's right to payment, or (4) ascertained how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

§ 3.6.3.3 The Architect shall maintain a record of the Applications and Certificates for Payment.

§ 3.6.4 Submittals

§ 3.6.4.1 The Architect shall review the Contractor's submittal schedule and shall not unreasonably delay or withhold approval of the schedule. The Architect's action in reviewing submittals shall be taken in accordance with the approved submittal schedule or, in the absence of an approved submittal schedule, with reasonable promptness while allowing sufficient time, in the Architect's professional judgment, to permit adequate review.

§ 3.6.4.2 The Architect shall review and approve, or take other appropriate action upon, the Contractor's submittals such as Shop Drawings, Product Data and Samples, but only for the limited purpose of checking for conformance with the Contract Documents. Review of such submittals is not for the purpose of determining the accuracy and completeness of other information such as dimensions, quantities, and installation or performance of equipment or systems, which are the Contractor's responsibility. The Architect's review shall not constitute approval of safety precautions or construction means, methods, techniques, sequences or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

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§ 3.6.4.3 If the Contract Documents specifically require the Contractor to provide professional design services or certifications by a design professional related to systems, materials, or equipment, the Architect shall specify the appropriate performance and design criteria that such services must satisfy. The Architect shall review and take appropriate action on Shop Drawings and other submittals related to the Work designed or certified by the Contractor's design professional, provided the submittals bear such professional's seal and signature when submitted to the Architect. The Architect's review shall be for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Architect shall be entitled to rely upon, and shall not be responsible for, the adequacy and accuracy of the services, certifications, and approvals performed or provided by such design professionals.

§ 3.6.4.4 Subject to Section 4.2, the Architect shall review and respond to requests for information about the Contract Documents. The Architect shall set forth, in the Contract Documents, the requirements for requests for information. Requests for information shall include, at a minimum, a detailed written statement that indicates the specific Drawings or Specifications in need of clarification and the nature of the clarification requested. The Architect's response to such requests shall be made in writing within any time limits agreed upon, or otherwise with reasonable promptness. If appropriate, the Architect shall prepare and issue supplemental Drawings and Specifications in response to the requests for information.

§ 3.6.4.5 The Architect shall maintain a record of submittals and copies of submittals supplied by the Contractor in accordance with the requirements of the Contract Documents.

§ 3.6.5 Changes in the Work

§ 3.6.5.1 The Architect may order minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. Subject to Section 4.2, the Architect shall prepare Change Orders and Construction Change Directives for the Owner's approval and execution in accordance with the Contract Documents.

§ 3.6.5.2 The Architect shall maintain records relative to changes in the Work.

§ 3.6.6 Project Completion

§ 3.6.6.1 The Architect shall:

.1 conduct inspections to determine the date or dates of Substantial Completion and the date of final completion;

.2 issue Certificates of Substantial Completion;

.3 forward to the Owner, for the Owner's review and records, written warranties including a warranty schedule of major building systems and warranty expiration dates, and related documents required by the Contract Documents and received from the Contractor; and,

.4 issue a final Certificate for Payment based upon a final inspection indicating that, to the best of the Architect's knowledge, information, and belief, the Work complies with the requirements of the Contract Documents.

.5 The Architect shall produce punch list items as part of the certificate of Substantial Completion issued to the Contractor. The Architect shall create the list(s), present them to the Owner, incorporate Owner feedback, and compile all punch items for the contractor in a timely manner.

§ 3.6.6.2 The Architect's inspections shall be conducted with the Owner to check conformance of the Work with the requirements of the Contract Documents and to verify the accuracy and completeness of the list(s) including and not limited to Architectural, Civil, Mechanical, Electrical, Structural, and Plumbing systems submitted by the Contractor of Work to be completed or corrected.

§ 3.6.6.3 When Substantial Completion has been achieved, the Architect shall inform the Owner about the balance of the Contract Sum remaining to be paid the Contractor, including the amount to be retained from the Contract Sum, if any, for final completion or correction of the Work.

§ 3.6.6.4 The Architect shall forward to the Owner the following information received from the Contractor: (1) consent of surety or sureties, if any, to reduction in or partial release of retainage or the making of final payment; (2)

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affidavits, receipts, releases and waivers of liens, or bonds indemnifying the Owner against liens; and (3) any other documentation required of the Contractor under the Contract Documents.

§ 3.6.6.5 Upon request of the Owner ten (10) months following substantial completion, and prior to the expiration of one year from the date of Substantial Completion, the Architect shall, without additional compensation, conduct a meeting with the Owner to review the facility operations and performance.

§ 3.6.6.6 The Architect shall issue an As Constructed Record set of construction documents that will consist of the As Designed Record Sets of construction documents and Revit model with redlined changes from the General Contractor incorporated into the digital deliverables as defined in AIA G201 2013 Article 2.3 to the Owner upon final completion of the Project. The As Constructed Record documents shall reflect all digital changes made by the Architect between issuing the Bid Documents set and final completion as well as the General Contractor's redline changes. The Architect shall not be held responsible for field verification of the General Contractor's changes. The Architect's full set of deliverables during Construction Administration are defined in EXH-D Owner Requirements.

ARTICLE 4 SUPPLEMENTAL AND ADDITIONAL SERVICES

§ 4.1 Supplemental Services

§ 4.1.1 The services listed below are not included in Basic Services but may be required for the Project. The Architect shall provide the listed Supplemental Services only if specifically designated in the table below as the Architect's responsibility, and the Owner shall compensate the Architect as provided in Section 11.2. Unless otherwise specifically addressed in this Agreement, if neither the Owner nor the Architect is designated, the parties agree that the listed Supplemental Service is not being provided for the Project.

(Designate the Architect's Supplemental Services and the Owner's Supplemental Services required for the Project by indicating whether the Architect or Owner shall be responsible for providing the identified Supplemental Service. Insert a description of the Supplemental Services in Section 4.1.2 below or attach the description of services as an exhibit to this Agreement.)

Supplemental Services	**Responsibility** *(Architect, Owner, or not provided)*
§ 4.1.1.1 Programming	
§ 4.1.1.2 Multiple preliminary designs	
§ 4.1.1.3 Measured drawings	
§ 4.1.1.4 Existing facilities surveys	
§ 4.1.1.5 Site evaluation and planning	
§ 4.1.1.6 Building Information Model management responsibilities	
§ 4.1.1.7 Development of Building Information Models for post construction use	
§ 4.1.1.8 Civil engineering	
§ 4.1.1.9 Landscape design	
§ 4.1.1.10 Architectural interior design	
§ 4.1.1.11 Value analysis	
§ 4.1.1.12 Detailed cost estimating beyond that required in Section 6.3	
§ 4.1.1.13 On-site project representation	
§ 4.1.1.14 Conformed documents for construction	
§ 4.1.1.15 As-designed record drawings	
§ 4.1.1.16 As-constructed record drawings	
§ 4.1.1.17 Post-occupancy evaluation	
§ 4.1.1.18 Facility support services	
§ 4.1.1.19 Tenant-related services	

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§ 4.1.1.20 Architect's coordination of the Owner's consultants	
§ 4.1.1.21 Telecommunications/data design	
§ 4.1.1.22 Security evaluation and planning	
§ 4.1.1.23 Commissioning	
§ 4.1.1.24 Sustainable Project Services pursuant to Section 4.1.3	
§ 4.1.1.25 Fast-track design services	
§ 4.1.1.26 Multiple bid packages	
§ 4.1.1.27 Historic preservation	
§ 4.1.1.28 Furniture, furnishings, and equipment design	
§ 4.1.1.29 Other services provided by specialty Consultants	
§ 4.1.1.30 Other Supplemental Services	

§ 4.1.2 Description of Supplemental Services

§ 4.1.2.1 A description of each Supplemental Service identified in Section 4.1.1 as the Architect's responsibility is provided below.

(Describe in detail the Architect's Supplemental Services identified in Section 4.1.1 or, if set forth in an exhibit, identify the exhibit. The AIA publishes a number of Standard Form of Architect's Services documents that can be included as an exhibit to describe the Architect's Supplemental Services.)

§ 4.1.2.2 A description of each Supplemental Service identified in Section 4.1.1 as the Owner's responsibility is provided below.

(Describe in detail the Owner's Supplemental Services identified in Section 4.1.1 or, if set forth in an exhibit, identify the exhibit.)

§ 4.1.3 If the Owner identified a Sustainable Objective in Article 1, the Architect shall provide, as a Supplemental Service, the Sustainability Services required in AIA Document E204™–2017, Sustainable Projects Exhibit, attached to this Agreement. The Owner shall compensate the Architect as provided in Section 11.2.

§ 4.2 Architect's Additional Services

The Architect may provide Additional Services after execution of this Agreement without invalidating the Agreement. Except for services required due to the fault of the Architect, any Additional Services provided in accordance with this Section 4.2 shall entitle the Architect to compensation pursuant to Section 11.3 and an appropriate adjustment in the Architect's schedule. Additional Services are Defined in EXH-A Project Charter.

§ 4.2.1 Upon recognizing the need to perform the following Additional Services, the Architect shall notify the Owner with reasonable promptness and explain the facts and circumstances giving rise to the need. The Architect shall not proceed to provide the following Additional Services until the Architect receives the Owner's written authorization:

.1 Services necessitated by a change in the Initial Information, previous instructions or approvals given by the Owner, or a material change in the Project including size, quality, complexity, the Owner's schedule or budget for Cost of the Work, or procurement or delivery method;

.2 Services necessitated by the enactment or revision of codes, laws, or regulations, including changing or editing previously prepared Instruments of Service;

.3 Changing or editing previously prepared Instruments of Service necessitated by official interpretations of applicable codes, laws or regulations that are contrary to requirements of the Instruments of Service when those Instruments of Service were prepared in accordance with the applicable standard of care;

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.4 Services necessitated by decisions of the Owner not rendered in a timely manner or any other failure of performance on the part of the Owner or the Owner's consultants or contractors;

(Paragraphs Deleted)

.8 Preparation for, and attendance at, a dispute resolution proceeding or legal proceeding, except where the Architect is party thereto;

(Paragraph Deleted)

.10 Consultation concerning replacement of Work resulting from fire or other cause during construction; or,

(Paragraph Deleted)

§ 4.2.2 To avoid delay in the Construction Phase, the Architect shall provide the following Additional Services, notify the Owner with reasonable promptness, and explain the facts and circumstances giving rise to the need. If, upon receipt of the Architect's notice, the Owner determines that all or parts of the services are not required, the Owner shall give prompt written notice to the Architect of the Owner's determination. The Owner shall compensate the Architect for the services provided prior to the Architect's receipt of the Owner's notice.

.1 Reviewing a Contractor's submittal out of sequence from the submittal schedule approved by the Architect;

.2 Responding to the Contractor's requests for information that are not prepared in accordance with the Contract Documents or where such information is available to the Contractor from a careful study and comparison of the Contract Documents, field conditions, other Owner-provided information, Contractor-prepared coordination drawings, or prior Project correspondence or documentation;

.3 Preparing Change Orders and Construction Change Directives that require evaluation of Contractor's proposals and supporting data, or the preparation or revision of Instruments of Service;

.4 Evaluating an extensive number of Claims as the Initial Decision Maker; or,

.5 Evaluating substitutions proposed by the Owner or Contractor and making subsequent revisions to Instruments of Service resulting therefrom.

§ 4.2.3 The Architect shall provide Construction Phase Services exceeding the limits set forth below as Additional Services. When the limits below are reached, the Architect shall notify the Owner:

.1 2 (two) reviews of each Shop Drawing, Product Data item, sample and similar submittals of the Contractor

.2 1 (one) visits per week to the site by the Architect during construction

.3 2 (two) inspections for any portion of the Work to determine whether such portion of the Work is substantially complete in accordance with the requirements of the Contract Documents

.4 1 (one) inspections for any portion of the Work to determine final completion.

§ 4.2.4 Except for services required under Section 3.6.6.5 and those services that do not exceed the limits set forth in Section 4.2.3, Construction Phase Services provided more than 60 days after (1) the date of Substantial Completion of the Work or (2) the initial date of Substantial Completion identified in the agreement between the Owner and Contractor, whichever is earlier, shall be compensated as Additional Services to the extent the Architect incurs additional cost in providing those Construction Phase Services.

§ 4.2.5 If the services covered by this Agreement have not been completed within eighteen (18) months of the date of this Agreement, through no fault of the Architect, extension of the Architect's services beyond that time shall be compensated as Additional Services.

ARTICLE 5 OWNER'S RESPONSIBILITIES

§ 5.1 Unless otherwise provided for under this Agreement, the Owner shall provide information in a timely manner regarding requirements for and limitations on the Project, including a written program, which shall set forth the Owner's objectives; schedule; constraints and criteria, including space requirements and relationships; flexibility;

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expandability; special equipment; systems; and site requirements and stakeholder engagement requirements as defined in EXH-B Project Design Milestones & Deliverables.

§ 5.2 The Owner shall establish the Owner's budget for the Project, including (1) the budget for the Cost of the Work as defined in Section 6.1; (2) the Owner's other costs; and, (3) reasonable contingencies related to all of these costs. The Owner shall update the Owner's budget for the Project as necessary throughout the duration of the Project until final completion. If the Owner significantly increases or decreases the Owner's budget for the Cost of the Work, the Owner shall notify the Architect. The Owner and the Architect shall thereafter agree to a corresponding change in the Project's scope and quality.

§ 5.3 The Owner shall identify a representative authorized to act on the Owner's behalf with respect to the Project. The Owner shall render decisions and approve the Architect's submittals in a timely manner in order to avoid unreasonable delay in the orderly and sequential progress of the Architect's services.

§ 5.4 The Owner shall furnish surveys to describe physical characteristics, legal limitations and utility locations for the site of the Project, and a written legal description of the site. The surveys and legal information shall include, as applicable, grades and lines of streets, alleys, pavements and adjoining property and structures; designated wetlands; adjacent drainage; rights-of-way, restrictions, easements, encroachments, zoning, deed restrictions, boundaries and contours of the site; locations, dimensions, and other necessary data with respect to existing buildings, other improvements and trees; and information concerning available utility services and lines, both public and private, above and below grade, including inverts and depths. All the information on the survey shall be referenced to a Project benchmark.

§ 5.5 The Owner shall furnish services of geotechnical engineers, which may include test borings, test pits, determinations of soil bearing values, percolation tests, evaluations of hazardous materials, seismic evaluation, ground corrosion tests and resistivity tests, including necessary operations for anticipating subsoil conditions, with written reports and appropriate recommendations.

§ 5.6 The Owner shall provide the Supplemental Services designated as the Owner's responsibility in Section 4.1.1.

§ 5.7 If the Owner identified a Sustainable Objective in Article 1, the Owner shall fulfill its responsibilities as required in AIA Document E204™–2017, Sustainable Projects Exhibit, attached to this Agreement.

§ 5.8 The Owner shall coordinate the services of its own consultants with those services provided by the Architect. Upon the Architect's request, the Owner shall furnish copies of the scope of services in the contracts between the Owner and the Owner's consultants. The Owner shall furnish the services of consultants other than those designated as the responsibility of the Architect in this Agreement, or authorize the Architect to furnish them as an Additional Service, when the Architect requests such services and demonstrates that they are reasonably required by the scope of the Project. The Owner shall require that its consultants and contractors maintain insurance, including professional liability insurance, as appropriate to the services or work provided and defined in Article 2.

§ 5.8.1 Architect's responsibility in connection with the services of Owner's consultants, contractors, or design-build contractor shall be to coordinate Owner's consultants', contractors', or design-build contractor's portion of the Instruments of Service. Owner shall require consultants, contractors, or design-build contractor retained by Owner to coordinate their services and documents with those of Architect and Architect's consultants.

§ 5.9 The Owner shall furnish tests, inspections and reports required by law or the Contract Documents, such as structural, mechanical, and chemical tests, tests for air and water pollution, and tests for hazardous materials.

§ 5.10 The Owner shall furnish all legal, insurance and accounting services, including auditing services, that may be reasonably necessary at any time for the Project to meet the Owner's needs and interests.

§ 5.11 The Owner shall provide prompt written notice to the Architect if the Owner becomes aware of any fault or defect in the Project, including errors, omissions or inconsistencies in the Architect's Instruments of Service.

§ 5.12 The Owner shall include the Architect in all communications with the Contractor that relate to or affect the Architect's services or professional responsibilities. The Owner shall promptly notify the Architect of the substance

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of any direct communications between the Owner and the Contractor otherwise relating to the Project. Communications by and with the Architect's consultants shall be through the Architect.

§ 5.13 Before executing the Contract for Construction, the Owner shall coordinate the Architect's duties and responsibilities set forth in the Contract for Construction with the Architect's services set forth in this Agreement. The Owner shall provide the Architect a copy of the executed agreement between the Owner and Contractor, including the General Conditions of the Contract for Construction.

§ 5.14 The Owner shall provide the Architect access to the Project site prior to commencement of the Work and shall obligate the Contractor to provide the Architect access to the Work wherever it is in preparation or progress.

§ 5.15 Within 15 days after receipt of a written request from the Architect, the Owner shall furnish the requested information as necessary and relevant for the Architect to evaluate, give notice of, or enforce lien rights.

§ 5.16 The Owner shall provide coordination, installation, and procurement of furniture, furnishings, and equipment for the Project.

§ 5.17 The Owner shall provide Information Technology equipment plugged into networks. Cabling and infrastructure designed by the Architect and installed by the Contractor.

§ 5.18 The Owner shall provide Testing and Special Inspections.

§ 5.19 The Owner shall coordinate closely with the Architect and the Contractor for design and installation of security systems in the Project. The Owner shall design systems by locating cameras and designating doors for access control, the Architect shall document and complete the initial design by designing pathways, the Contractor shall install cabling and infrastructure required for the systems to be operational as well as devices, and the Owner shall work with the Contractor to program and test the
(Paragraph Deleted)

systems.

ARTICLE 6 COST OF THE WORK

§ 6.1 For purposes of this Agreement, the Cost of the Work shall be the total cost to the Owner to construct all elements of the Project designed or specified by the Architect and shall include contractors' general conditions costs, overhead and profit. The Cost of the Work also includes the reasonable value of labor including escalation for phased work or market conditions, materials, and equipment, donated to, or otherwise furnished by, the Owner. The Cost of the Work does not include the compensation of the Architect; the costs of the land, rights-of-way, financing, or contingencies for changes in the Work; or other costs that are the responsibility of the Owner.

§ 6.2 The Owner's budget for the Cost of the Work is provided in Initial Information, and shall be adjusted throughout the Project as required under Sections 5.2, 6.4 and 6.5. Evaluations of the Owner's budget for the Cost of the Work, and the preliminary estimate of the Cost of the Work and updated estimates of the Cost of the Work, prepared by the Architect, represent the Architect's judgment as a design professional. It is recognized, however, that neither the Architect nor the Owner has control over the cost of labor, materials, or equipment; the Contractor's methods of determining bid prices; or competitive bidding, market, or negotiating conditions. Accordingly, the Architect cannot and does not warrant or represent that bids or negotiated prices will not vary from the Owner's budget for the Cost of the Work, or from any estimate of the Cost of the Work, or evaluation, prepared or agreed to by the Architect.

§ 6.3 In preparing estimates of the Cost of Work, the Architect shall be permitted to include contingencies for design, bidding, and price escalation; to determine what materials, equipment, component systems, and types of construction are to be included in the Contract Documents; to recommend reasonable adjustments in the program and scope of the Project; and to include design alternates as may be necessary to adjust the estimated Cost of the Work to meet the Owner's budget as defined in EXH-A Project Charter and EXH-B Project Design Milestones & Deliverables. The Architect's estimate of the Cost of the Work shall be based on current area, volume or similar conceptual estimating techniques. If the Owner requires a detailed estimate of the Cost of the Work, the Architect

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shall provide such an estimate, if identified as the Architect's responsibility in Section 4.1.1, as a Supplemental Service.

§ 6.4 If, through no fault of the Architect, the Procurement Phase has not commenced within 90 days after the Architect submits the Construction Documents to the Owner, the Owner's budget for the Cost of the Work may be adjusted to reflect changes in the general level of prices in the applicable construction market.

§ 6.5 If at any time the Architect's estimate of the Cost of the Work exceeds the Owner's budget for the Cost of the Work, the Architect shall make appropriate recommendations to the Owner to adjust the Project's size, quality, or budget for the Cost of the Work, and the Owner shall cooperate with the Architect in making such adjustments.

§ 6.6 If the Owner's budget for the Cost of the Work at the conclusion of the Construction Documents Phase Services is exceeded by five percent (5%) by the lowest bona fide bid or negotiated proposal, the Owner shall

.1 give written approval of an increase in the budget for the Cost of the Work;
.2 authorize rebidding or renegotiating of the Project within a reasonable time;
.3 terminate in accordance with Section 9.5;
.4 in consultation with the Architect, revise the Project program, scope, or quality as required to reduce the Cost of the Work; or,
.5 cooperate in revising the Project scope as required to reduce the estimated construction cost to an estimated cost within the Owner's budget. Costs or time incurred by the Architect to review the design to align with the Budget shall be borne entirely by the Architect.
.6 implement any other mutually acceptable alternative, which may include the Owner's decision to suspend the Project, in which case the Architect shall be paid for services actually rendered under this agreement.

§ 6.7 If the Owner chooses to proceed under Section 6.6.4, the Architect shall modify the Construction Documents as necessary to comply with the Owner's budget for the Cost of the Work at the conclusion of the Construction Documents Phase Services, or the budget as adjusted under Section 6.6.1. If the Owner requires the Architect to modify the Construction Documents because the lowest bona fide bid or negotiated proposal exceeds the Owner's budget for the Cost of the Work due to market conditions the Architect could not reasonably anticipate, the Owner shall compensate the Architect for the modifications as an Additional Service pursuant to Section 11.3; otherwise the Architect's services for modifying the Construction Documents shall be without additional compensation. In any event, the Architect's modification of the Construction Documents shall be the limit of the Architect's responsibility under this Article 6.

ARTICLE 7 COPYRIGHTS AND LICENSES

§ 7.1 The Architect and the Owner warrant that in transmitting Instruments of Service, or any other information, the transmitting party is the copyright owner of such information or has permission from the copyright owner to transmit such information for its use on the Project.

§ 7.2 The Architect and the Architect's consultants shall be deemed the authors and owners of their respective Instruments of Service, including the Drawings and Specifications, and shall retain all common law, statutory and other reserved rights, including copyrights. Submission or distribution of Instruments of Service to meet official regulatory requirements or for similar purposes in connection with the Project is not to be construed as publication in derogation of the reserved rights of the Architect and the Architect's consultants.

§ 7.3 The Architect grants to the Owner a nonexclusive license to use the Architect's Instruments of Service solely and exclusively for purposes of constructing, using, maintaining, altering and adding to the Project, provided that the Owner substantially performs its obligations under this Agreement, including prompt payment of all sums due pursuant to Article 9 and Article 11. The Architect shall obtain similar nonexclusive licenses from the Architect's consultants consistent with this Agreement. The license granted under this section permits the Owner to authorize the Contractor, Subcontractors, Sub-subcontractors, and suppliers, as well as the Owner's consultants and separate contractors, to reproduce applicable portions of the Instruments of Service, subject to any protocols established pursuant to Section 1.3, solely and exclusively for use in performing services or construction for the Project. If the Architect rightfully terminates this Agreement for cause as provided in Section 9.4, the license granted in this Section 7.3 shall terminate.

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§ 7.3.1 In the event the Owner uses the Instruments of Service without retaining the authors of the Instruments of Service, the Owner releases the Architect and Architect's consultant(s) from all claims and causes of action arising from such uses. The Owner, to the extent permitted by law, further agrees to indemnify and hold harmless the Architect and its consultants from all costs and expenses, including the cost of defense, related to claims and causes of action asserted by any third person or entity to the extent such costs and expenses arise from the Owner's use of the Instruments of Service under this Section 7.3.1. The terms of this Section 7.3.1 shall not apply if the Owner rightfully terminates this Agreement for cause under Section 9.4.

§ 7.4 Any unauthorized use of the Instruments of Service shall be at the Owner's sole risk and without liability to the Architect and the Architect's consultants. The Owner retains full rights to all Instruments of Service for use in the Project and any existing or future projects.

§ 7.5 Except as otherwise stated in Section 7.3, the provisions of this Article 7 shall survive the termination of this Agreement.

ARTICLE 8 CLAIMS AND DISPUTES

§ 8.1 General

§ 8.1.1 The Owner and Architect shall commence all claims and causes of action against the other and arising out of or related to this Agreement, whether in contract, tort, or otherwise, in accordance with the requirements of the binding dispute resolution method selected in this Agreement and within the period specified by applicable law, but in any case not more than 10 years after the date of Substantial Completion of the Work. The Owner and Architect waive all claims and causes of action not commenced in accordance with this Section 8.1.1.

§ 8.1.2 To the extent damages are covered by property insurance, the Owner and Architect waive all rights against each other and against the contractors, consultants, agents, and employees of the other for damages, except such rights as they may have to the proceeds of such insurance as set forth in AIA Document A201–2017, General Conditions of the Contract for Construction. The Owner or the Architect, as appropriate, shall require of the contractors, consultants, agents, and employees of any of them, similar waivers in favor of the other parties enumerated herein.

§ 8.1.3 The Architect and Owner waive consequential damages for claims, disputes, or other matters in question, arising out of or relating to this Agreement. This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination of this Agreement, except as specifically provided in Section 9.7.

§ 8.2 Mediation

§ 8.2.1 Any claim, dispute or other matter in question arising out of or related to this Agreement shall be subject to mediation as a condition precedent to binding dispute resolution. If such matter relates to or is the subject of a lien arising out of the Architect's services, the Architect may proceed in accordance with applicable law to comply with the lien notice or filing deadlines prior to resolution of the matter by mediation or by binding dispute resolution.

§ 8.2.2 The Owner and Architect shall endeavor to resolve claims, disputes and other matters in question between them by mediation, which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Mediation Procedures in effect on the date of this Agreement. A request for mediation shall be made in writing, delivered to the other party to this Agreement, and filed with the person or entity administering the mediation. The request may be made concurrently with the filing of a complaint or other appropriate demand for binding dispute resolution but, in such event, mediation shall proceed in advance of binding dispute resolution proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order. If an arbitration proceeding is stayed pursuant to this section, the parties may nonetheless proceed to the selection of the arbitrator(s) and agree upon a schedule for later proceedings.

§ 8.2.3 The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

§ 8.2.4 If the parties do not resolve a dispute through mediation pursuant to this Section 8.2, the method of binding dispute resolution shall be the following:

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(Check the appropriate box.)

[ ] Arbitration pursuant to Section 8.3 of this Agreement

[X] Litigation in a court of competent jurisdiction

[ ] Other: *(Specify)*

If the Owner and Architect do not select a method of binding dispute resolution, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, the dispute will be resolved in a court of competent jurisdiction.

§ 8.3 Arbitration

§ 8.3.1 If the parties have selected arbitration as the method for binding dispute resolution in this Agreement, any claim, dispute or other matter in question arising out of or related to this Agreement subject to, but not resolved by, mediation shall be subject to arbitration, which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Arbitration Rules in effect on the date of this Agreement. A demand for arbitration shall be made in writing, delivered to the other party to this Agreement, and filed with the person or entity administering the arbitration.

§ 8.3.1.1 A demand for arbitration shall be made no earlier than concurrently with the filing of a request for mediation, but in no event shall it be made after the date when the institution of legal or equitable proceedings based on the claim, dispute or other matter in question would be barred by the applicable statute of limitations. For statute of limitations purposes, receipt of a written demand for arbitration by the person or entity administering the arbitration shall constitute the institution of legal or equitable proceedings based on the claim, dispute or other matter in question.

§ 8.3.2 The foregoing agreement to arbitrate, and other agreements to arbitrate with an additional person or entity duly consented to by parties to this Agreement, shall be specifically enforceable in accordance with applicable law in any court having jurisdiction thereof.

§ 8.3.3 The award rendered by the arbitrator(s) shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.

§ 8.3.4 Consolidation or Joinder

§ 8.3.4.1 Either party, at its sole discretion, may consolidate an arbitration conducted under this Agreement with any other arbitration to which it is a party provided that (1) the arbitration agreement governing the other arbitration permits consolidation; (2) the arbitrations to be consolidated substantially involve common questions of law or fact; and (3) the arbitrations employ materially similar procedural rules and methods for selecting arbitrator(s).

§ 8.3.4.2 Either party, at its sole discretion, may include by joinder persons or entities substantially involved in a common question of law or fact whose presence is required if complete relief is to be accorded in arbitration, provided that the party sought to be joined consents in writing to such joinder. Consent to arbitration involving an additional person or entity shall not constitute consent to arbitration of any claim, dispute or other matter in question not described in the written consent.

§ 8.3.4.3 The Owner and Architect grant to any person or entity made a party to an arbitration conducted under this Section 8.3, whether by joinder or consolidation, the same rights of joinder and consolidation as the Owner and Architect under this Agreement.

§ 8.4 The provisions of this Article 8 shall survive the termination of this Agreement.

ARTICLE 9 TERMINATION OR SUSPENSION

§ 9.1 If the Owner fails to make payments to the Architect in accordance with this Agreement, such failure shall be considered substantial nonperformance and cause for termination or, at the Architect's option, cause for suspension

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of performance of services under this Agreement. If the Architect elects to suspend services, the Architect shall give seven days' written notice to the Owner before suspending services. In the event of a suspension of services, the Architect shall have no liability to the Owner for delay or damage caused the Owner because of such suspension of services. Before resuming services, the Owner shall pay the Architect all sums due prior to suspension and any reasonable, quantifiable expenses incurred in the interruption and resumption of the Architect's services. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted.

§ 9.2 If the Owner suspends the Project, the Architect shall be compensated for services performed prior to notice of such suspension. When the Project is resumed, the Architect shall be compensated for expenses incurred in the interruption and resumption of the Architect's services. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted.

§ 9.3 If the Owner suspends the Project for more than 90 cumulative days for reasons other than the fault of the Architect, the Architect may terminate this Agreement by giving not less than seven days' written notice.

§ 9.4 Either party may terminate this Agreement upon not less than seven days' written notice should the other party fail substantially to perform in accordance with the terms of this Agreement through no fault of the party initiating the termination.

§ 9.5 The Owner may terminate this Agreement upon not less than seven days' written notice to the Architect for the Owner's convenience and without cause.

§ 9.6 If the Owner terminates this Agreement for its convenience pursuant to Section 9.5, or the Architect terminates this Agreement pursuant to Section 9.3, the Owner shall compensate the Architect for services performed prior to termination, Reimbursable Expenses incurred, and costs attributable to termination, including the committed costs or performance of services attributable to the Architect's termination of consultant agreements.

§ 9.7 In addition to any amounts paid under Section 9.6, if the Owner terminates this Agreement for its convenience pursuant to Section 9.5, or the Architect terminates this Agreement pursuant to Section 9.3, the Owner shall pay to the Architect the following fees:
(Set forth below the amount of any termination or licensing fee, or the method for determining any termination or licensing fee.)

.1 Termination Fee:

$0

.2 Licensing Fee if the Owner intends to continue using the Architect's Instruments of Service:

$0

§ 9.8 Except as otherwise expressly provided herein, this Agreement shall terminate one year from the date of Substantial Completion.

§ 9.9 The Owner's rights to use the Architect's Instruments of Service in the event of a termination of this Agreement are set forth in Article 7 and Section 9.7.

ARTICLE 10 MISCELLANEOUS PROVISIONS

§ 10.1 This Agreement shall be governed by the law of the place where the Project is located, excluding that jurisdiction's choice of law rules. If the parties have selected arbitration as the method of binding dispute resolution, the Federal Arbitration Act shall govern Section 8.3.

§ 10.2 Terms in this Agreement shall have the same meaning as those in AIA Document A201–2017, General Conditions of the Contract for Construction.

§ 10.3 The Owner and Architect, respectively, bind themselves, their agents, successors, assigns, and legal representatives to this Agreement. Neither the Owner nor the Architect shall assign this Agreement without the

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written consent of the other, except that the Owner may assign this Agreement to a lender providing financing for the Project if the lender agrees to assume the Owner's rights and obligations under this Agreement, including any payments due to the Architect by the Owner prior to the assignment.

§ 10.4 If the Owner requests the Architect to execute certificates, the proposed language of such certificates shall be submitted to the Architect for review at least 14 days prior to the requested dates of execution. If the Owner requests the Architect to execute consents reasonably required to facilitate assignment to a lender, the Architect shall execute all such consents that are consistent with this Agreement, provided the proposed consent is submitted to the Architect for review at least 14 days prior to execution. The Architect shall not be required to execute certificates or consents that would require knowledge, services, or responsibilities beyond the scope of this Agreement.

§ 10.5 Nothing contained in this Agreement shall create a contractual relationship with, or a cause of action in favor of, a third party against either the Owner or Architect.

§ 10.6 Unless otherwise required in this Agreement, the Architect shall have no responsibility for the discovery, presence, handling, removal or disposal of, or exposure of persons to, hazardous materials or toxic substances in any form at the Project site. A hazardous material or toxic substance is any material or substance that may be considered hazardous, toxic, or otherwise subject to statutory or regulatory requirements governing handling, disposal, and/or cleanup. For purposes of this agreement, the term hazardous material shall include and not be limited to asbestos, polychlorinated biphenyl (PCB), mold, mildew, fungi, or other similar microbial conditions.

§ 10.6.1 Owner agrees to defend, indemnify, and save harmless the Architect from and against any and all liabilities, demands, claims, penalties, forfeitures, suits, and the costs and expenses arising from the discovery, presence, handling, removal, or disposal of, or exposure to hazardous materials or toxic substances (as defined in § 10.6), except to the extent that the presence of or exposure to hazardous materials or toxic substances result from the sole negligence or willful misconduct of the Architect.

§ 10.7 The Architect shall have the right to include photographic or artistic representations of the design of the Project among the Architect's promotional and professional materials. The Architect shall be given reasonable access to the completed Project to make such representations. However, the Architect's materials shall not include the Owner's confidential or proprietary information if the Owner has previously advised the Architect in writing of the specific information considered by the Owner to be confidential or proprietary. The Owner shall provide professional credit for the Architect in the Owner's promotional materials for the Project. This Section 10.7 shall survive the termination of this Agreement unless the Owner terminates this Agreement for cause pursuant to Section 9.4.

§ 10.8 If the Architect or Owner receives information specifically designated as "confidential" or "business proprietary," the receiving party shall keep such information strictly confidential and shall not disclose it to any other person except as set forth in Section 10.8.1. This Section 10.8 shall survive the termination of this Agreement.

§ 10.8.1 The receiving party may disclose "confidential" or "business proprietary" information after 7 days' notice to the other party, when required by law, arbitrator's order, or court order, including a subpoena or other form of compulsory legal process issued by a court or governmental entity, or to the extent such information is reasonably necessary for the receiving party to defend itself in any dispute. The receiving party may also disclose such information to its employees, consultants, or contractors in order to perform services or work solely and exclusively for the Project, provided those employees, consultants and contractors are subject to the restrictions on the disclosure and use of such information as set forth in this Section 10.8.

§ 10.9 The invalidity of any provision of the Agreement shall not invalidate the Agreement or its remaining provisions. If it is determined that any provision of the Agreement violates any law, or is otherwise invalid or unenforceable, then that provision shall be revised to the extent necessary to make that provision legal and enforceable. In such case the Agreement shall be construed, to the fullest extent permitted by law, to give effect to the parties' intentions and purposes in executing the Agreement.

ARTICLE 11 COMPENSATION

§ 11.1 For the Architect's Basic Services described under Article 3, the Owner shall compensate the Architect as follows:

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.1 Stipulated Sum
(Insert amount)

Defined in EXH-A Project Charter

.2 Percentage Basis
(Insert percentage value)

( ) % of the Owner's budget for the Cost of the Work, as calculated in accordance with Section 11.6.

.3 Other
(Describe the method of compensation)

Defined in EXH-A Project Charter

§ 11.2 For the Architect's Supplemental Services designated in Section 4.1.1 and for any Sustainability Services required pursuant to Section 4.1.3, the Owner shall compensate the Architect as follows:
(Insert amount of, or basis for, compensation. If necessary, list specific services to which particular methods of compensation apply.)

Defined in EXH-A Project Charter.

§ 11.3 For Additional Services that may arise during the course of the Project, including those under Section 4.2, the Owner shall compensate the Architect as follows:
(Insert amount of, or basis for, compensation.)

Defined in EXH-A Project Charter

§ 11.4 Compensation for Supplemental and Additional Services of the Architect's consultants when not included in Section 11.2 or 11.3, shall be the amount invoiced to the Architect plus percent (%), or as follows:
(Insert amount of, or basis for computing, Architect's consultants' compensation for Supplemental or Additional Services.)

§ 11.5 When compensation for Basic Services is based on a stipulated sum or a percentage basis, the proportion of compensation for each phase of services shall be as follows and defined in EXH-B Project Design Milestones & Deliverables:

Schematic Design Phase		percent (		%)
Design Development Phase		percent (		%)
Construction Documents Phase		percent (		%)
Procurement Phase		percent (		%)
Construction Phase		percent (		%)
Total Basic Compensation	one hundred	percent (	100	%)

§ 11.6 When compensation identified in Section 11.1 is on a percentage basis, progress payments for each phase of Basic Services shall be calculated by multiplying the percentages identified in this Article by the Owner's most recent budget for the Cost of the Work. Compensation paid in previous progress payments shall not be adjusted based on subsequent updates to the Owner's budget for the Cost of the Work.

§ 11.6.1 When compensation is on a percentage basis and any portions of the Project are deleted or otherwise not constructed, compensation for those portions of the Project shall be payable to the extent services are performed on

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those portions. The Architect shall be entitled to compensation in accordance with this Agreement for all services performed whether or not the Construction Phase is commenced.

§ 11.7 The hourly billing rates for services of the Architect and the Architect's consultants are set forth below. The rates shall be adjusted in accordance with the Architect's and Architect's consultants' normal review practices. *(If applicable, attach an exhibit of hourly billing rates or insert them below.)*

Defined in EXH-A Project Charter

Employee or Category	Rate ($0.00)

§ 11.8 Compensation for Reimbursable Expenses

§ 11.8.1 Reimbursable Expenses are in addition to compensation for Basic, Supplemental, and Additional Services and include expenses incurred by the Architect and the Architect's consultants directly related to the Project, as follows:

- **.1** Transportation and authorized out-of-town travel and subsistence;
- **.2** Long distance services, dedicated data and communication services, teleconferences, Project web sites, and extranets;
- **.3** Permitting and other fees required by authorities having jurisdiction over the Project;
- **.4** Printing, reproductions, plots, and standard form documents;
- **.5** Postage, handling, and delivery;
- **.6** Expense of overtime work requiring higher than regular rates, if authorized in advance by the Owner;
- **.7** Renderings, physical models, mock-ups, professional photography, and presentation materials requested by the Owner or required for the Project;
- **.8** If required by the Owner, and with the Owner's prior written approval, the Architect's consultants' expenses of professional liability insurance dedicated exclusively to this Project, or the expense of additional insurance coverage or limits in excess of that normally maintained by the Architect's consultants;
- **.9** All taxes levied on professional services and on reimbursable expenses;
- **.10** Site office expenses;
- **.11** Registration fees and any other fees charged by the Certifying Authority or by other entities as necessary to achieve the Sustainable Objective; and,
- **.12** Other similar Project-related expenditures.

§ 11.8.2 For Reimbursable Expenses the compensation shall be the expenses incurred by the Architect and the Architect's consultants plus five percent (5 %) of the expenses incurred.

§ 11.9 Architect's Insurance. If the types and limits of coverage required in Section 2.5 are in addition to the types and limits the Architect normally maintains, the Owner shall pay the Architect for the additional costs incurred by the Architect for the additional coverages as set forth below:
(Insert the additional coverages the Architect is required to obtain in order to satisfy the requirements set forth in Section 2.5, and for which the Owner shall reimburse the Architect.)

$0

§ 11.10 Payments to the Architect

§ 11.10.1 Initial Payments

§ 11.10.1.1 An initial payment of zero ($ 0) shall be made upon execution of this Agreement and is the minimum payment under this Agreement. It shall be credited to the Owner's account in the final invoice.

§ 11.10.1.2 If a Sustainability Certification is part of the Sustainable Objective, an initial payment to the Architect of zero ($ 0) shall be made upon execution of this Agreement for registration fees and other fees payable to the Certifying Authority and necessary to achieve the Sustainability Certification. The Architect's payments to the Certifying Authority shall be credited to the Owner's account at the time the expense is incurred.

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§ 11.10.2 Progress Payments

§ 11.10.2.1 Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed. Payments are due and payable upon presentation of the Architect's invoice. Amounts unpaid thirty (30) days after the invoice date shall bear interest at the rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of the Architect. The Architect shall send invoices directly to the Contract Representative named in paragraph 1.1.7.
(Insert rate of monthly or annual interest agreed upon.)

%

§ 11.10.2.2 The Owner shall not withhold amounts from the Architect's compensation to impose a penalty or liquidated damages on the Architect, or to offset sums requested by or paid to contractors for the cost of changes in the Work, unless the Architect agrees or has been found liable for the amounts in a binding dispute resolution proceeding.

§ 11.10.2.3 Records of Reimbursable Expenses, expenses pertaining to Supplemental and Additional Services, and services performed on the basis of hourly rates shall be available to the Owner upon written request.

ARTICLE 12 SPECIAL TERMS AND CONDITIONS

Special terms and conditions that modify this Agreement are as follows:
(Include other terms and conditions applicable to this Agreement.)

12.1 The Architect and the Owner agree that the Project may be phased, include multiple bid packs (as few as one or as many as three) or require accelerated design deliverables to best meet the Owner's schedule of funding approvals and day one operations for building occupants. As a standard of working with the Owner the Architect agrees that additional compensation above fees for Basic Services and Additional Services as defined in EXH-A Project Charter will not be paid to the Architect to perform and deliver services within known parameters for the Project as defined in EXH-A Project Charter, EXH-B Project Design Milestones & Deliverables, and EXH-D Owner Requirements.

12.2 The Architect and the Owner agree to incorporate the Owner's feedback as defined ni EXH-D Owner Requirements. The Owner's written notice to proceed to the next design phase will not be granted without written receipt of required deliverables.

12.3 If the Owner elects to employ an accelerated, phased, or fast track design process (in which some of the Architect's design services overlap the construction work and are out of sequence with the traditional delivery method), Owner does so with full recognition of the inherent risks associated with these design methodologies. Such risks include the Owner incurring costs for the Architect to coordinate and re-design portions of the Project affected by procuring or installing elements of the Project prior to the completion of all relevant Construction Documents, and costs for the Contractor to remove and replace previously installed Work. In recognition of the inherent risks of the fast tracking to the Architect and the benefits to the Owner, the Owner agrees to (i) waive all claims against the Architect for design changes, delays, disruptions, or other modifications of portions of the Work already constructed due to the Owner's decision to employ the fast track process and (ii) indemnify and hold the Architect harmless, to the maximum extent permitted by law, from any and all damage, liability, and cost, including reasonable attorney fees and defense costs, arising from third party claims, excepting those attributable to the negligence of the Architect or those for whom the Architect is legally liable. To compensate the Architect for all Additional Services required to modify, correct, or adjust the Construction Documents and coordinate them in order to meet the Owner's program requirements because of the Owner's decision to construct the Project in a fast track manner. Owner further agrees to include in the budget for the Project sufficient contingencies to cover such Additional Services.

12.4 The Owner agrees that the Architect is not responsible for damages arising directly or indirectly from any delays for causes beyond the Architect's control. For purposes of this Agreement, such causes include, but are not limited to, strikes or other labor disputes; severe weather disruptions, other natural disasters; fires, riots, acts of terrorism, war, or other emergencies or acts of God.

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ARTICLE 13 SCOPE OF THE AGREEMENT

§ 13.1 This Agreement represents the entire and integrated agreement between the Owner and the Architect and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both the Owner and Architect.

§ 13.2 This Agreement is comprised of the following documents identified below:

.1 AIA Document B101™–2017, Standard Form Agreement Between Owner and Architect

.2 AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, dated as indicated below:

(Insert the date of the E203-2013 incorporated into this agreement.)

January 31, 2020

.3 Exhibits: A-D as identified on page 1 of this agreement and named below

.4 AIA Document G201-2013 Project Digital Data Protocol Form

.5 AIA Document G202-2013 Project Building Information Modeling Protocol Form

(Check the appropriate box for any exhibits incorporated into this Agreement.)

[ ] AIA Document E204™–2017, Sustainable Projects Exhibit, dated as indicated below:
(Insert the date of the E204-2017 incorporated into this agreement.)

[X] Other Exhibits incorporated into this Agreement:
(Clearly identify any other exhibits incorporated into this Agreement, including any exhibits and scopes of services identified as exhibits in Section 4.1.2.)

EXH-A Project Charter
EXH-B Project Design Milestones & Deliverables
EXH-C Owner Insurance
EXH-D Owner Requirements

.6 Other documents:

(List other documents, if any, forming part of the Agreement.)

AIA Document A201-2017 General Conditions

This Agreement entered into as of the day and year first written above.

OWNER (Signature)	**ARCHITECT** (Signature) Paul G. May, Principal | Vice-President
(Printed name and title)	*(Printed name, title, and license number, if required)*

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PAGE 1

AGREEMENT made as of the eleventh day of March in the year 2025

...

Minneapolis Public Schools
Special School District #1
1250 West Broadway Avenue
Minneapolis, MN 55411

...

Miller Dunwiddie
100 Washington Ave South
Suite 500
Minneapolis, MN 55401

...

Justice Page Middle School
1 West 49th Street
Minneapolis, MN 55419

...

The standards of professional services are set forth in this document and schedule of exhibits as follows:

...

EXH-A Project Charter

...

EXH-B Project Design Milestones & Deliverables

...

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EXH-C Owner Insurance

...

EXH-D Owner Requirements

PAGE 2

TABLE OF ARTICLES

...

(Insert the Owner's program, identify documentation that establishes the Owner's program, or state the manner in which the program will be developed.)

...

Defined in EXH-A Project Charter

...

Defined in EXH-A Project Charter

...

Defined in EXH-A Project Charter

PAGE 3

Defined in EXH-B Project Design Milestones & Deliverables

...

Defined in EXH-A Project Charter and EXH-B Project Design Milestones & Deliverables

...

Defined in EXH-A Project Charter

...

Defined in EXH-B Project Design Milestones & Deliverables

...

Defined in EXH-A Project Charter

...

Sustainable Design solutions which optimize or promote improved energy efficiency, occupant well-being, comfort, health, and improved long-term maintenance serviceability as standard to LEED rating system and B3 requirements are valued. Owner will not pursue LEED certification or complete B3 compliance. The Architect is not required to provide additional services for Sustainable Design.

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...

Diedra Geye
Project Manager
Minneapolis Public Schools
1250 West Broadway Avenue
Minneapolis, MN 55411

...

N/A

PAGE 4

Commissioning Agent, Geotechnical Engineer, Special Inspections, Hazardous Materials Abatement, Special Testing, and Investigative Analysis

...

Abby Hammes
Miller Dunwiddie
100 Washington Ave South
Suite 500
Minneapolis, MN 55401
ahammes@millerdunwiddie.com

...

§ 1.1.11 The Architect shall retain the consultants identified in ~~Sections 1.1.11.1 and 1.1.11.2:~~EXH-A Project Charter.

...

~~*(List name, legal status, address, and other contact information.)*~~

...

~~**§ 1.1.11.1** Consultants retained under Basic Services:~~

...

~~**.1** Structural Engineer:~~

...

~~**.2** Mechanical Engineer:~~

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...

~~.3 Electrical Engineer:~~

...

§ 1.1.11.2 ~~Consultants retained under Supplemental Services:~~

...

Professional Consultant Team as defined in EXH-A Project Charter

...

§ 1.3 The parties shall agree upon ~~written~~ protocols governing the transmission and use ~~of, and reliance on,~~ of Instruments of Service or any other information or documentation in digital form. The parties will use AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, to establish the protocols for the development, use, transmission, and exchange of digital data.

PAGE 5

§ 1.3.1 Any use of, or reliance on, all or a portion of a building information model without agreement to ~~written~~ protocols governing the use of, and reliance on, the information contained in the model and without having those protocols set forth in AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, and the requisite AIA Document G202™–2013, Project Building Information Modeling Protocol Form, shall be at the using or relying party's sole risk and without liability to the other party and its contractors or consultants, the authors of, or contributors to, the building information model, and each of their agents and employees.

...

§ 2.5 The Architect shall maintain ~~the following insurance until termination of this Agreement.~~ insurance as defined in EXH-C Owner Insurance until termination of this Agreement and for the period of the statutes of repose set forth in Minnesota Statute 541.051, so long as such insurance is commercially available and reasonably affordable. If any of the requirements set forth below are in addition to the types and limits the Architect normally maintains, the Owner shall pay the Architect as set forth in Section 11.9.

...

§ 2.5.1 Commercial General Liability with policy limits ~~of not less than ($) for each occurrence and ($) in the aggregate for bodily injury and property damage.~~as defined in EXH-C Owner Insurance.

...

§ 2.5.2 Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Architect with policy limits ~~of not less than ($) per accident for bodily injury, death of any person, and property damage arising out of the ownership, maintenance and use of those motor vehicles, along with any other statutorily required automobile coverage.~~as defined in EXH-C Owner Insurance.

...

§ 2.5.3 The Architect may achieve the required limits and coverage for Commercial General Liability and Automobile Liability through a combination of primary and excess or umbrella liability insurance, provided such primary and excess or umbrella liability insurance policies result in the same or greater coverage as the coverages

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required under Sections 2.5.1 and 2.5.2, and in no event shall any excess or umbrella liability insurance provide narrower coverage than the primary policy. The excess policy shall not require the exhaustion of the underlying limits only through the actual payment by the underlying insurers. Defined in EXH-C Owner Insurance.

...

§ 2.5.4 Workers' Compensation at statutory limits. Defined in EXH-C Owner Insurance.

...

§ 2.5.5 Employers' Liability with policy limits ~~not less than ($) each accident, ($) each employee, and ($) policy limit.~~as defined in EXH-C Owner Insurance.

...

§ 2.5.6 Professional Liability covering negligent acts, errors and omissions in the performance of professional services with policy limits ~~of not less than ($) per claim and ($) in the aggregate.~~as defined in EXH-C Owner Insurance.

...

§ 2.5.7 Additional Insured Obligations. To the fullest extent permitted by law, the Architect shall cause the primary and excess or umbrella ~~policies~~ polices for Commercial General Liability and Automobile Liability to include the Owner as an additional insured for claims caused in whole or in part by the Architect's negligent acts or omissions. The additional insured coverage shall be primary and non-contributory to any of the Owner's insurance policies and shall apply to both ongoing and completed operations.

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§ 3.1 The Architect's Basic Services consist of those described in this Article 3 and include usual and customary structural, mechanical, and electrical engineering services. Services not set forth in this Article 3 are Supplemental or Additional Services. The Architect's Basic Services are defined in EXH-B Project Design Milestones & Deliverables.

...

§ 3.1.2 The Architect shall coordinate its services with those services provided by the Owner and the Owner's consultants. The Architect shall be entitled to rely on, and shall not be responsible for, the accuracy, completeness, and timeliness of, services and information furnished by the Owner and the Owner's consultants. The Architect shall provide prompt (within 7-10 business days of discovery) written notice to the Owner if the Architect becomes aware of any error, omission, or inconsistency in such services or information. The Architect is encouraged to provide prompt written notice to the Owner within this timeframe; it is most critical during the construction administration phase.

...

§ 3.1.3 As soon as practicable after the date of this Agreement, the Architect shall submit for the Owner's approval a schedule for the performance of the Architect's services. The schedule initially shall include anticipated dates for the commencement of construction and for Substantial Completion of the Work as set forth in the Initial ~~Information.~~ Information and defined in EXH-B Project Design Milestones & Deliverables. The schedule shall include allowances for periods of time required for the Owner's review, for the performance of the Owner's consultants, and for approval of submissions by authorities having jurisdiction over the Project. Once approved by the Owner, time limits established by the schedule shall not, except for reasonable cause, be exceeded by the Architect or Owner. With the Owner's approval, the Architect shall adjust the schedule, if necessary, as the Project proceeds until the commencement of construction.

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...

§ 3.1.5 The Architect shall contact governmental authorities required to approve the Construction Documents and entities providing utility services to the Project. The Architect shall respond to applicable design requirements imposed by those authorities and ~~entities.~~entities and initiate governmental planning review processes as defined in EXH-B Project Design Milestones & Deliverables.

...

§ 3.1.7 The Architect shall fully cooperate and coordinate with the Owner and its hired Commissioning Agent during all phases of design, construction, and commissioning to achieve the Project's final completion and full systems operability and ongoing use per the approved final design. The Architect is responsible for the duration of the contract to provide adequate support to its sub-consultants who provide services integral to commissioning.

...

§ 3.1.8 The Architect shall assist the Owner in connection with the Owner's responsibility to communicate the project design and construction to the school community, school neighbors, and neighborhood associations.

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§ 3.1.9 The Owner shall provide available historical building documentation and the Architect shall field verify building elements as a basis for design. Additional design fees and reimbursable expenses incurred by the Architect related to remedying or addressing incorrectly identified building elements following the Architect's completion of field verification shall be borne solely by the Architect. Field verification shall include (1) field measurements of readily visible elements, (2) removing and replacing lay-in ceiling tiles, and (3) opening and closing access panels. The Architect is encouraged to identify areas that are not readily visible and merit further destructive testing that may include (1) drilling holes to use a scope camera to see inside a wall, (2) cutting small holes to identify sub surface conditions, or (3) moving non-functioning equipment to facilitate investigation. The Owner will perform any requested destructive testing. The Architect is responsible for field verification for the portion of the building within the scope of services. Field verification and destructive testing shall not be required for portions of the building or building systems that are not within the scope of services as defined in AIA G202-2013 Article

...

§

...

3.3.

...

§ 3.2 Schematic Design Phase Services

...

§ 3.2.1 The Architect shall review the program and other information furnished by the Owner, and shall review laws, codes, and regulations applicable to the Architect's services. The Architect shall submit reports, documents for review, and deliverables as defined in EXH-B Project Design Milestones & Deliverables, AIA contracts G201-2013, G202-2013, and E203-2013.

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...

§ 3.2.7 The Architect shall submit the Schematic Design Documents to the ~~Owner, and request the Owner's approval.~~Owner as defined in EXH-B Design Milestones & Deliverables, and request the Owner's approval before proceeding with Design Development Documents as defined in EXH-B Design Milestones & Deliverables.

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§ 3.3.1 Based on the Owner's approval of the Schematic Design Documents, and on the Owner's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, the Architect shall prepare Design Development Documents for the Owner's approval. The Design Development Documents shall illustrate and describe the development of the approved Schematic Design Documents and shall consist of drawings and other documents including plans, sections, elevations, typical construction details, and diagrammatic layouts of building systems to fix and describe the size and character of the Project as to architectural, structural, mechanical and electrical systems, and other appropriate elements. The Design Development Documents shall also include outline specifications that identify major materials and systems and establish, in general, their quality levels. The Architect shall submit reports, documents for review, and deliverables as defined in EXH-B Project Design Milestones & Deliverables and AIA contracts G201-2013, G202-2013, and E203-2013.

...

§ 3.3.3 The Architect shall submit the Design Development Documents to the Owner, advise the Owner of any adjustments to the estimate of the Cost of the ~~Work, and request the Owner's approval.~~Work as defined in EXH-B Project Design Milestones & Deliverables, and request the Owner's approval before proceeding with Construction Documents as defined in EXH-B Design Milestones & Deliverables.

...

§ 3.4.5 The Architect shall submit the Construction Documents to the Owner, advise the Owner of any adjustments to the estimate of the Cost of the Work, take any action required under Section 6.5, and request the Owner's approval. The Architect shall submit construction documents which are estimated to bid within 5% of the budgeted construction cost. The Cost of Work submittal is defined in EXH-B Project Design Milestones & Deliverables.

...

The Architect shall assist the Owner in establishing a list of prospective contractors. Following the Owner's approval of the Construction Documents, the Architect shall assist the Owner in (1) obtaining either competitive bids or negotiated proposals; (2) confirming responsible and responsiveness of bids or proposals; (3) determining the successful bid or proposal, if any; ~~and,~~ (4) awarding and preparing contracts for ~~construction.~~construction; and, (5) Any review of bid anomalies or irregularities requiring legal review shall be provided by the Owner.

PAGE 9

§ 3.5.2.3 If the Bidding Documents permit substitutions, upon the Owner's written authorization, the Architect ~~shall, as an Additional Service,~~ shall consider requests for substitutions and prepare and distribute addenda identifying approved substitutions to all prospective bidders.

...

§ 3.6.1.2 The Architect shall ~~advise~~ advise, lead, and consult with the Owner during the Construction Phase Services. The Architect shall have authority to act on behalf of the Owner only to the extent provided in this Agreement. The Architect shall not have control over, charge of, or responsibility for the construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work, nor shall the Architect be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The Architect shall be responsible for the Architect's negligent ~~acts~~ acts, errors, or omissions, but shall not have control over or charge of, and shall not be responsible for, acts or omissions of the Contractor or of any other persons or entities performing portions of the Work.

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§ 3.6.1.3 Subject to Section 4.2 and except as provided in Section 3.6.6.5, the Architect's responsibility to provide Construction Phase Services commences with the award of the Contract for Construction and the Owner's written notice to proceed to Construction Administration and terminates on the date the Architect ~~issues the~~ authorizes the Contractor's final Certificate for Payment.

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§ 3.6.2.2 The Architect has the authority and obligation to reject Work that does not conform to the Contract ~~Documents.~~ Documents unless the Owner accepts non-conforming work in writing after consulting with the Architect. Whenever the Architect considers it necessary or advisable, the Architect shall have the authority and obligation to require inspection or testing of the Work in accordance with the provisions of the Contract Documents, whether or not the Work is fabricated, installed or completed. However, neither this authority and obligation of the Architect nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect to the Contractor, Subcontractors, suppliers, their agents or employees, or other persons or entities performing portions of the Work.

...

§ 3.6.2.3 The Architect shall interpret and decide matters concerning performance under, and requirements of, the Contract Documents on written request of either the Owner or Contractor. The Architect's response to such requests shall be made in writing within ~~any time limits agreed upon~~ five business days of requests or otherwise with reasonable promptness.

...

§ 3.6.3.1 The Architect shall review and certify the amounts due the Contractor and shall issue certificates in such amounts. The Architect's certification for payment shall constitute a representation to the Owner, based on the Architect's evaluation of the Work as provided in Section 3.6.2 and on the data comprising the Contractor's Application for Payment, that, to the best of the Architect's knowledge, information and belief, the Work has progressed to the point indicated, the quality of the Work is in accordance with the Contract Documents, and that the Contractor is entitled to payment in the amount certified. The foregoing representations are subject to (1) an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, (2) results of subsequent documented tests and inspections, (3) correction of minor deviations from the Contract Documents prior to completion, and (4) specific qualifications expressed by the Architect. The Architect's certification on the Certificate for Payment shall be that the percentages of Work shown on the application are completed, to the best of the Architect's knowledge, information, and belief. No judgement is made by the Architect as to the value of the Work or the value of uncompleted Work.

...

§ 3.6.4.2 The Architect shall review and approve, or take other appropriate action upon, the Contractor's submittals such as Shop Drawings, Product Data and Samples, but only for the limited purpose of checking for conformance with ~~information given and the design concept expressed in~~ the Contract Documents. Review of such submittals is not for the purpose of determining the accuracy and completeness of other information such as dimensions, quantities, and installation or performance of equipment or systems, which are the Contractor's responsibility. The Architect's review shall not constitute approval of safety precautions or construction means, methods, techniques, sequences or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

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.3 forward to the Owner, for the Owner's review and records, written warranties including a warranty schedule of major building systems and warranty expiration dates, and related documents required by the Contract Documents and received from the Contractor; and,

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...

.5 The Architect shall produce punch list items as part of the certificate of Substantial Completion issued to the Contractor. The Architect shall create the list(s), present them to the Owner, incorporate Owner feedback, and compile all punch items for the contractor in a timely

...

manner.

...

§ 3.6.6.2 The Architect's inspections shall be conducted with the Owner to check conformance of the Work with the requirements of the Contract Documents and to verify the accuracy and completeness of the ~~list~~ list(s) including and not limited to Architectural, Civil, Mechanical, Electrical, Structural, and Plumbing systems submitted by the Contractor of Work to be completed or corrected.

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§ 3.6.6.5 Upon request of the ~~Owner,~~ Owner ten (10) months following substantial completion, and prior to the expiration of one year from the date of Substantial Completion, the Architect shall, without additional compensation, conduct a meeting with the Owner to review the facility operations and performance.

...

§ 3.6.6.6 The Architect shall issue an As Constructed Record set of construction documents that will consist of the As Designed Record Sets of construction documents and Revit model with redlined changes from the General Contractor incorporated into the digital deliverables as defined in AIA G201 2013 Article 2.3 to the Owner upon final completion of the Project. The As Constructed Record documents shall reflect all digital changes made by the Architect between issuing the Bid Documents set and final completion as well as the General Contractor's redline changes. The Architect shall not be held responsible for field verification of the General Contractor's changes. The Architect's full set of deliverables during Construction Administration are defined in EXH-D Owner Requirements.

PAGE 13

The Architect may provide Additional Services after execution of this Agreement without invalidating the Agreement. Except for services required due to the fault of the Architect, any Additional Services provided in accordance with this Section 4.2 shall entitle the Architect to compensation pursuant to Section 11.3 and an appropriate adjustment in the Architect's schedule. Additional Services are Defined in EXH-A Project Charter.

...

.3 Changing or editing previously prepared Instruments of Service necessitated by official interpretations of applicable codes, laws or regulations that are ~~either (a) contrary to specific interpretations by the applicable authorities having jurisdiction made prior to the issuance of the building permit, or (b)~~ contrary to requirements of the Instruments of Service when those Instruments of Service were prepared in accordance with the applicable standard of care;

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~~.5 Preparing digital models or other design documentation for transmission to the Owner's consultants and contractors, or to other Owner-authorized recipients;~~

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...

~~.6 Preparation of design and documentation for alternate bid or proposal requests proposed by the Owner;~~

...

~~.7 Preparation for, and attendance at, a public presentation, meeting or hearing;~~

...

~~.9 Evaluation of the qualifications of entities providing bids or proposals;~~

...

~~.11 Assistance to the Initial Decision Maker, if other than the Architect.~~

...

.1 2 (two) reviews of each Shop Drawing, Product Data item, sample and similar submittals of the Contractor

...

.2 1 (one) visits per week to the site by the Architect during construction

...

.3 2 (two) inspections for any portion of the Work to determine whether such portion of the Work is substantially complete in accordance with the requirements of the Contract Documents

...

.4 1 (one) inspections for any portion of the Work to determine final completion.

...

§ 4.2.5 If the services covered by this Agreement have not been completed within eighteen (18) months of the date of this Agreement, through no fault of the Architect, extension of the Architect's services beyond that time shall be compensated as Additional Services.

PAGE 15

§ 5.1 Unless otherwise provided for under this Agreement, the Owner shall provide information in a timely manner regarding requirements for and limitations on the Project, including a written program, which shall set forth the Owner's objectives; schedule; constraints and criteria, including space requirements and relationships; flexibility; expandability; special equipment; systems; and site ~~requirements.~~requirements and stakeholder engagement requirements as defined in EXH-B Project Design Milestones & Deliverables.

...

§ 5.8 The Owner shall coordinate the services of its own consultants with those services provided by the Architect. Upon the Architect's request, the Owner shall furnish copies of the scope of services in the contracts between the Owner and the Owner's consultants. The Owner shall furnish the services of consultants other than those designated as the responsibility of the Architect in this Agreement, or authorize the Architect to furnish them as an Additional

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Service, when the Architect requests such services and demonstrates that they are reasonably required by the scope of the Project. The Owner shall require that its consultants and contractors maintain insurance, including professional liability insurance, as appropriate to the services or work ~~provided.~~provided and defined in Article 2.

...

§ 5.8.1 Architect's responsibility in connection with the services of Owner's consultants, contractors, or design-build contractor shall be to coordinate Owner's consultants', contractors', or design-build contractor's portion of the Instruments of Service. Owner shall require consultants, contractors, or design-build contractor retained by Owner to coordinate their services and documents with those of Architect and Architect's consultants.

PAGE 16

§ 5.16 The Owner shall provide coordination, installation, and procurement of furniture, furnishings, and equipment for the Project.

...

§ 5.17 The Owner shall provide Information Technology equipment plugged into networks. Cabling and infrastructure designed by the Architect and installed by the Contractor.

...

§ 5.18 The Owner shall provide Testing and Special Inspections.

...

§ 5.19 The Owner shall coordinate closely with the Architect and the Contractor for design and installation of security systems in the Project. The Owner shall design systems by locating cameras and designating doors for access control, the Architect shall document and complete the initial design by designing pathways, the Contractor shall install cabling and infrastructure required for the systems to be operational as well as devices, and the Owner shall work with the Contractor to program and test the

...

~~ARTICLE~~

...

systems.

...

ARTICLE 6 COST OF THE WORK

...

§ 6.1 For purposes of this Agreement, the Cost of the Work shall be the total cost to the Owner to construct all elements of the Project designed or specified by the Architect and shall include contractors' general conditions costs, overhead and profit. The Cost of the Work also includes the reasonable value of ~~labor,~~ labor including escalation for phased work or market conditions, materials, and equipment, donated to, or otherwise furnished by, the Owner. The

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Cost of the Work does not include the compensation of the Architect; the costs of the land, rights-of-way, financing, or contingencies for changes in the Work; or other costs that are the responsibility of the Owner.

PAGE 17

§ 6.3 In preparing estimates of the Cost of Work, the Architect shall be permitted to include contingencies for design, bidding, and price escalation; to determine what materials, equipment, component systems, and types of construction are to be included in the Contract Documents; to recommend reasonable adjustments in the program and scope of the Project; and to include design alternates as may be necessary to adjust the estimated Cost of the Work to meet the Owner's ~~budget.~~ budget as defined in EXH-A Project Charter and EXH-B Project Design Milestones & Deliverables. The Architect's estimate of the Cost of the Work shall be based on current area, volume or similar conceptual estimating techniques. If the Owner requires a detailed estimate of the Cost of the Work, the Architect shall provide such an estimate, if identified as the Architect's responsibility in Section 4.1.1, as a Supplemental Service.

...

§ 6.4 If, through no fault of the Architect, the Procurement Phase has not commenced within 90 days after the Architect submits the Construction Documents to the Owner, the Owner's budget for the Cost of the Work ~~shall~~ may be adjusted to reflect changes in the general level of prices in the applicable construction market.

...

§ 6.6 If the Owner's budget for the Cost of the Work at the conclusion of the Construction Documents Phase Services is exceeded by five percent (5%) by the lowest bona fide bid or negotiated proposal, the Owner shall

...

.5 cooperate in revising the Project scope as required to reduce the estimated construction cost to an estimated cost within the Owner's budget. Costs or time incurred by the Architect to review the design to align with the Budget shall be borne entirely by the Architect.

...

~~implement any other mutually acceptable alternative.~~.6 implement any other mutually acceptable alternative, which may include the Owner's decision to suspend the Project, in which case the Architect shall be paid for services actually rendered under this agreement.

PAGE 18

§ 7.4 ~~Except for the licenses granted in this Article 7, no other license or right shall be deemed granted or implied under this Agreement. The Owner shall not assign, delegate, sublicense, pledge or otherwise transfer any license granted herein to another party without the prior written agreement of the Architect.~~ Any unauthorized use of the Instruments of Service shall be at the Owner's sole risk and without liability to the Architect and the Architect's consultants. The Owner retains full rights to all Instruments of Service for use in the Project and any existing or future projects.

PAGE 19

[X] Litigation in a court of competent jurisdiction

PAGE 20

§ 9.1 If the Owner fails to make payments to the Architect in accordance with this Agreement, such failure shall be considered substantial nonperformance and cause for termination or, at the Architect's option, cause for suspension of performance of services under this Agreement. If the Architect elects to suspend services, the Architect shall give seven days' written notice to the Owner before suspending services. In the event of a suspension of services, the

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Architect shall have no liability to the Owner for delay or damage caused the Owner because of such suspension of services. Before resuming services, the Owner shall pay the Architect all sums due prior to suspension and any reasonable, quantifiable expenses incurred in the interruption and resumption of the Architect's services. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted.

...

§ 9.6 If the Owner terminates this Agreement for its convenience pursuant to Section 9.5, or the Architect terminates this Agreement pursuant to Section 9.3, the Owner shall compensate the Architect for services performed prior to termination, Reimbursable Expenses incurred, and costs attributable to termination, including the committed costs or performance of services attributable to the Architect's termination of consultant agreements.

...

$0

...

$0

PAGE 21

§ 10.6 Unless otherwise required in this Agreement, the Architect shall have no responsibility for the discovery, presence, handling, removal or disposal of, or exposure of persons to, hazardous materials or toxic substances in any form at the Project site. A hazardous material or toxic substance is any material or substance that may be considered hazardous, toxic, or otherwise subject to statutory or regulatory requirements governing handling, disposal, and/or cleanup. For purposes of this agreement, the term hazardous material shall include and not be limited to asbestos, polychlorinated biphenyl (PCB), mold, mildew, fungi, or other similar microbial conditions.

...

§ 10.6.1 Owner agrees to defend, indemnify, and save harmless the Architect from and against any and all liabilities, demands, claims, penalties, forfeitures, suits, and the costs and expenses arising from the discovery, presence, handling, removal, or disposal of, or exposure to hazardous materials or toxic substances (as defined in §

...

10.6), except to the extent that the presence of or exposure to hazardous materials or toxic substances result from the sole negligence or willful misconduct of the Architect.

PAGE 22

Defined in EXH-A Project Charter

...

Defined in EXH-A Project Charter

...

Defined in EXH-A Project Charter.

...

Defined in EXH-A Project Charter

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...

§ 11.5 When compensation for Basic Services is based on a stipulated sum or a percentage basis, the proportion of compensation for each phase of services shall be as ~~follows:~~follows and defined in EXH-B Project Design Milestones & Deliverables:

PAGE 23

Defined in EXH-A Project Charter

...

§ 11.8.2 For Reimbursable Expenses the compensation shall be the expenses incurred by the Architect and the Architect's consultants plus five percent (5 %) of the expenses incurred.

...

$0

...

§ 11.10.1.1 An initial payment of zero ($ 0) shall be made upon execution of this Agreement and is the minimum payment under this Agreement. It shall be credited to the Owner's account in the final invoice.

...

§ 11.10.1.2 If a Sustainability Certification is part of the Sustainable Objective, an initial payment to the Architect of zero ($ 0) shall be made upon execution of this Agreement for registration fees and other fees payable to the Certifying Authority and necessary to achieve the Sustainability Certification. The Architect's payments to the Certifying Authority shall be credited to the Owner's account at the time the expense is incurred.

PAGE 24

§ 11.10.2.1 Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed. Payments are due and payable upon presentation of the Architect's invoice. Amounts unpaid thirty (30) days after the invoice date shall bear interest at the rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of the Architect. The Architect shall send invoices directly to the Contract Representative named in paragraph 1.1.7.

...

§ 11.10.2.3 Records of Reimbursable Expenses, expenses pertaining to Supplemental and Additional Services, and services performed on the basis of hourly rates shall be available to the Owner ~~at mutually convenient times.~~upon written request.

...

12.1 The Architect and the Owner agree that the Project may be phased, include multiple bid packs (as few as one or as many as three) or require accelerated design deliverables to best meet the Owner's schedule of funding approvals and day one operations for building occupants. As a standard of working with the Owner the Architect agrees that additional compensation above fees for Basic Services and Additional Services as defined in EXH-A Project Charter will not be paid to the Architect to perform and deliver services within known parameters for the Project as defined in EXH-A Project Charter, EXH-B Project Design Milestones & Deliverables, and EXH-D Owner Requirements.

12.2 The Architect and the Owner agree to incorporate the Owner's feedback as defined ni EXH-D Owner Requirements. The Owner's written notice to proceed to the next design phase will not be granted without written receipt of required deliverables.

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12.3 If the Owner elects to employ an accelerated, phased, or fast track design process (in which some of the Architect's design services overlap the construction work and are out of sequence with the traditional delivery method), Owner does so with full recognition of the inherent risks associated with these design methodologies. Such risks include the Owner incurring costs for the Architect to coordinate and re-design portions of the Project affected by procuring or installing elements of the Project prior to the completion of all relevant Construction Documents, and costs for the Contractor to remove and replace previously installed Work. In recognition of the inherent risks of the fast tracking to the Architect and the benefits to the Owner, the Owner agrees to (i) waive all claims against the Architect for design changes, delays, disruptions, or other modifications of portions of the Work already constructed due to the Owner's decision to employ the fast track process and (ii) indemnify and hold the Architect harmless, to the maximum extent permitted by law, from any and all damage, liability, and cost, including reasonable attorney fees and defense costs, arising from third party claims, excepting those attributable to the negligence of the Architect or those for whom the Architect is legally liable. To compensate the Architect for all Additional Services required to modify, correct, or adjust the Construction Documents and coordinate them in order to meet the Owner's program requirements because of the Owner's decision to construct the Project in a fast track manner. Owner further agrees to include in the budget for the Project sufficient contingencies to cover such Additional Services.

12.4 The Owner agrees that the Architect is not responsible for damages arising directly or indirectly from any delays for causes beyond the Architect's control. For purposes of this Agreement, such causes include, but are not limited to, strikes or other labor disputes; severe weather disruptions, other natural disasters; fires, riots, acts of terrorism, war, or other emergencies or acts of God.

PAGE 25

.2 AIA Document E203™–2013, Building Information Modeling ~~Exhibit, if completed:~~and Digital Data Exhibit, dated as indicated below:

...

(Insert the date of the E203-2013 incorporated into this agreement.)

...

January 31, 2020

...

.3 Exhibits: A-D as identified on page 1 of this agreement and named below

...

.4 AIA Document G201-2013 Project Digital Data Protocol Form

...

.5 AIA Document G202-2013 Project Building Information Modeling Protocol Form

...

[X] Other Exhibits incorporated into this Agreement:

...

EXH-A Project Charter

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...

EXH-B Project Design Milestones & Deliverables

...

EXH-C Owner Insurance

...

EXH-D Owner Requirements

...

~~.4~~ .6 Other documents:

...

AIA Document A201-2017 General Conditions

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Certification of Document's Authenticity

AIA® Document D401™ – 2003

I, , hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with its associated Additions and Deletions Report and this certification at 13:42:49 CT on 02/20/2025 under Order No. 4104251278 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document B101™ - 2017, Standard Form of Agreement Between Owner and Architect, other than those additions and deletions shown in the associated Additions and Deletions Report.

_____

(Signed)

_____

(Title)

_____

(Dated)

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EXHIBIT A - Project Charter

Project Identification, Intent, and Scope

Justice Page Middle School Renovation
1 West 49th Street
Minneapolis, MN 55419
Minneapolis Public Schools Project Number 25PAGE001

Building Context

Justice Page has a student population ranging from grade 6 through grade 8. The school has a total of 149,346 square feet and is classified as a K8-4K building.

Project Intent

Capital renovations for the improvements to the lower level including the kitchen, cafeteria, gymnasium, and restrooms.

Project Summary

Project Delivery Method:	Design-Bid-Build
Project Construction Budget:	$4,860,000.00
Construction Substantial Completion:	July 2027

Scope/Budget Context

It is possible that project scope items, not included in the Project Scope below, will be known at the commencement of project design or become apparent during design to one or more of the multiple stakeholders who may be represented on the Project Steering Committee and Project Review Committee. Some of these additional scope items will be desirable on their own merits but may not be possible due to project construction budget. Therefore, discipline on the part of the Consultant will be expected to focus on Project Scope identified below, while also documenting and, if requested, reviewing such items for possible inclusion in this project scope in lieu of scope defined below, or in future District capital projects.

Accordingly, not all the Building Context information contained herein will be applicable to project scope, but it is intended to inform the design process such that, at the conclusion of construction, the existing building is better positioned for current and future instructional activities; and additional capital investment that might be funded in future capital plans.

Project Schedule

Project Phase	Suggested Completion Date
BOE Design Contract Approval	March 11, 2025
Schematic Design Completion	April 2025
Stakeholder Review, Steering Committee Review, QAQC Review	April 2025
Design Development Completion	May 2025
Cost Estimate #2	May 2025
Construction Documents	September 2025
Stakeholder Review, Steering Committee Review, QAQC Review	September 2025
Bid Documents Issued	October 2025
Cost Estimate #3	October 2025
Pre-Bid Meeting	October 2025
Addendum #1 Issued	November 2025
Bid Due Date	November 2025
BOE Construction Contract Approval	December 9, 2025
Pre-Construction Activities	January-May 2026
Construction start	June 16, 2026
Construction substantial completion	August 7, 2026 and July 30, 2027
Construction final completion	September 30, 2027
Warranty period ends (one year)	September 2028

Project Staff

The following MPS staff are anticipated to serve on the **Steering Team**

Diedra Geye	Project Manager – Capital Planning, Construction, and Maintenance (CPCM)
Curt Hartog	Executive Director - CPCM
Grant Lindberg	Plant Maintenance
Bertrand Weber	Director, Culinary & Wellness Services
Yusuf Abdullah	Associate Superintendent
Dan Goemann	Master Planner - CPCM

The following MPS staff are anticipated to serve on the **Stakeholder Team**

Diedra Geye	Project Manager – Capital Planning, Construction, and Maintenance (CPCM)
Shannon Tenner	Principal
James Schmit	Assistant Principal
Tara Stevenson	Assistant Principal
Andrew Henderson	Teacher, Physical Education
Joe Bozic	PTA President
Teresa Nelson	Food Service Site Supervisor

Project Staff (continued)

The following MPS staff are anticipated to serve on the **Trades QAQC Team**

Diedra Geye	Project Manager – Capital Planning, Construction, and Maintenance (CPCM)
Jacob Vadnais	Carpenter, General Foreman
Brian Fritch	Carpenter. QAQC
Jason Kohnen	DDC Tech – QAQC Programmer
Justin Greif	Electrical, QAQC, General Foreman
Dan Skeie	Pipefitters, QAQC
James Rajala	Plumbing, QAQC
Troy Eiklenborg	Sheetmetal, QAQC
Matt Rozowski	Roofing, General Foreman
Jason Lindstrom	Sprinkler, General Foreman
Joseph Scull	KFI Engineers, Sprinkler QAQC
Jason Worwa	Enterprise IT Dept
Galiena Boyajian	IT - Communications
Brandon Frasier	True North Consulting

Project Communications

Consultant and District representative will coordinate the development and implementation of a project communications plan, including:

Communication
Meetings with Steering Team
Meetings with Stakeholder Team
Presentations to Community Groups if needed
Project web page updates
Project e-updates
Updates for elected representatives
Updates for families and staff
Updates for neighborhood
Construction signage
Board of Education updates

Project Budget

Construction Budget

$ 4,860,000.00

Consultant's Fee, Hourly Rates, and Reimbursable Expenses

Compensation for Project Services as defined herein is a fixed fee of **$455,500.00**. Basic Design Services will be allocated to the phases of work as defined in EXH-B Project Design Milestones & Deliverables.

Miller Dunwiddie

February 19, 2025

Diedra Geye
Project Manager
Minneapolis Public Schools
1250 West Broadway Avenue
Minneapolis, MN 55411
Diedra.Geye@mpls.k12.mn.us

RE: Justice Page Middle School Cafeteria, Kitchen & Gym Renovations

Dear Diedra:

Miller Dunwiddie is pleased to have the opportunity to continue to provide you with A/E services for planning and designing the renovations to the cafeteria, kitchen, lower-level gymnasium and restrooms on the lower level of the Justice Page Middle School. We have prepared a proposal for architectural services to complete the work noted.

PROJECT UNDERSTANDING

We understand that Minneapolis Public Schools would like Miller Dunwiddie to provide schematic design through construction administration design services for multiple areas of the lower level of Justic Page Middle School (JPMS). The scope is understood to be illustrated on attached concept design drawings dated January 17, 2025, and based on construction cost of $4,390,989 plus alternates from the attached cost estimate dated February 5, 2025.

Cafeteria renovations will include finish upgrades, new lighting, expansion to incorporate adjacent hallway areas, and relocation of the "spirit wear" shop.

Kitchen renovations will include a completely new layout for food production and serving lines to reflect the change from MPS central food production to on-site food production. The new kitchen footprint expands into the neighboring classroom and remodel related to relocated choir room is part of this scope.

Gymnasium renovations will include the creation of a 3rd physical education space for a section of 36 students located in upper Northwest corner. The lower-level gym would also be upgraded with scoreboard and gym equipment. Interior renovation and site work to include accessible playground access from the gymnasium and new fitness space.

The lower-level restrooms near the gymnasium will be renovated into gender neutral, single user style, single person restroom stalls with a common sink area. This will follow standards developed by MPS on recent school renovations.

SCOPE OF SERVICES
The outline of services that Miller Dunwiddie will provide for the Schematic Design through Construction Administration phases will follow the standard Minneapolis Public Schools Charter process. The following exhibits will supplement the Minneapolis Public Schools AIA-B101 agreement that we have used on previous work at Justice Page Middle School.

The exhibits include:
- Exhibit A – Project Charter with Milestones
- Exhibit B - Concept Design Drawings dated January 17, 2025
- Exhibit C – Cost Estimate dated February 5, 2025

SCHEDULE
The Miller Dunwiddie team is available to continue our work immediately upon your approval. Based upon our discussions during the Concept Design phase, we anticipate the schedule to be as follows:
- Schematic Design / Design Development: March 2025 - May 2025
- Construction Documents: June 2025 – September 2025
- Bid & Project Award: October & November 2025
- Construction submittal period: January 2026 – May 2026
- Construction: June 2026 – July 2027

TEAM
Our Project team will consist of:
- Miller Dunwiddie (architecture, interior design, community engagement, project management)
- Hallberg Engineering (mechanical, electrical, plumbing)
- Meyer Borgman Johnson (structural engineering)
- Pierce Pini (civil engineering)
- Rockwise Strategies (formerly Loeffler – cost estimating)
- LJG Design (food service design)
- Tru North (technology, if required)

FEES
Miller Dunwiddie will provide the concept / schematic design services outlined for a **lump sum of $440,500.00** plus reimbursable expenses of $15,000 maximum which includes SpecLink subscriptions. Our fees include an allowance of $7,500 for technology consultation from Tru North. Our fees are outlines below:

Ground Level Renovations					
Phase	Schematic Design/Design Development	Construction Documents	Construction Documents, Bid, Award	Construction Administration	Total
Fees	$108,000	$169,500	$11,000	$162,000	$440,500
				Estimated Reimbursable Expenses	$15,000
				Total Fee (including RE)	**$455,500**

If modifications to the scope or schedule occur that may cause a change to this maximum amount, we will notify you in a timely manner.

ADDITIONAL SERVICES
Miller Dunwiddie makes this proposal with the following assumptions:

1. Design work beyond that noted above.
2. Extension to the schedule beyond the 2 months noted above.
3. If changes to the scope occur, we will let Minneapolis Public Schools know and work with you to determine whether to modify this agreement.

ASSUMPTIONS
Miller Dunwiddie makes this proposal with the following assumptions:

1. No Hazardous Materials Assessment or Abatement included in our scope of work.

Please review our proposal and please contact me directly at (612) 278-7712 if you have any questions. If this is acceptable, please execute an AIA-B101 agreement for our signature.

Thank you again for your confidence in Miller Dunwiddie to provide design services for you.

Sincerely,

Miller Dunwiddie



Paul G. May, AIA
Principal | Vice-President

C: Abby Hammes, File

Attachments:

Exhibit A - Project Charter with Milestones
Exhibit B - 2025 01 17 MPS2401 concept Design Set
Exhibit C - MPS Justice Page Concept Estimate V 0205.2025

– Project Design Milestones & Deliverables

Project Design Milestones

Architect Responsibilities		Owner Responsibilities	
Fully Executed Contract	0%		
	1%	Project Steering Team Kickoff	Completed in Concept Phase
	5%	QAQC #1 Existing Conditions	
	10%	Project Stakeholder Team Kickoff	
Three Design Options Delivered	15%		
City Planning Processes initiated	20%	Commissioning Provider Kickoff	
Schematic Design Report Delivered	25%		
	35%	MEP Systems Decisions Made	
Design Development Report Delivered	50%	All major scope items have final decisions	
	75%	QAQC #3 Two Week Comprehensive Design Review	
Construction Document Report Delivered	80%		
Procurement Begins	90%		
	95%		
Bid Period Ends	99%		
	100%	Fully Executed Construction Contract	

Design Milestones

0% Complete – Fully executed architectural contract

Once the Design team has a fully executed contract, work may commence. The Architect is required to download a new copy of the Minneapolis Public Schools (MPS) Master Specifications at this time. Previous project specifications shall not be used as a template for new projects. All changes to MPS Master Specifications will be recorded with track changes, with additions and deletions clearly identified at each Design Report Phase. The Architect shall utilize the MPS Design Guidelines in the development of the Work. Deviations from design guidelines shall be documented and sent to the Owner for Approval. The Architect shall conform to the MPS Revit and Drafting Standards including MPS sheet numbering conventions and begin the Work with the MPS Revit template provided by the Owner.

1% Complete – Project Steering Team Kickoff Meeting

The Owner will schedule the first meeting of the Project Steering Team, a team that discusses project scope, schedule, and budget and makes recommendations to the Owner. This team needs to meet at the onset of the project to provide background and input for the design team. The meeting will be in person and will have an agenda prepared by the Owner's Project Manager that includes:

1. Welcome and Introductions
2. Team roles and responsibilities
3. Communication protocol and confidentiality agreement
4. Project Overview
5. Next Steps

Completed in Concept Phase

The Architect is expected to provide a presentation, a clear ask of the group, and any available graphics that can describe the scope of work to the team. Graphics at this stage may include aerial photographs, photographs of the building and site, massing models if available, or rudimentary renderings if available. Any graphics that were included in the RFP may be used to describe the scope of work. The Owner will present the most recent list of maintenance requirements that should be incorporated into the project. Generally, the maintenance needed matches the project budget detail. However, on occasion, the maintenance required for the project may change to accommodate the most needed items.

5% Complete – Quality Assurance / Quality Control (QAQC) #1 – Existing Conditions Meeting

The Owner will coordinate a meeting on site at the school with the Architect and the Owner's QAQC team. The purpose of the meeting is to:

1. Introduce the design team to the QAQC team
2. Allow the QAQC team an opportunity to present important existing conditions to the Architect
3. Inform the Architect of any work that has been performed during pre-planning of the project and can be removed from scope.
4. Document all presented conditions for future reference whether they are included in the budget provided by the Owner at project kickoff or if they are outside the scope of the Work.
5. Identify known deficiencies in the building that are identified in the budget provided by the Owner at project kickoff.
6. Provide the Owner an opportunity to present deficiencies not identified in the budget that should be considered as part of the Work.

The Architect is expected to provide:

- Sign in sheet
- One person whose sole role at the meeting is to document the conversation and take photographs as needed
- Minutes that capture all presented conditions and general discussions during the meeting.
- If multiple component meetings are conducted (e.g. mechanical, electrical, plumbing) the Architect shall assign a person to each team to document the review.

10% Complete – Project Stakeholder Team Kickoff Meeting

The Owner will identify members of the Project Stakeholder team and schedule a meeting with the Architect. The Architect is expected to present preliminary information on the project that includes scope, schedule, and budget. The Architect shall provide graphics that are easy to interpret for a non-technical audience such as 3-D views, renderings, photographs, or video fly throughs.

15% Complete - Three Options Delivered

The Architect will deliver at least three options to illustrate proposed solutions that will be presented to the Steering Team. All three options must be within the budget provided by the Owner at project kickoff and address programmatic and maintenance goals of the Work. The goal of the meeting is to present options to the Steering Team and ask for recommendations to proceed with design. The Architect is responsible for providing:

- Images that depict the scope options in 3-D formats. Acceptable formats are:
  - Greyscale camera views from Revit
  - Video flythrough
  - Hand drawn perspectives

Completed in Concept Phase

- Color-coded floor plan that clearly describes scope of work and any associated programmatic moves within the building.
- A table summary of preliminary costs broken into categories of maintenance and new items
- A meeting agenda
- A digital presentation as well as paper handouts
- Minutes

Estimates of expected costs at this stage shall be AACE International Class 4 levels. The cost estimate shall clearly show the expected accuracy range and provide sufficient detail and reference to determine the source and scope of the information. The estimate shall also identify potential risks to the project and estimated costs and mitigation strategies for further refinement.

20% Complete – City planning processes started

It is expected that projects with additions in excess of 2,500 sf or those that disturb more than one acre of land to take 10 to 12 weeks to complete the City of Minneapolis Planning Process. As soon as the Architect has:

- A survey, even in draft form
- A preliminary understand of how big and where any addition(s) will be
- Elevations or camera views from Revit
- Site plan, even in draft form

The Architect shall have an initial meeting with the Planning Department at the City of Minneapolis to discuss initial feedback related to site improvements and storm water conditions on the site. The architect shall

invite the Owner's Project Manager to the meeting. As soon as is practicable after the meeting, the Architect shall complete the online application to begin the PDR, LUA, CUP, and variance processes. The Architect shall develop meeting minutes for all meetings with the City. The meeting minutes shall be sent to all parties in attendance for verification of items discussed and to the Owner's Project Manager.

20% Complete – Commissioning Agent kickoff

The Owner will hire a Commissioning Agent for most projects. The Commissioning Agent will be responsible for design review and input throughout the project. The Architect will incorporate the Commissioning Agent comments upon review and approval by the Owner's Project Manager.

25% Complete – Schematic Design (SD) Report, Cost Estimate 1, Constructability Review 1, EDA preliminary report

The Architect will deliver the Schematic Design (SD) report to the Owner for review. . The SD Report will be used to make final scope determinations, select mechanical options, and determine if the project is on budget and on schedule. The Owner will provide Bluebeam software to compile Owner comments to return to the Architect. The Architect will identify any non-standard equipment or processes in this report for Owner approval. SD report shall include:

- All drawings created for the project to date. This shall include a complete title page that indicates all potential drawings that will form the Construction Drawings. All drawings shall be bookmarked in Bluebeam by the Architect as defined in Article 5 of the AIA E203-2015 to facilitate Owner reviews.
- MEP narratives
- Cost Estimate #1 that contains cost information for up to three mechanical options and up to two architectural variations that meet program needs. The cost estimate shall be an AACE International Class 3 estimate. The estimate shall provide enough detail to determine the major cost drivers for the project and adequate to understand the scope of the project. The cost estimate shall detail the level of accuracy and provide a narrative on the contingency value used and why. Where appropriate the maintenance items that are not part of the improvement items shall be detailed in the cost estimate
- Constructability Review #1
- Preliminary EDA report (not all projects should participate in EDA)
- All meeting minutes to date
- Survey
- City Planning Documentation
- Revit file archived at delivery of SD report

SD report must be in 8 ½ x 11 format, in a binder, with tabs. It must also be delivered digitally as a PDF. Provide two paper copies to the Project Manager for review. The table of contents should read:

1. Project Background
    a. Executive Summary
    b. Project Goals
    c. Program goals
    d. Project Scope
    e. Preliminary Project Schedule showing both design, bidding and construction schedules
2. Existing Conditions
    a. Survey
    b. Site Plan
    c. Code Reviews

    d. Revit Camera Views or renderings
3. Design Options
    a. Architectural
    b. Mechanical
    c. Electrical
    d. Plumbing
    e. Food Service (if applicable), etc.
    f. Maintenance items identified in the 5% meeting.
4. Cost Estimate
    a. Project Budget breakdown for consultant services
    b. Cost Estimate. AACE International Class 3
    c. Constructability Review. List all risks and any unknown complexities.
5. EDA report (if applicable)
6. Minutes

35% Complete – MEP decisions Made

The Owner is committed to making any major MEP decisions such as choosing system types at this stage in order to allow the Architect to progress with drawings, designs and specifications. Documentation of decisions shall be provided in meeting minutes.

50% Complete – Design Development (DD) report, Cost Estimate 2, Constructability Review 2, Final EDA report

The Owner is committed to making design decisions early in order to have a robust submittal at this phase for review. For the DD Report, the Architect shall provide:

- Enough detail completed in at least one portion of the building (or major component of the project), to produce detail sheets, an idea of design intent with mechanical systems, and architectural decisions that indicate a final configuration.
- Specification sections that represent all or nearly all sections to be included in construction documents
- All drawings needed for a Construction Document shall be identified and in order.
- All drawings shall be bookmarked in Bluebeam by the Architect as defined in Article 5 of the AIA E203-2015 to facilitate Owner reviews.

DD report shall contain:

- Two half size drawings sets, unbound, and two paper copies of the specification, unbound
- All drawing sheets that will be included in the final set, even if they are blank, developed to 65% complete.
- Diagrammatic layouts of building systems
- Draft specification that contains all divisions, even if they are blank
- Cost estimate #2 in organized by major CSI division for construction items and detailed non-construction items. The cost estimate shall be an AACE International Class 3 estimate that shows the accuracy range of each item and the total.
- Constructability review #2
- Final EDA report (if applicable)
- Update on City of Minneapolis planning progress (if applicable)
- Revit file archived at delivery of DD report and delivered to the Owner

DD report shall have letter sized pages that can be delivered in a binder. The DD report shall include drawings that are 11x17. The Architect shall deliver two printed copies and one electronic copy to the Owner.

50% Complete – All major scope items have final decisions

The Owner will make final decisions on all major scope items in order to allow the Architect to create detailed drawings for the next review. The deliverable from the Owner to the Architect will be written confirmation of scope decisions.

75% Complete – QAQC #3 – Two Week Comprehensive Design Review

The Architect will prepare complete and detailed drawing sets and complete specifications for review by the Owner. The 75% set of drawings shall have 75% of all the drawings completed (100%) and all drawings in the Construction drawing set identified in the index. Detail numbering and references shown in the 75% drawings cannot be changed. Specifications shall be provided such that all specifications are identified and 75% of the specifications are considered to be in final form. All changes to the MPS Master Specifications shall be clearly shown using track changes. New specifications that are not part of the MPS Master Specifications shall be identified. Specifications shall be provided in an MS Word format for review. Drawings shall be provided in a PDF format for review. Comments to specifications will be made using track changes. Comments to drawings will be made in Bluebeam. The Architect shall document all comments and either incorporate them into the documents or provide an issue resolution document that details the comment and resolution and reasons not to include the change in the Construction Document. The Owner will compile comments and return them to the Architect following a two week review period. Documentation shall include all elements required to accurately describe the work. The Architect shall maintain the 75% review set for reference. The Architect shall provide the Owner with a list of unresolved comments/changes at the 90% review stage. The Owner and Architect shall document any unresolved item not included in the final project set and place that in the file.

80% Complete – Construction Document (CD) report, Cost Estimate #3, Constructability Review #3

Construction Document (CD) report is the basis for a final quality control check by the Owner. At this stage the drawings shall be complete. Cost estimates at this stage shall be at the AACE International Class 2 level with documented levels of accuracy for each item. The estimate shall include any risks and contingencies, exceptions and sources. Expected accuracy for each item is -10% to +20% or better. An estimate simulation shall be completed showing the outcome of various scenarios inside of the accuracy range. The final cost estimate shall not contain any amount for design contingency. At a minimum, 5% of the budget shall be represented in add alternates. Deliverables will include:

- Two half size drawings sets, unbound, and two paper copies of the specification, unbound
- one printed binder of letter sized documentation
- Digital versions of all documentation. Drawings shall be in PDF and REVIT.
- All drawings shall be bookmarked in Bluebeam by the Architect as defined in Article 5 of the AIA E203-2015 to facilitate Owner reviews.
- Specifications shall be in MS Word format.
- Correspondence relevant to City of Minneapolis Planning processes or Plan Review processes
- All drawing sheets that will be included in the final set.
- Egress plan for construction zones while building is occupied
- Diagrammatic layouts of building systems
- Draft specification that contains all divisions
- No major changes in design intent or scope can occur between DD and CD report

- cost Estimate #3 organized by CSI division for construction items and detailed non-construction items at Class 2 level
- Constructability Review narrative
- Revit file archived at delivery of CD report

The Owner will require two weeks to review the documents to ensure completeness and accuracy. Architect shall incorporate Owner comments into the final construction documents prior to issuing the set for bid release.

90% Complete – Procurement Begins

100% Construction Documentation set is released for public bid. Architect will coordinate with Owner to set a date for the mandatory pre-bid meeting, publicize bid release, and produce a call for bids. Owner will approve all addenda issued during the procurement process and will have adequate time to review any major changes issued via addenda. The Architect is expected to attend the pre-bid meeting and provide responses to questions, issue addendums and document changes to designs, specifications and contract documents.

95% Complete

This is considered as the bid opening. All addenda have been issued and questions responded to. The bid opening shall be attended by the Architect. The Architect shall provide a review of the apparent low bid and a written recommendation of award to the Owner. If the apparent low bid exceeds the cost estimate provided by the Architect, a detailed review and analysis shall be conducted by the Architect to determine the areas that caused the over bid. The Architect shall also make a written recommendation to accept or deny the add alternates in the bid document.

100% Complete – Fully executed contract between Owner and General Contractor

The Architect shall submit to the Owner the Revit file containing the Construction drawings, the specifications in an MS Word format and any addenda issued in an MS Word format. The architect shall prepare the contract documents for award of the contract using Owner provided forms, issue the notice of award to the Contractor and collect the payment and performance bonds, insurance, letter of assent and other documents. Once executed by the Contractor, the Architect shall provide a complete set to the Owner for signature. Upon Board of Education approval of the contract, the Architect shall prepare a Notice to Proceed for the Contractor. The Architect shall provide the Notice to Proceed to the Owner for review. The Owner shall issue the Notice to Proceed to the Contractor.

Construction Phase

The Architect shall prepare all meeting agendas and produce meeting minutes for regular meetings throughout the construction phase. The Architect will notify the Owner of discussion topics prior to the scheduled meeting so the Owner may invite the appropriate MPS staff to participate in the meeting. Meeting minutes for all meetings shall be distributed within 5 working days of the meeting. All agendas and meeting minutes shall be provided to the Owner for review in an MS Word format. Changes will be documented using track changes.

Submittals

The Architect shall follow the Owner's process for submittals. Contractor shall send submittals to the Architect in accordance with the submittal schedule prepared by the Contractor. The Architect shall document submittal schedule variances and provide the information to the Contractor and the Owner each

month. The Architect shall review all submittals and determine if the submittal meets the Contract Documents . Each submittal shall be labeled with a stamp or similar that identifies the reviewer of the submittal, date of review and action. Submittals shall be marked as:

- No exception taken
- Make Corrections Noted
- Revise and Resubmit
- Rejected
- No submittal is required

A copy of each submittal shall be provided to the Owner. The Architect shall be responsible for developing and maintaining a complete and accurate submittal log. The submittal log shall identify the submittal number, description, date received from contractor, date sent to reviewer, date returned from reviewer, action, date sent back to the Contractor and date when Owner was provided a copy. . If the Architect is unclear as to the requirements of the contract documents or should the Architect need input from the Owner, the Architect shall contact the Owner's Project Manager. All substitution requests shall be sent to the Owner for review. The Owner requires a minimum of 1 week for all reviews. The Architect shall log and track all items sent to the Owner for review and monitor the review schedule.

Substantial Completion

The Architect shall review the punch list provided by the Contractor to verify the list is complete and accurate based on the Architect's review. The Architect shall issue a preliminary final punch list of items to the Owner and schedule a punch list site review with the Owner. The punch list may be modified as a result of the Owner's punch list site review. The Architect shall then issue a final punch list to the Owner and Contractor. If the Owner and Architect deem the project substantial complete in accordance with Contract Documents, the Architect shall prepare and deliver a Certificate of Substantial Completion to the Contractor and Owner establishing the date of substantial completion. The punch list provided at the time of Substantial Completion shall include the Architect's estimate of costs to repair each of the items on the punch list. The estimate provided shall form the basis of the amount of retainage to be withheld for the punch list items in accordance with Minnesota Statute. Issuance of the Certificate of Substantial Completion shall include the final punch list and establish the date of substantial completion. The punch list shall include a complete list of all manuals, warranties, commissioning reports and other items required by the Contractor as part of the Contract Documents that was not previously provided to the Owner and accepted. If the project is not deemed substantially complete by the date established in the Contract Documents, the Architect will inform the Contractor of the liquidated damages provision in the Contract Document and apply liquidated damages to the next progress payment until the Certificate of Substantial Completion is issued.

JUSTICE PAGE MIDDLE SCHOOL GROUND LEVEL RENOVATIONS

Exhibit B

MINNEAPOLIS PUBLIC SCHOOLS
10 WEST 50TH STREET
MINNEAPOLIS, MN 55419

CONCEPT DESIGN PRICING SET JANUARY 17, 2025



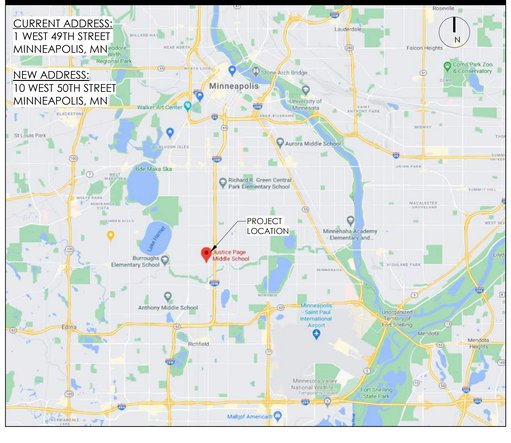
SHEET INDEX

GENERAL	
G000	COVER SHEET
G050	GENERAL NOTES AND ABBREVIATIONS
G201	TYPICAL INTERIOR ASSEMBLY TYPES AND DETAILS
CIVIL	
C000	SLOPED SIDEWALK SITE CONCEPTS
ARCHITECTURAL DEMOLITION	
AD100	OVERALL DEMOLITION PLAN - GROUND LEVEL
AD100A	ENLARGED DEMOLITION PLANS - GROUND LEVEL - AREA A
AD100B	ENLARGED DEMOLITION PLANS - GROUND LEVEL - AREA B
AD100C	ENLARGED DEMOLITION PLANS - GROUND LEVEL - AREA C
AD100D	ENLARGED DEMOLITION PLANS - GROUND LEVEL - AREA D
AD100E	ENLARGED DEMOLITION PLANS - GROUND LEVEL - AREA E
AD110	OVERALL DEMO PLAN - LEVEL 1
AD120	OVERALL DEMO PLAN - LEVEL 2
AD130	OVERALL DEMOLITION PLAN - LEVEL 3
AD250	DEMOLITION REFLECTED CEILING PLAN GROUND LEVEL
AD260	DEMOLITION REFLECTED CEILING PLAN LEVEL 1
AD270	DEMOLITION REFLECTED CEILING PLAN LEVEL 2
AD280	DEMOLITION REFLECTED CEILING PLAN LEVEL 3
ARCHITECTURAL	
A100	OVERALL FLOOR PLAN - GROUND LEVEL
A100A	ENLARGED FLOOR PLANS - GROUND LEVEL - AREA A
A100B	ENLARGED FLOOR PLANS - GROUND LEVEL - AREA B
A100C	ENLARGED FLOOR PLANS - GROUND LEVEL - AREA C
A100D	ENLARGED FLOOR PLANS - GROUND LEVEL - AREA D
A100E	ENLARGED FLOOR PLANS - GROUND LEVEL - AREA E
A110	OVERALL FLOOR PLAN - LEVEL 1
A120	OVERALL FLOOR PLAN - LEVEL 2
A130	OVERALL FLOOR PLAN - LEVEL 3
A180	OVERALL ROOF PLAN
A250	OVERALL REFLECTED CEILING PLAN - GROUND LEVEL
A250A	REFLECTED CEILING PLAN - GROUND LEVEL - AREA A
A250B	REFLECTED CEILING PLAN - GROUND LEVEL - AREA B
A250C	REFLECTED CEILING PLAN - GROUND LEVEL - AREA C
A250D	REFLECTED CEILING PLAN - GROUND LEVEL - AREA D
A250E	REFLECTED CEILING PLAN - GROUND LEVEL - AREA E
A260	OVERALL REFLECTED CEILING PLAN - LEVEL 1
A270	OVERALL REFLECTED CEILING PLAN - LEVEL 2
A280	OVERALL REFLECTED CEILING PLAN - LEVEL 3
MECHANICAL	
M1	MECHANICAL PRE-DESIGN DRAWING
FOODSERVICE	
QF100E	FOODSERVICE EQUIPMENT PLAN - AREA E

LOCATION MAP

CURRENT ADDRESS:
1 WEST 49TH STREET
MINNEAPOLIS, MN

NEW ADDRESS:
10 WEST 50TH STREET
MINNEAPOLIS, MN



PROJECT TEAM

OWNER
MINNEAPOLIS PUBLIC SCHOOLS
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MINNEAPOLIS MN 55411
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MECH / ELEC ENGINEER
HALLBERG ENGINEERING
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CIVIL ENGINEER
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COST ESTIMATING
ROCKWISE STRATAGIES
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PH: (952) 243-0560

FOOD SERVICE DESIGN
LJG DESIGN, LLC
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CHANHASSEN, MN 55317
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MEYER | BORGMAN | JOHNSON
STRUCTURAL DESIGN + ENGINEERING

HALLBERG ENGINEERING
Mechanical | Electrical | Commissioning | Energy

Rockwise STRATEGIES

LJG Design, LLC
FOODSERVICE FACILITIES CONSULTING & DESIGN

MINNEAPOLIS PUBLIC SCHOOLS
Urban Education. Global Citizens.

I HEREBY CERTIFY THAT THIS PLAN, SPECIFICATION OR REPORT WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT I AM A DULY LICENSED ARCHITECT UNDER THE LAWS OF THE STATE OF MINNESOTA.

Signature

Name

Date License #

PROJECT

JUSTICE PAGE MIDDLE SCHOOL GROUND LEVEL RENOVATIONS
MINNEAPOLIS PUBLIC SCHOOLS

10 WEST 50TH STREET
MINNEAPOLIS, MN 55419

REVISED

Mark	Date	Description

PRELIMINARY - NOT FOR CONSTRUCTION

Project Number:	MPS2401
Date:	1/17/2025
Drawn By:	ALH
Checked By:	PGM

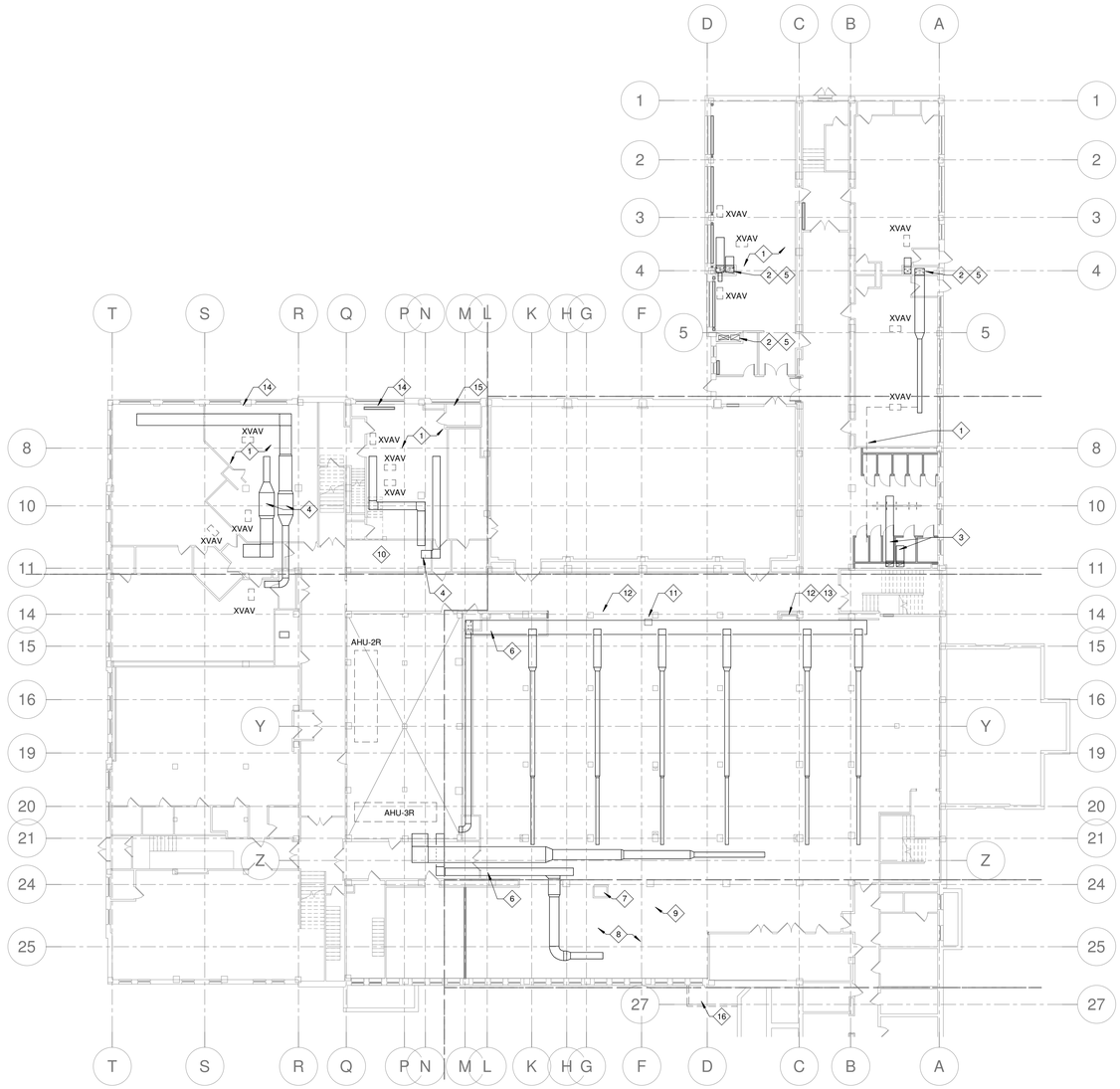
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DRAWING TITLE

COVER SHEET

DRAWING NUMBER

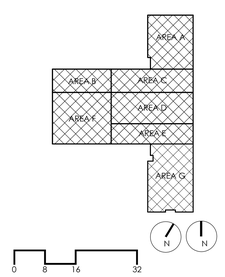
G000



1 BASEMENT HVAC PLAN
1/16" = 1'-0"

NOTES:

1. MODIFY SUPPLY DISTRIBUTION DUCT AND RELOCATE VAV BOXES AS REQUIRED TO ACCOMODATE NEW ROOM LAYOUT.
2. EXISTING DUCT SHAFT TO REMAIN.
3. MODIFY EXHAUST DUCT TO ACCOMODATE NEW RESTROOM LAYOUT.
4. DUCT SUPPLIED BY AHU-9R FROM NOISE REDUCTION PROJECT FROM FLOORS ABOVE.
5. DUCT SUPPLIED BY AHU-2R FROM CRAWL SPACE.
6. DUCT SUPPLIED FROM AHU-3R.
7. EXPLORE USING DUMB WAITER TO ROUTE NEW KITCHEN HOOD EXHAUST.
8. EXPLORE FLOOR CUTTING TO ACCOMODATE NEW KITCHEN FIXTURES AND GREASE INTERCEPTOR.
9. 2" CW PIPE AND 1" HW PIPE ARE AVAIALBLE IN THE CRAWL SPACE BELOW. THIS PIPE SHOULD BE CONSIDERED FOR REPLACEMENT DUE TO AGE.
10. OUTSIDE AIR AND RELIEF AIR SHAFTS TO REMAIN.
11. REMOVE ABANDONED DUCT DROPS IN WALL (TYPICAL).
12. EXISTING DRINKING FOUNTAIN AND PIPE RISERS SERVING LEVELS ABOVE.
13. FP VALVE CABINET IN CORRIDOR.
14. REPLACE OR MAINTAIN STEAM RADIATORS TO ACCOMODATE REMODEL.
15. THERE IS NO HEAT IN THE RESTROOM.
16. EXITING KITCHEN HOOD EXHAUST PLENUM/LOUVER.



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612 337 0000

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STRUCTURAL DESIGN + ENGINEERING

HALLBERG ENGINEERING
Mechanical | Electrical | Commissioning | Energy

Rockwise STRATEGIES

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I HEREBY CERTIFY THAT THIS PLAN, SPECIFICATION OR REPORT WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT I AM A DULY LICENSED ARCHITECT UNDER THE LAWS OF THE STATE OF MINNESOTA.

Signature

Name

Date License #

JUSTICE PAGE MIDDLE SCHOOL RENOVATIONS

MINNEAPOLIS PUBLIC SCHOOLS

10 WEST 50TH STREET
MINNEAPOLIS, MN 55419

Mark	Date	Description

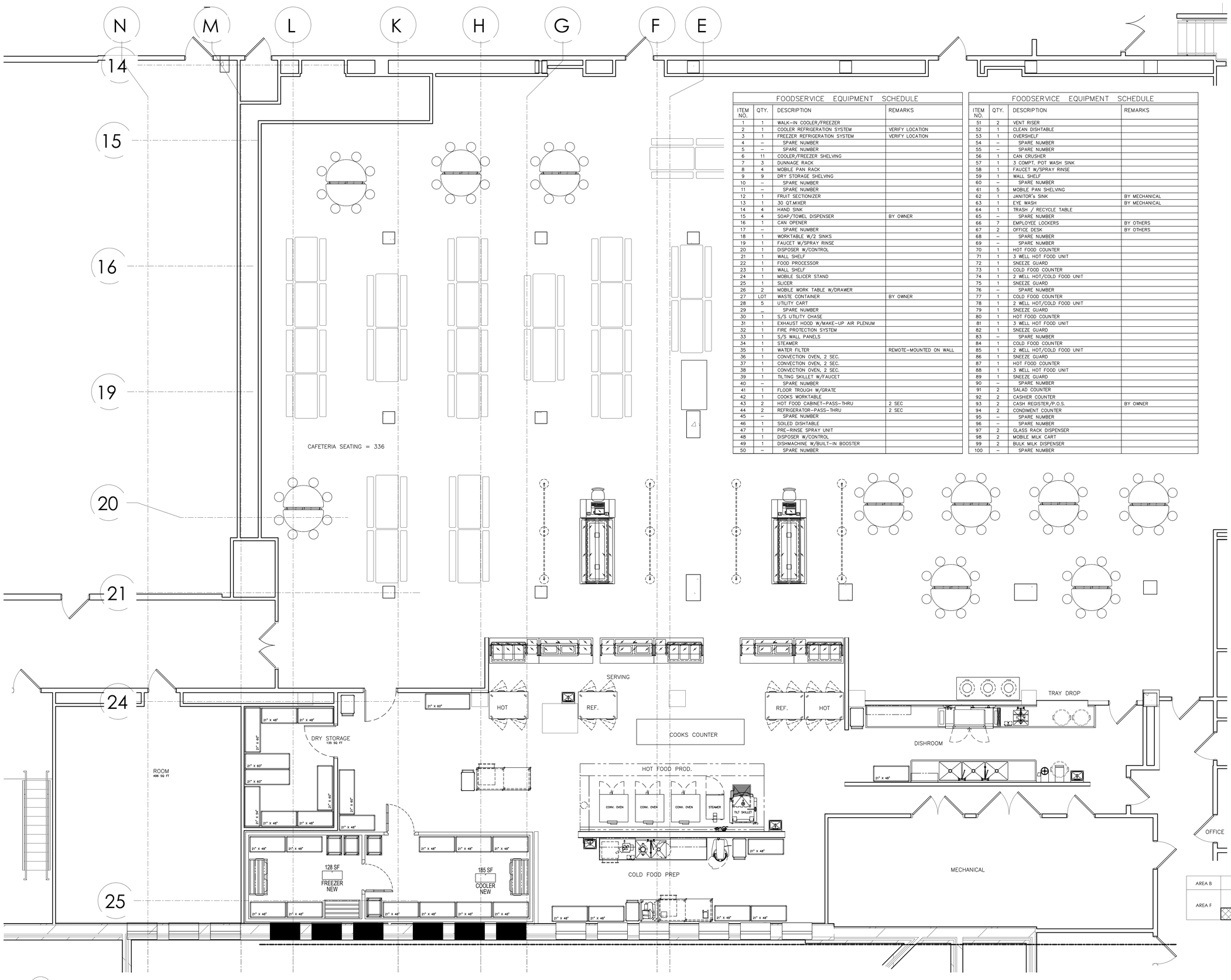
PRELIMINARY - NOT FOR CONSTRUCTION

Project Number:	R24-4991.000
Date:	Issue Date
Drawn By:	Author
Checked By:	Checker

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MECHANICAL PRE-DESIGN DRAWING

M1



1 A100E Z_ENLARGED FLOOR PLAN - GROUND LEVEL - AREA E
1/4" = 1'-0"

FOODSERVICE EQUIPMENT SCHEDULE

ITEM NO.	QTY.	DESCRIPTION	REMARKS
1	1	WALK–IN COOLER/FREEZER	
2	1	COOLER REFRIGERATION SYSTEM	VERIFY LOCATION
3	1	FREEZER REFRIGERATION SYSTEM	VERIFY LOCATION
4	–	SPARE NUMBER	
5	–	SPARE NUMBER	
6	11	COOLER/FREEZER SHELVING	
7	3	DUNNAGE RACK	
8	4	MOBILE PAN RACK	
9	9	DRY STORAGE SHELVING	
10	–	SPARE NUMBER	
11	–	SPARE NUMBER	
12	1	FRUIT SECTIONIZER	
13	1	30 QT.MIXER	
14	4	HAND SINK	
15	4	SOAP/TOWEL DISPENSER	BY OWNER
16	1	CAN OPENER	
17	–	SPARE NUMBER	
18	1	WORKTABLE W/2 SINKS	
19	1	FAUCET W/SPRAY RINSE	
20	1	DISPOSER W/CONTROL	
21	1	WALL SHELF	
22	1	FOOD PROCESSOR	
23	1	WALL SHELF	
24	1	MOBILE SLICER STAND	
25	1	SLICER	
26	2	MOBILE WORK TABLE W/DRAWER	
27	LOT	WASTE CONTAINER	BY OWNER
28	5	UTILITY CART	
29	–	SPARE NUMBER	
30	1	S/S UTILITY CHASE	
31	1	EXHAUST HOOD W/MAKE–UP AIR PLENUM	
32	1	FIRE PROTECTION SYSTEM	
33	1	S/S WALL PANELS	
34	1	STEAMER	
35	1	WATER FILTER	REMOTE–MOUNTED ON WALL
36	1	CONVECTION OVEN, 2 SEC.	
37	1	CONVECTION OVEN, 2 SEC.	
38	1	CONVECTION OVEN, 2 SEC.	
39	1	TILTING SKILLET W/FAUCET	
40	–	SPARE NUMBER	
41	1	FLOOR TROUGH W/GRATE	
42	1	COOKS WORKTABLE	
43	2	HOT FOOD CABINET–PASS–THRU	2 SEC
44	2	REFRIGERATOR–PASS–THRU	2 SEC
45	–	SPARE NUMBER	
46	1	SOILED DISHTABLE	
47	1	PRE–RINSE SPRAY UNIT	
48	1	DISPOSER W/CONTROL	
49	1	DISHMACHINE W/BUILT–IN BOOSTER	
50	–	SPARE NUMBER	

FOODSERVICE EQUIPMENT SCHEDULE

ITEM NO.	QTY.	DESCRIPTION	REMARKS
51	2	VENT RISER	
52	1	CLEAN DISHTABLE	
53	1	OVERSHELF	
54	–	SPARE NUMBER	
55	–	SPARE NUMBER	
56	1	CAN CRUSHER	
57	1	3 COMPT. POT WASH SINK	
58	1	FAUCET W/SPRAY RINSE	
59	1	WALL SHELF	
60	–	SPARE NUMBER	
61	5	MOBILE PAN SHELVING	
62	1	JANITOR's SINK	BY MECHANICAL
63	1	EYE WASH	BY MECHANICAL
64	1	TRASH / RECYCLE TABLE	
65	–	SPARE NUMBER	
66	7	EMPLOYEE LOCKERS	BY OTHERS
67	2	OFFICE DESK	BY OTHERS
68	–	SPARE NUMBER	
69	–	SPARE NUMBER	
70	1	HOT FOOD COUNTER	
71	1	3 WELL HOT FOOD UNIT	
72	1	SNEEZE GUARD	
73	1	COLD FOOD COUNTER	
74	1	2 WELL HOT/COLD FOOD UNIT	
75	1	SNEEZE GUARD	
76	–	SPARE NUMBER	
77	1	COLD FOOD COUNTER	
78	1	2 WELL HOT/COLD FOOD UNIT	
79	1	SNEEZE GUARD	
80	1	HOT FOOD COUNTER	
81	1	3 WELL HOT FOOD UNIT	
82	1	SNEEZE GUARD	
83	–	SPARE NUMBER	
84	1	COLD FOOD COUNTER	
85	1	2 WELL HOT/COLD FOOD UNIT	
86	1	SNEEZE GUARD	
87	1	HOT FOOD COUNTER	
88	1	3 WELL HOT FOOD UNIT	
89	1	SNEEZE GUARD	
90	–	SPARE NUMBER	
91	2	SALAD COUNTER	
92	2	CASHIER COUNTER	
93	2	CASH REGISTER/P.O.S.	BY OWNER
94	2	CONDIMENT COUNTER	
95	–	SPARE NUMBER	
96	–	SPARE NUMBER	
97	2	GLASS RACK DISPENSER	
98	2	MOBILE MILK CART	
99	2	BULK MILK DISPENSER	
100	–	SPARE NUMBER	

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MEYER BORGMAN JOHNSON
STRUCTURAL DESIGN + ENGINEERING

HALLBERG ENGINEERING
Mechanical | Electrical | Commissioning | Energy

Rockwise STRATEGIES

LJG DESIGN, LLC
FOODSERVICE FACILITIES CONSULTING & DESIGN

MPS MINNEAPOLIS PUBLIC SCHOOLS
Urban Education. Global Citizens.

I HEREBY CERTIFY THAT THIS PLAN, SPECIFICATION OR REPORT WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT I AM A DULY LICENSED ARCHITECT UNDER THE LAWS OF THE STATE OF MINNESOTA.

Signature

Name

Date License #

JUSTICE PAGE MIDDLE SCHOOL RENOVATIONS

MINNEAPOLIS PUBLIC SCHOOLS

10 WEST 50TH STREET
MINNEAPOLIS, MN 55419

Mark	Date	Description

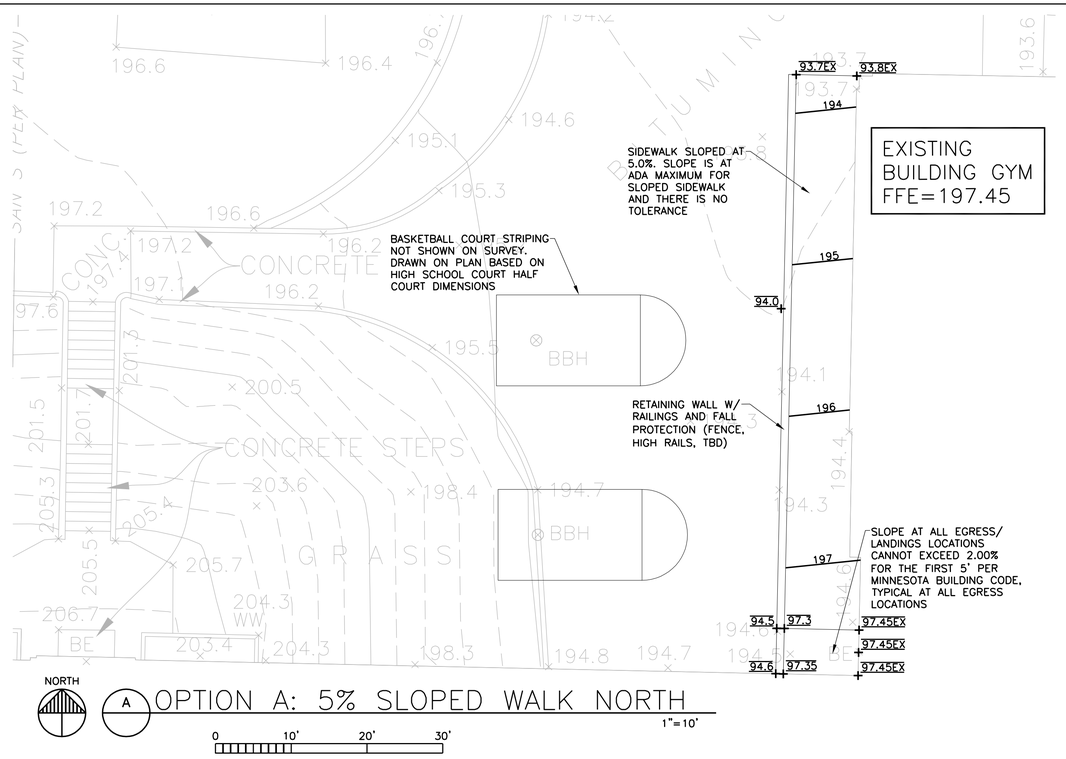
PRELIMINARY - NOT FOR CONSTRUCTION

Project Number:	MPS2401
Date:	01/07/2025
Drawn By:	LJG
Checked By:	LJG

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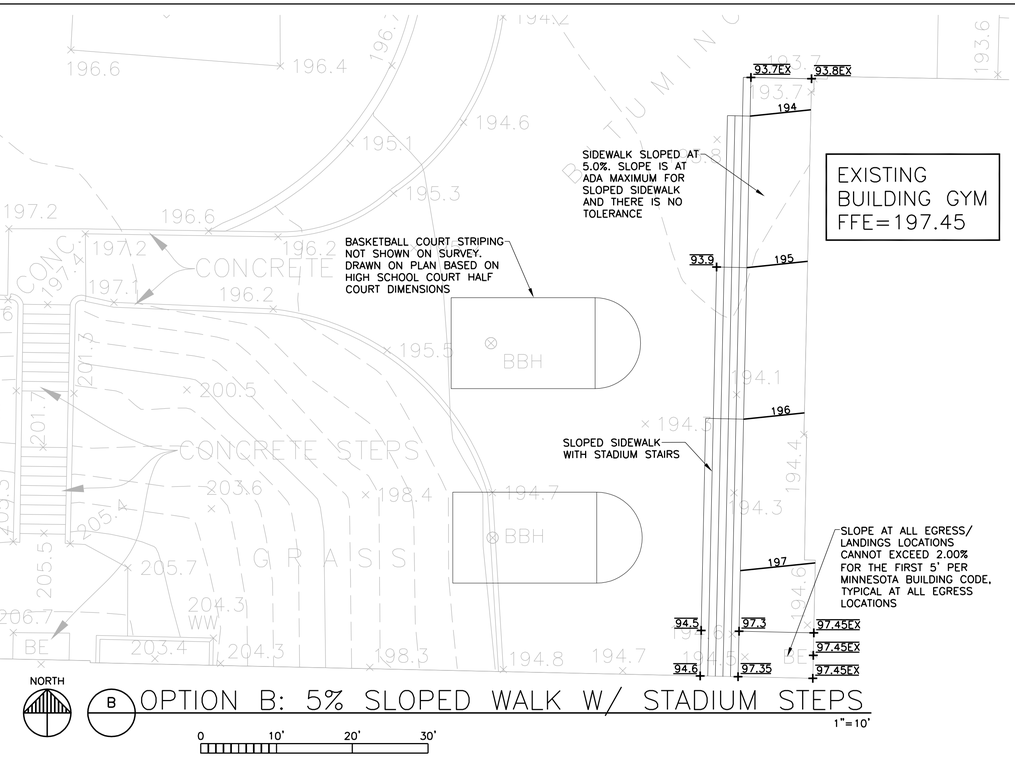
FOODSERVICE EQUIPMENT PLAN - AREA E

QF100E



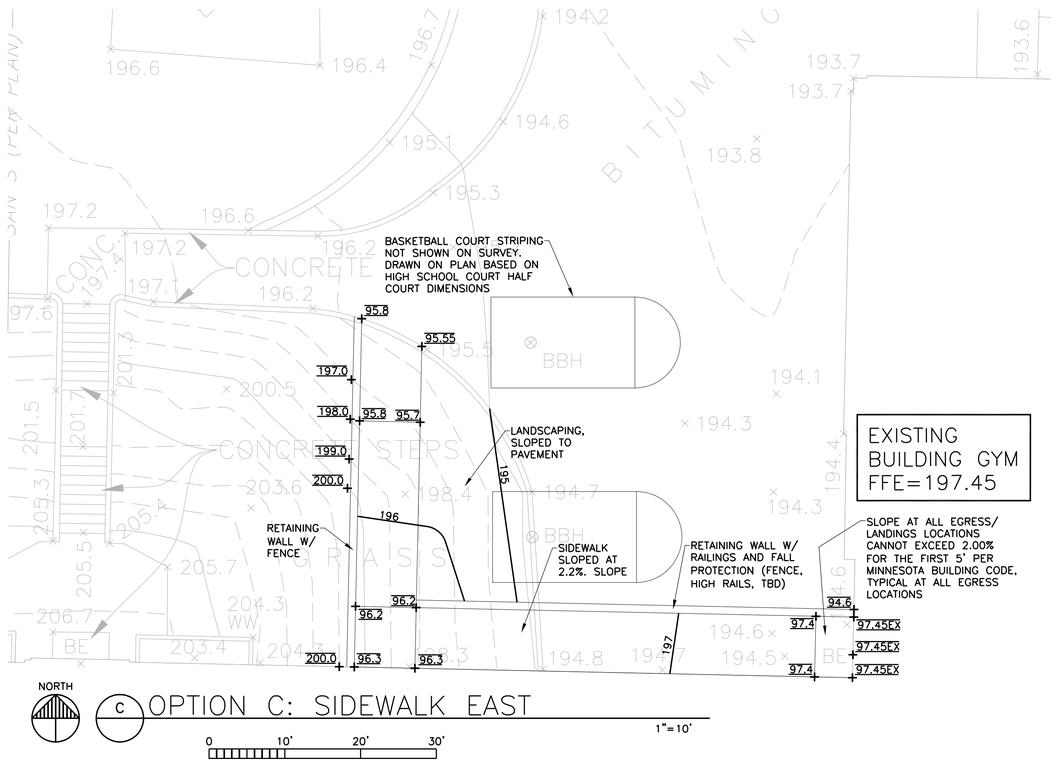
A OPTION A: 5% SLOPED WALK NORTH

0 10' 20' 30' 1"=10'



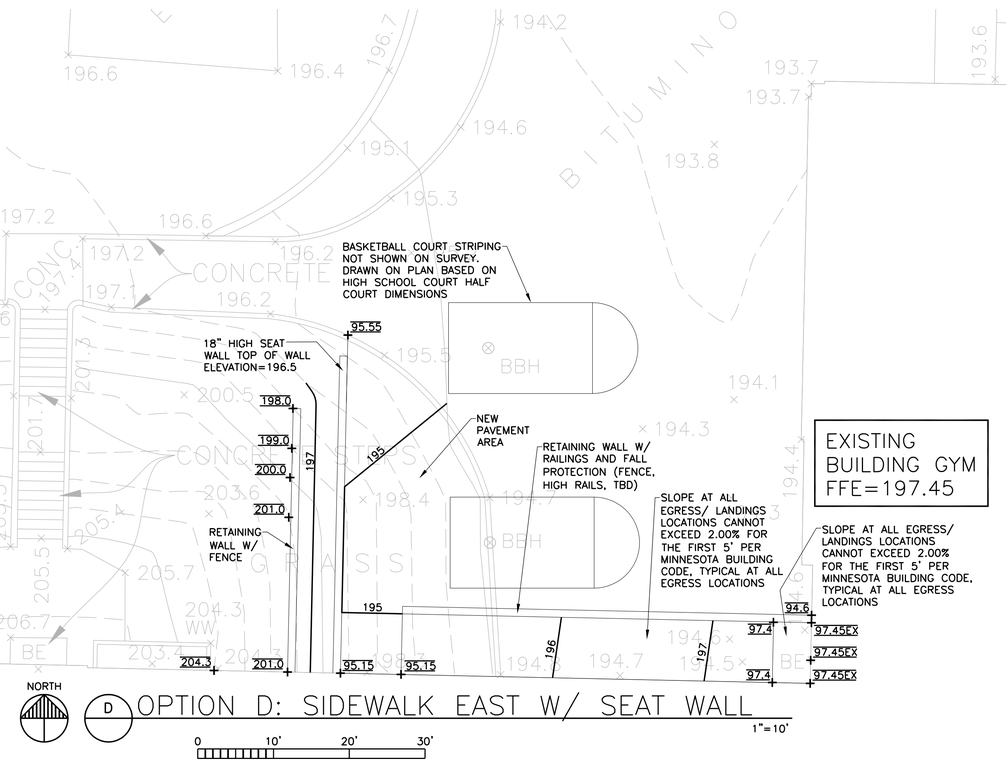
B OPTION B: 5% SLOPED WALK W/ STADIUM STEPS

0 10' 20' 30' 1"=10'



C OPTION C: SIDEWALK EAST

0 10' 20' 30' 1"=10'



D OPTION D: SIDEWALK EAST W/ SEAT WALL

0 10' 20' 30' 1"=10'

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Signature

Rhonda S. Pierce
Name

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Date License #

[redacted]

JUSTICE PAGE MIDDLE SCHOOL BASEMENT REMODEL

MINNEAPOLIS PUBLIC SCHOOLS

MPS OP# XXXX

10 WEST 50TH STREET
MINNEAPOLIS, MN 55419

Mark	Date	Description
	01/10/2025	CONCEPT DESIGN DRAFT

Project Number:	20-045
Date:	01/10/2025
Drawn By:	EOS
Checked By:	RSP

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SLOPED SIDEWALK SITE CONCEPTS

C000

ABBREVIATIONS

ABBREV.	DESCRIPTION
A	
A/C	AIR CONDITIONING
A/E	ARCHITECT / ENGINEER
AB	ANCHOR BOLT
ABV	ABOVE
ACP	ACOUSTICAL CEILING PANEL
AD	AREA DRAIN
ADDM	ADDENDUM
ADJ	ADJUSTABLE/ADJACENT
AFF	ABOVE FINISH FLOOR
AHU	AIR HANDELING UNIT
ALT	ALTERNATE
ALUM	ALUMINUM
ANOD	ANODIZE / ANODIZED
ANT	ANTENNA
AP	ACCESS PANEL
APC	ARCHITECTURAL PRECAST CONCRETE
APROX	APPROXIMATE
ARCH	ARCHITECT / ARCHITECTURAL
AWP	ACOUSTIC WALL PANEL
AWT	ACOUSTICAL WALL TREATMENT
B	
BD	BOARD
BG	BAR GRATING
BIT	BITUMINOUS
BLDG	BUILDING / BUILD
BLKG	BLOCKING / BACKING
BLVD	BOULEVARD
BLW	BELOW
BM	BEAM
BO	BOTTOM OF
BOT	BOTTOM
BP	BASE PLATE
BR	BRICK
BRG	BEARING
BSMT	BASEMENT
BTWN	BETWEEN
BUR	BUILT-UP ROOFING
C	
C/C	CENTER TO CENTER
CAB	CABINET
CB	CATCH BASIN
CCJ	CONTRACTION CONTROL JOINT
CCTV	CLOSED CIRCUIT TELEVISION
CD	COILING DOOR
CER	CERAMIC
CF	CUBIC FOOT
CFLG	COUNTERFLASHING
CFM	CUBIC FEET PER MINUTE
CG	CORNER GUARD
CH	CHANNEL
CIF	CONSTRUCTION ISOLATION JOINT
CIP	CAST IN PLACE
CJ	CONSTRUCTION JOINT
CLG	CEILING
CLG HT	CEILING HEIGHT
CLR	CLEAR
CMU	CONCRETE MASONRY UNIT
CO	CLEAN OUT
COL	COLUMN
COMB	COMBINE / COMBINED
COMM	COMMUNICATION
CONC	CONCRETE
CONF	CONFERENCE
CONN	CONNECT / CONNECTED / CONNECTION
CONT	CONTINUE / CONTINUOUS
COORD	COORDINATE
COR	CORRUGATED
CORR	CORRIDOR
CPT	CARPET
CR	CRASH RAIL / CHAIR RAIL
CT or CTB	CERAMIC TILE / CERAMIC TILE BASE
CUH	CABINET UNIT HEATER
CW	CURTAIN WALL
D	
D	DEPTH
DBL	DOUBLE
DCS	DIAPER CHANGING STATION
DEFS	DIRECT APPLIED EXTERIOR FINISH SYSTEM
DEMO	DEMOLITION
DEPT	DEPARTMENT
DIA	DIAMETER
DIAG	DIAGONAL / DIAGRAM
DIFF	DIFFUSER
DIM	DIMENSION
DISP	DISPENSER
DISTB	DISTRIBUTION

ABBREV.	DESCRIPTION
DIV	DIVIDE / DIVISION
DL	DEAD LOAD
DN	DOWN
DP	DAMP PROOFING
DR	DRAIN
DS	DOWNSPOUT
DWG	DRAWING
E	
EA	EACH
EF	EXHAUST FAN
EHD	ELECTRICAL HAND DRYER
EIFS	EXTERIOR INSUL AND FINISH SYSTEM
EJ	EXPANSION JOINT
EL	ELEVATION
ELEC	ELECTRICAL / ELECTRIC
ELEV	ELEVATOR
ENCL	ENCLOSURE / ENCLOSED
ENGR	ENGINEER
EP	EPOXY
EPDM	ETHYLENE PROPYLENE DIENE MONOMER
EPS	EXPANDED POPLYSTYRENE BOARD
EQ	EQUAL
EQUIP	EQUIPMENT
EWC	ELECTRIC WATER COOLER
EWS	EYE WASH STATION
EXCL	EXCLUDE, EXCLUDED OR EXCLUSION
EXH	EXHAUST / EXHAUST HOOD
EXIST	EXISTING
EXP	EXPANSION
EXT	EXTERIOR
F	
FA	FRESH AIR
FAB	FABRIC / FABRICATE
FAF	FLUID APPLIED FLOORING
FD	FLOOR DRAIN
FDV	FIRE DEPARTMENT VALVE
FE	FIRE EXTINGUISHER
FEC	FIRE EXTINGUISHER CABINET
FF&E	FURNITURE, FIXTURES AND EQUIPMENT
FHV	FIRE HOSE VALVE
FIN	FINISH
FIXT	FIXTURE
FLASH	FLASHING
FLEX	FLEXIBLE
FM	FACTORY MUTUAL
FND	FOUNDATION
FO	FACE OF/FINISHED OPENING / FRAMED OPENING
FP	FIRE PROOFING / FIREPROOF /FIRE PROTECTION
FR	FIRE RETARDENT / FIRE RESISTIVE
FRG	FIBERGLASS REINFORCED GYPSUM
FRP	FIBERGLASS REINFORCED PLASTIC
FRT	FIRE RETARDENT TREATED
FRZ	FREEZER
FS	FLOOR SINK
FSB	FOLDING SHOWER BENCH
FSTNR	FASTENER
FSTOP	FIRESTOPPING
FT	FOOT / FEET
FTG	FOOTING
FTR	FIN TUBE RADIATION
FURN	FURNITURE
FURR	FURRING
FVC	FIRE VALVE CABINET
FWC	FABRIC WALLCOVERING
FWP	FABRIC WRAPPED PANEL
G	
GA	GAUGE
GAL	GALLON / GALLONS
GALV	GALVANIZED
GB	GRAB BAR
GC	GENERAL CONTRACTOR
GEN	GENERATOR
GFRG	GLASS FIBER REINFORCED GYPSUM
GL	GLASS / GLAZING
GMU	GLASS MASONRY UNIT
GR	GRADE
GRV	GRAVITY ROOF VENTILATOR
GT	GLASS TILE
GYP	GYPSUM
GYP BD	GYPSUM BOARD
GYP SHTG	GYPSUM SHEATHING
H	
H	HIGH/HEIGHT
HB	HOSE BIB
HC	HOLLOW CORE
HD	HEAD/HAND DRYER

ABBREV.	DESCRIPTION
HDWD	HARDWOOD
HDWR	HARDWARE
HM	HOLLOW METAL
HO	HOLD OPEN
HORIZ	HORIZONTAL
HPC	HIGH PERFORMANCE COATING
HR	HANDRAIL
HTR	HEATER
HVAC	HEATING, VENTILATING, AIR CONDITIONING
HW	HOT WATER
HYD	HYDRANT
I	
ID	INSIDE DIAMETER / IDENTIFICATION / INTERIOR DESIGN
IN	INCH
INCL	INCLUDE / INCLUDED / INCLUSIVE
INSUL	INSULATION
INT	INTERIOR
INV	INVERT
J	
JAN	JANITOR
JST	JOIST
JT	JOINT
K	
KD	KNOCK DOWN PANEL
KO	KNOCK-OUT PANEL
KPL	KICK PLATE
L	
L	ANGLE
LAM	LAMINATED
LAV	LAVATORY
LB or #	POUND / POUNDS
LF	LINEAR FOOT / FEET
LIN	LINEAR
LKR	LOCKER
LL	LIVE LOAD
LLH	LONG LEG HORIZONTAL
LLV	LONG LEG VERTICAL
LMC	LINEAR METAL CEILING
LOC	LOCATION / LOCATE
LTG	LIGHTING
LVR	LOUVER
LWC	LINEAR WOOD CEILING
M	
M/E	MECHANICAL/ELECTRICAL
MAINT	MAINTENANCE
MAS	MASONRY
MATL	MATERIAL
MAX	MAXIMUM
MBC	METAL BAFFEL CEILING
MCP	METAL CEILING PANEL
MDF	MEDIUM DENSITY FIBERBOARD
MDO	MEDIUM DENSITY OVERLAY
MECH	MECHANICAL
MEMB	MEMBRANE
MEP	MECHANICAL, ELECTRICAL AND PLUMBING
MEZZ	MEZZANINE
MFR	MANUFACTURER
MH	MANHOLE
MIN	MINIMUM / MINUTE
MIR	MIRROR
MISC	MISCELLANEOUS
MLDG	MOULDING
MLWK	MILLWORK
MO	MASONRY OPENING
MP	METAL PANEL
MPC	METAL PAN CEILING
MR	MOISTURE RESISTENT
MTD	MOUNTED / MOUNTING
MTL	METAL
MULL	MULLION
MW	MICROWAVE
N	
N/A	NOT APPLICABLE
NIC	NOT IN CONTRACT
NO or #	NUMBER
NOM	NOMINAL
NTS	NOT TO SCALE
O	
OA	OVERALL
OC	ON CENTER
OD	OUTSIDE DIAMETER
OH	OVERHEAD
OHD	OVERHEAD DOOR
OP	OPERABLE PARTITION
OPNG	OPENING
OPP	OPPOSITE

ABBREV.	DESCRIPTION
ORD	OVERFLOW ROOF DRAIN
ORN	ORNAMENTAL
OS	OVERFLOW SCUPPER
P	
PAT	PATTERN
PC	PRECAST CONCRETE
PED	PEDESTAL / PEDESTRIAN
PERF	PERFORATED
PERIM	PERIMETER
PERP	PERPENDICULAR
PKG	PARKING
PL	PLATE
PLAM	PLASTIC LAMINATE
PLAS	PLASTER
PLUM	PLUMBING
PLYWD	PLYWOOD
PNL	PANEL
PORC	PORCELAIN ENAMEL
PR	PAIR
PREFAB	PREFABRICATED / PREFABRICATION
PREFIN	PREFINISHED
PRELIM	PRELIMINARY
PREP	PREPARATION / PREPARE
PROJ	PROJECT/PROJECTION
PROP	PROPERTY
PRT	PRESERVATIVE/RESERVATIVE TREATMENT
PRV	POWER ROOF VENTILATOR
PSI	POUNDS PER SQUARE INCH
PT	PAINT
PTC	PAPER TOWEL CABINET
PTME	PATCH AND REPAIR TO MATCH EXISTING
PTN	PARTITION
PVMT	PAVEMENT
PWR	POWER
Q	
QT or QTB	QUARRY TILE / QUARRY TILE BASE
QTY	QUANITY
R	
R	RISER
RAD	RISER / RADIUS
RB	RESILIENT BASE
RCP	REFLECTED CEILING PLAN
RD	ROOF DRAIN
REC	RECESS/RECESSED
REF	REFERENCE/REFERENCED
REFR	REFRIGERATOR
REINF	REINFORCE / REINFORCED / REINFORCING
REM	REMOVE / REMOVABLE
REQD	REQUIRED
RESIL	RESILIENT
RET	RETAINING
REV	REVERSE / REVISE / REVISED / REVISION
RF	ROOFING / ROOF
RFT	RESILIENT FLOOR TILES
RH	ROOF HATCH
RM	ROOM
RO	ROUGH OPENING
ROS	ROOM OPENING SCHEDULE
RSF	RESILIENT SHEET FLOORING
RTO	ROOF TIE OFF
RTS	RESILIENT TRANSITION STRIP
RV	ROOF VENT
RWL	RAIN WATER LEADER
S	
SALV	SALVAGE
SAN	SANITARY
SC	SOLID CORE
SCHED	SCHEDULE
SCTV	SECURITY TELEVISION
SD	SOAP DISPENSER
SECT	SECTION
SECY	SECRETARY
SER	SOLID EPOXY RESIN
SF	STORE FRONT / SQUARE FEET (FOOT)
SHD	SHOWER HEAD
SHT	SHEET
SHTG	SHEATHINIG
SHWR	SHOWER
SIM	SIMILAR
SLNT	SEALANT
SLR	SEALER
SM	SHEET METAL
SND	SANITARY NAPKIN DISPOSAL
SNV	SANITARY NAPKIN VENDING CABINET
SOG	SLAB ON GRADE
SPEC	SPECIFICATIONS
SPF	FOAMED IN PLACE INSULATION

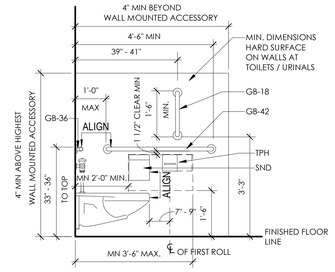
ABBREV.	DESCRIPTION
SPKLR	SPRINKLER
SPKR	SPEAKER
SPM	SINGLE PLY MEMBRANE ROOFING SYSTEM
SST	STAINLESS STEEL
SSURF	SOLID SURFACE FABRICATION
STC	SOUND TRANSMISSION COEFFICIENT
STD	STANDARD
STL	STEEL
STN	STONE
STOR	STORAGE
STP	STAND PIPE
STR	STREET
STRUCT	STRUCTURAL / STRUCTURE
SUSP	SUSPENDED
SW	SWITCH
SY	SQUARE YARD
SYM	SYMBOL / SYMETRICAL
SYN	SYNTHETIC
T	
T	TREAD
T&G	TOUNGE AND GROVE
TB	TOWEL BAR / TIE BACK
TD	TRENCH DRAIN
TEL	TELEPHONE
TEMP	TEMPORARY / TEMPERATURE
TERR	TERRAZZO
THK	THICK / THICKNESS
THRES	THRESHOLD
THRU	THROUGH
TO	TOP OF
TOB	TOP OF BEAM
TOC	TOP OF CONCRETE
TOF	TOP OF FOOTING/FOUNDATION
TOS	TOP OF SLAB/TOP OF STEEL
TOW	TOP OF WALL
TP	TOILET PARTITION
TPH or TPD	TOILET PAPER HOLDER / TOILET PAPER DISPENSER
TS	TRANSITION STRIP
TSC	TOILET SEAT COVER DISPENSER
TV	TELEVISION
TWF	THROUGH WALL FLASHING
TYP	TYPICAL
U	
UCL	UNDER CABINET LIGHT
UH	UNIT HEATER
UL	UNDERWRITERS LABORATORY
UNFIN	UNFINISHED
UNO	UNLESS NOTED OTHERWISE
UR or URS	URINAL / URINAL SCREEN
UTIL	UTILITY / UTILITIES
V	
V	VOLTS
VAR	VARIABLE/ VARIES
VB	VINYL BASE
VCT	VINYL COMPOSITION TILE
VEN	VENEER
VENT	VENT / VENTILATE / VENTILATION
VERT	VERTICAL
VIF	VERIFY IN FIELD
VOL	VOLUME
VP	VENEER PLASTER
VR	VAPOR RETARDER
VWC	VINYL WALL COVERING
W	
W	WIDE
W/	WITH
W/O	WITHOUT
WC	WATER CLOSET
WD	WOOD
WDW	WINDOW
WGT	WEIGHT
WH	WATER HEATER / WALL HYDRANT
WI	WROUGHT IRON
WP	WATERPROOF / WATERPROOFING
WPT	WORK POINT / WORKING POINT
WR	WATER RESISTENT
WRB	WEATHER RESISTIVE BARRIER
WS	WEATHERSTRIP
WSCT	WAINSCOT
WT	WINDOW TREATMENT
WWF	WELDED WIRE FABRIC
X	
X BRACE	CROSS BRACING
XPS	EXTRUDED POLYSTYRENE BOARD
Y	
YD	YARD

PROJECT GENERAL NOTES

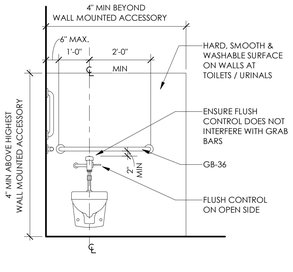
1. THESE GENERAL NOTES SYMBOLS AND ABBREVIATIONS SHALL APPLY TO THE ENTIRE CONSTRUCTION DOCUMENTS AND SHALL GOVERN UNLESS NOTED OTHERWISE BY SHEET NOTES OR KEYNOTES ON SPECIFIC SHEETS
2. ALL WORK SHALL COMPLY WITH ALL COUNTY, CITY, STATE AND FEDERAL REFERENCES, STANDARDS, BY LAWS AND CODE REQUIREMENTS.
3. CONTRACTOR SHALL VERIFY DESIGNATED ROUTES, STAGING METHODS AND SCHEDULES FOR DELIVERY, STORAGE, AND REMOVAL OF CONSTRUCTION MATERIALS AND DEBRIS WITH OWNERS AS REQUIRED. CONTRACTOR SHALL REPAIR DAMAGED SURFACES.
4. NOTES APPEAR ON VARIOUS DRAWINGS FOR DIFFERENT SYSTEMS AND MATERIALS. REVIEW ALL SHEETS AND APPLY NOTES TO RELATED BUILDING COMPONENTS.
5. REFER TO COMPLETE SET OF ISSUED CONTRACT DOCUMENTS FOR OTHER APPLICABLE NOTES, ABBREVIATIONS, AND SYMBOLS. WHERE MATERIALS ARE APPLIED TO, OR ARE IN DIRECT CONTACT WITH WORK INSTALLED BY ANOTHER SUBCONTRACTOR, COMMENCEMENT OF WORK IMPLIES ACCEPTANCE OF THE SUBSTRATE AS SUITABLE FOR THE APPLICATION INTENDED.
6. COORDINATE EXACT LOCATIONS OF LIGHT FIXTURES, SPEAKERS, SMOKE DETECTORS, EXISTING LIGHTS. ACCESS PANELS, HVAC DUCTS, DIFFUSERS, REGISTERS, AND OTHER CEILING ITEMS WITH MECHANICAL, ELECTRICAL AND ALL COORDINATING TRADES. NOTIFY THE ARCHITECT PROMPTLY IF ANY LOCATIONS CONFLICT WITH ARCHITECTURAL REFLECTED CEILING PLANS.
7. WOOD BLOCKING WITHIN THE WALL SYSTEM SHALL BE FIRE RETARDANT TREATED. ALL EXTERIOR WOOD BLOCKING SHALL BE MOISTURE RESISTANT TREATED. WOOD MAY NOT BE USED IN AN EXPOSED LOCATION UNLESS IT IS A FINISH MATERIAL, IN A NON-COMBUSTIBLE ASSEMBLY, OR AS SPECIFIED.
8. DIMENSIONS SHOWN ON FLOOR PLANS ARE TYPICALLY TO CENTER LINE OF COLUMNS OR FACE OF FINISH WALL UNLESS NOTED OTHERWISE. DO NOT SCALE DRAWINGS.
9. VERIFY ALL FIELD CONDITIONS.
10. MATERIALS MUST BE DELIVERED AT A RATE THAT WILL ALLOW THEM TO BE STORED WITHIN THE APPROVED STORAGE AREA.
11. ALL ENTRIES/ EXITS MUST REMAIN ACCESSIBLE AND WITH OVERHEAD PROTECTION PROVIDED. MAINTAIN AN ACCESSIBLE ROUTE AND INFORMATIONAL SIGNAGE TO DIRECT PEDESTRIAN TO AND FROM THE ENTRANCES OF THE BUILDING.
12. LIMITED STAGING IS AVAILABLE FOR THIS PROJECT. CONTRACTOR TO COORDINATE POSSIBLE STAGING AREA AND RECEIVED PRIOR APPROVAL FROM THE OWNER BEFORE COMMENCING. STAGING AND ACCESS IS TO REMAIN ON PAVED SURFACES AS MUCH AS POSSIBLE. TRAFFIC LANES AND/OR STAGING AREAS ON SOD REQUIRE PRIOR PLACEMENT OF 3/4" PLYWOOD OR 6" OF MULCH.
13. PROVIDE FENCE AND/OR BARRICADE AROUND STAGING AREAS. FENCE, AND/OR BARRICADE SHOULD BE RIGID TO THE GROUND. DO NOT USE ORANGE SNOW FENCE OR CAUTION TAPE AS A BARRICADE.
14. ONLY REMOVE OR EXPOSE EXISTING ROOF AREAS THAT CAN BE WATERPROOFED EACH DAY.
15. SEAL-OFF ALL UNFINISHED WORK AND MAKE WATERTIGHT AT THE END OF EACH DAY.
16. EXISTING UNDERGROUND UTILITIES INCLUDING AND NOT LIMITED TO IRRIGATION LINES, COMMUNICATIONS, ELECTRICAL, GAS, PLUMBING, STORM PIPES ARE PRESENT. PRIOR TO COMMENCEMENT OF WORK CONTRACTOR SHALL LOCATE THESE BURIED UTILITIES. DISCONNECT TO FACILITATE REPAIR WORK AND REINSTALL UPON COMPLETION OF WORK.
17. PRIOR TO COMMENCEMENT OF WORK CONTRACTOR SHALL REMOVE AND TEMPORARILY STORE ALL EXISTING MOVABLE ITEMS AND REINSTALL UPON COMPLETION OF WORK.
18. PATCH AND REPAIR ALL EXISTING ELEMENTS AFFECTED BY CONTRACTOR WORK TO MATCH EXISTING.
19. PROTECT EXISTING ROOF AREAS WITH 3/4" PLYWOOD OVER 2" EXTRUDED POLYSTYRENE AND 10 MIL POLYETHYLENE IN WORK AREAS AND TRAFFIC LANES.

OR

1. THESE GENERAL NOTES SYMBOLS AND ABBREVIATIONS SHALL APPLY TO THE ENTIRE CONSTRUCTION DOCUMENTS AND SHALL GOVERN UNLESS NOTED OTHERWISE BY SHEET NOTES OR KEYNOTES ON SPECIFIC SHEETS.
2. REFER TO COMPLETE SET OF ISSUED CONTRACT DOCUMENTS FOR OTHER APPLICABLE NOTES, ABBREVIATIONS, AND SYMBOLS. WHERE MATERIALS ARE APPLIED TO, OR ARE IN DIRECT CONTACT WITH WORK INSTALLED BY ANOTHER SUBCONTRACTOR. COMMENCEMENT OF WORK IMPLIES ACCEPTANCE OF THE SUBSTRATE AS SUITABLE FOR THE APPLICATION INTENDED. NOTES APPEAR ON VARIOUS DRAWINGS FOR DIFFERENT SYSTEMS AND MATERIALS. REVIEW ALL SHEETS AND APPLY NOTES TO RELATED BUILDING COMPONENTS.
3. REVIEW DOCUMENTS FOR INFORMATION REGARDING PHASING, SCHEDULE AND WORK INCLUDED UNDER THIS CONTRACT AND UNDER PREVIOUS OR SUBSEQUENT BID PACKAGE.
4. PROVIDE A SAFE MEANS OF EGRESS THROUGH AND/OR AROUND THE BUILDING AND SITE PER APPLICABLE CODES AT ALL TIMES DURING THE CONSTRUCTION PROCESS.
5. EXISTING AREAS OR ITEMS TO REMAIN ARE SHOWN SHADED UNLESS NOTED OTHERWISE.
6. VERIFY ALL FIELD CONDITIONS PRIOR TO COMMENCING WORK.
7. SEE CODE PLANS FOR LOCATIONS OF RATED WALLS. SEE WALL TYPES FOR RATED WALL ASSEMBLIES.
8. WALL TYPES DESCRIBE GENERAL REQUIREMENTS FOR INTERIOR WALL CONSTRUCTION AND DETAILS AND SHOW FRAMING FOR REFERENCE ONLY. REFER TO THE MANUFACTURER'S SPECIFICATIONS AND REQUIREMENTS OF APPLICABLE TESTING AGENCIES FOR SPECIFICS OF STUD ASSEMBLIES. PROVIDE HORIZONTAL BRACING OR BRACE TO COLUMN AS REQUIRED.
9. PARTITIONS REQUIREMENTS SHOWN ARE CONSIDERED TO BE MINIMUM STANDARDS, WHERE CONDITIONS OF THE WORK CAUSE PARTITION TO EXCEED LIMITS RECOMMENDED BY MANUFACTURER, REINFORCE PARTITION.
10. PENETRATIONS THROUGH RATED PARTITIONS AND CONNECTIONS OF THE PARTITIONS TO OTHER PORTION OF THE WORK SHALL BE IN ACCORDANCE WITH MANUFACTURERS RECOMMENDED DETAILS AND IN COMPLIANCE WITH APPLICABLE TESTING AGENCY REQUIREMENTS.
11. WHERE A CLEAR DIMENSION OR OPENING IS REQUIRED OR NOTED, MEASURE DIMENSION TO FACE OF PARTITION FINISH.
12. INSTALL BLOCKING OR BACKER MATERIAL FOR ATTACHMENT/MOUNTING OF WALL HUNG ITEMS OR EQUIPMENT DESCRIBED IN THE DOCUMENTS.
13. UL NUMBERS MAY VARY DEPENDING ON THE MANUFACTURER OF COMPONENTS ACTUALLY USED.
14. PROVIDE SPECIFIED METAL GAUGE UNLESS NOTED OTHERWISE.
15. PROVIDE 5/8" TYPE X GYPSUM BOARD UNLESS NOTED OTHERWISE.
16. DIMENSIONS ARE TO FACE OF STEEL STUDS AT EXTERIOR WALLS, FACE OF CMU, FACE OF EXTERIOR FINISH, CENTERLINE OF INTERIOR PARTITIONS AND TO GRID LINES OR CENTER LINE OF COLUMNS UNLESS SHOWN OR NOTED OTHERWISE.
17. WHERE PARTITIONS AND/OR FURRING MEET, MAINTAIN A FLUSH SURFACE ON THE SIDE WHERE THE FINISH IS STRAIGHT OR CONTINUOUS UNLESS NOTED OTHERWISE.
18. HOLLOW METAL DOOR FRAMES SHALL BE LOCATED 4" FROM THE PERPENDICULAR WALL UNLESS INDICATED OTHERWISE.
19. PROVIDE LINTELS FOR DUCT AND PIPE PENETRATIONS OVER 16" IN NEW AND EXISTING WALLS, REFER TO DRAWINGS AND THE LINTEL SCHEDULE IN THE STRUCTURAL DRAWINGS FOR LINTEL SIZES.
20. PROVIDE THE INDICATED BRICK, STONE, CAST STONE, PRECAST, OR CONCRETE FINISH TO THE INDICATED BRICK LEDGE SHOWN ON THE ELEVATION.
21. INTERIOR PARTITIONS SHALL EXTEND FROM FLOOR TO STRUCTURE ABOVE EXCEPT WHERE NOTED OR SHOWN OTHERWISE.
22. WOOD BLOCKING WITHIN ANY WALL SYSTEM SHALL BE FIRE RETARDANT TREATED.
23. ALL DISSIMILAR METALS SHALL BE EFFECTIVELY ISOLATED FROM EACH OTHER TO PREVENT GALVANIC CORROSION.
24. LOCATE ACCESS PANELS AS INDICATED ON DRAWINGS. FOR ACCESS PANELS NOT SHOWN BUT REQUIRED BY PROVISIONS OF THE CONTRACT DOCUMENTS, LOCATE IN ACCORDANCE WITH APPLICABLE CODES. SUBMIT PROPOSED LOCATIONS TO THE ARCHITECT FOR REVIEW AND ACCEPTANCE PRIOR TO INSTALLATION.
25. STRUCTURAL STEEL MEMBER PROFILES AS INDICATED ON ARCHITECTURAL DRAWINGS MAY VARY FROM ACTUAL PROFILES AND SIZES INDICATED ON THE STRUCTURAL DRAWINGS IN WHICH CASE STRUCTURAL DRAWINGS SHALL GOVERN.
26. COORDINATE EXACT LOCATIONS OF LIGHT FIXTURES, SPEAKERS, SMOKE DETECTORS, ACCESS PANELS, HVAC DUCTS, DIFFUSERS, REGISTERS, AND OTHER CEILING ITEMS WITH MECHANICAL, ELECTRICAL AND ALL COORDINATING TRADES. NOTIFY ARCHITECT PROMPTLY IF ANY LOCATIONS CONFLICT WITH ARCHITECTURAL REFLECTED CEILING PLANS.
27. CONTRACTOR TO PROVIDE A SINGLE COMBINED COORDINATION DRAWING SHOWING ALL ELECTRICAL, MECHANICAL, FIRE PROTECTION, TECHNOLOGY AND CEILING CONSTRUCTION ELEMENTS LOCATED WITHIN CONDITION SPACES, EXCLUDING MECHANICAL AND ELECTRICAL ROOMS. INCLUDE ABOVE CEILING WORK MOUNTED TO UNISTRUT SYSTEM. COORDINATE WITH ALL SUBCONTRACTORS. PER 01031,1.9C AND SUBMIT PER SECTION 01300 PRIOR TO COMMENCING ANY WORK LOCATED ABOVE CEILINGS. DIMENSION LOCATIONS OF ALL ELEMENTS EXPOSED BELOW CEILING WORK. INCLUDE REQUIRED ACCESS PANELS.
28. COORDINATE ALL BASE AND HOUSEKEEPING PADS WITH MECHANICAL, PLUMBING AND ELECTRICAL EQUIPMENT.
29. MAINTAIN THE FIRE RATING OF CONSTRUCTION AROUND CABINETS, PANELS, AND BOXES RECESSED IN FIRE RATED WALLS, PARTITIONS, FLOOR, AND CEILING ASSEMBLIES.
30. LEVEL ELEVATIONS AND GRIDS AT EXISTING CONSTRUCTION ARE SHOWN FOR REFERENCE ONLY. FIELD VERIFY LOCATIONS. REPORT DISCREPANCIES TO ARCHITECT PRIOR TO PROCEEDING WITH WORK.

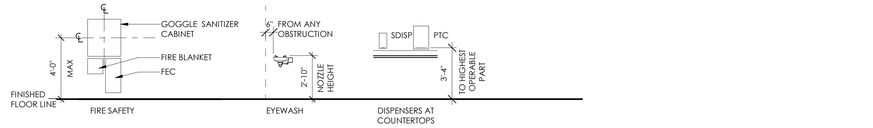


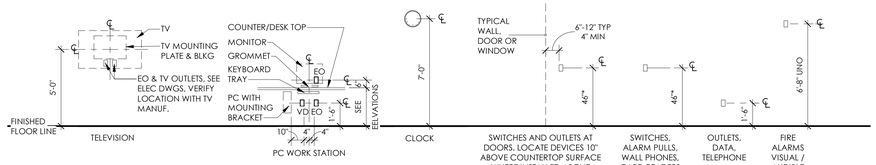
ACCESSIBLE WATER CLOSET, SIDE WALL

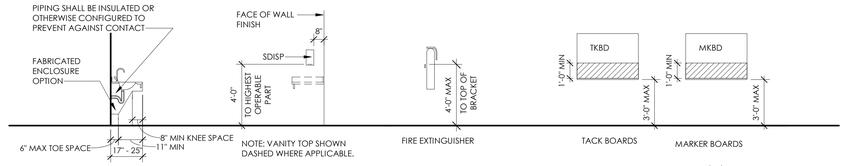


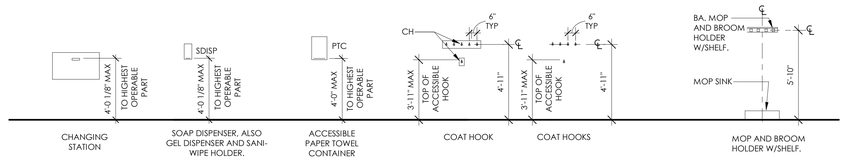
ACCESSIBLE WATER CLOSET, BACK WALL

1 G050 MOUNTING HEIGHTS, TOILET
1/2" = 1'-0"









2 G050 MOUNTING HEIGHTS, ACCESSORIES
1/4" = 1'-0"

SYMBOLS

- SIM / 1 / A101 — BUILDING SECTION MARKER
- SIM / 1 / A101 — WALL SECTION MARKER
- SIM / 1 / A101 — DETAIL MARKER
- SIM / 1 / A101 — DETAIL MARKER
- SIM / 1 / A101 — BUILDING ELEVATION MARKER
- 2 / 1 / A600 / 3 / 4 — INTERIOR ELEVATION MARKER
- SIM / 1 / A101 — VIEW CALLOUT
- 0 — BUILDING GRID LINE
- LEVEL 0'-0" — HEIGHT MARKER
- EXISTING WALL
- NEW WALL
- DEMO WALL
- A3x — WALL TYPE DESIGNATOR
- 8 — KEYNOTE DESIGNATOR
- W1 — WINDOW TAG CW / SF TAG
- GL-X — CW / SF PANEL TAG
- X — MOUNTING HEIGHT DESIGNATOR
- REVISION DESIGNATOR
- CENTER LINE
- 100 — DOOR TAG
- D## — NEW DOOR
- DEMO DOOR
- EXISTING DOOR

MATERIALS

- EARTH
- GRAVEL, BALLAST
- BITUMINOUS
- SAND
- CAST-IN-PLACE CONCRETE
- PRECAST CONCRETE
- CONCRETE BLOCK/CMU
- STONE
- BRICK
- STEEL
- ALUMINUM
- SPRAY FIRE PROOFING
- PLYWOOD
- FINISH WOOD
- ROUGH WOOD
- PARTICLE BOARD/O.S.B.
- PLASTER
- GYPSUM BOARD/SHEATHING
- ACOUSTIC CEILING TILE
- BATT INSULATION
- RIGID INSULATION
- MINERAL-WOOL INSULATION
- SPRAY FOAM INSULATION

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Minneapolis, Minnesota 55401
612 337 0000

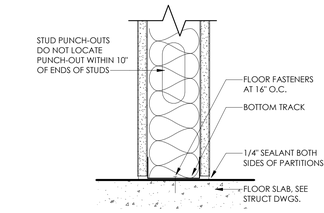
MEYER | BORGMAN | JOHNSON
STRUCTURAL DESIGN + ENGINEERING

HALLBERG ENGINEERING
Mechanical | Electrical | Commissioning | Energy

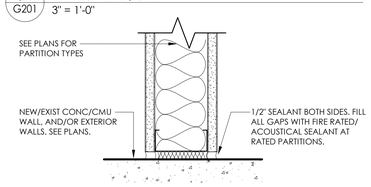
Rockwise STRATEGIES

LJG Design LLC
FOODSERVICE FACILITIES
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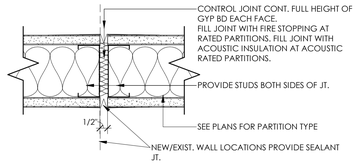


6A G201 PARTITION BASE, GYB
3" = 1'-0"



CONTROL JOINT NOTES

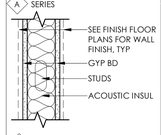
1. PROVIDE CONTROL JOINTS IN PARTITIONS WHERE INDICATED ON PLANS AND/OR INTERIOR ELEVATIONS. AT END INTERSECTION WITH CONC/CMU WALLS, INTERSECTION WITH EXISTING PARTITIONS, AND ABOVE THE STRIKE SIDE OF EACH DOOR FRAME AND NOT MORE THAN 30'-0" O.C.
2. CONTROL JOINT LOCATIONS SHALL BE REVIEWED AND VERIFIED BY ARCHITECT.



6C G201 PARTITION CONTROL JOINTS, GYB
3" = 1'-0"

INTERIOR PARTITION TYPES

A SERIES

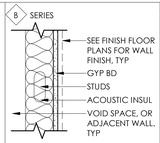


- A20 5/8" GYP BD 3 5/8" MTL STUDS @ 16" OC ACCOUSTIC INSUL 1/2" PLYWOOD 5/8" GYP BD
- A3 5/8" GYP BD 3 5/8" MTL STUDS @ 16" OC 5/8" GYP BD
- A33 5/8" GYP BD 3 5/8" MTL STUDS @ 16" OC ACOUSTIC INSUL 5/8" GYP BD
- A65 5/8" GYP BD 6" MTL STUDS @ 16" OC ACOUSTIC INSUL 5/8" GYP BD

PARTITION SERIES NOTES:
FIRE RESISTANCE: 1 HOUR
UL U465 ALL OTHER PARTITIONS

STC RATING.
STC 36 (after USG801036) studs 20 ga 16" O.C.
STC 37 (after USG810518) studs 20 ga 16" O.C.
STC 45 GA WP1081 studs 20 ga 24" O.C.

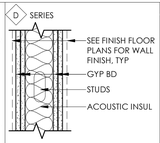
B SERIES



- B0 5/8" GYP BD DIRECTLY APPLIED TO SUBSTRATE
- B3 5/8" GYP BD 3 5/8" MTL STUDS @ 16" OC
- B33 5/8" GYP BD 2 5/8" MTL STUDS @ 16" OC ACOUSTIC INSUL.

PARTITION SERIES NOTES:
FIRE RATING, NA.
STC RATING, NA.

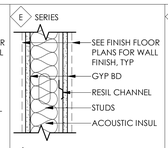
D SERIES



- D3 5/8" GYP BD 3 5/8" MTL STUDS @ 16" OC

PARTITION SERIES NOTES:
FIRE RESISTANCE: 2 HOUR
UL411

E SERIES

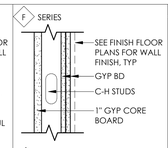


- E30 5/8" GYP BD 3 5/8" MTL STUDS @ 16" OC 3 1/2" ACOUSTIC INSUL 1/2" MTL RESILIENT CHANNEL 5/8" GYP BD

PARTITION SERIES NOTES:
FIRE RATING, NA

STC RATING,
STC 51

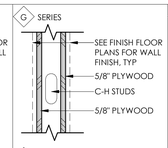
F SERIES



- F2 5/8" GYP BD, 2 LAYERS 2 1/2" MTL C-H STUDS @ 16" OC 1" GYP CORE BOARD

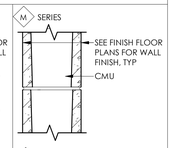
PARTITION SERIES NOTES:
FIRE RESISTANCE: 2 HOUR
UL U428

G SERIES



- G2 5/8" PLYWOOD 2 1/2" MTL C-H STUDS @ 16" OC 5/8" PLYWOOD

M SERIES



- M8 8" CMU WALL, 7 5/8" THICK

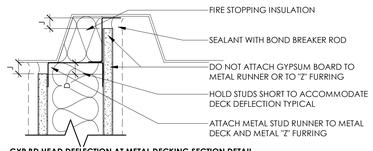
PARTITION SERIES NOTES:
FIRE RATING, NA.
STC RATING, NA.

PARTITION GENERAL NOTES:

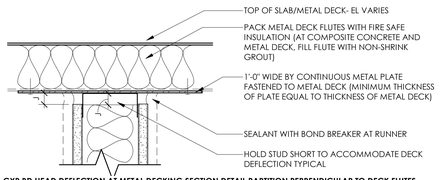
1. NOT ALL PARTITION TYPES ARE USED IN THE PROJECT, SEE PLAN FOR PARTITION TYPES USED.
2. FLOOR PLAN DIMENSIONS ARE NOMINAL TO FACE OR CENTERLINE OF PARTITIONS.
3. ALL PARTITIONS ARE TO BE FULL HEIGHT TO U/S OF STRUCT ABOVE, UNO. SEE DETAILS THIS SHEET.
4. REFER TO SPECIFICATIONS, PRODUCT TECHNICAL DATA AND REQUIREMENTS OF APPLICABLE TESTING AGENCIES FOR SPECIFICS OF PARTITION CONSTRUCTION REQUIREMENTS. PARTITION REQUIREMENTS SHOWN ARE MINIMUM STANDARDS. WHERE ACTUAL CONDITIONS CAUSE PARTITION(S) TO EXCEED LIMITS FOLLOW MANUFACTURER'S RECOMMENDATIONS. REINFORCE PARTITION(S) AS REQUIRED.
5. PROVIDE FIRESTOPPING AT PENETRATIONS AND CONNECTIONS TO ADJACENT ASSEMBLIES IN FIRE-RATED PARTITIONS COMPLIANT WITH APPLICABLE TESTING AGENCY REQUIREMENTS. SEE ALSO FIRESTOPPING SPECIFICATION SECTION.
6. PROVIDE BLOCKING OR BACKER MATERIAL FOR ATTACHMENT AND MOUNTING OF WALL HUNG ITEMS AND/OR EQUIPMENT. PROVIDE FIRE RETARDANT TREATED BLOCKING WHERE SPECIFIED OR REQUIRED BY CODE.
7. FIRE AND/OR ACOUSTIC TEST REFERENCES CALLED OUT MAY VARY DEPENDING ON THE MANUFACTURER OF COMPONENTS ACTUALLY USED. CONTRACTOR SHALL VERIFY AND ENSURE THESE MINIMUM STANDARDS ARE MET.
8. MAINTAIN THE FIRE RATING OF CONSTRUCTION AROUND CABINETS, PANELS, AND BOXES RECESSED IN FIRE RATED WALLS, PARTITIONS, FLOOR, AND CEILING ASSEMBLIES.
9. LEVEL ELEVATIONS AND GRIDS AT EXISTING CONSTRUCTION ARE SHOWN FOR REFERENCE ONLY. FIELD VERIFY LOCATIONS. REPORT DISCREPANCIES TO ARCHITECT PRIOR TO PROCEEDING WITH WORK.
10. PROVIDE 5/8" TYPE X GYP BD, UNO.
11. SUBSTITUTE GYP BD WITH WATER RESISTANT GYP BD AT AREAS REQUIRED BY CODE.
12. SUBSTITUTE GYP BD WITH 1/2" TILE BACKER BOARD AT AREAS WHERE FINISH WILL BE CERAMIC TILE UNO.
13. HALLOW METAL DOOR FRAMES SHALL BE LOCATED 4" FROM THE PERPENDICULAR WALL UNLESS INDICATED OTHERWISE.
14. PROVIDE LINTELS FOR DUCT AND PIPE PENETRATIONS OVER 16" IN NEW AND EXISTING WALLS. REFER TO DRAWINGS AND THE INTEL SCHEDULE IN THE STRUCTURAL DRAWINGS FOR LINTEL SIZES.
15. WOOD BLOCKING WITHIN ANY WALL SYSTEM SHALL BE FIRE RETARDANT TREATED.
16. ENSURE FINISH SURFACES ARE FLUSH AND SEAMLESS WHERE PARTITIONS AND/OR FURRING ARE COPLANAR.

GYP BD HEAD WALL CONNECTION GENERAL NOTES:

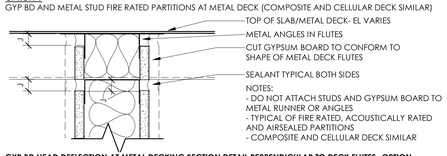
1. FOR PARTITION TYPES SEE PLANS AND TYPICAL INTERIOR PARTITION TYPES.
2. FOR FIRE-RATED OR ACOUSTIC PARTITIONS PROVIDE APPLY UL DESIGN NUMBERS WITH FIRE STOPPING, ACOUSTIC INSULATION AND SEALANT AS REQUIRED FOR THE PARTITION TYPE.
3. FOR ACOUSTIC PARTITIONS PROVIDE ACOUSTIC INSULATION AND SEALANTS AS REQUIRED FOR THE PARTITION TYPE.
4. SELECT APPROPRIATE HEAD CONNECTION JOINT BASED ON SPECIFIC LOCATIONS.
5. STEP WALL AT BEAMS AS REQ'D TO MAINTAIN A CONSISTENT RATED WALL.
6. DEFLECTION LIMIT OF L/180 IS FOR FLEXIBLE FINISHES AND A DEFLECTION LIMIT OF L/240 IS FOR BRITTLE FINISHES SUCH AS TILE.
7. DIMENSION J DENOTES MIN STRUCTURAL DESIGN 3/4" DEFLECTION UNO.



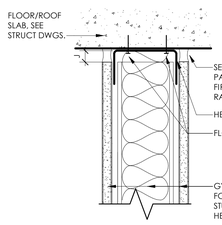
GYP BD HEAD DEFLECTION AT METAL DECKING SECTION DETAIL, UL DESIGN No HW-D-0020



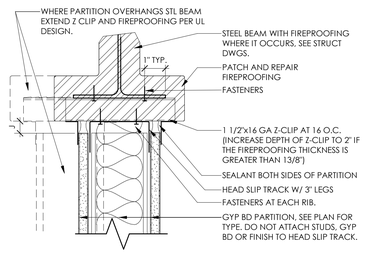
GYP BD HEAD DEFLECTION AT METAL DECKING SECTION DETAIL PARTITION PERPENDICULAR TO DECK FLUTES- OPTION 1
GYP BD AND METAL STUD FIRE RATED PARTITIONS AT METAL DECK (COMPOSITE AND CELLULAR DECK SIMILAR)



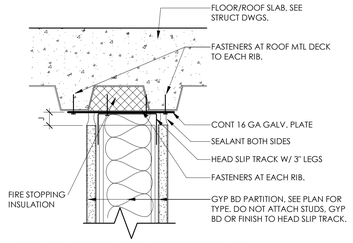
GYP BD HEAD DEFLECTION AT METAL DECKING SECTION DETAIL PERPENDICULAR TO DECK FLUTES- OPTION 2
NOTES:
UL HW-D-1068 FOR 1 AND 2 HR RATED GYP PARTITIONS AT CONC SLAB/BEAM CONNECTIONS.
UL HW-D-0020 FOR 1 AND 2 HR RATED GYP PARTITIONS AT COMPOSITE FLOOR SLAB CONNECTIONS.



GYP BD HEAD DEFLECTION AT CONCRETE STRUCTURAL SLABS/BEAMS SECTION DETAIL, UL DESIGN No HD-D-0003
NOTE:
1. FOR UL HW-D-0003 1 AND 2 HR FIRE-RATED PARTITIONS PROVIDE FIRE STOPPING, SEALANTS AND HEAD CONNECTIONS PER UL DESIGN NUMBER REQUIREMENTS.



GYP BD HEAD DEFLECTION AT STEEL BEAM WITH FIREPROOFING SECTION DETAIL, UL DESIGN No HW-D-0617



GYP BD HEAD DEFLECTION AT METAL DECKING SECTION DETAIL, UL DESIGN No HW-D-0264
NOTES:
3. UL DESIGN HW-D-0617 IS APPLICABLE FOR 1 OR 2 HR RATED WALLS.
4. UL DESIGN HW-D-0267 IS APPLICABLE FOR 1, 2 OR 3 HR RATED WALLS.
5. UL DESIGN HW-D-0264 IS APPLICABLE FOR 1 OR 2 HR RATED WALLS.

6E G201 PARTITION HEAD CONNECTIONS, GYB
3" = 1'-0"

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I HEREBY CERTIFY THAT THIS PLAN, SPECIFICATION OR REPORT WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT I AM A DULY LICENSED ARCHITECT UNDER THE LAWS OF THE STATE OF MINNESOTA.

Signature

Name

Date License #

PROJECT

JUSTICE PAGE MIDDLE SCHOOL GROUND LEVEL RENOVATIONS

MINNEAPOLIS PUBLIC SCHOOLS

10 WEST 50TH STREET
MINNEAPOLIS, MN 55419

REVISED

Mark	Date	Description

PRELIMINARY - NOT FOR CONSTRUCTION

Project Number:	MPS2401
Date:	1/17/2025
Drawn By:	EKK, LES, JMT
Checked By:	PGM

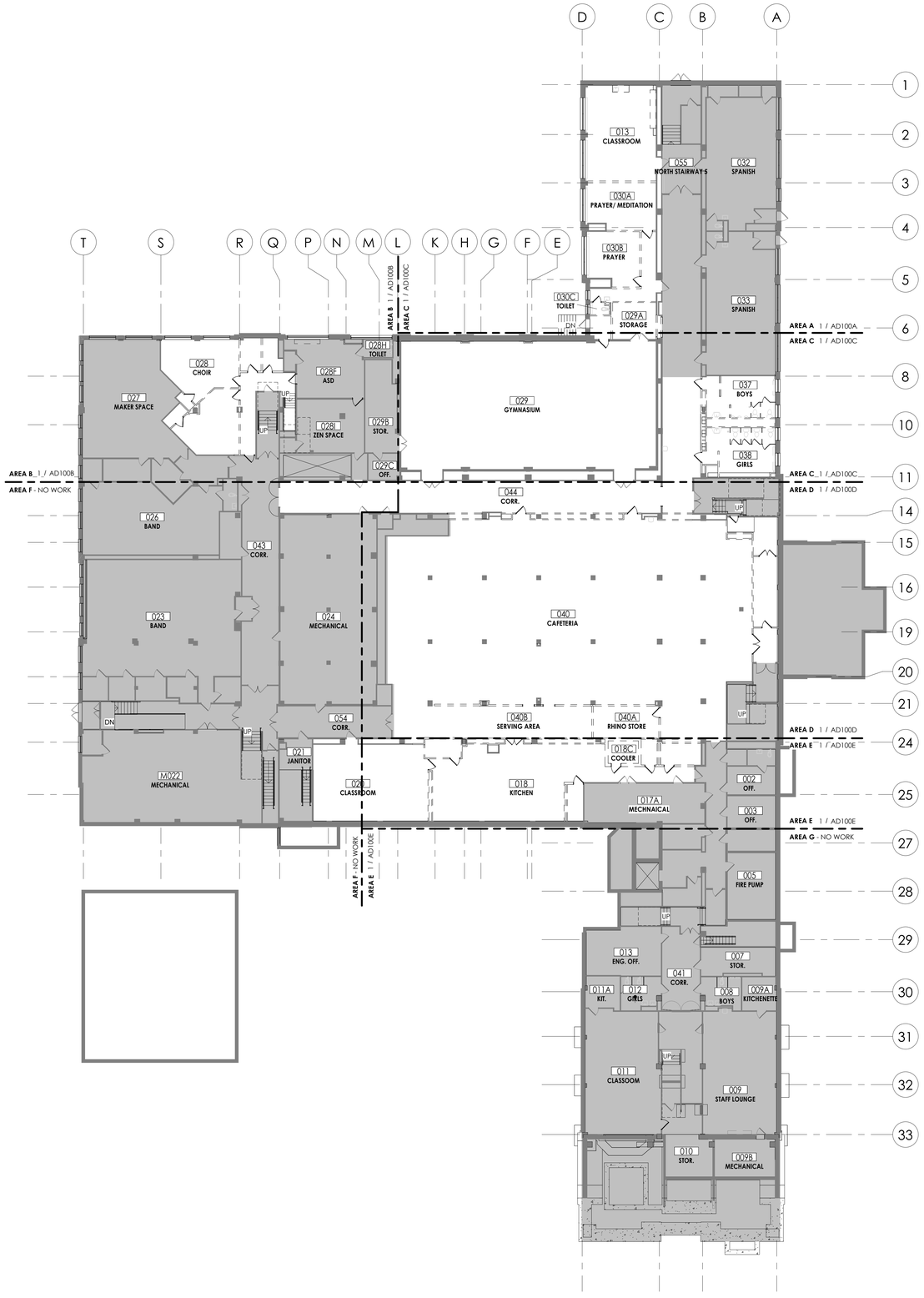
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DRAWING TITLE

TYPICAL INTERIOR ASSEMBLY TYPES AND DETAILS

DRAWING NUMBER

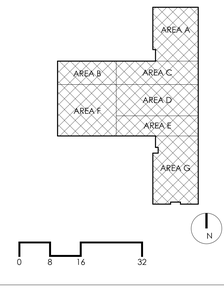
G201



1 AD100 OVERALL DEMOLITION PLAN - GROUND
1/16" = 1'-0"

DEMOLITION NOTES

1. DEMOLITION PLANS FOR ALTERNATE SCOPES ARE SHOWN IN A700 SERIES SHEETS.
2. ALL KEYNOTES MAY NOT NECESSARILY BE USED ON THIS SHEET.
3. A PORTION OF THE BUILDING AND/OR STRUCTURE IS TO BE DEMOLISHED AS INDICATED. KEYNOTES ARE PROVIDED AS AN AIDE TO BIDDERS AND MAY NOT BE ALL-INCLUSIVE.
4. SCANS OF ORIGINAL CONSTRUCTION DRAWINGS ARE AVAILABLE FROM THE ARCHITECT FOR REVIEW PRIOR TO BIDDING UPON REQUEST FROM THE BIDDER.
5. DEMOLITION WORK SHALL BE COORDINATED WITH ALL CONSTRUCTION AS INDICATED IN THE DOCUMENTS OR AS REQUIRED TO ACCOMMODATE CURRENT OR NOTED FUTURE CONSTRUCTION ACTIVITIES. DEMOLITION DRAWINGS DO NOT REPRESENT FULL EXTENT OF DEMOLITION OR REMOVAL. SEE COMPLETE CONSTRUCTION DOCUMENTS FOR OTHER DEMOLITION WORK RELATED TO NEW CONSTRUCTION AND TO DEMOLITION REQUIRED BY OTHER DISCIPLINES.
6. PATCH AND REPAIR ITEMS DAMAGED BY DEMOLITION ACTIVITIES NOT INDICATED TO BE REMOVED SUCH THAT THEY MATCH THE PRE-DAMAGED CONDITIONS.
7. WHERE WALLS ARE REMOVED OR OPENINGS CUT INTO EXISTING WALLS, NEW CONSTRUCTION SHALL BE INSTALLED THAT PROVIDES A FINISHED APPEARANCE EITHER BY TOOTHING IN MASONRY OR CONSTRUCTING OTHER ASSEMBLIES TO MATCH THE EXISTING CONDITION UNLESS SPECIFICALLY NOTED TO REMAIN IN AN UNFINISHED CONDITION.
8. REMOVE ALL FINISHES WHERE NEW FINISHES ARE SCHEDULED.
9. REMOVE ALL ACCESSORIES, FITTINGS, FIXTURES, EQUIPMENT, ETC IN ROOMS TO BE REMOVED AND/OR PARTIALLY REMOVED.
10. REMOVE PORTION OF FLOOR SLABS AS REQUIRED FOR NEW MECHANICAL AND ELECTRICAL UNDERGROUND WORK. SEE MEP DRAWINGS FOR EXTENT.
11. KEYNOTES WITHOUT ARROWS PERTAIN TO ENTIRE ROOM



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Signature

Name

Date License #

PROJECT

JUSTICE PAGE MIDDLE SCHOOL GROUND LEVEL RENOVATIONS

MINNEAPOLIS PUBLIC SCHOOLS

10 WEST 50TH STREET
MINNEAPOLIS, MN 55419

REVISED

Mark Date Description

PRELIMINARY - NOT FOR CONSTRUCTION

Project Number:	MPS2401
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Drawn By:	EKK, LES, JMT,
Checked By:	PGM

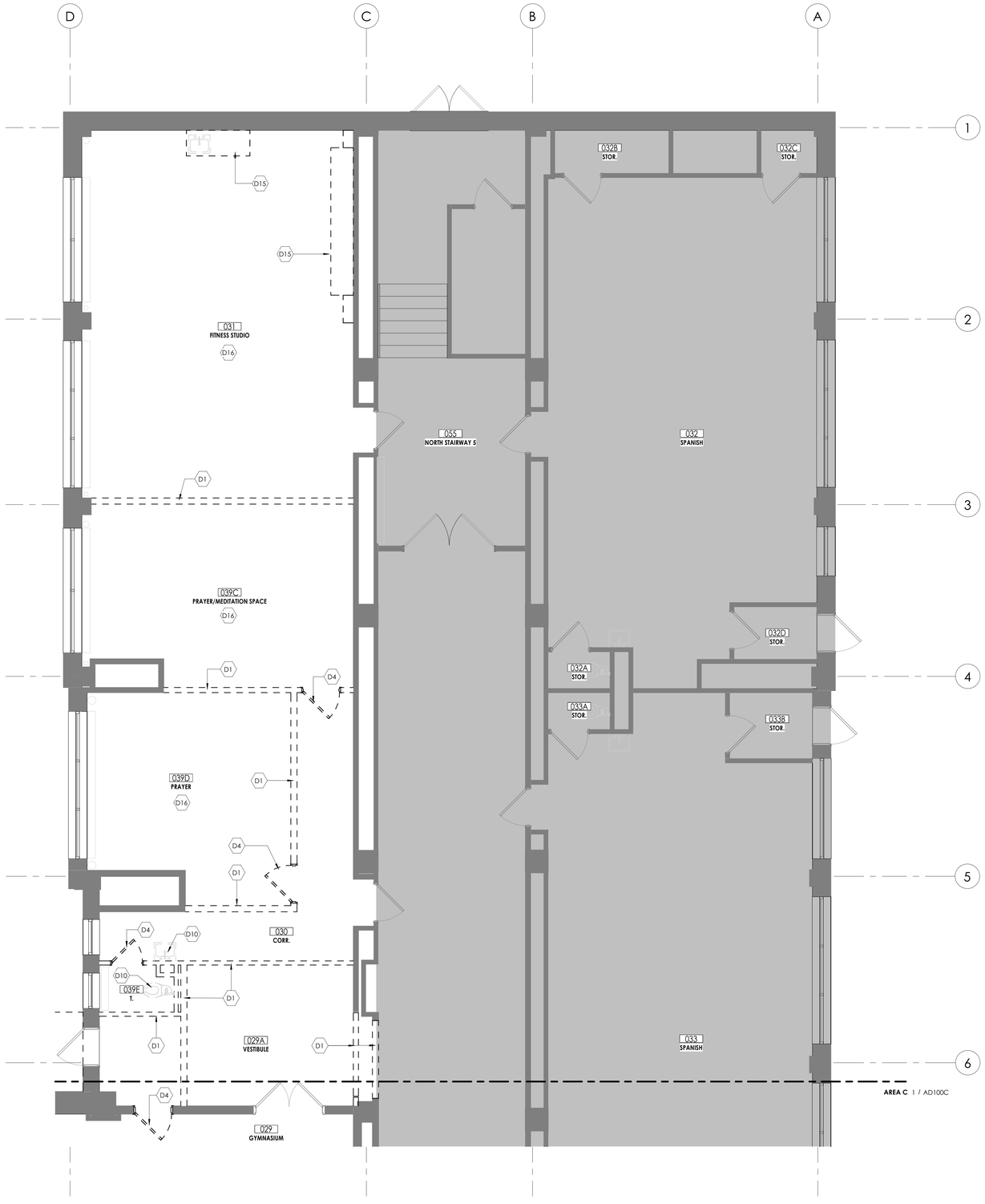
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DRAWING TITLE

OVERALL DEMOLITION PLAN - GROUND LEVEL

DRAWING NUMBER

AD100



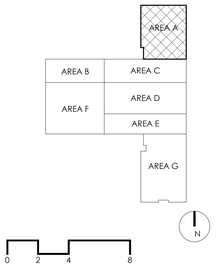
1 AD100A ENLARGED DEMOLITION PLAN - GROUND LEVEL - AREA A
1/4" = 1'-0"

DEMOLITION NOTES

1. DEMOLITION PLANS FOR ALTERNATE SCOPES ARE SHOWN IN A700 SERIES SHEETS.
2. ALL KEYNOTES MAY NOT NECESSARILY BE USED ON THIS SHEET.
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10. REMOVE PORTION OF FLOOR SLABS AS REQUIRED FOR NEW MECHANICAL AND ELECTRICAL UNDERGROUND WORK. SEE MEP DRAWINGS FOR EXTENT.
11. KEYNOTES WITHOUT ARROWS PERTAIN TO ENTIRE ROOM

KEYNOTE LEGEND

No.	KEYNOTES
D1	REMOVE WALL/PARTITION IN ITS ENTIRETY
D4	REMOVE DOOR, HARDWARE AND FRAME
D10	REMOVE PLUMBING FIXTURES, BRACKETS, CLIPS, AND SUPPORT FRAMES, SEE MECHANICAL AND ELECTRICAL
D15	REMOVE CASEWORK
D16	REMOVE HARDWOOD FLOOR AND WOOD SLEEPERS TO CONCRETE FLOOR - PREP AND LEVEL AS REQUIRED FOR NEW FLOORING
D17	REMOVE BASKETBALL HOOPS AND SCOREBOARD AND ALL RELATED MOUNTED HARDWARE



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PROJECT

JUSTICE PAGE MIDDLE SCHOOL GROUND LEVEL RENOVATIONS

MINNEAPOLIS PUBLIC SCHOOLS

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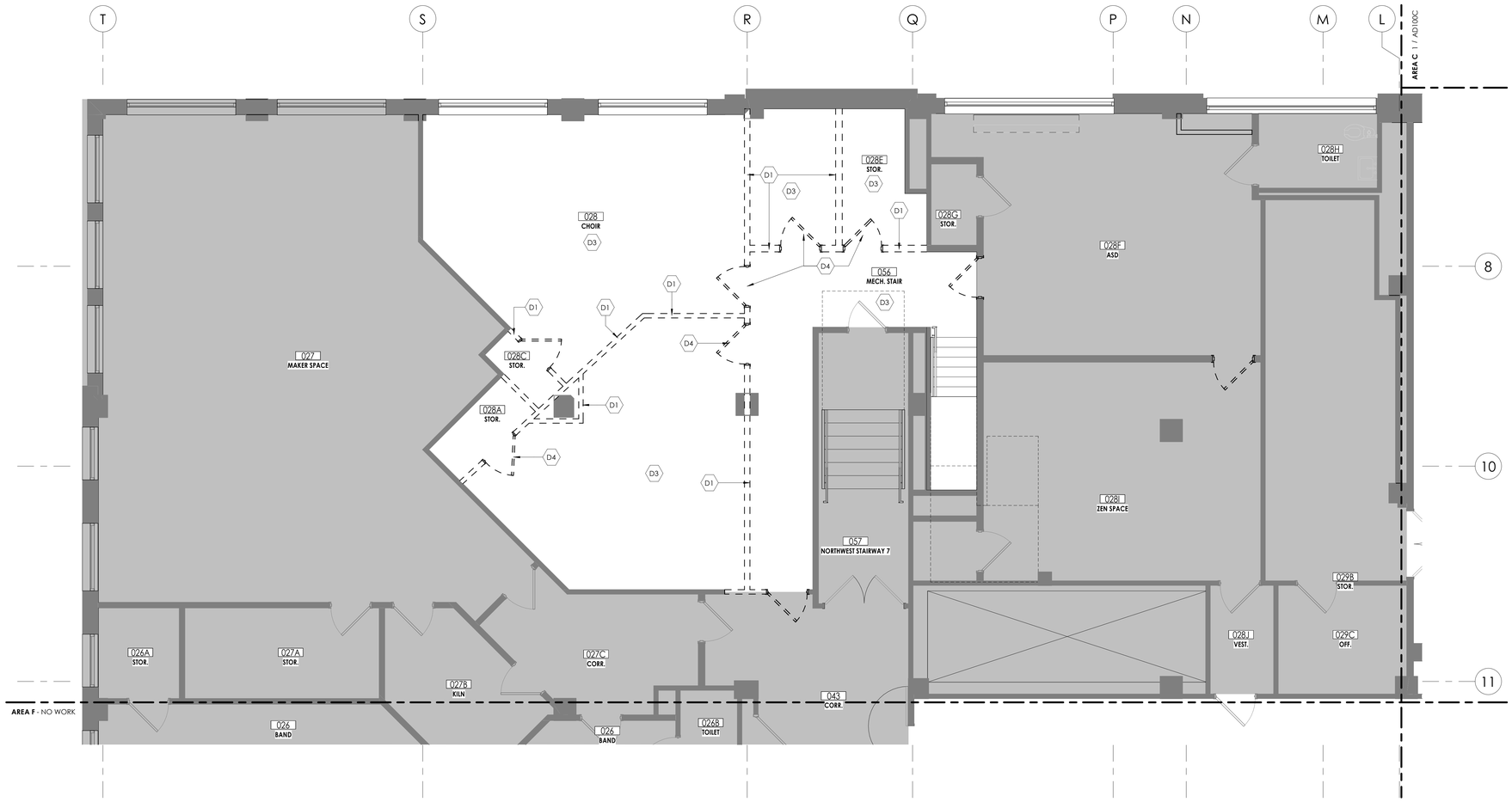
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DRAWING TITLE

ENLARGED DEMOLITION PLANS - GROUND LEVEL - AREA A

DRAWING NUMBER

AD100A



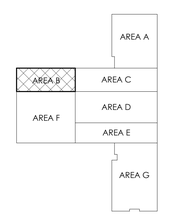
1 AD100B ENLARGED DEMOLITION PLAN - GROUND LEVEL - AREA B
1/4" = 1'-0"

DEMOLITION NOTES

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10. REMOVE PORTION OF FLOOR SLABS AS REQUIRED FOR NEW MECHANICAL AND ELECTRICAL UNDERGROUND WORK. SEE MEP DRAWINGS FOR EXTENT.
11. KEYNOTES WITHOUT ARROWS PERTAIN TO ENTIRE ROOM

KEYNOTE LEGEND

No.	KEYNOTES
D1	REMOVE WALL/PARTITION IN ITS ENTIRETY
D3	REMOVE EXISTING FLOORING TO SUBFLOOR. PREP AND LEVEL AS REQUIRED FOR NEW FLOORING
D4	REMOVE DOOR, HARDWARE AND FRAME



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PROJECT

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MINNEAPOLIS PUBLIC SCHOOLS

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MINNEAPOLIS, MN 55419

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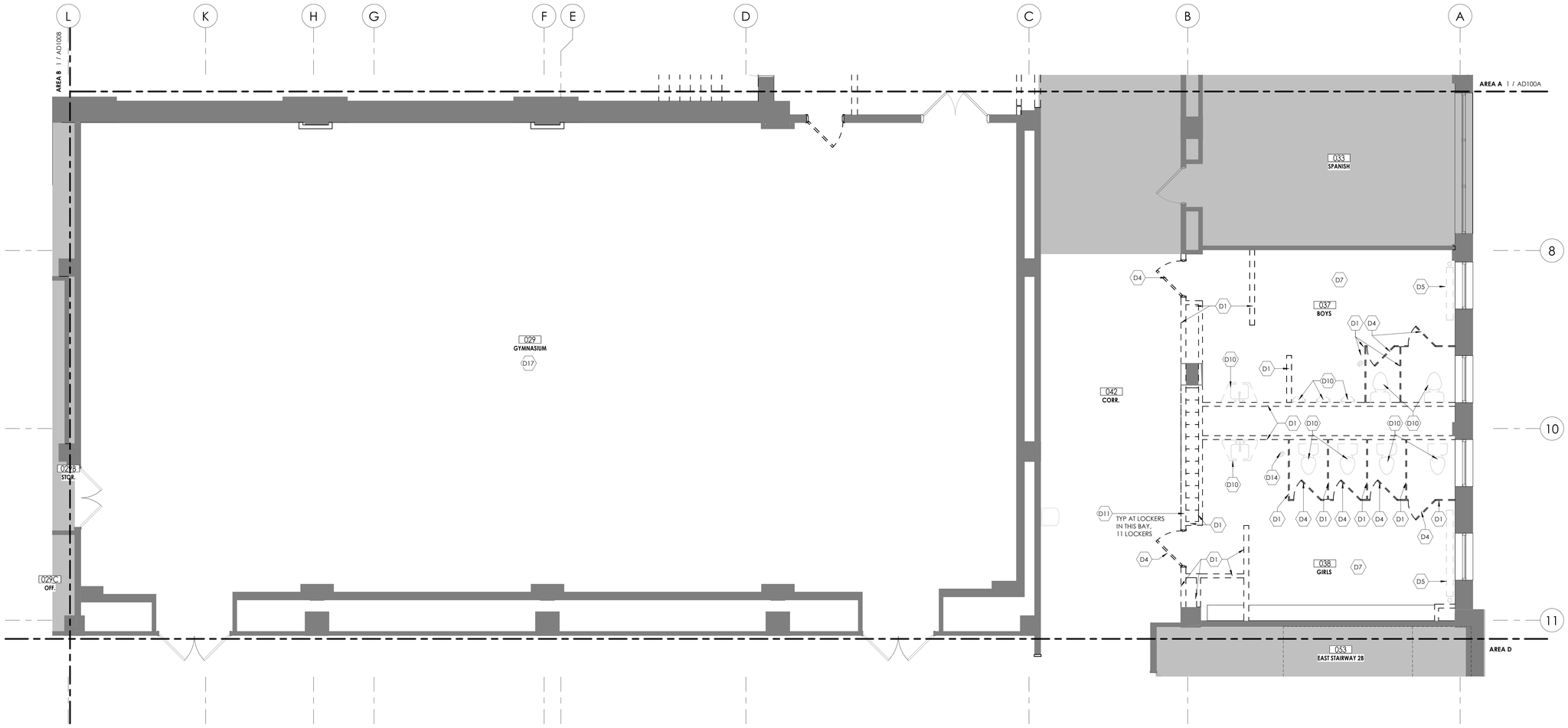
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DRAWING TITLE

ENLARGED DEMOLITION PLANS - GROUND LEVEL - AREA B

DRAWING NUMBER

AD100B



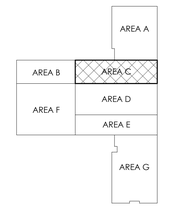
1 AD100C ENLARGED DEMOLITION PLAN - GROUND LEVEL - AREA C
1/4" = 1'-0"

KEYNOTE LEGEND

No.	KEYNOTES
D1	REMOVE WALL/PARTITION IN ITS ENTIRETY
D4	REMOVE DOOR, HARDWARE AND FRAME
D5	REMOVE RADIATOR AND RADIATOR COVER
D7	REMOVE EXISTING TERRAZZO TO SUBFLOOR, PREP AND LEVEL AS REQUIRED, REMOVE CONCRETE STRUCTURE AS REQUIRED FOR NEW PLUMBING
D10	REMOVE PLUMBING FIXTURES, BRACKETS, CLIPS, AND SUPPORT FRAMES. SEE MECHANICAL AND ELECTRICAL
D11	REMOVE AND SALVAGE LOCKERS AND FRAME, RETURN EXTRA LOCKERS NOT REINSTALLED TO OWNER
D14	REMOVE DRAIN
D17	REMOVE BASKETBALL HOOPS AND SCOREBOARD AND ALL RELATED MOUNTED HARDWARE

DEMOLITION NOTES

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10. REMOVE PORTION OF FLOOR SLABS AS REQUIRED FOR NEW MECHANICAL AND ELECTRICAL UNDERGROUND WORK. SEE MEP DRAWINGS FOR EXTENT.
11. KEYNOTES WITHOUT ARROWS PERTAIN TO ENTIRE ROOM



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Date License #

PROJECT

JUSTICE PAGE MIDDLE SCHOOL GROUND LEVEL RENOVATIONS

MINNEAPOLIS PUBLIC SCHOOLS

10 WEST 50TH STREET
MINNEAPOLIS, MN 55419

REVISED

Mark Date Description

PRELIMINARY - NOT FOR CONSTRUCTION

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Date:	1/17/2025
Drawn By:	KNR
Checked By:	XXX

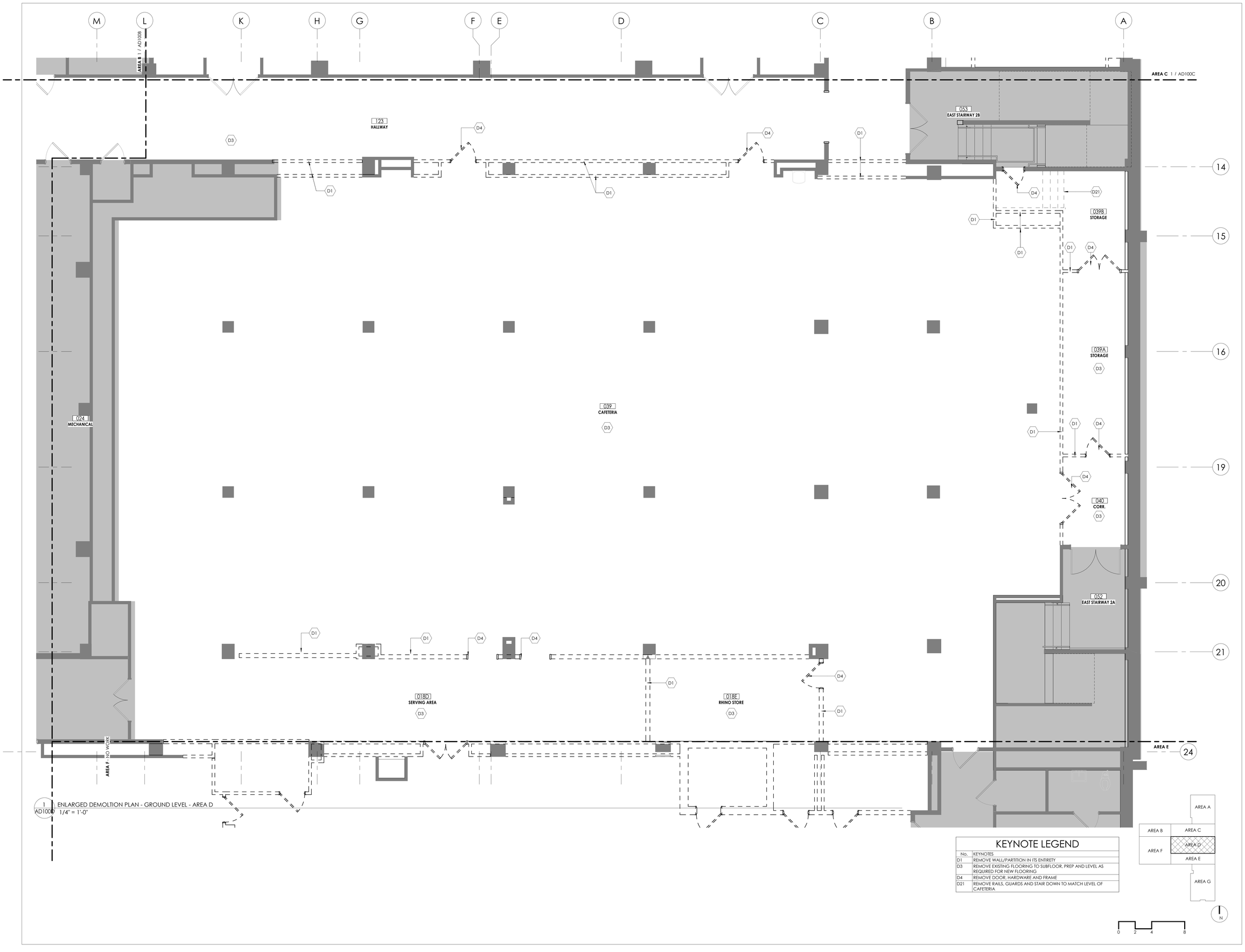
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DRAWING TITLE

ENLARGED DEMOLITION PLANS - GROUND LEVEL - AREA C

DRAWING NUMBER

AD100C



1 AD100D ENLARGED DEMOLTION PLAN - GROUND LEVEL - AREA D
1/4" = 1'-0"

KEYNOTE LEGEND

No.	KEYNOTES
D1	REMOVE WALL/PARTITION IN ITS ENTIRETY
D3	REMOVE EXISTING FLOORING TO SUBFLOOR, PREP AND LEVEL AS REQUIRED FOR NEW FLOORING
D4	REMOVE DOOR, HARDWARE AND FRAME
D21	REMOVE RAILS, GUARDS AND STAIR DOWN TO MATCH LEVEL OF CAFETERIA

N

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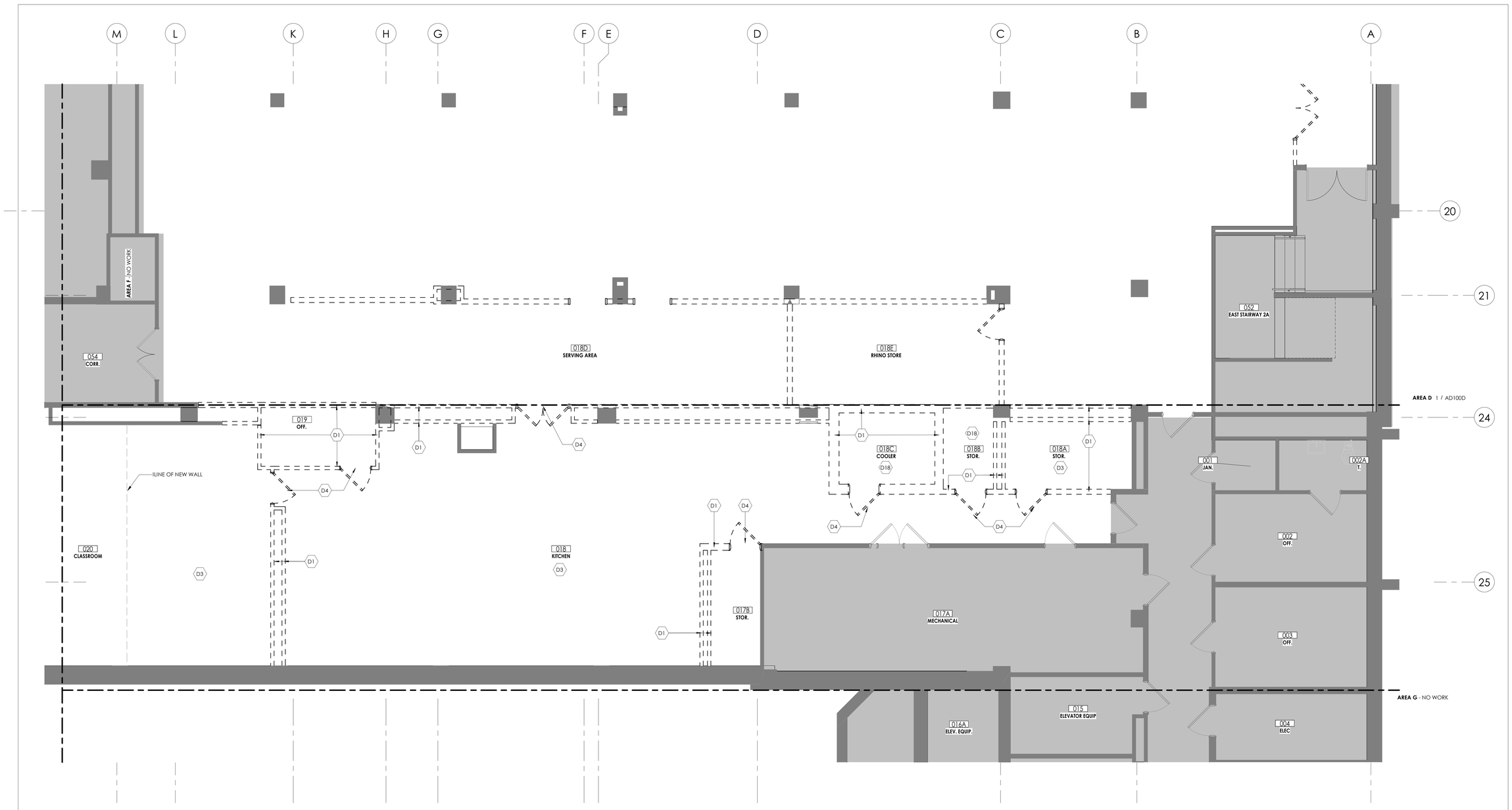
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DRAWING TITLE

ENLARGED DEMOLITION PLANS - GROUND LEVEL - AREA D

DRAWING NUMBER

AD100D



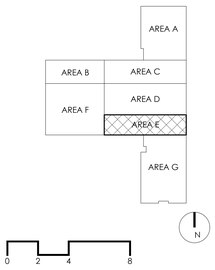
1 AD100E ENLARGED DEMOLITION PLAN - GROUND LEVEL - AREA E
1/4" = 1'-0"

DEMOLITION NOTES

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11. KEYNOTES WITHOUT ARROWS PERTAIN TO ENTIRE ROOM

KEYNOTE LEGEND

No.	KEYNOTES
D1	REMOVE WALL/PARTITION IN ITS ENTIRETY
D3	REMOVE EXISTING FLOORING TO SUBFLOOR, PREP AND LEVEL AS REQUIRED FOR NEW FLOORING
D4	REMOVE DOOR, HARDWARE AND FRAME
D18	REMOVE COOLER AND FREEZER EQUIPMENT AND CONDENSER AND ALL RELATED PIPING



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PROJECT

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MINNEAPOLIS PUBLIC SCHOOLS

10 WEST 50TH STREET
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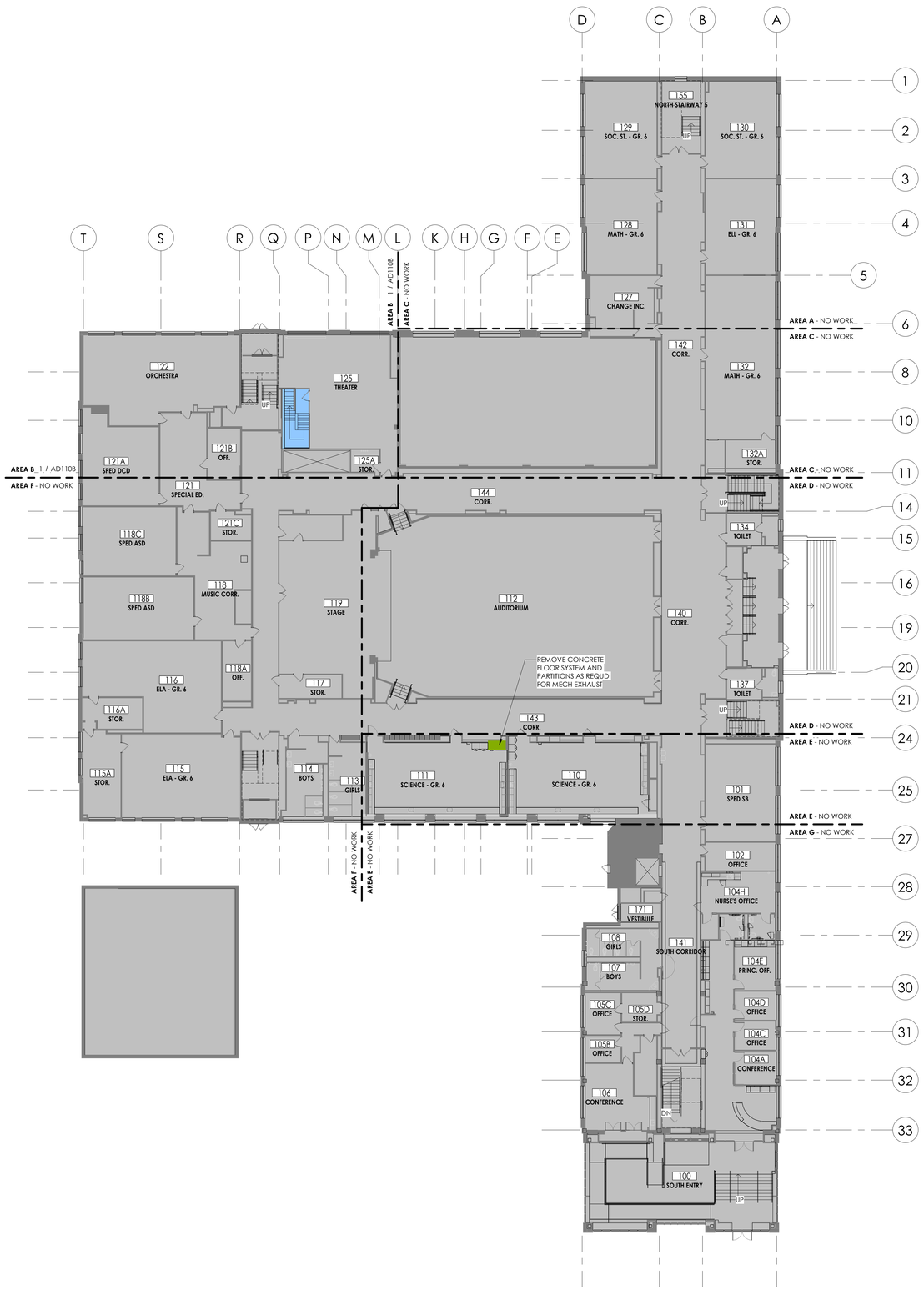
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DRAWING TITLE

ENLARGED DEMOLITION PLANS - GROUND LEVEL - AREA E

DRAWING NUMBER

AD100E



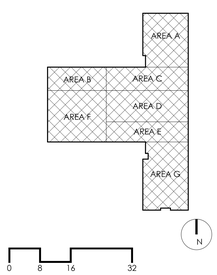
1 AD110 OVERALL DEMOLITION PLAN - LEVEL 1
1/16" = 1'-0"

DEMOLITION NOTES

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11. KEYNOTES WITHOUT ARROWS PERTAIN TO ENTIRE ROOM

KEYNOTES - DEMOLITION

No	DESCRIPTION



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Drawn By:	EKK, LES, JMT
Checked By:	PGM

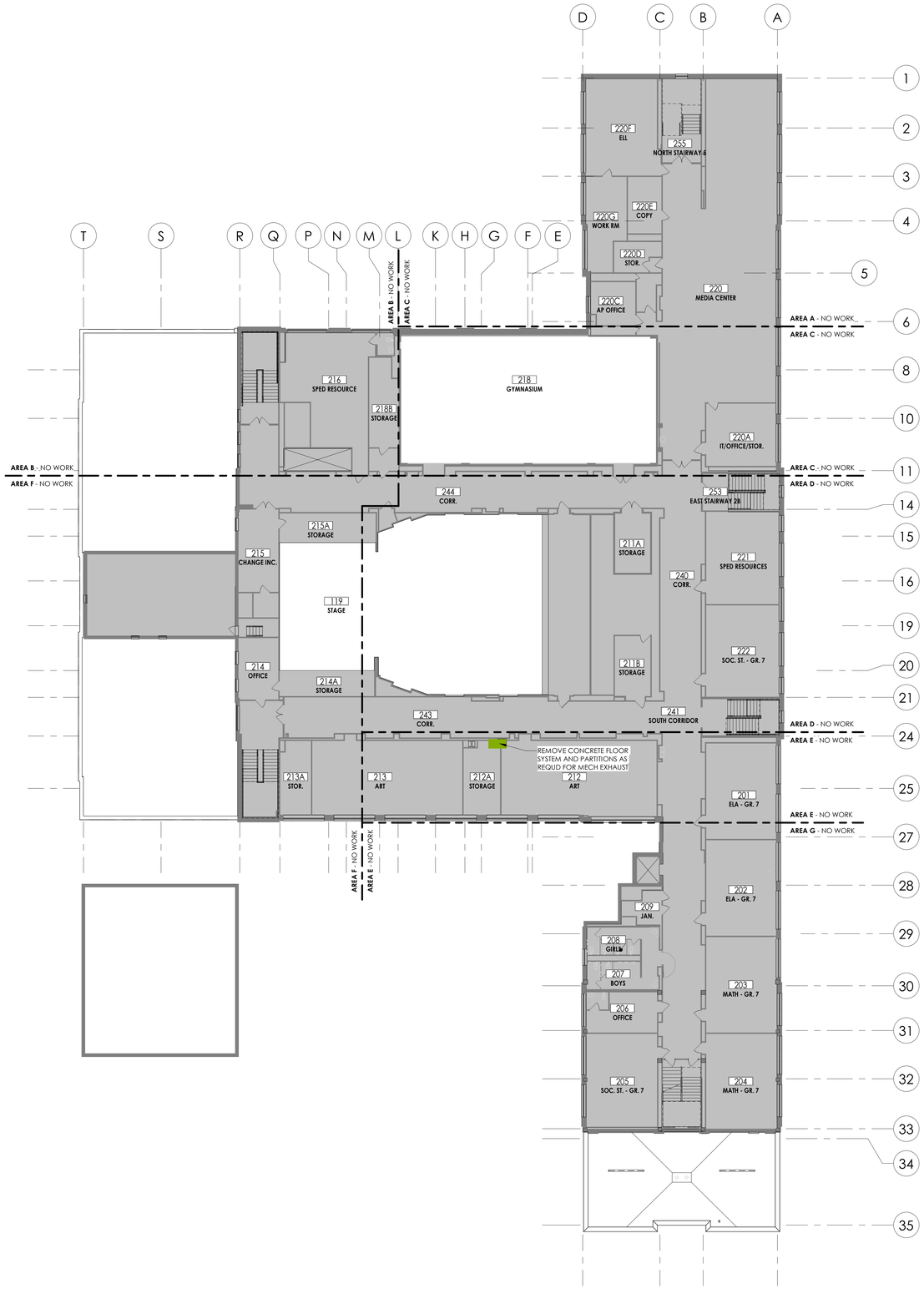
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DRAWING TITLE

OVERALL DEMO PLAN - LEVEL 1

DRAWING NUMBER

AD110



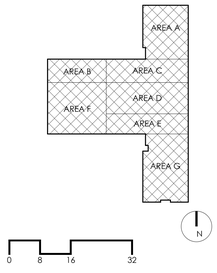
1 AD120 OVERALL DEMOLITION PLAN - LEVEL 2
1/16" = 1'-0"

DEMOLITION NOTES

1. DEMOLITION PLANS FOR ALTERNATE SCOPES ARE SHOWN IN A700 SERIES SHEETS.
2. ALL KEYNOTES MAY NOT NECESSARILY BE USED ON THIS SHEET.
3. A PORTION OF THE BUILDING AND/OR STRUCTURE IS TO BE DEMOLISHED AS INDICATED. KEYNOTES ARE PROVIDED AS AN AIDE TO BIDDERS AND MAY NOT BE ALL-INCLUSIVE.
4. SCANS OF ORIGINAL CONSTRUCTION DRAWINGS ARE AVAILABLE FROM THE ARCHITECT FOR REVIEW PRIOR TO BIDDING UPON REQUEST FROM THE BIDDER.
5. DEMOLITION WORK SHALL BE COORDINATED WITH ALL CONSTRUCTION AS INDICATED IN THE DOCUMENTS OR AS REQUIRED TO ACCOMMODATE CURRENT OR NOTED FUTURE CONSTRUCTION ACTIVITIES. DEMOLITION DRAWINGS DO NOT REPRESENT FULL EXTENT OF DEMOLITION OR REMOVAL. SEE COMPLETE CONSTRUCTION DOCUMENTS FOR OTHER DEMOLITION WORK RELATED TO NEW CONSTRUCTION AND TO DEMOLITION REQUIRED BY OTHER DISCIPLINES.
6. PATCH AND REPAIR ITEMS DAMAGED BY DEMOLITION ACTIVITIES NOT INDICATED TO BE REMOVED SUCH THAT THEY MATCH THE PRE-DAMAGED CONDITIONS.
7. WHERE WALLS ARE REMOVED OR OPENINGS CUT INTO EXISTING WALLS, NEW CONSTRUCTION SHALL BE INSTALLED THAT PROVIDES A FINISHED APPEARANCE EITHER BY TOOTHING IN MASONRY OR CONSTRUCTING OTHER ASSEMBLIES TO MATCH THE EXISTING CONDITION UNLESS SPECIFICALLY NOTED TO REMAIN IN AN UNFINISHED CONDITION.
8. REMOVE ALL FINISHES WHERE NEW FINISHES ARE SCHEDULED.
9. REMOVE ALL ACCESSORIES, FITTINGS, FIXTURES, EQUIPMENT, ETC IN ROOMS TO BE REMOVED AND/OR PARTIALLY REMOVED.
10. REMOVE PORTION OF FLOOR SLABS AS REQUIRED FOR NEW MECHANICAL AND ELECTRICAL UNDERGROUND WORK. SEE MEP DRAWINGS FOR EXTENT.
11. KEYNOTES WITHOUT ARROWS PERTAIN TO ENTIRE ROOM

KEYNOTES - DEMOLITION

No	DESCRIPTION



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Signature

Name

Date License #

PROJECT

JUSTICE PAGE MIDDLE SCHOOL GROUND LEVEL RENOVATIONS

MINNEAPOLIS PUBLIC SCHOOLS

10 WEST 50TH STREET
MINNEAPOLIS, MN 55419

REVISED

Mark	Date	Description

PRELIMINARY - NOT FOR CONSTRUCTION

Project Number:	MPS2401
Date:	1/17/2025
Drawn By:	EKK, LES, JMT
Checked By:	PGM

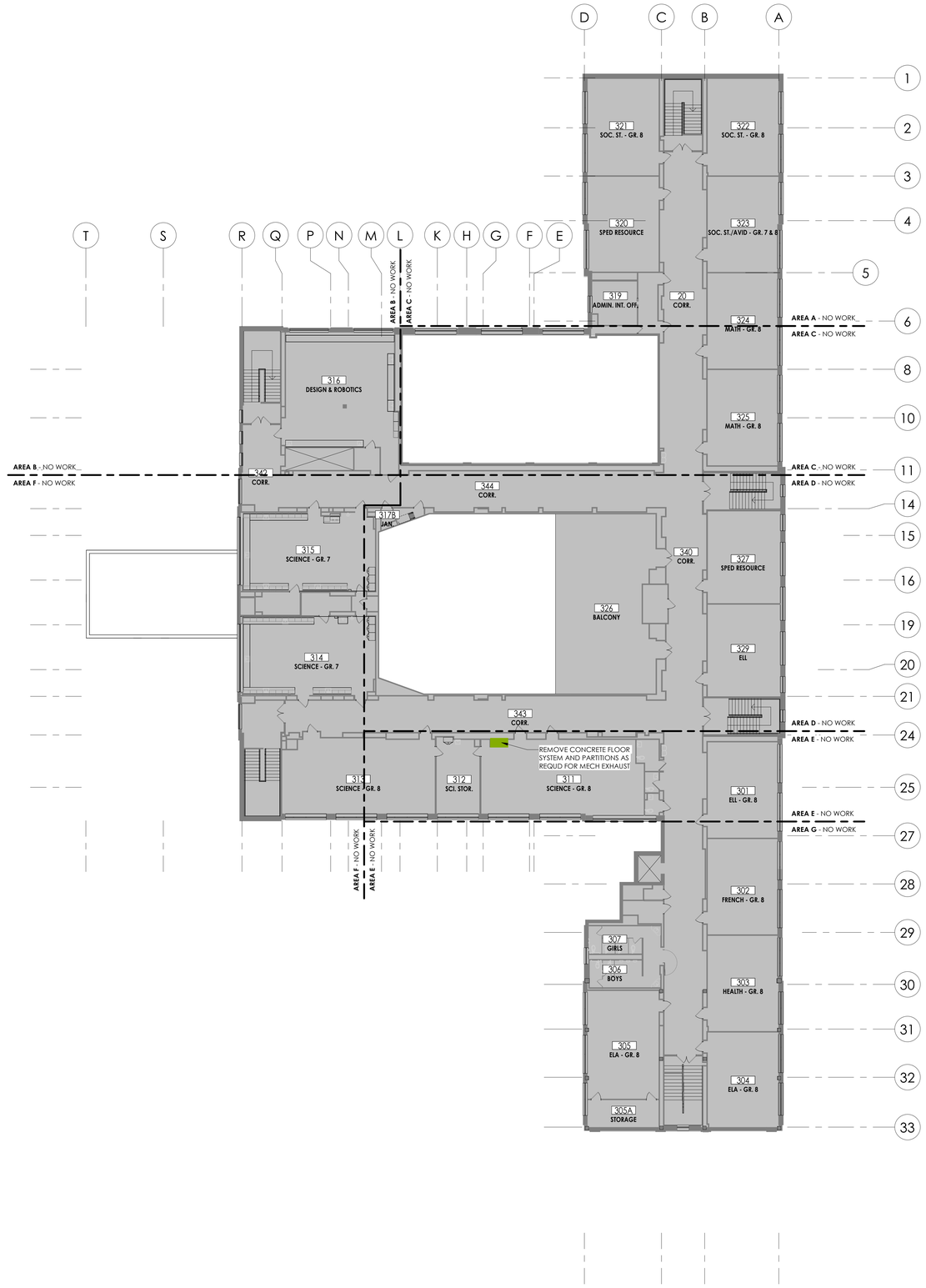
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DRAWING TITLE

OVERALL DEMO PLAN - LEVEL 2

DRAWING NUMBER

AD120



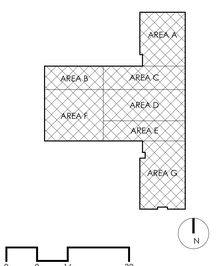
1 AD130 OVERALL DEMOLITION PLAN - LEVEL 3
1/16" = 1'-0"

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10. REMOVE PORTION OF FLOOR SLABS AS REQUIRED FOR NEW MECHANICAL AND ELECTRICAL UNDERGROUND WORK. SEE MEP DRAWINGS FOR EXTENT.
11. KEYNOTES WITHOUT ARROWS PERTAIN TO ENTIRE ROOM

KEYNOTES - DEMOLITION

No	DESCRIPTION



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PROJECT

JUSTICE PAGE MIDDLE SCHOOL GROUND LEVEL RENOVATIONS

MINNEAPOLIS PUBLIC SCHOOLS

10 WEST 50TH STREET
MINNEAPOLIS, MN 55419

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Mark	Date	Description

PRELIMINARY - NOT FOR CONSTRUCTION

Project Number:	MPS2401
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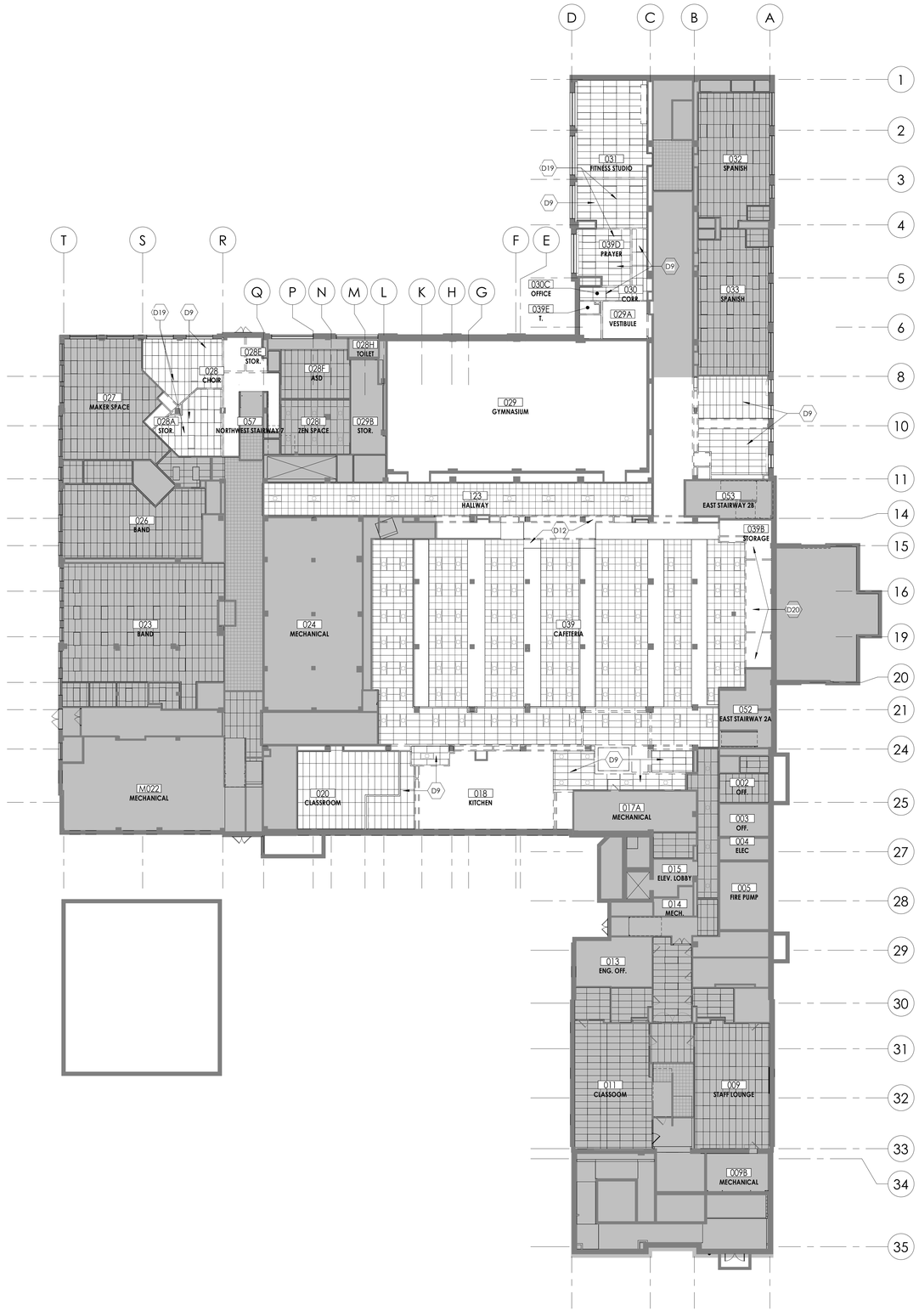
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DRAWING TITLE

OVERALL DEMOLITION PLAN - LEVEL 3

DRAWING NUMBER

AD130



1 AD250 OVERALL DEMOLITION RCP GROUND LEVEL
1/16" = 1'-0"

DEMOLITION REFLECTED CEILING PLAN NOTES

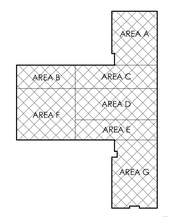
1. SEE ALSO ELECTRICAL SHEETS FOR ADD ALTERNATED #1 SCOPE. MPS TO REMOVE/ABATE EXISTING 12X12 CEILING TILES PRIOR TO COMMENCEMENT OF WORK.
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7. EXPOSED MECHANICAL, ELECTRICAL, PLUMBING, FIRE PROTECTION AND TECHNOLOGY ITEMS REQUIRED BY MULTIPLE TRADES AND SUBCONTRACTORS, TO BE PAINTED TO MATCH ADJACENT FINISHES UNLESS NOTED OTHERWISE OR PROHIBITED BY CODE. COLOR TO BE SUBMITTED AND APPROVED BY ARCHITECT.
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11. KEYNOTES WITHOUT ARROWS PERTAIN TO ENTIRE ROOM.
12. REMOVE PROJECTOR MOUNTS IN AREAS THAT CEILINGS ARE BEING REMOVED.

DEMOLITION REFLECTED CEILING PLAN LEGEND

- REMOVE ACP CEILING
- EXISTING CEILINGS TO REMAIN
- REMOVE CEILING WITH METAL STUD FRAMING WITH GYP BOARD FINISH
- REMOVE, SALVAGE & REINSTALL ACP CEILING
- MECHANICAL SUPPLY DIFFUSER
- MECHANICAL RETURN REGISTER
- PENDANT LIGHT FIXTURE
- LAY-IN LIGHT FIXTURE
- DEMO LAY-IN LIGHT FIXTURE
- RECESSED CAN LIGHT
- WALL WASH DOWNLIGHT

KEYNOTE LEGEND

No.	KEYNOTES
D9	REMOVE ACP, LIGHTS, AND GRID AS REQUIRED. SEE ELECTRICAL
D12	REMOVE CEILING/PLASTER
D19	SALVAGE AND STORE LIGHTS FOR REINSTALLTION
D20	REMOVE CEILING AND LIGHTS AND ALL CEILING MOUNTED ITEMS



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Signature

Name

Date License #

PROJECT

JUSTICE PAGE MIDDLE SCHOOL GROUND LEVEL RENOVATIONS

MINNEAPOLIS PUBLIC SCHOOLS

10 WEST 50TH STREET
MINNEAPOLIS, MN 55419

REVISED

Mark Date Description

PRELIMINARY - NOT FOR CONSTRUCTION

Project Number:	MPS2401
Date:	1/17/2025
Drawn By:	Author
Checked By:	Checker

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DRAWING TITLE

DEMOLITION REFLECTED CEILING PLAN GROUND LEVEL

DRAWING NUMBER

AD250



1 AD260 OVERALL DEMOLITION REFLECTED CEILING PLAN LEVEL 1
1/16" = 1'-0"

KEYNOTES - DEMOLITION

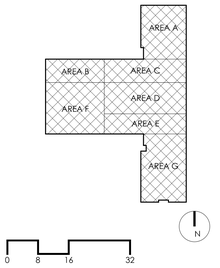
No	DESCRIPTION

DEMOLITION REFLECTED CEILING PLAN NOTES

1. SEE ALSO ELECTRICAL SHEETS FOR ADD ALTERNATED #1 SCOPE. MPS TO REMOVE/ABATE EXISTING 12X12 CEILING TILES PRIOR TO COMMENCEMENT OF WORK.
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11. KEYNOTES WITHOUT ARROWS PERTAIN TO ENTIRE ROOM.
12. REMOVE PROJECTOR MOUNTS IN AREAS THAT CEILINGS ARE BEING REMOVED.

DEMOLITION REFLECTED CEILING PLAN LEGEND

- REMOVE ACP CEILING
- EXISTING CEILINGS TO REMAIN
- REMOVE CEILING WITH METAL STUD FRAMING WITH GYP BOARD FINISH
- REMOVE, SALVAGE & REINSTALL ACP CEILING
- MECHANICAL SUPPLY DIFFUSER
- MECHANICAL RETURN REGISTER
- PENDANT LIGHT FIXTURE
- LAY-IN LIGHT FIXTURE
- DEMO LAY-IN LIGHT FIXTURE
- RECESSED CAN LIGHT
- WALL WASH DOWNLIGHT



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Signature

Name

Date License #

PROJECT

JUSTICE PAGE MIDDLE SCHOOL GROUND LEVEL RENOVATIONS

MINNEAPOLIS PUBLIC SCHOOLS

10 WEST 50TH STREET
MINNEAPOLIS, MN 55419

REVISED

Mark Date Description

PRELIMINARY - NOT FOR CONSTRUCTION

Project Number:	MPS2401
Date:	1/17/2025
Drawn By:	Author
Checked By:	Checker

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DRAWING TITLE

DEMOLITION REFLECTED CEILING PLAN LEVEL 1

DRAWING NUMBER

AD260



1 AD270 OVERALL DEMOLITION RCP LEVEL 2
1/16" = 1'-0"

KEYNOTES - DEMOLITION

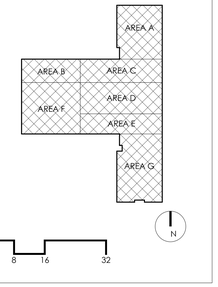
No	DESCRIPTION

DEMOLITION REFLECTED CEILING PLAN NOTES

1. SEE ALSO ELECTRICAL SHEETS FOR ADD ALTERNATED #1 SCOPE. MP5 TO REMOVE/ABATE EXISTING 12X12 CEILING TILES PRIOR TO COMMENCEMENT OF WORK.
2. ALL KEYNOTES MAY NOT NECESSARILY BE USED ON THIS SHEET.
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11. KEYNOTES WITHOUT ARROWS PERTAIN TO ENTIRE ROOM.
12. REMOVE PROJECTOR MOUNTS IN AREAS THAT CEILINGS ARE BEING REMOVED.

DEMOLITION REFLECTED CEILING PLAN LEGEND

- REMOVE ACP CEILING
- EXISTING CEILINGS TO REMAIN
- REMOVE CEILING WITH METAL STUD FRAMING WITH GYP BOARD FINISH
- REMOVE, SALVAGE & REINSTALL ACP CEILING
- MECHANICAL SUPPLY DIFFUSER
- MECHANICAL RETURN REGISTER
- PENDANT LIGHT FIXTURE
- LAY-IN LIGHT FIXTURE
- DEMO LAY-IN LIGHT FIXTURE
- RECESSED CAN LIGHT
- WALL WASH DOWNLIGHT



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MINNEAPOLIS PUBLIC SCHOOLS

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REVISED

Mark	Date	Description

PRELIMINARY - NOT FOR CONSTRUCTION

Project Number:	MPS2401
Date:	1/17/2025
Drawn By:	WAF
Checked By:	PGM

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DRAWING TITLE

DEMOLITION REFLECTED CEILING PLAN LEVEL 2

DRAWING NUMBER

AD270



1 AD280 OVERALL DEMOLITION RCP LEVEL 3
1/16" = 1'-0"

KEYNOTES - DEMOLITION

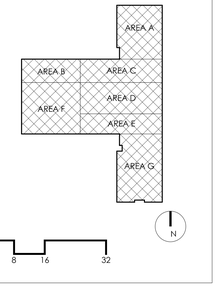
No	DESCRIPTION

DEMOLITION REFLECTED CEILING PLAN NOTES

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DEMOLITION REFLECTED CEILING PLAN LEGEND

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- EXISTING CEILINGS TO REMAIN
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- REMOVE, SALVAGE & REINSTALL ACP CEILING
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- MECHANICAL RETURN REGISTER
- PENDANT LIGHT FIXTURE
- LAY-IN LIGHT FIXTURE
- DEMO LAY-IN LIGHT FIXTURE
- RECESSED CAN LIGHT
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Signature

Name

Date License #

PROJECT

JUSTICE PAGE MIDDLE SCHOOL GROUND LEVEL RENOVATIONS

MINNEAPOLIS PUBLIC SCHOOLS

10 WEST 50TH STREET
MINNEAPOLIS, MN 55419

REVISED

Mark	Date	Description

PRELIMINARY - NOT FOR CONSTRUCTION

Project Number:	MPS2401
Date:	1/17/2025
Drawn By:	Author
Checked By:	Checker

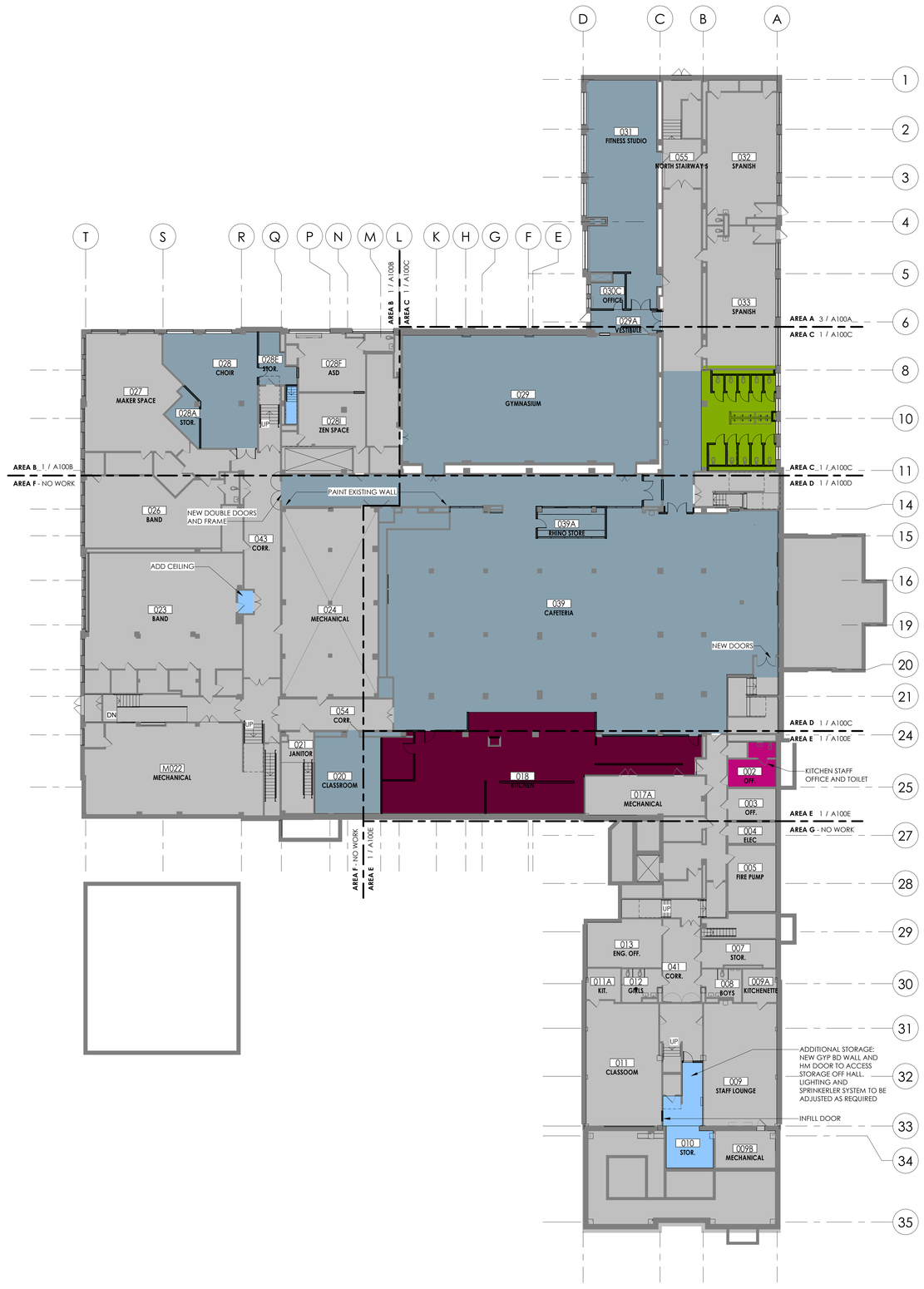
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DRAWING TITLE

DEMOLITION REFLECTED CEILING PLAN LEVEL 3

DRAWING NUMBER

AD280



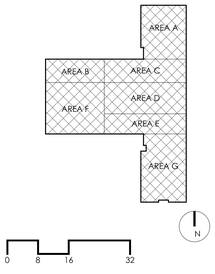
1 / A100 OVERALL FLOOR PLAN - GROUND LEVEL
1/16" = 1'-0"

FLOOR PLAN NOTES

1. SEE CODE PLANS FOR LOCATIONS OF RATED WALLS. SEE PARTITION TYPES (G201) AND WALL ASSEMBLIES (A310) FOR RATED ASSEMBLIES.
2. PARTITION TYPES DESCRIBE GENERAL REQUIREMENTS FOR INTERIOR WALL CONSTRUCTION AND DETAILS AND SHOW FRAMING FOR REFERENCE ONLY. REFER TO THE MANUFACTURER'S SPECIFICATIONS AND REQUIREMENTS OF APPLICABLE TESTING AGENCIES FOR SPECIFICS OF STUD ASSEMBLIES. PROVIDE HORIZONTAL BRACING OR BRACE TO COLUMN AS REQUIRED.
3. PARTITIONS REQUIREMENTS SHOWN ARE CONSIDERED TO BE MINIMUM STANDARDS, WHERE CONDITIONS OF THE WORK CAUSE PARTITION TO EXCEED LIMITS RECOMMENDED BY MANUFACTURER, REINFORCE PARTITION.
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8. UL NUMBERS MAY VARY DEPENDING ON THE MANUFACTURER OF COMPONENTS ACTUALLY USED.
9. PROVIDE 5/8" TYPE X GYPSUM BOARD UNLESS NOTED OTHERWISE.
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12. DOOR FRAMES SHALL BE LOCATED 4" FROM ADJACENT WALL UNLESS NOTED OTHERWISE.
13. FURNITURE SHOWN FOR REFERENCE ONLY.
14. KITCHEN DRAWINGS SHOWN FOR REFERENCE ONLY, SEE SPECIALTY KITCHEN DRAWINGS FOR MORE INFORMATION.

SCOPE LEGEND

- NO WORK
- NO WORK - PROGRAMMING CHANGE
- LIGHT REMODEL
- COMPLETE RENOVATION
- ADD ALTERNATES - PRICE EACH AREA SEPARATELY
- KITCHEN REMODEL - SEE SHEET QF100E



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612 337 0000

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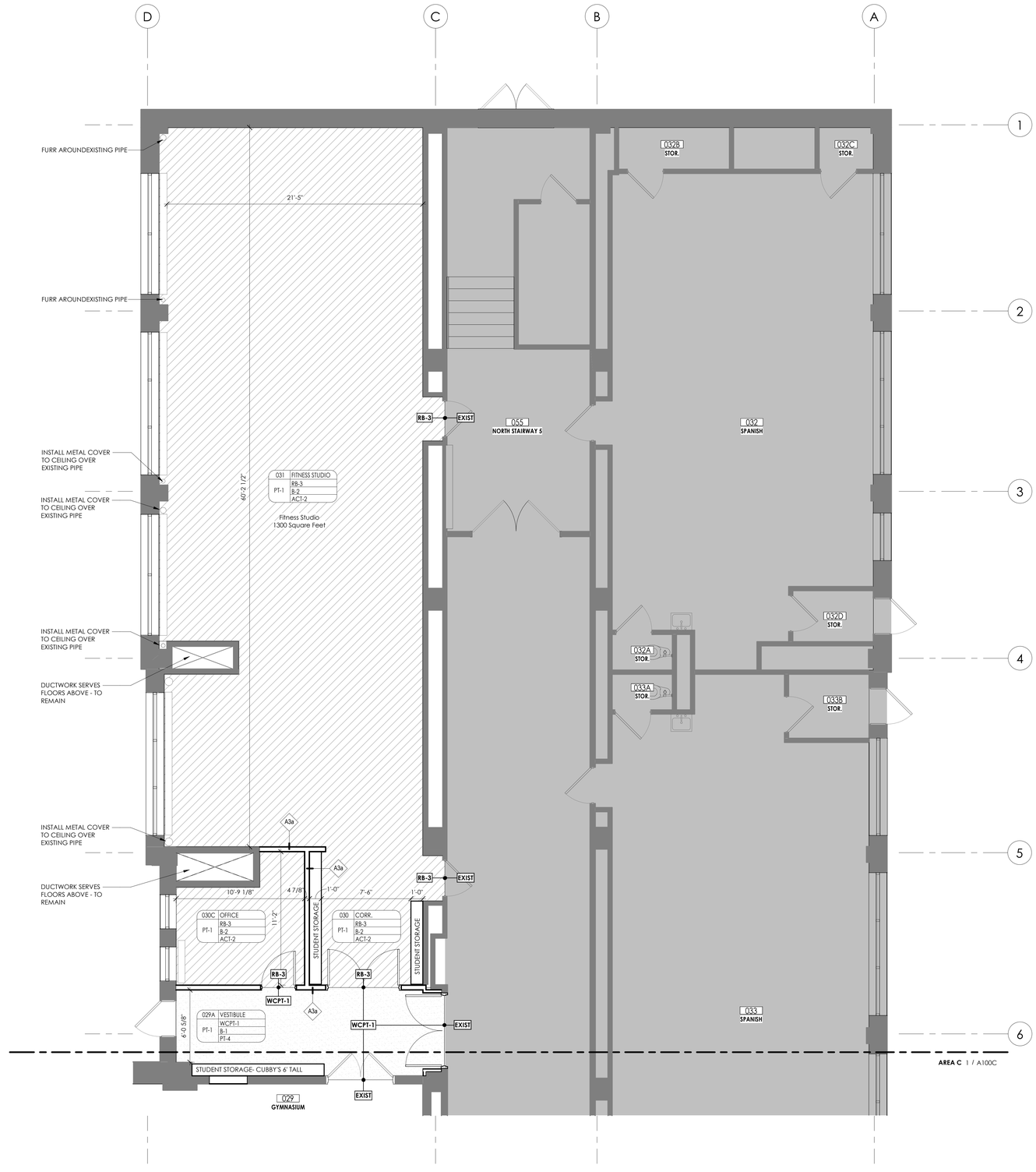
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DRAWING TITLE

OVERALL FLOOR PLAN - GROUND LEVEL

DRAWING NUMBER

A100



3 A100A ENLARGED FLOOR PLAN - GROUND LEVEL - AREA A
1/4" = 1'-0"

KEYNOTE LEGEND

No.	KEYNOTES

FINISH LEGEND

PRODUCT:	RUBBER TILE FLOORING
MANUFACTURER:	TARKETT - JOHNSONITE
STYLE:	COLORSPLASH
COLORS:	TBD
INSTALL:	CUSTOM LAYOUT
PRODUCT:	LINOLEUM FLOORING
MANUFACTURER:	FORBO - MARMOLEUM
STYLE:	MCT TILES
COLORS:	TBD
INSTALL:	CUSTOM LAYOUT
PRODUCT:	CARPET TILE & WALK-OFF CARPET TILES
MANUFACTURER:	MANNINGTON
STYLE:	TBD
COLOR:	TBD
INSTALL:	ASHLAR
PRODUCT:	RESILIENT FLOORING
MANUFACTURER:	PROTECT ALL FLOORING
STYLE:	MATTE
COLOR:	TERRA COTTA
INSTALL:	SHEET, HEAT WELD SEAMS
PRODUCT:	PORCELAIN TILE
MANUFACTURER:	TBD
STYLE:	TBD
COLOR:	TBD

FLOOR PLAN NOTES

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5. FOR CASEWORK TYPICAL FINISHES, SEE CASEWORK TYPES, LEGEND AND NOTES UNO.
6. SEE REFLECTED CEILING PLANS FOR ALL HEIGHTS, CEILING TYPES AND FINISHES.
7. ALIGN FLOOR TRANSITION WITH INSIDE FACE OF DOOR, UNO.
8. WALL FINISHES VARY. REFER TO ELEVATIONS FOR ADDITIONAL FINISH INFORMATION.
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13. ALL EXPOSED PIPES, CONDUITS, BOXES, ETC., TO BE PAINTED TO MATCH THE ADJACENT WALL OR CEILING.

FINISHES SYMBOLS

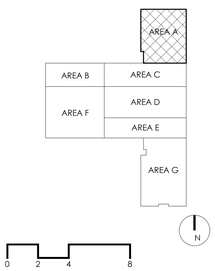
ROOM FINISH TAG

102	ROOM	ROOM NAME
	RSF-1	FLOOR FINISH
PT-1	RB-1	WALL BASE
	NOTE	NOTES/COMMENTS
		WALL FINISH

ROOM NUMBER

WALL FINISH TAG: PT-1

FLOOR FINISH TRANSITION TAG: Material | Material — FLOOR FINISHES; TRS — TRANSITION ID NUMBER IF USED



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PROJECT

JUSTICE PAGE MIDDLE SCHOOL GROUND LEVEL RENOVATIONS

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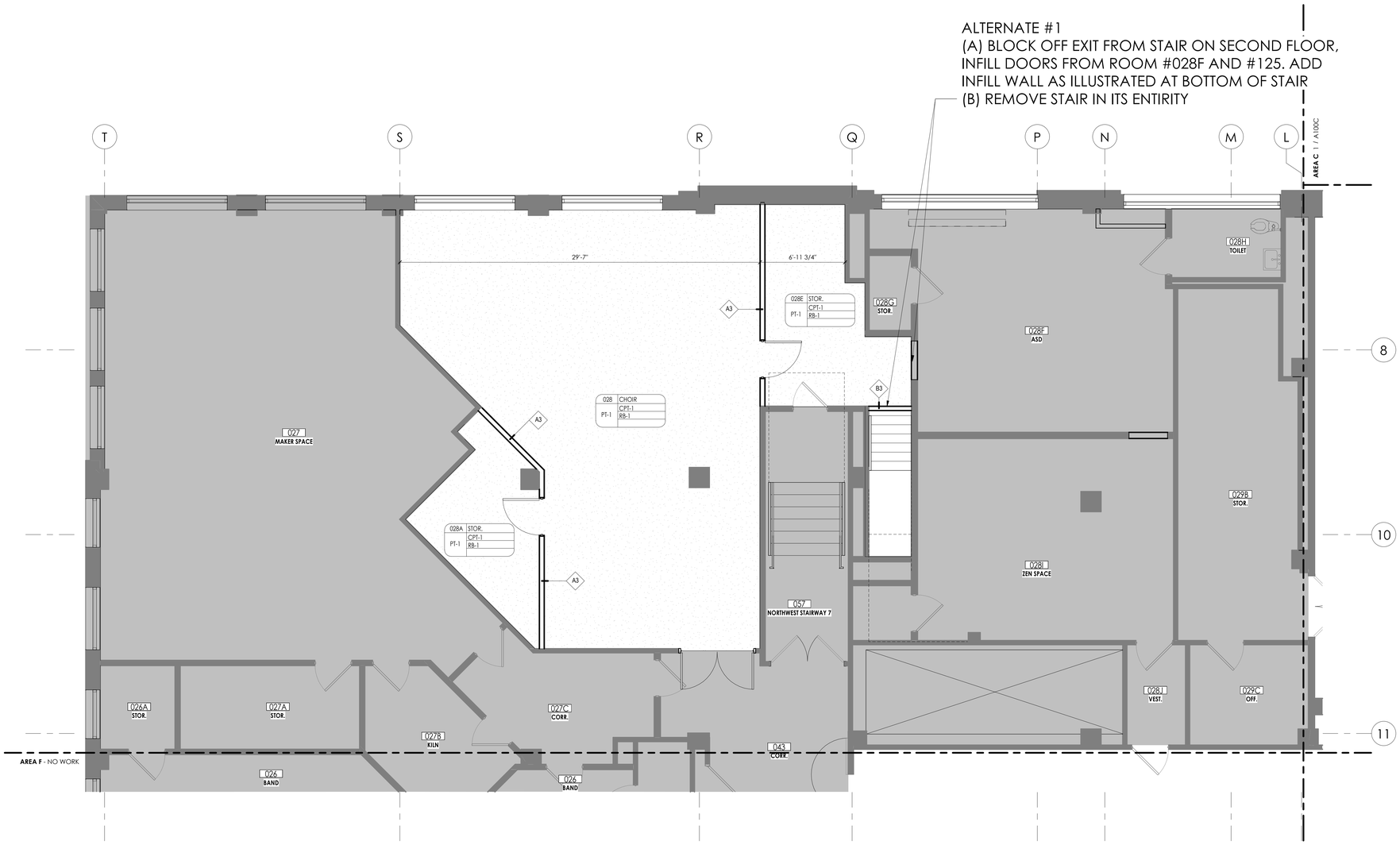
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DRAWING TITLE

ENLARGED FLOOR PLANS - GROUND LEVEL - AREA A

DRAWING NUMBER

A100A



1 / A100B ENLARGED FLOOR PLAN - GROUND LEVEL - AREA B
1/4" = 1'-0"

KEYNOTE LEGEND

No.	KEYNOTES

FINISH LEGEND

PRODUCT:	RUBBER TILE FLOORING
MANUFACTURER:	TARKETT - JOHNSONITE
STYLE:	COLORSPLASH
COLORS:	TBD
INSTALL:	CUSTOM LAYOUT
PRODUCT:	LINOLEUM FLOORING
MANUFACTURER:	FORBO - MARMOLEUM
STYLE:	MCT TILES
COLORS:	TBD
INSTALL:	CUSTOM LAYOUT
PRODUCT:	CARPET TILE & WALK-OFF CARPET TILES
MANUFACTURER:	MANNINGTON
STYLE:	TBD
COLOR:	TBD
INSTALL:	ASHLAR
PRODUCT:	RESILIENT FLOORING
MANUFACTURER:	PROTECT ALL FLOORING
STYLE:	MATTE
COLOR:	TERRA COTTA
INSTALL:	SHEET, HEAT WELD SEAMS
PRODUCT:	PORCELAIN TILE
MANUFACTURER:	TBD
STYLE:	TBD
COLOR:	TBD

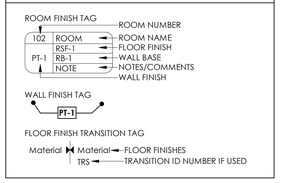
FLOOR PLAN NOTES

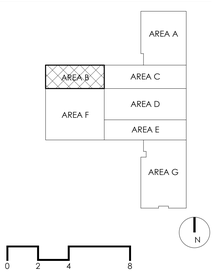
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FINISHES SYMBOLS





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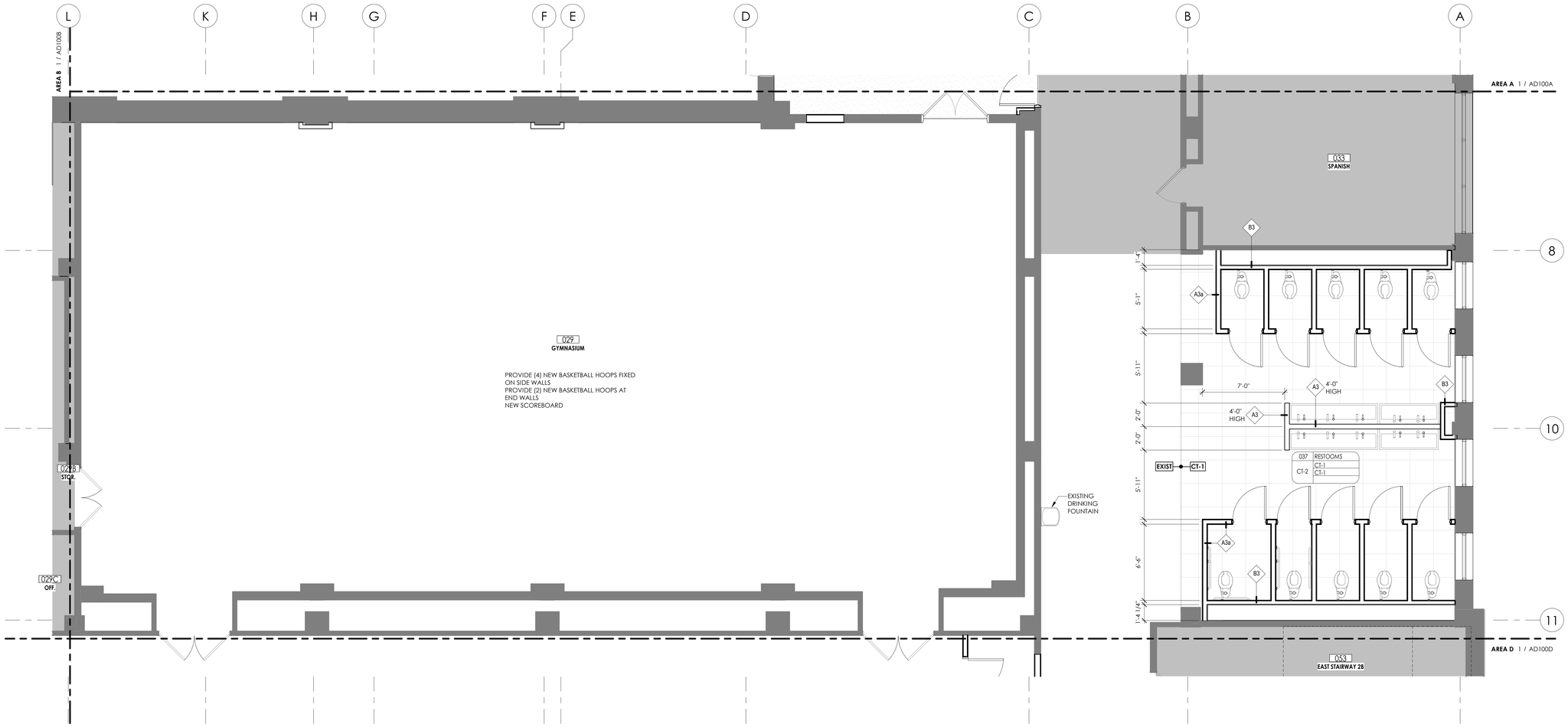
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DRAWING TITLE

ENLARGED FLOOR PLANS - GROUND LEVEL - AREA B

DRAWING NUMBER

A100B



1 A100C ENLARGED FLOOR PLAN - GROUND LEVEL - AREA C
1/4" = 1'-0"

FLOOR PLAN NOTES

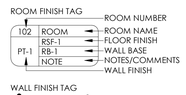
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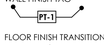
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FINISHES SYMBOLS

ROOM FINISH TAG



WALL FINISH TAG



FLOOR FINISH TRANSITION TAG

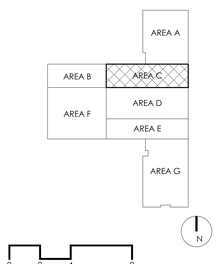


FINISH LEGEND

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MANUFACTURER:	TARKETT - JOHNSONITE
STYLE:	COLORSPLASH
COLORS:	TBD
INSTALL:	CUSTOM LAYOUT
PRODUCT:	LINOLEUM FLOORING
MANUFACTURER:	FORBO - MARMOLEUM
STYLE:	MCT TILES
COLORS:	TBD
INSTALL:	CUSTOM LAYOUT
PRODUCT:	CARPET TILE & WALK-OFF CARPET TILES
MANUFACTURER:	MANNINGTON
STYLE:	TBD
COLOR:	TBD
INSTALL:	ASHLAR
PRODUCT:	RESILIENT FLOORING
MANUFACTURER:	PROTECT ALL FLOORING
STYLE:	MATTE
COLOR:	TERRA COTTA
INSTALL:	SHEET, HEAT WELD SEAMS
PRODUCT:	PORCELAIN TILE
MANUFACTURER:	TBD
STYLE:	TBD
COLOR:	TBD

KEYNOTE LEGEND

No.	KEYNOTES



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Minneapolis, Minnesota 55401
612 337 0000

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I HEREBY CERTIFY THAT THIS PLAN, SPECIFICATION OR REPORT WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT I AM A DULY LICENSED ARCHITECT UNDER THE LAWS OF THE STATE OF MINNESOTA.

Signature

Name

Date License #

PROJECT

JUSTICE PAGE MIDDLE SCHOOL GROUND LEVEL RENOVATIONS

MINNEAPOLIS PUBLIC SCHOOLS

10 WEST 50TH STREET
MINNEAPOLIS, MN 55419

REVISED

Mark Date Description

PRELIMINARY - NOT FOR CONSTRUCTION

Project Number:	MPS2401
Date:	1/17/2025
Drawn By:	KNR
Checked By:	ALH

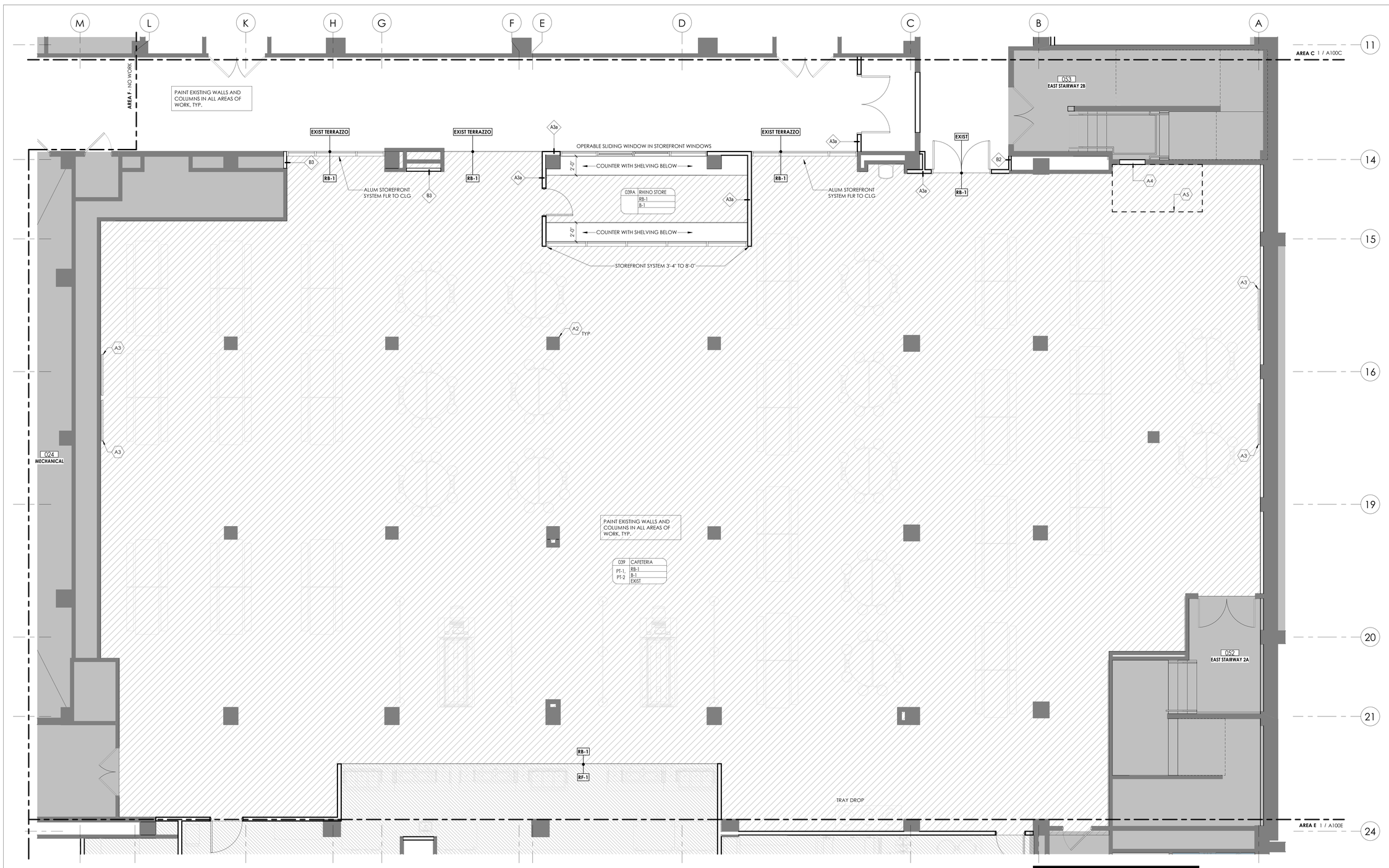
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DRAWING TITLE

ENLARGED FLOOR PLANS - GROUND LEVEL - AREA C

DRAWING NUMBER

A100C



1 / A100D ENLARGED FLOOR PLAN - GROUND LEVEL - AREA D
1/4" = 1'-0"

FLOOR PLAN NOTES

1. SEE CODE PLANS FOR LOCATIONS OF RATED WALLS. SEE PARTITION TYPES (G201) AND WALL ASSEMBLIES (A310) FOR RATED ASSEMBLIES.
2. PARTITION TYPES DESCRIBE GENERAL REQUIREMENTS FOR INTERIOR WALL CONSTRUCTION AND DETAILS AND SHOW FRAMING FOR REFERENCE ONLY. REFER TO THE MANUFACTURER'S SPECIFICATIONS AND REQUIREMENTS OF APPLICABLE TESTING AGENCIES FOR SPECIFICS OF STUD ASSEMBLIES. PROVIDE HORIZONTAL BRACING OR BRACE TO COLUMN AS REQUIRED.
3. PARTITIONS REQUIREMENTS SHOWN ARE CONSIDERED TO BE MINIMUM STANDARDS. WHERE CONDITIONS OF THE WORK CAUSE PARTITION TO EXCEED LIMITS RECOMMENDED BY MANUFACTURER, REINFORCE PARTITION.
4. PENETRATIONS THROUGH RATED PARTITIONS AND CONNECTIONS OF THE PARTITIONS TO OTHER PORTION OF THE WORK SHALL BE IN ACCORDANCE WITH MANUFACTURER'S RECOMMENDED DETAIL AND IN COMPLIANCE WITH APPLICABLE TESTING AGENCY REQUIREMENTS.
5. AT EXTERIOR WALLS, DIMENSIONS ARE TO FACE OF STEEL STUDS AND FACE OF CMU OR FACE OF EXTERIOR FINISH UNLESS SHOWN OR NOTED OTHERWISE.
6. AT INTERIOR PARTITIONS, DIMENSIONS ARE TO CENTER OF FRAMING AND TO GRID LINES OR CENTER LINE OF COLUMNS UNLESS SHOWN OR NOTED OTHERWISE.
7. WHERE A CLEAR DIMENSION OR OPENING IS REQUIRED OR NOTED, MEASURE DIMENSION TO FACE OF PARTITION FINISH.
8. UL NUMBERS MAY VARY DEPENDING ON THE MANUFACTURER OF COMPONENTS ACTUALLY USED.
9. PROVIDE 5/8" TYPE X GYPSUM BOARD UNLESS NOTED OTHERWISE.
10. WOOD BLOCKING TO BE INSTALLED IN WALLS FOR FUTURE DISPLAYS. REQUIREMENTS AND LOCATIONS TO BE COORDINATED WITH OWNER.
11. WOOD BLOCKING WITHIN ANY WALL SYSTEM SHALL BE FIRE RETARDANT TREATED.
12. DOOR FRAMES SHALL BE LOCATED 4" FROM ADJACENT WALL UNLESS NOTED OTHERWISE.
13. FURNITURE SHOWN FOR REFERENCE ONLY.
14. KITCHEN DRAWINGS SHOWN FOR REFERENCE ONLY. SEE SPECIALTY KITCHEN DRAWINGS FOR MORE INFORMATION.

FINISHES NOTES

1. SEE ALSO TITLE SHEET G050 FOR GENERAL PROJECT NOTES, SYMBOLS, MATERIALS AND ABBREVIATIONS.
2. ALL KEYNOTES MAY NOT NECESSARILY BE USED ON THIS SHEET.
3. FLOORING PATTERNS ARE SHOWN FOR REFERENCE. SEE SPECIFICATIONS FOR MORE DETAILED INFORMATION.
4. FOR DOOR AND FRAME TYPICAL FINISHES, SEE DOOR AND FRAME SCHEDULE, DOOR AND FRAME TYPES LEGEND, AND NOTES, UNO.
5. FOR CASEWORK TYPICAL FINISHES, SEE CASEWORK TYPES, LEGEND AND NOTES UNO.
6. SEE REFLECTED CEILING PLANS FOR ALL HEIGHTS, CEILING TYPES AND FINISHES.
7. ALIGN FLOOR TRANSITION WITH INSIDE FACE OF DOOR, UNO.
8. WALL FINISHES VARY. REFER TO ELEVATIONS FOR ADDITIONAL FINISH INFORMATION.
9. SEE SHEET I500 FOR TYPICAL FLOOR TRANSITIONS DETAILS.
10. AT SLAB ON GRADE, SAW CUT CONTROL JOINTS ARE NOT SHOWN FOR CLARITY. SEE STRUCTURAL DRAWINGS FOR LOCATIONS.
11. PROVIDE CRACK ISOLATION MEMBRANE AS RECOMMENDED BY FLOORING MANUFACTURER. AT MINIMUM, PROVIDE MEMBRANE THAT EXTENDS FROM SUBSTRATE JOINTS TO TERRAZZO DIVIDER STRIPS OF EACH TERRAZZO AREA CROSSING A SUBSTRATE JOINT. PROVIDE MEMBRANE AT ADDITIONAL AREAS NOTED OR REQUIRED.
12. TERRAZZO JOINTS TO BE TERRAZZO ZINC STRIPS, 1/8" THICK UNO. VERIFY FINAL LOCATIONS WITH SUBSTRATE JOINTS.
13. CONTROL JOINTS REQ'D IN FINISHED FLOOR TO BE LOCATED DIRECTLY ABOVE SUBSTRATE CONTROL JOINTS.
14. ALL EXPOSED PIPES, CONDUITS, BOXES, ETC. TO BE PAINTED TO MATCH THE ADJACENT WALL OR CEILING.

FINISHES SYMBOLS

ROOM FINISH TAG
102 ROOM — ROOM NUMBER
RSF-1 — ROOM NAME
PT-1 RB-1 — FLOOR FINISH
NOTE — WALL BASE
NOTES/COMMENTS
WALL FINISH
WALL FINISH TAG
PT-1
FLOOR FINISH TRANSITION TAG
Material — Material — FLOOR FINISHES
TRS — TRANSITION ID NUMBER IF USED

KEYNOTE LEGEND

No.	KEYNOTES
A2	PROTECTIVE WALLCOVERING AND CORNER GUARDS TO 4'-0" AFF, PAINT ABOVE. ALL COLUMN COVERS AT AREA D
A3	INSTALL WALL MOUNTED MONITOR. PROVIDE ELECTRICAL CONNECTION AT 5'-0" AFF
A4	INFILL OPENING WITH GYP BD AND TERRAZZO BASE TO MATCH EXISTING
A5	INFILL FLOOR AT REMOVED STAIR TO MATCH FLOOR ELEVATIONS ADJACENT

FINISH LEGEND

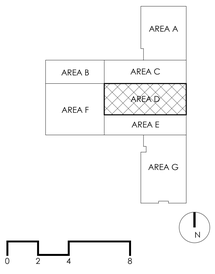
RUBBER TILE FLOORING
PRODUCT:
MANUFACTURER: TARKETT - JOHNSONITE
STYLE: COLORSPLASH
COLORS: TBD
INSTALL: CUSTOM LAYOUT

LINOLEUM FLOORING
PRODUCT:
MANUFACTURER: FORBO - MARMOLEUM
STYLE: MCT TILES
COLORS: TBD
INSTALL: CUSTOM LAYOUT

CARPET TILE & WALK-OFF
PRODUCT: CARPET TILES
MANUFACTURER: MANNINGTON
STYLE: TBD
COLOR: TBD
INSTALL: ASHLAR

RESILIENT FLOORING
PRODUCT: PROTECT ALL FLOORING
MANUFACTURER: MATTE
STYLE: TERRA COTTA
COLOR: SHEET, HEAT WELD SEAMS
INSTALL:

PORCELAIN TILE
PRODUCT:
MANUFACTURER: TBD
STYLE: TBD
COLOR: TBD



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Date License #

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MINNEAPOLIS, MN 55419

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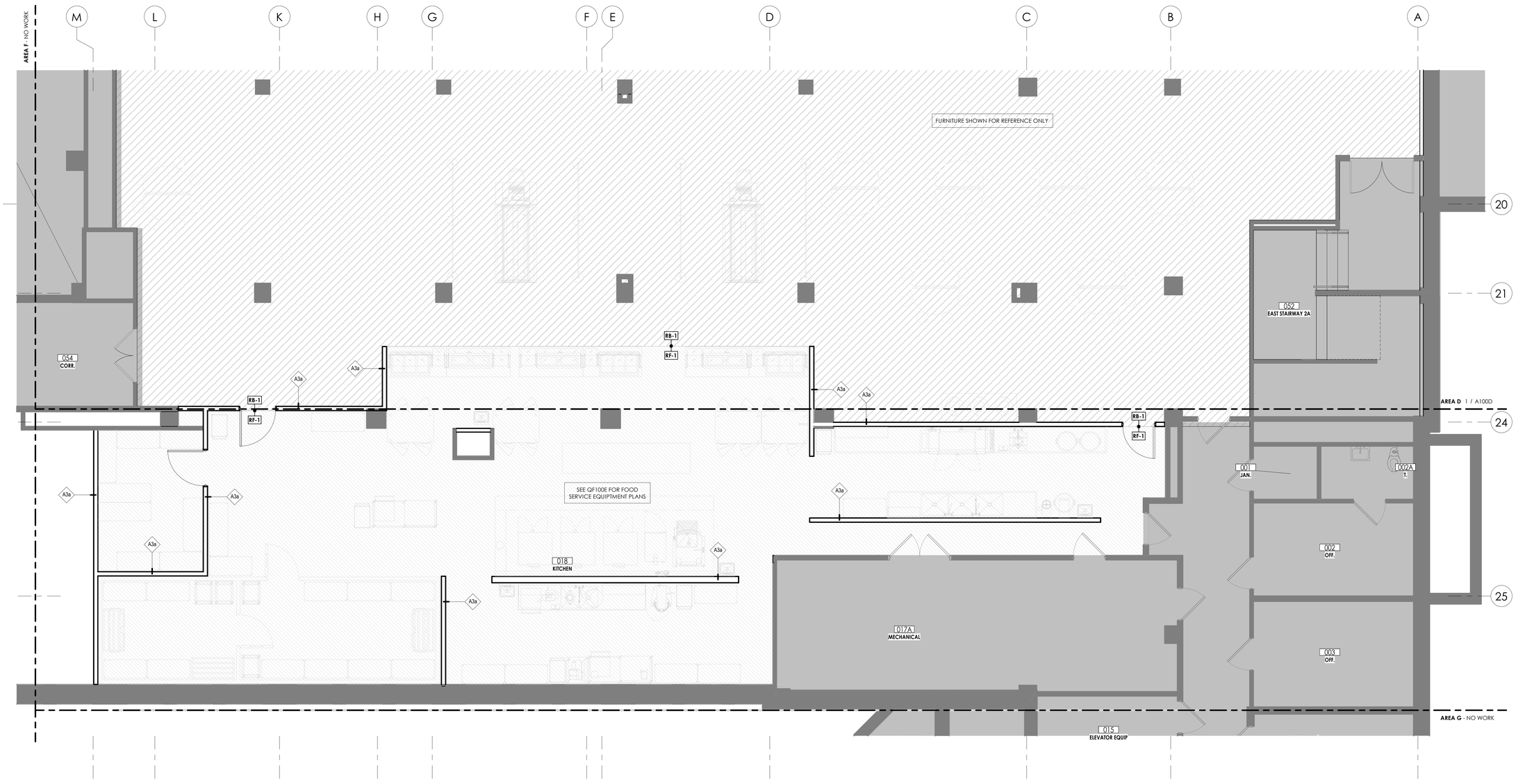
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DRAWING TITLE

ENLARGED FLOOR PLANS - GROUND LEVEL - AREA D

DRAWING NUMBER

A100D



1 / A100E ENLARGED FLOOR PLAN - GROUND LEVEL - AREA E
1/4" = 1'-0"

FLOOR PLAN NOTES

1. SEE CODE PLANS FOR LOCATIONS OF RATED WALLS. SEE PARTITION TYPES (G201) AND WALL ASSEMBLIES (A310) FOR RATED ASSEMBLIES.
2. PARTITION TYPES DESCRIBE GENERAL REQUIREMENTS FOR INTERIOR WALL CONSTRUCTION AND DETAILS AND SHOW FRAMING FOR REFERENCE ONLY. REFER TO THE MANUFACTURER'S SPECIFICATIONS AND REQUIREMENTS OF APPLICABLE TESTING AGENCIES FOR SPECIFICS OF STUD ASSEMBLIES, PROVIDE HORIZONTAL BRACING OR BRACE TO COLUMN AS REQUIRED.
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8. UL NUMBERS MAY VARY DEPENDING ON THE MANUFACTURER OF COMPONENTS ACTUALLY USED.
9. PROVIDE 5/8" TYPE X GYPSUM BOARD UNLESS NOTED OTHERWISE.
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11. WOOD BLOCKING WITHIN ANY WALL SYSTEM SHALL BE FIRE RETARDANT TREATED.
12. DOOR FRAMES SHALL BE LOCATED 4" FROM ADJACENT WALL UNLESS NOTED OTHERWISE.
13. FURNITURE SHOWN FOR REFERENCE ONLY.
14. KITCHEN DRAWINGS SHOWN FOR REFERENCE ONLY, SEE SPECIALTY KITCHEN DRAWINGS FOR MORE INFORMATION.

FINISHES NOTES

1. SEE ALSO TITLE SHEET G050 FOR GENERAL PROJECT NOTES, SYMBOLS, MATERIALS AND ABBREVIATIONS.
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5. FOR CASEWORK TYPICAL FINISHES, SEE CASEWORK TYPES, LEGEND AND NOTES UNO.
6. SEE REFLECTED CEILING PLANS FOR ALL HEIGHTS, CEILING TYPES AND FINISHES.
7. ALIGN FLOOR TRANSITION WITH INSIDE FACE OF DOOR, UNO.
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FINISHES SYMBOLS

ROOM FINISH TAG

102	ROOM	ROOM NUMBER / ROOM NAME
PT-1	RSF-1	FLOOR FINISH
	RB-1	WALL BASE
	NOTE	NOTES/COMMENTS
		WALL FINISH

WALL FINISH TAG: PT-1

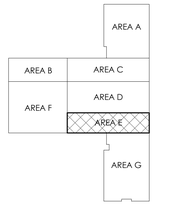
FLOOR FINISH TRANSITION TAG: Material | Material — FLOOR FINISHES; TRS — TRANSITION ID NUMBER IF USED

FINISH LEGEND

PRODUCT:	RUBBER TILE FLOORING
MANUFACTURER:	TARKETT - JOHNSONITE
STYLE:	COLORSPLASH
COLORS:	TBD
INSTALL:	CUSTOM LAYOUT
PRODUCT:	LINOLEUM FLOORING
MANUFACTURER:	FORBO - MARMOLEUM
STYLE:	MCT TILES
COLORS:	TBD
INSTALL:	CUSTOM LAYOUT
PRODUCT:	CARPET TILE & WALK-OFF CARPET TILES
MANUFACTURER:	MANNINGTON
STYLE:	TBD
COLOR:	TBD
INSTALL:	ASHLAR
PRODUCT:	RESILIENT FLOORING
MANUFACTURER:	PROTECT ALL FLOORING
STYLE:	MATIE
COLOR:	TERRA COTTA
INSTALL:	SHEET, HEAT WELD SEAMS
PRODUCT:	PORCELAIN TILE
MANUFACTURER:	TBD
STYLE:	TBD
COLOR:	TBD

KEYNOTE LEGEND

No.	KEYNOTES



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Signature

Name

Date License #

PROJECT

JUSTICE PAGE MIDDLE SCHOOL GROUND LEVEL RENOVATIONS

MINNEAPOLIS PUBLIC SCHOOLS

10 WEST 50TH STREET
MINNEAPOLIS, MN 55419

REVISED

Mark Date Description

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Checked By:	XXX

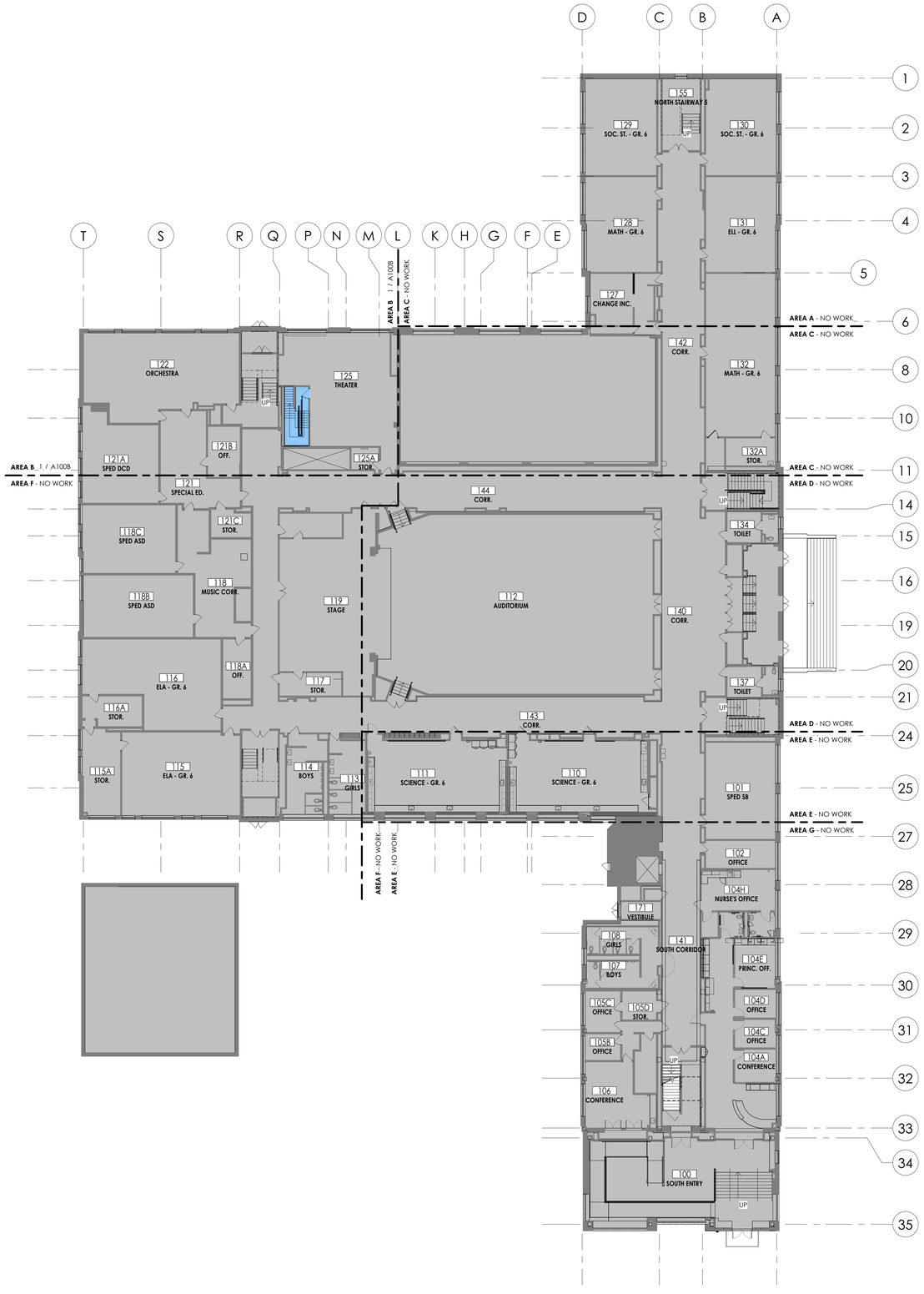
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DRAWING TITLE

ENLARGED FLOOR PLANS - GROUND LEVEL - AREA E

DRAWING NUMBER

A100E



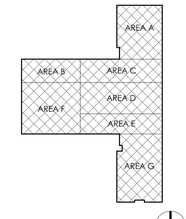
1 A110 OVERALL FLOOR PLAN - LEVEL 1
1/16" = 1'-0"

FLOOR PLAN NOTES

1. SEE CODE PLANS FOR LOCATIONS OF RATED WALLS. SEE PARTITION TYPES (G201) AND WALL ASSEMBLIES (A310) FOR RATED ASSEMBLIES.
2. PARTITION TYPES DESCRIBE GENERAL REQUIREMENTS FOR INTERIOR WALL CONSTRUCTION AND DETAILS AND SHOW FRAMING FOR REFERENCE ONLY. REFER TO THE MANUFACTURER'S SPECIFICATIONS AND REQUIREMENTS OF APPLICABLE TESTING AGENCIES FOR SPECIFICS OF STUD ASSEMBLIES. PROVIDE HORIZONTAL BRACING OR BRACE TO COLUMN AS REQUIRED.
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12. DOOR FRAMES SHALL BE LOCATED 4" FROM ADJACENT WALL UNLESS NOTED OTHERWISE.
13. FURNITURE SHOWN FOR REFERENCE ONLY.
14. KITCHEN DRAWINGS SHOWN FOR REFERENCE ONLY, SEE SPECIALTY KITCHEN DRAWINGS FOR MORE INFORMATION.

SCOPE LEGEND

- NO WORK
- NO WORK - PROGRAMMING CHANGE
- LIGHT REMODEL
- COMPLETE RENOVATION
- ADD ALTERNATES - PRICE EACH AREA SEPARATELY
- KITCHEN REMODEL - SEE SHEET QF100E



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Signature

Name

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PROJECT

JUSTICE PAGE MIDDLE SCHOOL GROUND LEVEL RENOVATIONS

MINNEAPOLIS PUBLIC SCHOOLS

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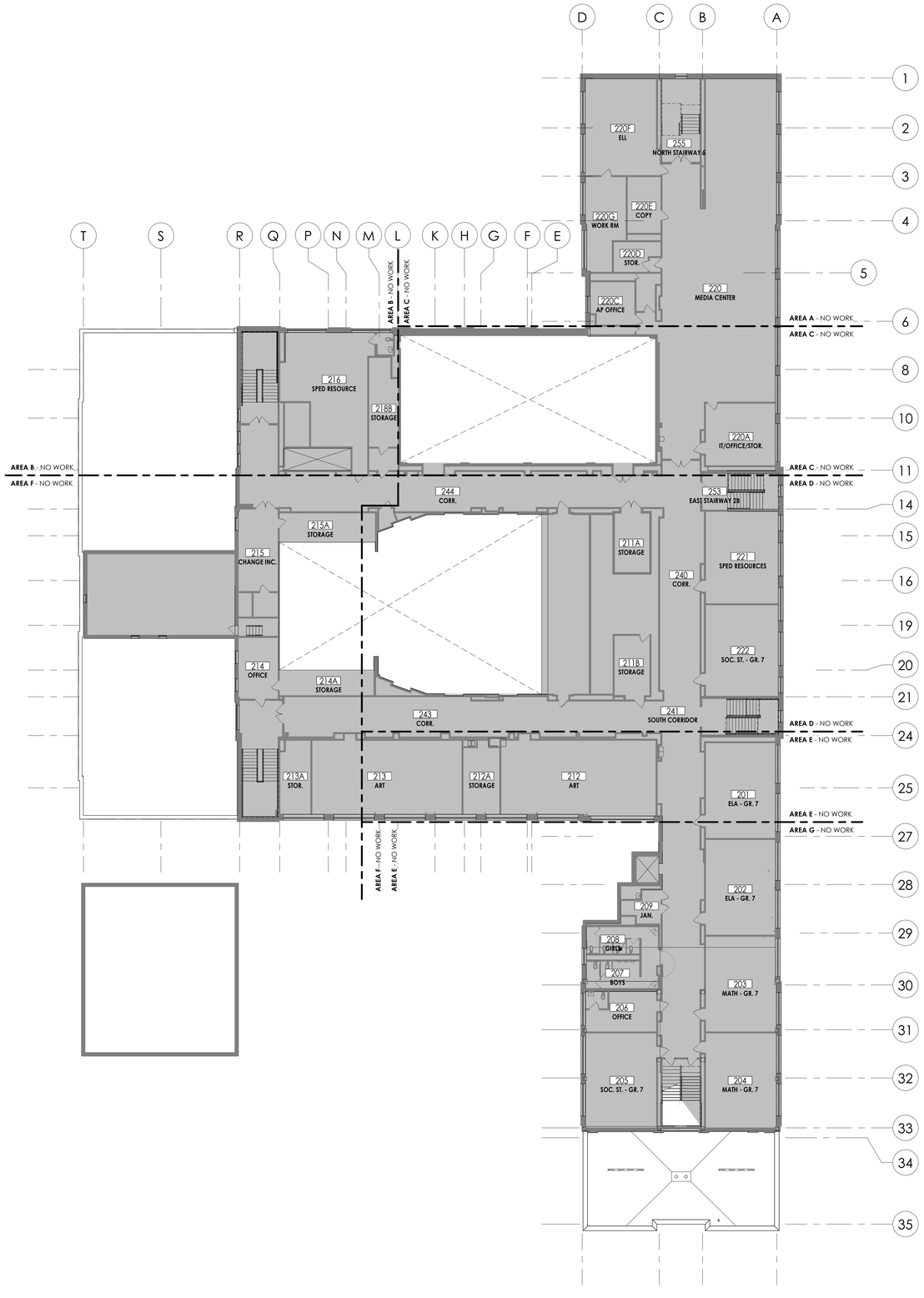
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DRAWING TITLE

OVERALL FLOOR PLAN - LEVEL 1

DRAWING NUMBER

A110



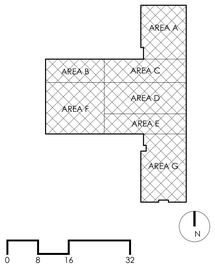
1 A120 OVERALL FLOOR PLAN - LEVEL 2
1/16" = 1'-0"

FLOOR PLAN NOTES

1. SEE CODE PLANS FOR LOCATIONS OF RATED WALLS. SEE PARTITION TYPES (G201) AND WALL ASSEMBLIES (A310) FOR RATED ASSEMBLIES.
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14. KITCHEN DRAWINGS SHOWN FOR REFERENCE ONLY. SEE SPECIALTY KITCHEN DRAWINGS FOR MORE INFORMATION.

SCOPE LEGEND

- NO WORK
- NO WORK - PROGRAMMING CHANGE
- LIGHT REMODEL
- COMPLETE RENOVATION
- ADD ALTERNATES - PRICE EACH AREA SEPARATELY
- KITCHEN REMODEL - SEE SHEET QF100E



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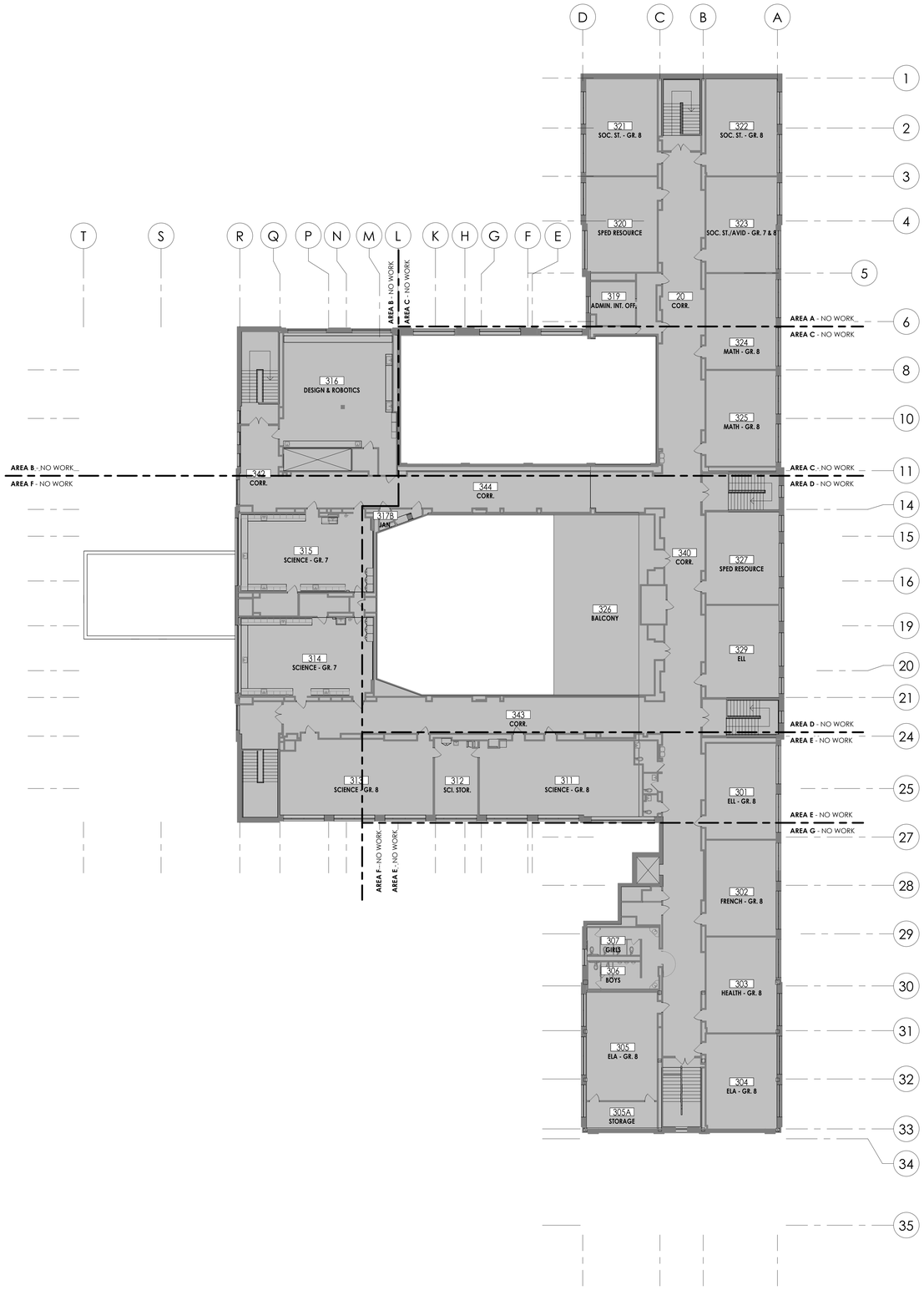
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DRAWING TITLE

OVERALL FLOOR PLAN - LEVEL 2

DRAWING NUMBER

A120



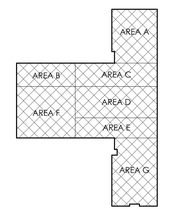
1 / A130 OVERALL FLOOR PLAN - LEVEL 3
1/16" = 1'-0"

FLOOR PLAN NOTES

1. SEE CODE PLANS FOR LOCATIONS OF RATED WALLS. SEE PARTITION TYPES (G201) AND WALL ASSEMBLIES (A310) FOR RATED ASSEMBLIES.
2. PARTITION TYPES DESCRIBE GENERAL REQUIREMENTS FOR INTERIOR WALL CONSTRUCTION AND DETAILS AND SHOW FRAMING FOR REFERENCE ONLY. REFER TO THE MANUFACTURER'S SPECIFICATIONS AND REQUIREMENTS OF APPLICABLE TESTING AGENCIES FOR SPECIFICS OF STUD ASSEMBLIES. PROVIDE HORIZONTAL BRACING OR BRACE TO COLUMN AS REQUIRED.
3. PARTITIONS REQUIREMENTS SHOWN ARE CONSIDERED TO BE MINIMUM STANDARDS, WHERE CONDITIONS OF THE WORK CAUSE PARTITION TO EXCEED LIMITS RECOMMENDED BY MANUFACTURER, REINFORCE PARTITION.
4. PENETRATIONS THROUGH RATED PARTITIONS AND CONNECTIONS OF THE PARTITIONS TO OTHER PORTION OF THE WORK SHALL BE IN ACCORDANCE WITH MANUFACTURER'S RECOMMENDED DETAIL AND IN COMPLIANCE WITH APPLICABLE TESTING AGENCY REQUIREMENTS.
5. AT EXTERIOR WALLS, DIMENSIONS ARE TO FACE OF STEEL STUDS AND FACE OF CMU OR FACE OF EXTERIOR FINISH UNLESS SHOWN OR NOTED OTHERWISE.
6. AT INTERIOR PARTITIONS, DIMENSIONS ARE TO CENTER OF FRAMING AND TO GRID LINES OR CENTER LINE OF COLUMNS UNLESS SHOWN OR NOTED OTHERWISE.
7. WHERE A CLEAR DIMENSION OR OPENING IS REQUIRED OR NOTED, MEASURE DIMENSION TO FACE OF PARTITION FINISH.
8. UL NUMBERS MAY VARY DEPENDING ON THE MANUFACTURER OF COMPONENTS ACTUALLY USED.
9. PROVIDE 5/8" TYPE X GYPSUM BOARD UNLESS NOTED OTHERWISE.
10. WOOD BLOCKING TO BE INSTALLED IN WALLS FOR FUTURE DISPLAYS. REQUIREMENTS AND LOCATIONS TO BE COORDINATED WITH OWNER.
11. WOOD BLOCKING WITHIN ANY WALL SYSTEM SHALL BE FIRE RETARDANT TREATED.
12. DOOR FRAMES SHALL BE LOCATED 4" FROM ADJACENT WALL UNLESS NOTED OTHERWISE.
13. FURNITURE SHOWN FOR REFERENCE ONLY.
14. KITCHEN DRAWINGS SHOWN FOR REFERENCE ONLY. SEE SPECIALTY KITCHEN DRAWINGS FOR MORE INFORMATION.

SCOPE LEGEND

- NO WORK
- NO WORK - PROGRAMMING CHANGE
- LIGHT REMODEL
- COMPLETE RENOVATION
- ADD ALTERNATES - PRICE EACH AREA SEPARATELY
- KITCHEN REMODEL - SEE SHEET QF100E



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Name

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PROJECT

JUSTICE PAGE MIDDLE SCHOOL GROUND LEVEL RENOVATIONS

MINNEAPOLIS PUBLIC SCHOOLS

10 WEST 50TH STREET
MINNEAPOLIS, MN 55419

REVISED

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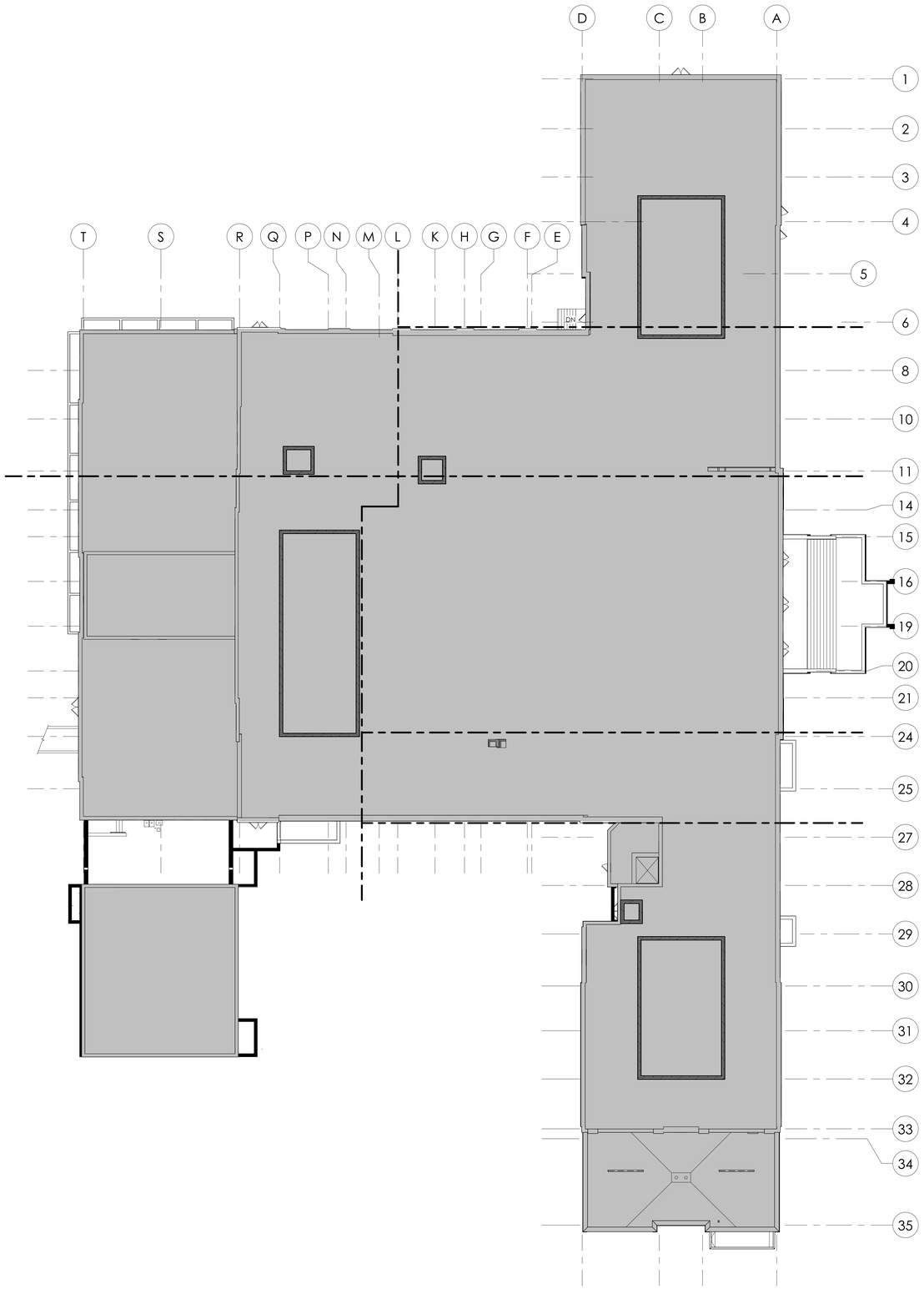
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DRAWING TITLE

OVERALL FLOOR PLAN - LEVEL 3

DRAWING NUMBER

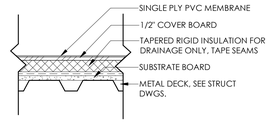
A130



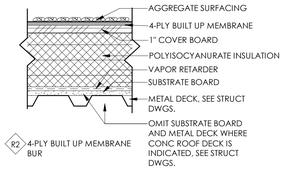
1 A180 OVERALL ROOF PLAN
1/16" = 1'-0"

ROOF ASSEMBLIES

R SERIES - ROOF ASSEMBLIES



R1 PVC MEMBRANE



R2 4-PLY BUILT UP MEMBRANE BUR

ROOF ASSEMBLY NOTES:
REFER TO ALSO TO OTHER REQUIREMENTS AND INFORMATION CONTAINED ON THE ROOF PLANS, ROOF DETAILS, ROOF NOTES AND ROOF LEGENDS.

ALL ROOF ASSEMBLIES TO BE MINIMUM R-VALUE: 30CI

ROOF PLAN GENERAL NOTES

1. SEE ALSO TITLE SHEET G050 FOR GENERAL PROJECT NOTES, SYMBOLS, MATERIALS AND ABBREVIATIONS.
2. ALL KEYNOTES MAY NOT NECESSARILY BE USED ON THIS SHEET.
3. INLET ELEVATION OF OVERFLOW DRAINS SHALL BE 2" ABOVE INLET ELEVATION OF ROOF DRAINS, U.N.O.,TYPICAL. PROVIDE 2" COLLAR TO ACHIEVE ELEVATION.
4. INSTALL CRICKETS TO DEVLOP POSITIVE DRAINAGE AROUND ALL NON-ROUND PENETRATIONS AND PENETRATIONS WIDER THAN 2'-0".
5. PROTECT EXISTING ROOF AREAS WITH 3/4" PLYWOOD OVER 2" EXTRUDED POLYSTYRENE AND 10 MIL POLYETHYLENE IN WORK AREAS AND TRAFFIC LANES.
6. PATCH AND REPAIR ROOFS AS NEEDED IN AREAS AFFECTED BY NEW CONSTRUCTION.

ROOF PLAN SYMBOLS

EXISTING ROOF TO REMAIN

ROOFING WORK AS PART OF THIS PROJECT

+3.0" MINIMUM ROOF INSULATION THICKNESS AT CORE (EXCLUSIVE OF COVER BOARD AND SUBSTRATE BOARD)

TAPERED INSULATION SLOPE DIRECTION, SLOPE AT 1/2"/FT FOR 2'-0" AROUND DRAINS, SLOPE AT 1/4"/FT ELSEWHERE UNO

ROOF TYPES

R-1 SEE TYPES ON SHEET A180.

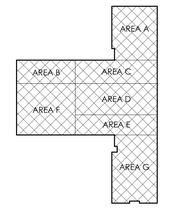
- SINGLE PLY PVC MEMBRANE
- 1/2" COVER BOARD
- 1/4"/FT TAPERED INSULATION
- 5/8" SUBSTRATE BOARD
- METAL DECK STRUCTURE

R-2 SEE TYPES ON SHEET A180.

- AGGREGATE SURFACING
- 4-PLY BUILT-UP MEMBRANE
- 1" COVER BOARD
- 1/4"/FT TAPERED INSULATION W/ 5" BASE INSULATION (MIN R-VALUE 30 CI)
- VAPOR RETARDER
- 5/8" SUBSTRATE BOARD
- METAL DECK STRUCTURE

ROOF PLAN ABBREVIATIONS

RD	○	ROOF DRAIN
ORD	◉	OVERFLOW ROOF DRAIN
PS		PRIMARY SCUPPER
EJ		EXPANSION JOINT
OS		SCUPPER



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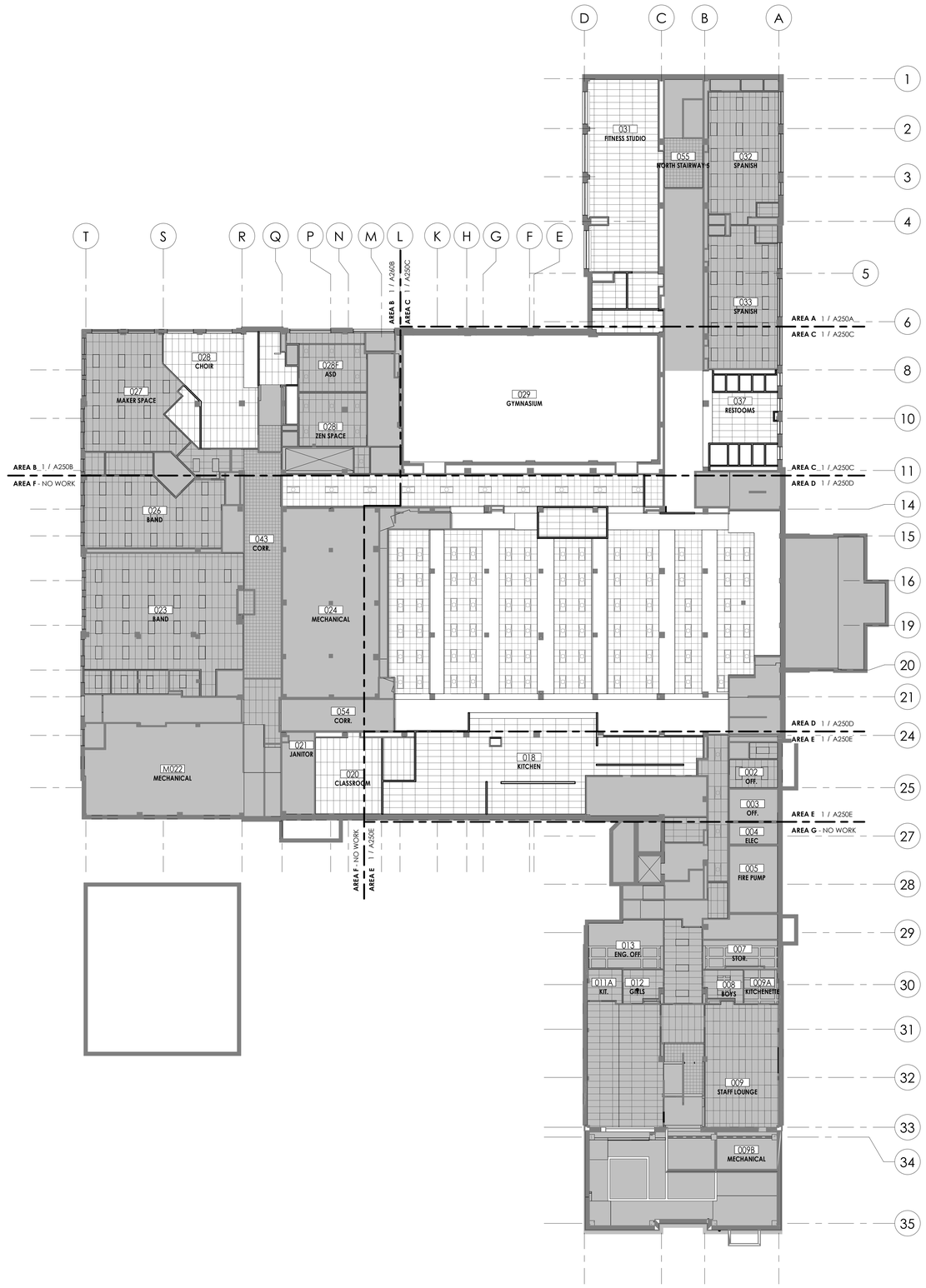
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DRAWING TITLE

OVERALL ROOF PLAN

DRAWING NUMBER

A180



1 / A250 OVERALL REFLECTED CEILING PLAN - GROUND LEVEL
1/16" = 1'-0"

REFLECTED CEILING PLAN NOTES

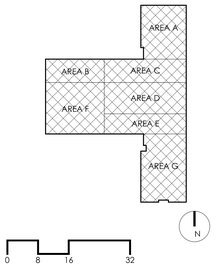
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4. EXPOSED MECHANICAL, ELECTRICAL, PLUMBING, FIRE PROTECTION AND TECHNOLOGY ITEMS REQUIRED BY MULTIPLE TRADES AND SUBCONTRACTORS, TO BE PAINTED TO MATCH ADJACENT FINISHES UNLESS NOTED OTHERWISE OR PROHIBITED BY CODE. COLOR TO BE SUBMITTED AND APPROVED BY ARCHITECT.
5. PAINT, PT-2, AT INTERIOR SOFFITS, WALLS, STRUCTURE, ELECTRICAL, PLUMBING, ABOVE 12'-0", UNO
6. COORDINATE EXACT LOCATIONS OF LIGHT FIXTURES, SPEAKERS, SMOKE DETECTORS, ACCESS PANEL, HVAC DUCTS, DIFFUSERS, REGISTERS, AND OTHER CEILING ITEMS WITH MECHANICAL, ELECTRICAL, AND ALL COORDINATING TRADES.

REFLECTED CEILING PLAN LEGEND

- ACT CEILINGS
- EXISTING CEILINGS TO REMAIN
- CEILINGS/SOFFITS WITH METAL FRAMING AND GYP BOARD FINISH
- REINSTALL SALVAGED ACP CEILINGS
- ALTERNATE 1 = ACT CEILINGS (INSTALLATION SHALL AVOID EXISTING ADHESIVE PUCKS)
- MECHANICAL SUPPLY DIFFUSER
- MECHANICAL RETURN REGISTER
- PENDANT LIGHT FIXTURE
- LAY-IN LIGHT FIXTURE
- RECESSED CAN LIGHT
- WALL WASH DOWNLIGHT

KEYNOTES - CEILINGS

No	DESCRIPTION



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PROJECT

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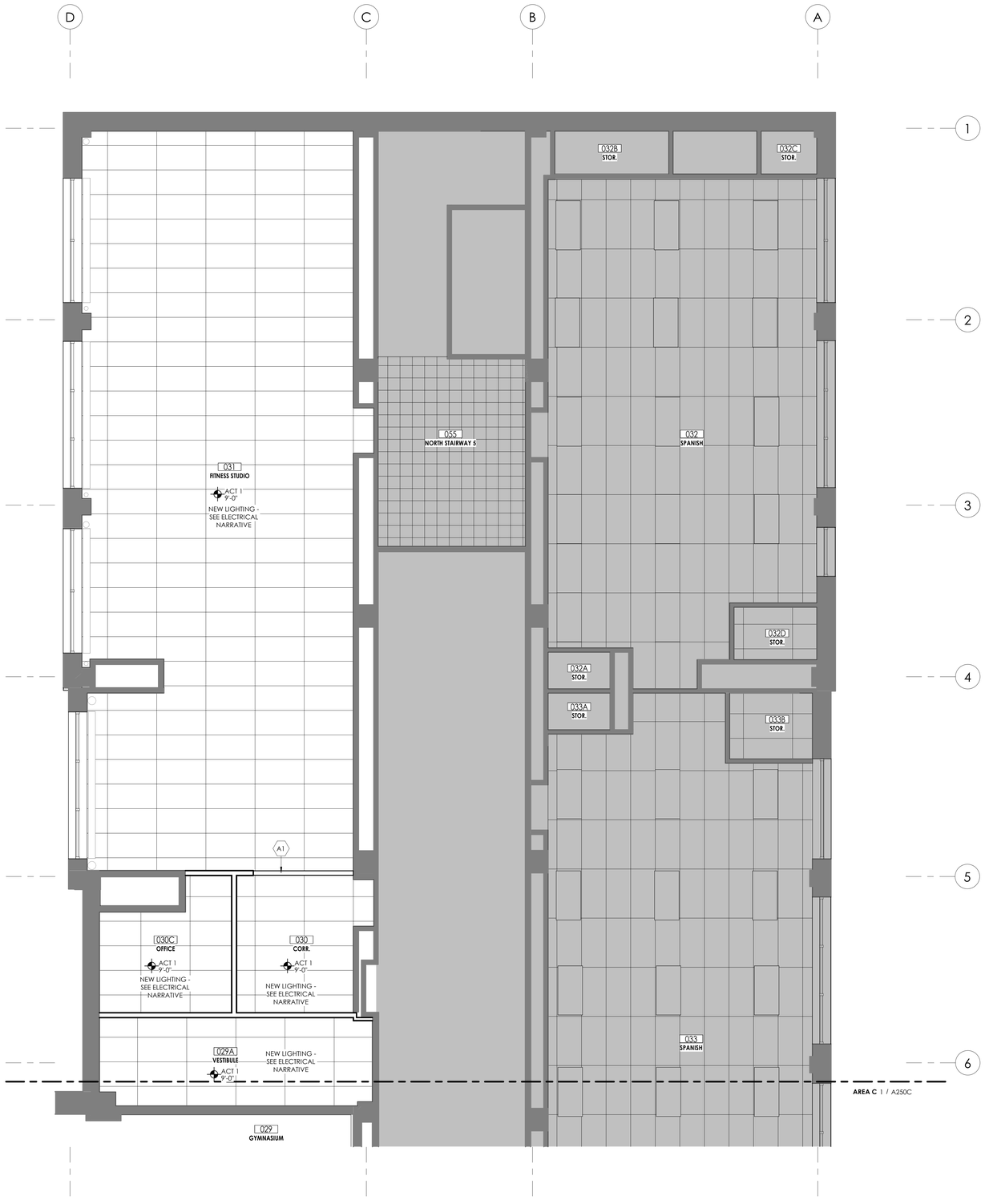
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DRAWING TITLE

OVERALL REFLECTED CEILING PLAN - GROUND LEVEL

DRAWING NUMBER

A250



1 / A250A REFLECTED CEILING PLAN - GROUND LEVEL - AREA A
1/4" = 1'-0"

REFLECTED CEILING PLAN NOTES

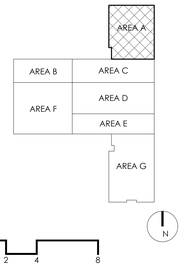
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- MECHANICAL SUPPLY DIFFUSER
- MECHANICAL RETURN REGISTER
- PENDANT LIGHT FIXTURE
- LAY-IN LIGHT FIXTURE
- RECESSED CAN LIGHT
- WALL WASH DOWNLIGHT

KEYNOTE LEGEND

No.	KEYNOTES
A1	GYP BD BULKHEAD



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Date License #

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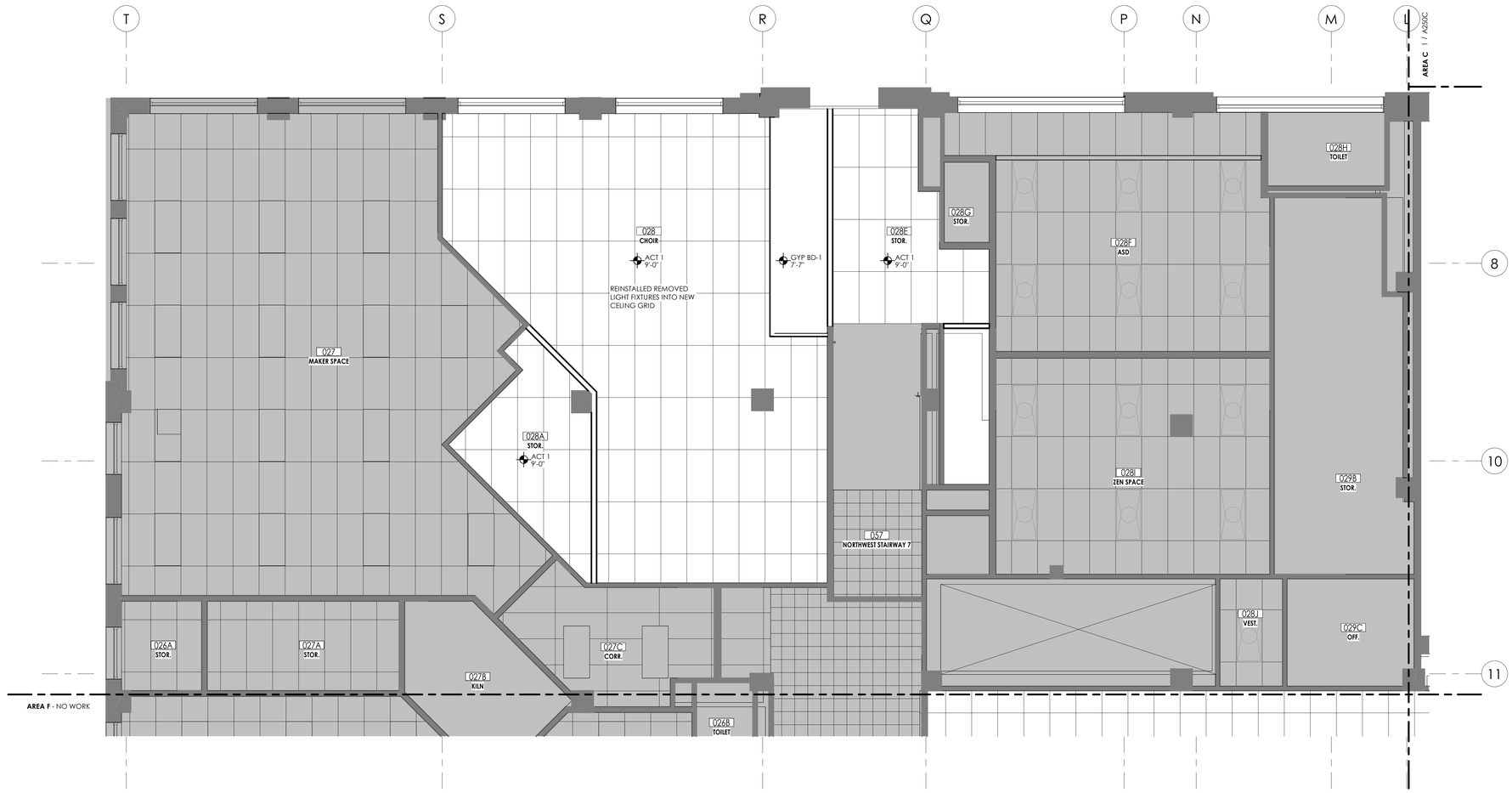
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DRAWING TITLE

REFLECTED CEILING PLAN - GROUND LEVEL - AREA A

DRAWING NUMBER

A250A



1 / A250B REFLECTED CEILING PLAN - GROUND LEVEL - AREA B
1/4" = 1'-0"

REFLECTED CEILING PLAN NOTES

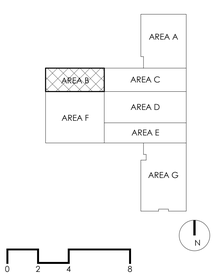
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- LAY-IN LIGHT FIXTURE
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- WALL WASH DOWNLIGHT

KEYNOTE LEGEND

No.	KEYNOTES



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DRAWING TITLE

REFLECTED CEILING PLAN - GROUND LEVEL - AREA B

DRAWING NUMBER

A250B

KEYNOTE LEGEND

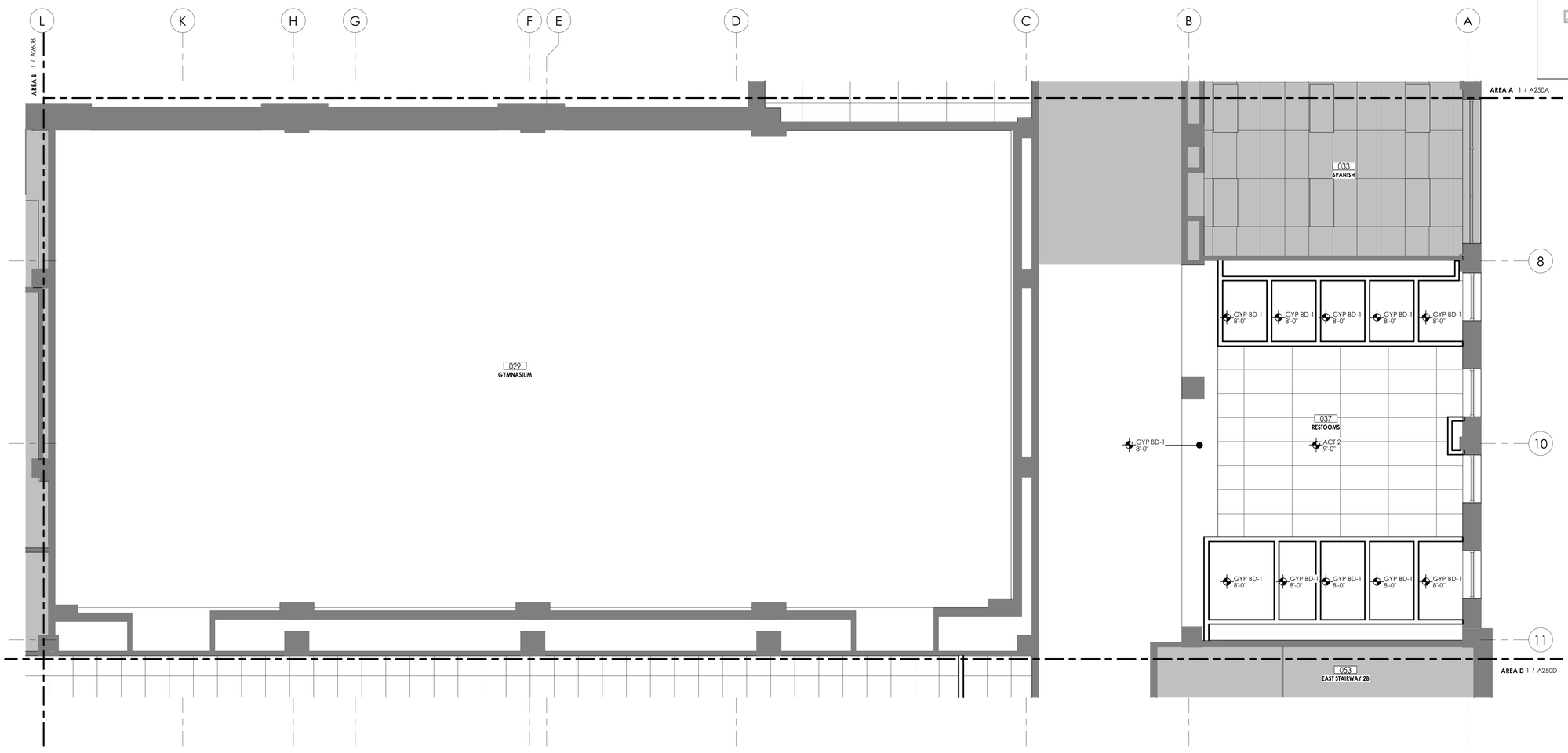
No.	KEYNOTES

REFLECTED CEILING PLAN NOTES

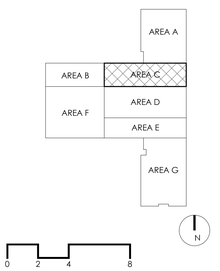
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- LAY-IN LIGHT FIXTURE
- RECESSED CAN LIGHT
- WALL WASH DOWNLIGHT



1 / A250C REFLECTED CEILING PLAN - GROUND LEVEL - AREA C
1/4" = 1'-0"



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Signature

Name

Date License #

PROJECT

JUSTICE PAGE MIDDLE SCHOOL GROUND LEVEL RENOVATIONS

MINNEAPOLIS PUBLIC SCHOOLS

10 WEST 50TH STREET
MINNEAPOLIS, MN 55419

REVISED

Mark	Date	Description

PRELIMINARY - NOT FOR CONSTRUCTION

Project Number:	MPS2401
Date:	1/17/2025
Drawn By:	KNR
Checked By:	XXX

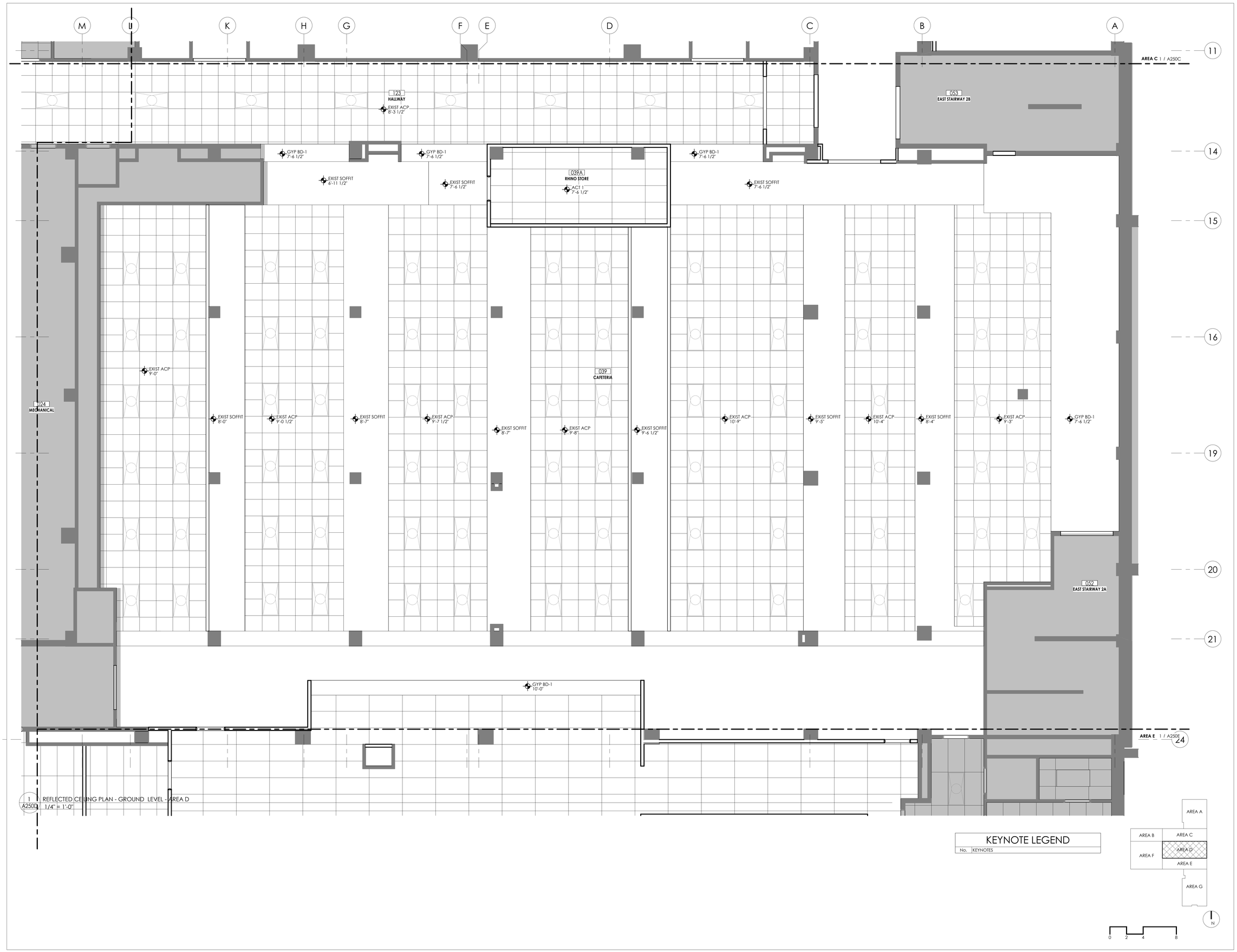
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DRAWING TITLE

REFLECTED CEILING PLAN - GROUND LEVEL - AREA C

DRAWING NUMBER

A250C



1 REFLECTED CEILING PLAN - GROUND LEVEL - AREA D
A250D 1/4" = 1'-0"

KEYNOTE LEGEND

No.	KEYNOTES

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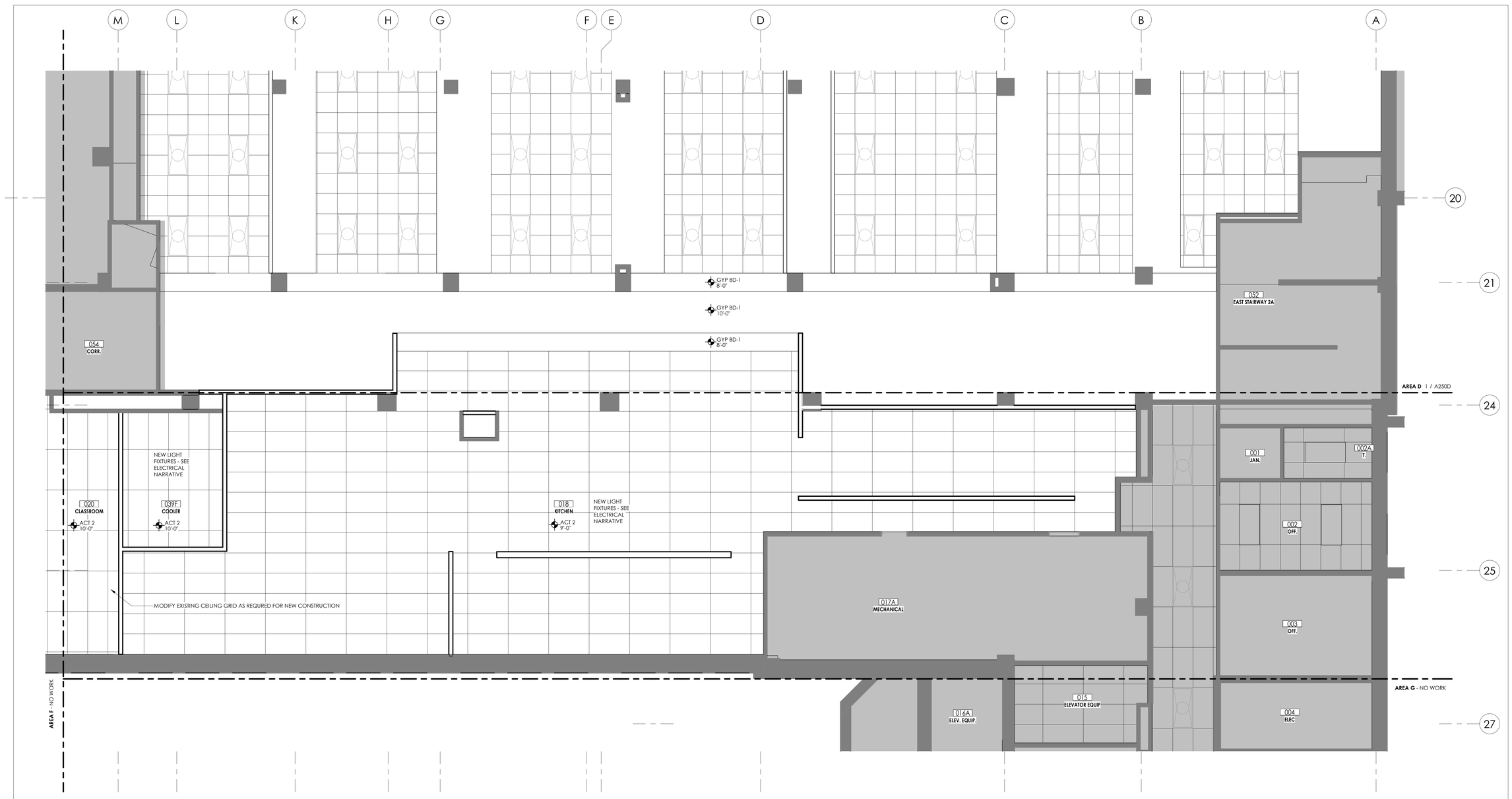
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DRAWING TITLE

REFLECTED CEILING PLAN - GROUND LEVEL - AREA D

DRAWING NUMBER

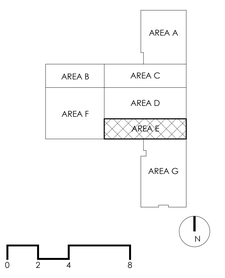
A250D



1 / A250E REFLECTED CEILING PLAN - GROUND LEVEL - AREA E
1/4" = 1'-0"

KEYNOTES - CEILINGS

No	DESCRIPTION



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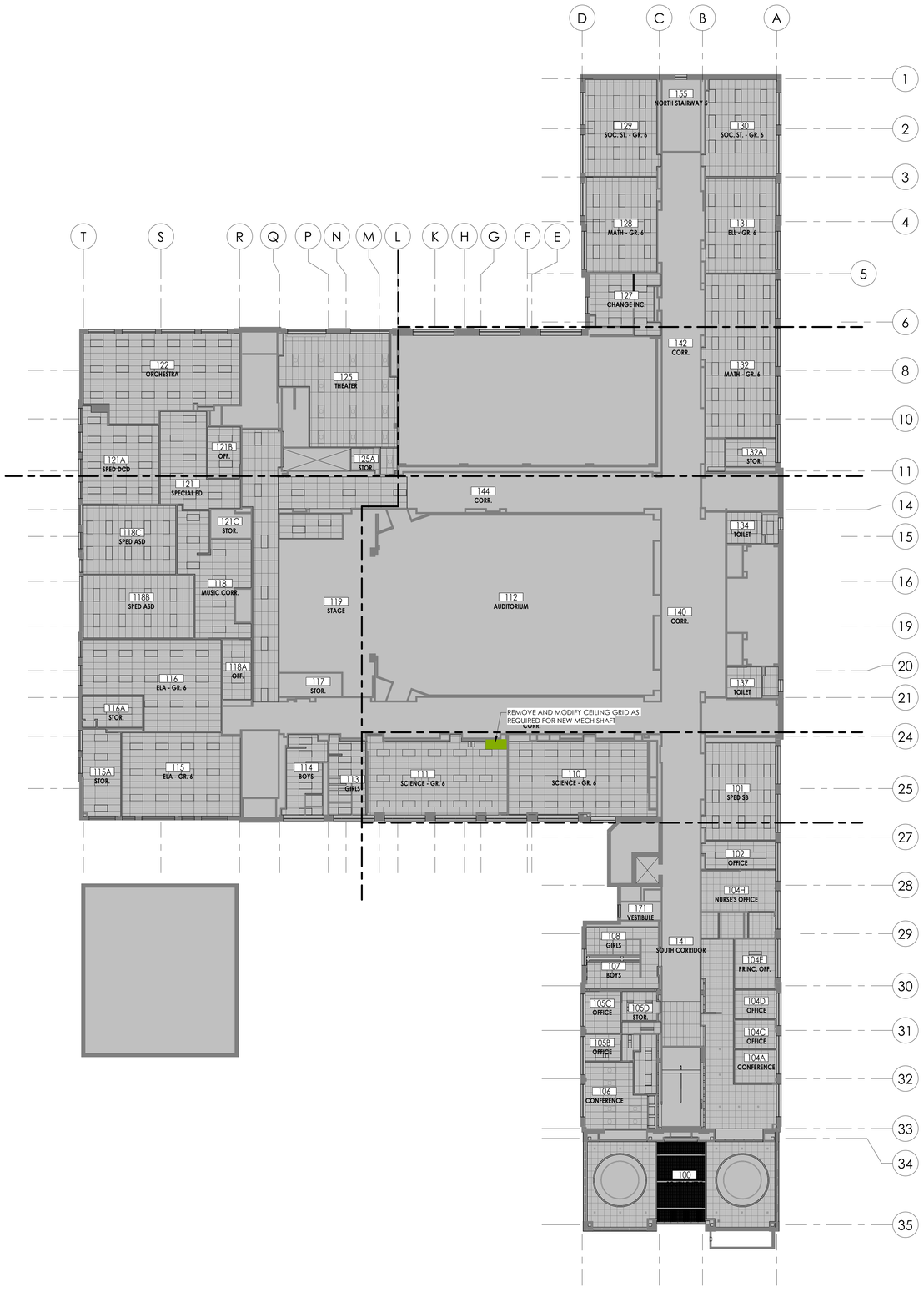
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DRAWING TITLE

REFLECTED CEILING PLAN - GROUND LEVEL - AREA E

DRAWING NUMBER

A250E



1 / A260 OVERALL REFLECTED CEILING PLAN - LEVEL 1
1/16" = 1'-0"

REFLECTED CEILING PLAN NOTES

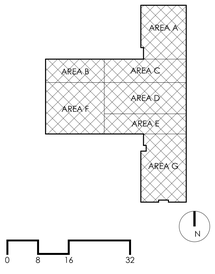
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- EXISTING CEILINGS TO REMAIN
- CEILINGS/SOFFITS WITH METAL FRAMING AND GYP BOARD FINISH
- REINSTALL SALVAGED ACP CEILINGS
- ALTERNATE 1 = ACT CEILINGS (INSTALLATION SHALL AVOID EXISTING ADHESIVE PUCKS)
- MECHANICAL SUPPLY DIFFUSER
- MECHANICAL RETURN REGISTER
- PENDANT LIGHT FIXTURE
- LAY-IN LIGHT FIXTURE
- RECESSED CAN LIGHT
- WALL WASH DOWNLIGHT

KEYNOTES - CEILINGS

No	DESCRIPTION



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MINNEAPOLIS PUBLIC SCHOOLS

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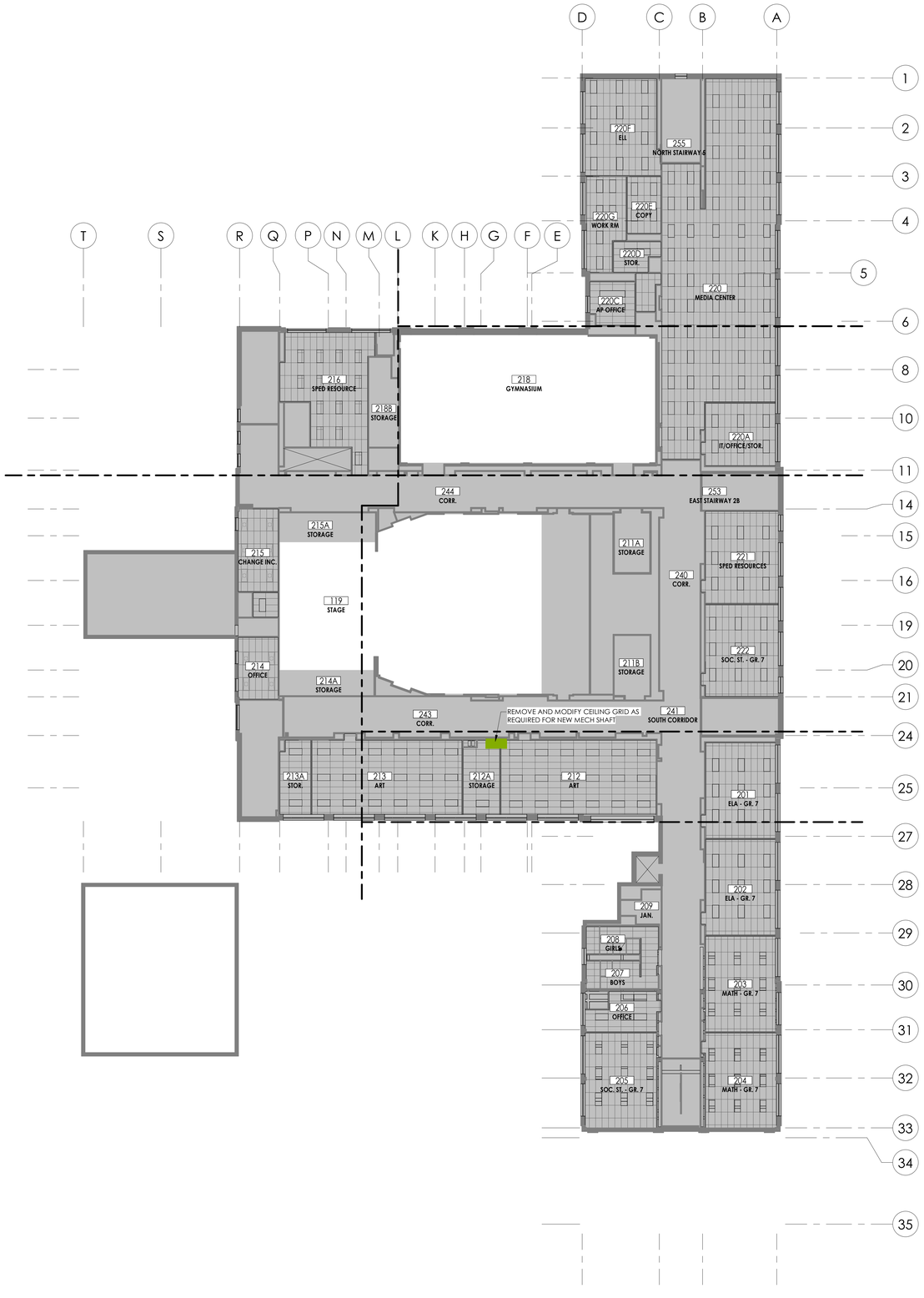
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DRAWING TITLE

OVERALL REFLECTED CEILING PLAN - LEVEL 1

DRAWING NUMBER

A260



1 A270 OVERALL REFLECTED CEILING PLAN - LEVEL 2
1/16" = 1'-0"

REFLECTED CEILING PLAN NOTES

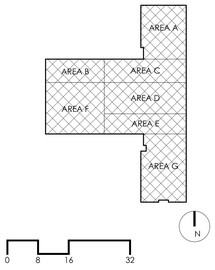
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- LAY-IN LIGHT FIXTURE
- RECESSED CAN LIGHT
- WALL WASH DOWNLIGHT

KEYNOTES - CEILINGS

No	DESCRIPTION



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PROJECT

JUSTICE PAGE MIDDLE SCHOOL GROUND LEVEL RENOVATIONS

MINNEAPOLIS PUBLIC SCHOOLS

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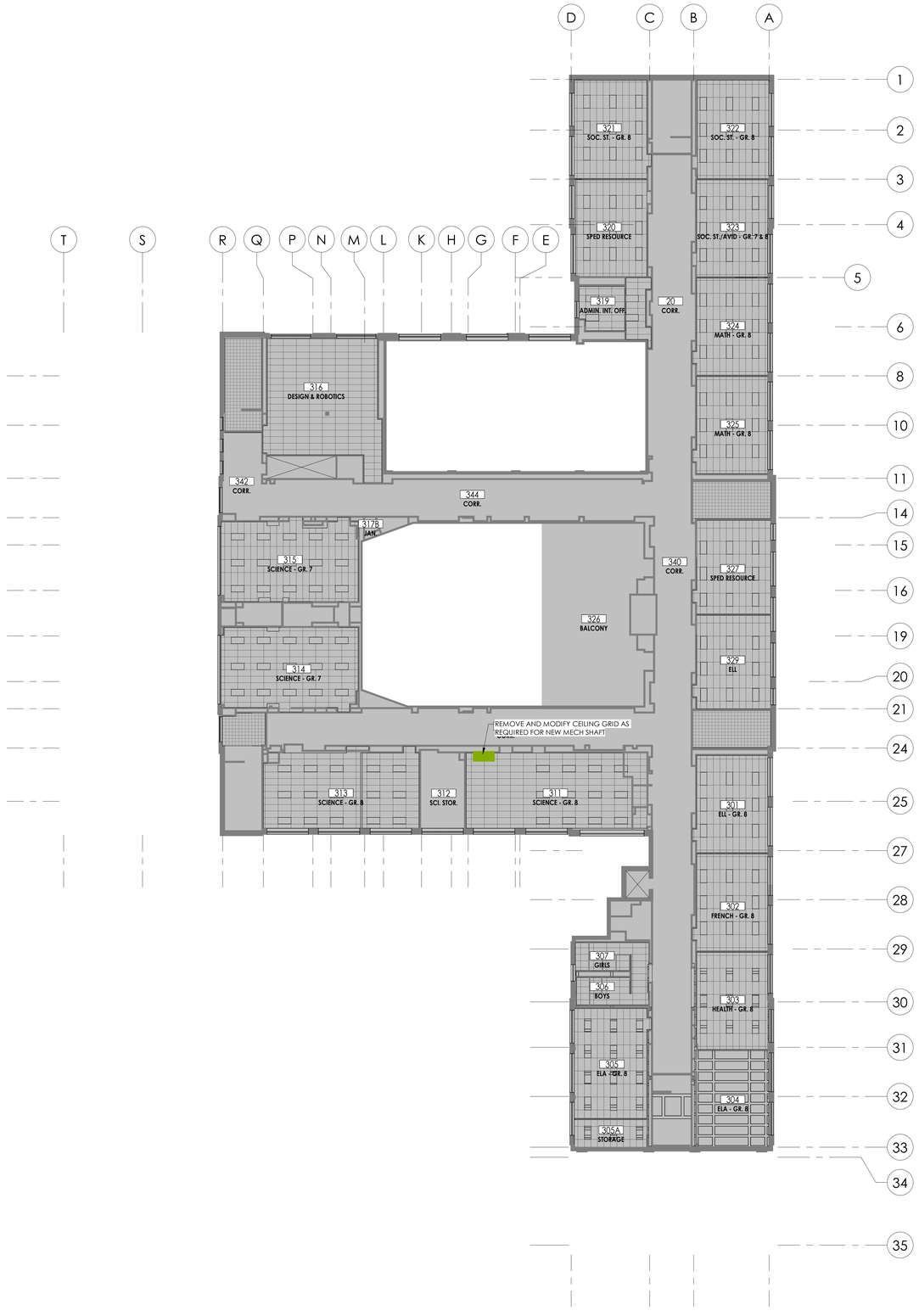
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DRAWING TITLE

OVERALL REFLECTED CEILING PLAN - LEVEL 2

DRAWING NUMBER

A270



1 / A280 OVERALL REFLECTED CEILING PLAN - LEVEL 3
1/16" = 1'-0"

REFLECTED CEILING PLAN NOTES

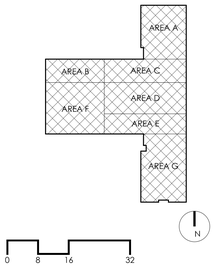
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KEYNOTES - CEILINGS

No	DESCRIPTION



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PROJECT

JUSTICE PAGE MIDDLE SCHOOL GROUND LEVEL RENOVATIONS

MINNEAPOLIS PUBLIC SCHOOLS

10 WEST 50TH STREET
MINNEAPOLIS, MN 55419

REVISED

Mark	Date	Description

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Project Number:	MPS2401
Date:	1/17/2025
Drawn By:	WAF
Checked By:	PGM

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DRAWING TITLE

OVERALL REFLECTED CEILING PLAN - LEVEL 3

DRAWING NUMBER

A280

ROCKWISE STRATEGIES

Project Name:	**Justice Page Middle School**		
Project Location:	**Minneapolis, MN**		
Description:	**Ground Level Renovations**		
Owner:	**Minneapolis Public Schools**	**Escalation:**	**6.00%**
Architect:	**Miller Dunwiddie**	**Design Level:**	**Concept**
Date:	**Wednesday, February 5, 2025**	**Print Date:**	**1/17/2025**
Project Lead:	**Jonathan Murray**	**Delivery Method:**	**GC-Bid**

Project Area / Total Cost per SF:	13,472	$325.93

SECTION	DESCRIPTION		TOTAL	SQ. FT. COST
01 00 00	General Conditions		$214,634	$15.93
01 00 00	Building Permit, Plan Check Fee and State Surcharge		$53,659	$3.98
01 00 00	SAC and WAC Fees	by Owner	$0	$0.00
01 00 00	Temporary Facilities & Controls, Waste Management		$93,903	$6.97
01 00 00	Final Cleaning		$10,000	$0.74
02 00 00	Selective Demolition		$127,668	$9.48
03 00 00	Concrete		$48,875	$3.63
06 00 00	Wood, Plastics & Composites		$68,541	$5.09
08 00 00	Openings		$87,555	$6.50
09 00 00	Finishes		$404,313	$30.01
10 00 00	Specialties		$10,120	$0.75
11 00 00	Equipment		$1,073,675	$79.70
12 00 00	Furnishings	by Owner	$0	$0.00
21 00 00	Fire Protection Systems		$10,969	$0.81
22 00 00	Plumbing		$178,653	$13.26
23 00 00	Mechanical		$330,303	$24.52
26 00 00	Electrical		$232,392	$17.25
27 00 00	Communications (Cabling, Data and Voice)		$62,578	$4.65
28 00 00	Electronic Safety and Security Systems		$37,287	$2.77
	SUBTOTAL COST		**$3,045,124**	**$226.03**
	Design Contingency	15.00%	$456,769	$33.91
	Construction Contingency	10.00%	$350,189	$25.99
	Builders Risk Insurance	0.25%	$9,630	$0.71
	General Liability Insurance	1.00%	$38,617	$2.87
	Performance and Payment Bond	1.15%	$44,854	$3.33
	Contractor Fee	5.00%	$197,259	$14.64
	Escalation to June 2026	6.00%	$248,547	$18.45
	TOTAL AMOUNT		**$4,390,989**	**$325.93**

Alternates: **Add**

1	Block Off Exit, In-Fill Doors (2)	$21,630
2	Civil Option A	$69,918
3	Civil Option B	$53,814
4	Civil Option C	$95,134
5	Civil Option D	$102,488

Rockwise STRATEGIES

Selective Demolition

	Description:	Quantity:	Unit	Unit Price:	Amount:	Notes:
02 15 00	Demo ACT	6,891	SF	$1.00	$6,891	
02 15 00	Demo Casework	21	LF	$35.00	$735	
02 15 00	Demo Concrete Floor at HVAC Shaft	3	LOC	$2,000.00	$6,000	
02 15 00	Demo D/F/H	32	EA	$100.00	$3,200	
02 15 00	Demo Flooring	10,820	SF	$1.25	$13,525	
02 15 00	Demo Interior Partition	955	LF	$64.00	$61,120	
02 15 00	Demo Locker	11	EA	$50.00	$550	
02 15 00	Demo Plaster Ceiling	452	SF	$5.00	$2,260	
02 15 00	Demo Radiator	12	LF	$75.00	$900	
02 15 00	Demo Stair to Match Floor Level	1	EA	$2,400.00	$2,400	
02 15 00	Demo Terrazzo	597	SF	$5.00	$2,985	
02 15 00	Demo Toilet Partition	6	EA	$75.00	$450	
02 15 00	Demolition Tools/Dumpsters/Equipment	1	LS	$10,000.00	$10,000	
02 15 00	Subcontractor O.H. & Profit	15%	LS	n/a	$16,652	
	Total Selective Demolition				**$127,668**	

Concrete

	Description:	Quantity:	Unit	Unit Price:	Amount:	Notes:
03 31 00	In-Fill Floor at Removed Stair	1	LOT	$7,500.00	$7,500	
03 35 00	Sawcutting & Patching at Restrooms, Kitchen Area	1	LOT	$35,000.00	$35,000	
03 31 00	Subcontractor O.H. & P	15%	LS	n/a	$6,375	
	Total Cast-in-Place Concrete				**$48,875**	

Carpentry

	Description:	Quantity:	Unit	Unit Price:	Amount:	Notes:
06 10 00	Interior Commercial Bldg. Blocking, Dust Control, Temp. Protection	13,472	SF	$1.50	$20,208	
06 10 00	Subcontractor O.H. & P	15%	LS	n/a	$3,031	
	Total Carpentry				**$23,239**	

Finish Carpentry and Millwork

	Description:	Quantity:	Unit	Unit Price:	Amount:	Notes:
06 20 00	Counter w/Shelving Below	43	LF	$220.00	$9,460	
06 20 00	Student Storage Cubbies 6' Tall	29	LF	$450.00	$13,050	
06 20 00	Subcontractor O.H. & P	15%	LS	n/a	$3,377	
	Total Finish Carpentry Material				**$25,887**	**Material Only**
	Finish Carpentry Labor	1	LS		**$19,415**	**Labor Only**

Doors, Frames & Hardware

	Description:	Quantity:	Unit	Unit Price:	Amount:	Notes:
08 10 00	Double Door, Frame, Hardware, Installation	6	EA	$3,550.00	$21,300	
08 10 00	Single Door, Frame, Hardware, Installation	7	EA	$2,450.00	$17,150	
08 10 00	Stall Door, Frame, Hardware, Installation	10	EA	$1,400.00	$14,000	
08 10 00	Subcontractor O.H. & P	15%	LS	n/a	$7,868	
	Total Doors, Frames & Hardware				**$60,318**	

Entrances, Storefronts & Glazing

	Description:	Quantity:	Unit	Unit Price:	Amount:	Notes:
08 40 00	Floor to Ceiling Storefront	21	LF	$585.00	$12,285	
08 40 00	Operable Sliding Window in Storefront	15	LF	$340.00	$5,100	
08 40 00	Storefront 3'-4" to 8'-0"	21	LF	$300.00	$6,300	
08 40 00	Subcontractor O.H. & P	15%	LS	n/a	$3,553	
	Total Entrances, Storefronts & Glazing				**$27,238**	

Drywall

	Description:	Quantity:	Unit	Unit Price:	Amount:	Notes:
09 20 00	Partition A3	38	LF	$144.00	$5,472	
09 20 00	Partition A3a	379	LF	$168.00	$63,672	
09 20 00	Partition A3 to 48" a.f.f.	17	LF	$72.00	$1,224	
09 20 00	Partition A4	3	LF	$156.00	$468	
09 20 00	Partition B2	4	LF	$96.00	$384	
09 20 00	Partition B3	57	LF	$120.00	$6,840	
09 20 00	Furring	4	LF	$96.00	$384	
09 20 00	Gyp. Bulkhead	218	LF	$50.00	$10,900	
09 20 00	Gyp. Ceiling	983	SF	$18.00	$17,694	
09 20 00	In-Fill Door Opening	1	EA	$750.00	$750	
09 20 00	Subcontractor O.H. & P	15%	LS	n/a	$16,168	
	Total Drywall				**$123,956**	

Tile

	Description:	Quantity:	Unit	Unit Price:	Amount:	Notes:
09 30 00	CT-1 Floor Tile in Restroom	649	SF	$30.00	$19,470	
09 30 00	CT-2 Wall Tile in Restroom Stalls	1,535	SF	$24.00	$36,840	
09 30 00	Subcontractor O.H. & Profit	15%	LS	n/a	$8,447	
	Total Tile				**$64,757**	

Ceilings

	Description:	Quantity:	Unit	Unit Price:	Amount:	Notes:
09 50 00	ACT-1	2,863	SF	$7.00	$20,041	
09 50 00	ACT-2	2,513	SF	$6.00	$15,078	
09 50 00	Modify Ceilings at Mechanical Shaft	3	LOC	$750.00	$2,250	
09 50 00	Subcontractor O.H. & P	15%	LS	n/a	$5,605	
	Total Ceilings				**$42,974**	

Rockwise STRATEGIES

Flooring

	Description:	Quantity:	Unit	Unit Price:	Amount:	Notes:
09 65 00	RB-1 Flooring	8,887	SF	$10.00	$88,870	
09 65 00	RB-3 Flooring	1,502	SF	$10.00	$15,020	
09 65 00	RF-1 Flooring	2,288	SF	$8.00	$18,304	
09 68 00	Walk Off Carpet	16	SY	$90.00	$1,450	
09 65 00	Subcontractor O.H. & P	15%	LS	n/a	$18,547	
	Total Flooring				**$142,191**	

Painting

	Description:	Quantity:	Unit	Unit Price:	Amount:	Notes:
09 90 00	Enamel HM Frames - New	19	EA	$200.00	$3,800	
09 90 00	Paint Gyp. Ceilings	983	SF	$2.50	$2,458	
09 90 00	Paint New Partitions, Tie-Ins, Misc. Patching	13,472	SF	$1.50	$20,208	
09 90 00	Subcontractor O.H. & P	15%	LS	n/a	$3,970	
	Total Painting				**$30,435**	

Specialties

	Description:	Quantity:	Unit	Unit Price:	Amount:	Notes:
10 28 00	Standard Stall Accessories	9	EA	$650.00	$5,850	
10 28 00	ADA Stall Accessories	1	EA	$950.00	$950	
10 28 00	Other Misc. Restroom Accessories	1	ALLOW	$2,000.00	$2,000	
10 00 00	Subcontractor O.H. & P	15%	LS	n/a	$1,320	
	Total Specialties				**$10,120**	

Equipment

	Description:	Quantity:	Unit	Unit Price:	Amount:	Notes:
11 00 00	End Wall Basketball Hoop	2	EA	$3,500.00	$7,000	
11 00 00	Side Wall Basketball Hoop	4	EA	$2,500.00	$10,000	
11 00 00	Scoreboard	1	EA	$7,500.00	$7,500	
11 00 00	Food Service Equipment	1	LOT	$1,045,500.00	$1,045,500	
11 00 00	Subcontractor O.H. & P	15%	LS	n/a	$3,675	O.H. & P Not Included for Food Service Equip.
	Total Equipment				**$1,073,675**	

Fire Protection Systems

	Description:	Quantity:	Unit	Unit Price:	Amount:	Notes:
21 00 00	Fire Protection System Modifications - New Ceilings	6,359	SF	$1.50	$9,539	
21 00 00	Subcontractor O.H. & P	15%	LS	n/a	$1,431	
	Total Fire Protection Systems				**$10,969**	

Plumbing

	Description:	Quantity:	Unit	Unit Price:	Amount:	Notes:
22 00 00	Demo Fixture	13	EA	$750.00	$9,750	
22 00 00	New Sink	26	LF	$600.00	$15,600	
22 00 00	New Toilet	10	EA	$7,500.00	$75,000	
22 00 00	Floor Drains	1	ALLOW	$20,000.00	$20,000	
22 00 00	Kitchen Plumbing, Grease Trap	1	ALLOW	$35,000.00	$35,000	
22 00 00	Subcontractor O.H. & P	15%	LS	n/a	$23,303	
	Total Plumbing Systems				**$178,653**	

HVAC

	Description:	Quantity:	Unit	Unit Price:	Amount:	Notes:
23 00 00	HVAC Allowance - Modify/Extend Ducts, VAV's	13,472	SF	$10.00	$134,720	
23 00 00	HVAC Allowance - Kitchen	1	ALLOW	$50,000.00	$50,000	
23 00 00	Replace VAV Controls	41	EA	$2,500.00	$102,500	AHU-2 & AHU-9
23 00 00	Subcontractor O.H. & P	15%	LS	n/a	$43,083	
	Total HVAC Systems				**$330,303**	

Electrical

	Description:	Quantity:	Unit	Unit Price:	Amount:	Notes:
26 00 00	Electrical Allowance	13,472	SF	$15.00	$202,080	
26 00 00	Subcontractor O.H. & P	15%	LS	n/a	$30,312	
	Total Electrical Systems				**$232,392**	

Communications

	Description:	Quantity:	Unit	Unit Price:	Amount:	Notes:
27 00 00	Low Voltage Allowance	13,472	SF	$3.00	$40,416	
27 00 00	Wall Mount Monitor	4	EA	$3,500.00	$14,000	
27 00 00	Subcontractor O.H. & P	15%	LS	n/a	$8,162	
	Total Communications Systems				**$62,578**	

Electronic Safety and Security

	Description:	Quantity:	Unit	Unit Price:	Amount:	Notes:
28 00 00	Fire Alarm Modifications	13,472	SF	$1.85	$24,923	
28 00 00	Access Control at Gymnasium/Playground	1	LOT	$7,500.00	$7,500	
28 00 00	Subcontractor O.H. & P	15%	LS	n/a	$4,863	
	Total Electronic Safety/Security Systems				**$37,287**	

Exhibit B – Project Design Milestones & Deliverables

Project Design Milestones

Architect Responsibilities		Owner Responsibilities
Fully Executed Contract	0%	
City Planning Processes initiated	20%	Commissioning Provider Kickoff
Schematic Design Report Delivered	25%	
	35%	MEP Systems Decisions Made
Design Development Report Delivered	50%	All major scope items have final decisions
	75%	QAQC #3 Two Week Comprehensive Design Review
Construction Document Report Delivered	80%	
Procurement Begins	90%	
	95%	
Bid Period Ends	99%	
	100%	Fully Executed Construction Contract

Design Milestones

0% Complete – Fully executed architectural contract

Once the Design team has a fully executed contract, work may commence. The Architect is required to download a new copy of the Minneapolis Public Schools (MPS) Master Specifications at this time. Previous project specifications shall not be used as a template for new projects. All changes to MPS Master Specifications will be recorded with track changes, with additions and deletions clearly identified at each Design Report Phase. The Architect shall utilize the MPS Design Guidelines in the development of the Work. Deviations from design guidelines shall be documented and sent to the Owner for Approval. The Architect shall conform to the MPS Revit and Drafting Standards including MPS sheet numbering conventions and begin the Work with the MPS Revit template provided by the Owner.

20% Complete – City planning processes started

It is expected that projects with additions in excess of 2,500 sf or those that disturb more than one acre of land to take 10 to 12 weeks to complete the City of Minneapolis Planning Process. As soon as the Architect has:

- A survey, even in draft form
- A preliminary understand of how big and where any addition(s) will be
- Elevations or camera views from Revit
- Site plan, even in draft form

The Architect shall have an initial meeting with the Planning Department at the City of Minneapolis to discuss initial feedback related to site improvements and storm water conditions on the site. The architect shall

invite the Owner's Project Manager to the meeting. As soon as is practicable after the meeting, the Architect shall complete the online application to begin the PDR, LUA, CUP, and variance processes. The Architect shall develop meeting minutes for all meetings with the City. The meeting minutes shall be sent to all parties in attendance for verification of items discussed and to the Owner's Project Manager.

20% Complete – Commissioning Agent kickoff

The Owner will hire a Commissioning Agent for most projects. The Commissioning Agent will be responsible for design review and input throughout the project. The Architect will incorporate the Commissioning Agent comments upon review and approval by the Owner's Project Manager.

25% Complete – Schematic Design (SD) Report, Cost Estimate 1, Constructability Review 1, EDA preliminary report

The Architect will deliver the Schematic Design (SD) report to the Owner for review. The SD Report will be used to make final scope determinations, select mechanical options, and determine if the project is on budget and on schedule. The Owner will use Bluebeam software to compile Owner comments to return to the Architect. The Architect will identify any non-standard equipment or processes in this report for Owner approval. SD report shall include:

- All drawings created for the project to date. This shall include a complete title page that indicates all potential drawings that will form the Construction Drawings. All drawings shall be bookmarked in Bluebeam by the Architect as defined in Article 5 of the AIA E203-2015 to facilitate Owner reviews.
- MEP narratives
- Cost Estimate #1 that contains cost information for up to three mechanical options and up to two architectural variations that meet program needs. The cost estimate shall be an AACE International Class 3 estimate. The estimate shall provide enough detail to determine the major cost drivers for the project and adequate to understand the scope of the project. The cost estimate shall detail the level of accuracy and provide a narrative on the contingency value used and why. Where appropriate the maintenance items that are not part of the improvement items shall be detailed in the cost estimate
- Constructability Review #1
- Preliminary EDA report (not all projects should participate in EDA)
- All meeting minutes to date
- Survey
- City Planning Documentation
- Revit file archived at delivery of SD report

SD report must be in 8 ½ x 11 format with tabs. It must be delivered digitally as a PDF. The table of contents should read:

1. Project Background
    a. Executive Summary
    b. Project Goals
    c. Program goals
    d. Project Scope
    e. Preliminary Project Schedule showing both design, bidding and construction schedules
2. Existing Conditions
    a. Survey
    b. Site Plan
    c. Code Reviews

    d. Revit Camera Views or renderings
3. Design Options
    a. Architectural
    b. Mechanical
    c. Electrical
    d. Plumbing
    e. Food Service (if applicable), etc.
    f. Maintenance items identified in the 5% meeting.
4. Cost Estimate
    a. Project Budget breakdown for consultant services
    b. Cost Estimate. AACE International Class 3
    c. Constructability Review. List all risks and any unknown complexities.
5. EDA report (if applicable)
6. Minutes

35% Complete – MEP decisions Made

The Owner is committed to making any major MEP decisions such as choosing system types at this stage in order to allow the Architect to progress with drawings, designs and specifications. Documentation of decisions shall be provided in meeting minutes.

50% Complete – Design Development (DD) report, Cost Estimate 2, Constructability Review 2, Final EDA report

The Owner is committed to making design decisions early to have a robust submittal at this phase for review. For the DD Report, the Architect shall provide:

- Enough detail completed in at least one portion of the building (or major component of the project), to produce detail sheets, an idea of design intent with mechanical systems, and architectural decisions that indicate a final configuration.
- Specification sections that represent all or nearly all sections to be included in construction documents
- All drawings needed for a Construction Document shall be identified and in order.
- All drawings shall be bookmarked in Bluebeam by the Architect as defined in Article 5 of the AIA E203-2015 to facilitate Owner reviews.

DD report shall contain:

- Digital (PDF) drawings, and digital (MS Word) copy of the specification.
- All drawing sheets that will be included in the final set, even if they are blank,.
- Diagrammatic layouts of building systems
- Draft specification that contains all divisions, even if they are blank
- Cost estimate #2 in organized by major CSI division for construction items and detailed non-construction items. The cost estimate shall be an AACE International Class 3 estimate that shows the accuracy range of each item and the total.
- Constructability review #2
- Final EDA report (if applicable)
- Update on City of Minneapolis planning progress (if applicable)
- Revit file archived at delivery of DD report and delivered to the Owner

The Architect shall deliver one electronic copy to the Owner.

50% Complete – All major scope items have final decisions

The Owner will make final decisions on all major scope items to allow the Architect to create detailed drawings for the next review. The deliverable from the Owner to the Architect will be written confirmation of scope decisions.

75% Complete – QAQC #3 – Two Week Comprehensive Design Review

The Architect will prepare complete and detailed drawings and specifications for review by the Owner. The 75% set of drawings shall have 75% of all the drawings completed to 100%. All drawings in the Construction drawing set shall be identified on the index page. Detail numbering and references shown in the 75% drawings cannot be changed. Specifications shall be provided such that all specifications are identified and 75% of the specifications are in final form. All changes to the MPS Master Specifications shall be clearly shown using track changes. New specifications that are not part of the MPS Master Specifications shall be identified. Specifications shall be provided in an MS Word format for review. Drawings shall be provided in a PDF format for review. Comments to specifications will be made using track changes. Comments to drawings will be made in Bluebeam. The Architect shall document all comments and either incorporate them into the documents or provide an issue resolution document that details the comment and resolution and reasons not to include the change in the Construction Document. The Owner will compile comments and return them to the Architect following a two-week review period. Documentation shall include all elements required to accurately describe the work. The Architect shall maintain the 75% review set for reference. The Architect shall provide the Owner with a list of unresolved comments/changes at the 90% review stage. The Owner and Architect shall document any unresolved item not included in the final project set and place that in the file.

80% Complete – Construction Document (CD) report, Cost Estimate #3, Constructability Review #3

Construction Document (CD) report is the basis for a final quality control check by the Owner. The drawings shall be complete. Cost estimates shall be at the AACE International Class 2 level with documented levels of accuracy for each item. The estimate shall include any risks, contingencies, exceptions and sources. Expected accuracy for each item is -10% to +20% or better. An estimate simulation shall be completed showing the outcome of various scenarios inside of the accuracy range. The final cost estimate shall not contain any amount for design contingency. At a minimum, 5% of the budget shall be represented in add alternates. Deliverables will include:

- Electronic (PDF) drawing set, electronic (MS Word) of the specification. Both shall be indexed for ease of review.
- Digital versions of all documentation. Drawings shall be in PDF and REVIT.
- All drawings shall be bookmarked in Bluebeam by the Architect as defined in Article 5 of the AIA E203-2015 to facilitate Owner reviews.
- Specifications shall be in MS Word format.
- Correspondence relevant to City of Minneapolis Planning processes or Plan Review processes
- All drawing sheets that will be included in the final set.
- Egress plan for construction zones while building is occupied
- Diagrammatic layouts of building systems
- Draft specification that contains all divisions
- No major changes in design intent or scope can occur between DD and CD report

- cost Estimate #3 organized by CSI division for construction items and detailed non-construction items at Class 2 level
- Constructability Review narrative
- Revit file archived at delivery of CD report

The Owner will require two weeks to review the documents to ensure completeness and accuracy. Architect shall incorporate Owner comments into the final construction documents prior to issuing the set for bid release.

90% Complete – Procurement Begins

100% Construction Documentation set is released for public bid. Architect will coordinate with Owner to set a date for the mandatory pre-bid meeting, publicize bid release, and produce a call for bids. Owner will approve all addenda issued during the procurement process and will have adequate time to review any major changes issued via addenda. The Architect is expected to attend the pre-bid meeting and provide responses to questions, issue addendums and document changes to designs, specifications and contract documents.

95% Complete

This is considered as the bid opening. All addenda have been issued and questions responded to. The bid opening shall be attended by the Architect. The Architect shall provide a review of the apparent low bid and a written recommendation of award to the Owner. If the apparent low bid exceeds the cost estimate provided by the Architect, a detailed review and analysis shall be conducted by the Architect to determine the areas that caused the over bid. The Architect shall also make a written recommendation to accept or deny the add alternates in the bid document.

100% Complete – Fully executed contract between Owner and General Contractor

The Architect shall submit to the Owner the Revit file containing the Construction drawings, the specifications in an MS Word format and any addenda issued in an MS Word format. The architect shall prepare the contract documents for award of the contract using Owner provided forms, issue the notice of award to the Contractor and collect the payment and performance bonds, insurance, letter of assent and other documents. Once executed by the Contractor, the Architect shall provide a complete set to the Owner for signature. Upon Board of Education approval of the contract, the Architect shall prepare a Notice to Proceed for the Contractor. The Architect shall provide the Notice to Proceed to the Owner for review. The Owner shall issue the Notice to Proceed to the Contractor.

Construction Phase

The Architect shall prepare all meeting agendas and produce meeting minutes for regular meetings throughout the construction phase. The Architect will notify the Owner of discussion topics prior to the scheduled meeting so the Owner may invite the appropriate MPS staff to participate in the meeting. Meeting minutes for all meetings shall be distributed within 5 working days of the meeting. All agendas and meeting minutes shall be provided to the Owner for review in an MS Word format. Changes will be documented using track changes.

Submittals

The Architect shall follow the Owner's process for submittals. Contractor shall send submittals to the Architect in accordance with the submittal schedule prepared by the Contractor. The Architect shall document submittal schedule variances and provide the information to the Contractor and the Owner each

month. The Architect shall review all submittals and determine if the submittal meets the Contract Documents. Each submittal shall be labeled with a stamp or similar that identifies the reviewer of the submittal, date of review and action. Submittals shall be marked as:

- No exception taken
- Make Corrections Noted
- Revise and Resubmit
- Rejected
- No submittal is required

A copy of each submittal shall be provided to the Owner. The Architect shall be responsible for developing and maintaining a complete and accurate submittal log. The submittal log shall identify the submittal number, description, date received from contractor, date sent to reviewer, date returned from reviewer, action, date sent back to the Contractor and date when Owner was provided a copy. If the Architect is unclear as to the requirements of the contract documents or should the Architect need input from the Owner, the Architect shall contact the Owner's Project Manager. All substitution requests shall be sent to the Owner for review. The Owner requires a minimum of one week for all reviews. The Architect shall log and track all items sent to the Owner for review and monitor the review schedule.

Substantial Completion

The Architect shall review the punch list provided by the Contractor to verify the list is complete and accurate based on the Architect's review. The Architect shall issue a preliminary final punch list of items to the Owner and schedule a punch list site review with the Owner. The punch list may be modified because of the Owner's punch list site review. The Architect shall then issue a final punch list to the Owner and Contractor. If the Owner and Architect deem the project substantial complete in accordance with Contract Documents, the Architect shall prepare and deliver a Certificate of Substantial Completion to the Contractor and Owner establishing the date of substantial completion. The punch list provided at the time of Substantial Completion shall include the Architect's estimate of costs to repair each of the items on the punch list. The estimate provided shall form the basis of the amount of retainage to be withheld for the punch list items in accordance with Minnesota Statute. Issuance of the Certificate of Substantial Completion shall include the final punch list and establish the date of substantial completion. The punch list shall include a complete list of all manuals, warranties, commissioning reports and other items required by the Contractor as part of the Contract Documents that was not previously provided to the Owner and accepted. If the project is not deemed substantially complete by the date established in the Contract Documents, the Architect will inform the Contractor of the liquidated damages provision in the Contract Document and apply liquidated damages to the next progress payment as directed by the Owner until the Certificate of Substantial Completion is issued.

Final Completion

The architect shall schedule and be present at the final completion walk through with the Owner. This walk through shall be the final verification of outstanding item completion. Documentation of the completed items shall be maintained by the Architect and submitted to the Owner. The Architect will review the final documents and manuals provided by the Contractor. The Architect shall request a final payment application from the Contractor. After reviewing the final application and approving, forward to the Owner for final payment.

At final completion, the architect shall provide an updated floor plan for the entire building in a PDF format. The architect may amend existing floor plans to show the additions and renovations that have occurred.

Post Construction Phase

One Year Warranty Review

The Architect shall schedule with the Owner, the one-year warranty review. This will be scheduled between 10 and 12 months from the date of substantial completion. This meeting is designed to identify warranty items that need to be repaired/replaced as required by the Contract Documents. The Architect shall schedule the meeting, take notes and follow up on items identified in the warranty walk through.

EXHIBIT C Owner Insurance

Insurance Requirements

1. CONSULTANT'S INSURANCE – to be used with AIA B101-2017, AIA C103-2015, or similar non-contractor consultants:
   The Consultant shall at its own expense maintain in effect at all times during the performance of the Work under the Agreement at least the following coverage and limits of insurance:

   a. Worker's Compensation and Employer's Liability Insurance

      i. Coverage A is statutory.

      ii. Coverage B
      $500,000 Each Accident
      $500,000 Each Employee
      $500,000 Policy Limit (Disease)

   b. Comprehensive General Liability Insurance *

General Aggregate	$1,000,000
Products/Completed Operations Aggregate	$1,000,000
Per Occurrence	$1,000,000
Medical Payments	$10,000

   * The Owner should be named as an additional insured for Comprehensive General Liability Insurance.

   c. Automobile Insurance

Per Occurrence	$1,000,000
PIP	Basic
Underinsured Motorist	$1,000,000
Uninsured Motorist	$1,000,000

   d. Professional Liability Insurance

      i. Per Claim $2,000,000

ii. For projects with an estimated construction Contract Sum of over $10,000,000 or major structural work an aggregate is required as follows:
Aggregate $4,000,000

e. Umbrella Liability Insurance

i. Per Occurrence $2,000,000

ii. For projects with an estimated construction Contract Sum of over $10,000,000 or major structural work an aggregate is required as follows:
Aggregate $2,000,000

f. Manned or Unmanned Aircraft Coverage (if used)

i. Per Claim $1,000,000

ii. Aggregate $1,000,000

For specialty consultants used for commissioning activities, studies, asbestos surveys and security, items A, B, C and F shall apply.

Special Asbestos Abatement Liability Insurance is required for Asbestos Abatement Contractors. The limits are $1,500,000 per claim, for liability arising from the encapsulation, removal, handling, storage, transportation, and disposal of asbestos-containing materials.

2. CONSULTANT'S OBLIGATIONS

Consultant shall not violate or knowingly permit any violation of any conditions or terms of the policies of insurance required to be carried under the terms hereof and shall endeavor to satisfy the requirements of the insurance companies issuing them. In the event Consultant neglects, refuses or fails to provide or maintain any of the insurance required to be carried under the Agreement, or if such insurance is canceled for any reason, the Owner or the Owner's lender(s) shall have the right, but not the duty, to procure or maintain the same.

In the event the Owner or the Owner's lender(s) do procure or maintain such insurance, the Owner or the Owner's lender(s) shall have, in additional to any and all other available remedies, the right to recover from the Consultant (including the right of set-off against sums otherwise due the Consultant) all of the costs associated with procuring or maintaining such insurance.

3. PROFESSIONAL LIABILITY INSURANCE

   a. Professional Liability Coverage of $2,000,000 shall be maintained for one (1) year from the date of Substantial Completion. If the Consultant discontinues its business and if directed by Owner in writing, Consultant shall purchase such insurance in such amount for an extended discovery period beyond the one (1) year after the date of Substantial Completion, with the premium cost to be a reimbursable expense paid by the Owner. The limit of liability for such policy may not be reduced below $2,000,000 without the Owner giving its prior, written consent. All policies of insurance that Consultant is required under the terms of this Exhibit C Owner's Insurance to secure and maintain shall bear the endorsement "Not to be canceled until sixty (60) calendar days after Owner has received a written notice from insurer as evidence by a return receipt of registered or certified mail."

   b. The Owner shall not be responsible for obtaining or paying premiums or other expenses in connection with insurance required to be carried under the Agreement or normally carried by the Consultant's consultants, and the obligation to obtain such insurance and to pay such premiums and other expenses shall be solely that of the Consultant.

   c. The Consultant shall bear all the costs of any and all deductible amounts under any insurance policies required to be carried under the Agreement and shall remain solely and fully liable for the full amount of any claim or item not compensated by insurance (to the extent that any amount resulted from damages that arose out of the Consultant's sole negligence.)

4. COVERAGE
   The coverage's referred to above are set forth in full in the respective policy forms, and the foregoing descriptions of such policies are not intended to be complete.

5. GENERALLY

   a. The Consultant thereby represents and warrants to the Owner that, as of the date of the execution of the Agreement, the Consultant is not aware of any claims or potential claims which have been made, filed or threatened against any of the insurance or for damages covered by any of the insurance required to be carried under the Agreement that would affect the Consultant's ability to provide the insurance coverage required by this agreement.

b. It is understood that the provisions in the Agreement requiring the Consultant to carry insurance shall not be construed as in any manner waiving or restricting the liability of the Consultant as to any obligations imposed under the Agreement, including, but not limited to, obligations imposed under the provisions of Article 11 of the AIA A201-2017 General Conditions.

Insurance requirements for Contractors

1. CONTRACTOR'S INSURANCE – to be used with AIA A101-2017
   The Contractor shall at its own expense maintain in effect at all times during the performance of the Work under the Agreement at least the following coverage and limits of insurance:

   a. Commercial General Liability

      i. General Aggregate $1,500,000

      ii. Products/Completed Operations Aggregate $1,500,000

      iii. Per Occurrence $1,500,000

      The Owner shall be named as additional insured for Commercial General Liability Insurance

   b. Automobile Insurance

      i. Per Occurrence $1,000,000

      ii. PIP Basic

      iii. Underinsured Motorist $1,000,000

      iv. Uninsured Motorist $1,000,000

   c. Workers Compensation

      i. Coverage A is statutory.

      ii. Coverage B $500,000 Each Accident

      iii. $500,000 Each Employee

d. Professional Liability (if the Contractor is hiring professionals)

   i. Per Claim $2,000,000

   For Projects with an estimated construction cost of over $10,000,000 or major structural work, additional Aggregate coverage of $4,000,000 is required.

e. Manned or Unmanned Aircraft Coverage (if used)

   i. Per Claim $1,000,000

   ii. Aggregate $1,000,000

f. Property Insurance

   i. Per Claim $1,000,000

   ii. Aggregate $1,000,000

   This insurance is only required for materials stored offsite and not incorporated into the project at delivery. For material stored on site, no additional insurance is required.

g. Builders “all risk” Insurance

   i. Per Claim $2,000,000

   ii. Aggregate $4,000,000

   This insurance is only required for additions exceeding $10,000,000. Renovations to existing schools are not required to have builders all risk insurance.

h. Umbrella Liability

   i. Aggregate limit $5,000,000

   This insurance is required only for projects larger than $10,000,000 in total construction costs.

EXHIBIT D - Owner Requirements

Targeted Group Business

The Owner's Targeted Group Business goal is 12%. The Architect will employ the following strategies:

- Expanding the Professional identity of the targeted business with the design and construction industry.
- Creating opportunities for networking and exposure of the targeted business by team with other consultants.
- Encouraging leadership and management within both organizations and the targeted business through the design and construction process.
- Gaining new perspectives and encouraging cultural change within the firm by working with targeted business.

Quality Performance and Owner Provisions

The following are checklists to enhance quality performance tracking and requirements to promote improved delivery for Architect work items most commonly encountered throughout design and construction.

Before design commences

1. The Architect shall begin design with current download of the Owner's published Master Specifications as provided by the Owner at design kickoff.
2. The Architect shall design to the Owner's published design guidelines and requirements as provided by the Owner at design kickoff. Deviation from the design standard shall be clearly noted on all drawings and specifications up to CD.
3. The Architect shall conform to the Owner's Revit and Drafting Standards as provided by the Owner at design kickoff.
4. The Architect shall begin the 3-D model with the Owner's Revit template as provided by the Owner at design kickoff.
5. The Architect shall be familiar with the City of Minneapolis Planning Review Process.

During Design

1. Conform to all activities required in Article 3 of AIA Document B101-2017.
2. The Architect shall conform to the Owner's design milestones and deliverables as defined in EXH-B.

3. The Architect shall incorporate the Owner's review comments provided during design phases into the final design prior to project bid. Comments shall be cataloged by the Architect and resolution to comments clearly explained.
4. The Architect shall be familiar with the Owner's Procurement requirements.
5. The Architect shall own all agendas and meeting minutes throughout the design process.
6. The Architect shall document all major decision points.
7. The Architect shall present to the Owner's community stakeholders as required.

During Construction Administration

1. Conform to all activities required in Article 3 of AIA Document B101-2017.
2. The Architect shall own all agendas and meeting minutes throughout the construction process.

During Substantial Completion

1. Conform to the requirements of Article 3 in AIA Document B101-2017.
2. Confirm with the Owner the completeness of the punchlist before finalizing.
3. Provide the Owner with a detailed estimate to complete or repair all items on the substantial completion punchlist.

During Project Closeout

1. Conform to all activities required in Article 3 of AIA Document B101-2017.
2. Within thirty (30) days of the date of Substantial Completion, the Architect shall provide the Owner, in writing, a list of incomplete items and the cost to complete those items.

Safety Precautions and Programs

While on location of the Project, the Architect hereby agrees to and shall comply with the following Owner safety requirements.

1. Security Identification Badges: The Owner requires all personnel to wear an identification badge when at a facility of the Owner. The identification badge is to remain on personnel and clearly visible at all times. No one is permitted on-site without an identification badge. The identification badge shall contain the following:

    a. A legible photograph of the individual (passport sized photo)

    b. Name of the individual (Minimum 14 point font)

    c. Name of the employer (Company name, minimum 14 point font)

d. The badge shall be plastic-laminated.

e. The badge identification size shall be 3 ½" x 2 ½" minimum.

2. All personnel are required to check in with the main office to sign in, get a badge, and indicate their destination within the building while school is in session. All personnel are required to sign out in the main office upon completion of their site visit.

3. No personnel will be allowed to prop doors open and leave them unattended.

AIA® Document G202™ – 2013

Project Building Information Modeling Protocol Form

PROJECT: *(Name and address)*
Defined in EXH-A Project Charter

PROTOCOL VERSION NUMBER:

DATE: March 13, 2018

PREPARED BY: Minneapolis Public Schools

DISTRIBUTION TO: *(List each individual to whom this protocol is distributed. Include individuals listed in Section 1.1, or reference Section 1.1, along with any additional recipients.)*
Defined in EXH-A Project Charter

TABLE OF ARTICLES

1 GENERAL PROVISIONS

2 LEVEL OF DEVELOPMENT

3 MODEL ELEMENTS

ADDITIONS AND DELETIONS:
The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

This document is intended to be used in conjunction with a Project specific AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, which the Parties will incorporate into their agreement for the Project, and a Project specific AIA Document G201™–2013, Project Digital Data Protocol Form.

ARTICLE 1 GENERAL PROVISIONS

§ 1.1 For each Project Participant that has incorporated the Project specific AIA Document E203™–2013, Building Information Modeling and Digital Data Protocol Exhibit, dated , into its agreement for the Project, identify and provide the contact information for individuals responsible for implementation of the Modeling protocols. If, for any Project Participant, more than one individual will be responsible for implementation of the Modeling protocols, list each individual separately and describe the unique Modeling Role assigned to each individual.

Modeling Role	Project Participant	Individual Responsible	Contact Information

§ 1.2 This document establishes the Modeling protocols for the Project. For purposes of these protocols, the Model is comprised of the following information and other data sets: *(Indicate disciplines, separate models, and other data that will be included within the Model and governed by the Modeling protocols.)*

§ 1.3 Collaboration Protocols. The Project Participants' protocols for the collaborative utilization of the Model, if any, including communications protocols, a collaboration meeting schedule and colocation requirements, are as follows:

§ 1.4 Technical Requirements. The technical requirements relating to the utilization of Building Information Modeling, including specific software and hardware requirements are as follows:

Init.
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§ 1.5 Training and Support. The parameters for any training or support program(s) that will be implemented with respect to any collaboration strategy or technical requirements are set forth below:

§ 1.6 Model Standard. The Model shall be developed in accordance with the following Model Standard, if any:

§ 1.7 Model Management Protocols and Processes

The following Model Management Protocols and Processes shall apply to the Project only if specifically designated in the table below as being applicable.

(Designate the Model Management Protocols and Processes applicable to the Project in the second column of the table below. In the third column, indicate whether the detailed description of the Model Management Protocol or Process is located in Section 1.8 or in an attached exhibit. If in an exhibit, identify the exhibit.)

Model Management Protocols and Processes		Applicability to Project *(Applicable or Not Applicable)*	Location of Detailed Description *(Section 1.8 below or in an attachment to this exhibit identified below)*
§ 1.7.1	Model origin point, coordinate system, precision, file formats and units		
§ 1.7.2	Model file storage location(s)		
§ 1.7.3	Processes for transferring and accessing Model files		
§ 1.7.4	Naming conventions		
§ 1.7.5	Processes for aggregating Model files from varying software platforms		
§ 1.7.6	Model access rights		
§ 1.7.7	Design coordination and clash detection procedures.		
§ 1.7.8	Model security requirements		

§ 1.8 Insert a description of each Model Management Protocol and Process identified in Section 1.7, if not further described in an exhibit attached to this document:

§ 1.9 Terms in this document shall have the same meaning as those in AIA Document E203–2013.

ARTICLE 2 LEVEL OF DEVELOPMENT

§ 2.1 The Level of Development (LOD) descriptions, included in Section 2.2 through Section 2.6 below, identify the specific minimum content requirements and associated Authorized Uses for each Model Element at five progressively detailed levels of completeness. The Parties shall utilize the five LOD descriptions in completing the Model Element Table at Section 3.3.

§ 2.2 LOD 100

§ 2.2.1 Model Element Content Requirements. The Model Element may be graphically represented in the Model with a symbol or other generic representation, but does not satisfy the requirements for LOD 200. Information related to the Model Element (i.e., cost per square foot, tonnage of HVAC, etc.) can be derived from other Model Elements.

§ 2.2.2 Authorized Uses

§ 2.2.2.1 Analysis. The Model Element may be analyzed based on volume, area and orientation by application of generalized performance criteria assigned to other Model Elements.

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§ 2.2.2.2 Cost Estimating. The Model Element may be used to develop a cost estimate based on current area, volume or similar conceptual estimating techniques (e.g., square feet of floor area, condominium unit, hospital bed, etc.).

§ 2.2.2.3 Schedule. The Model Element may be used for Project phasing and determination of overall Project duration.

§ 2.2.2.4 Other Authorized Uses. Additional Authorized Uses of the Model Element developed to LOD 100, if any, are as follows:

§ 2.3 LOD 200

§ 2.3.1 Model Element Content Requirements. The Model Element is graphically represented within the Model as a generic system, object, or assembly with approximate quantities, size, shape, location, and orientation. Non-graphic information may also be attached to the Model Element.

§ 2.3.2 Authorized Uses

§ 2.3.2.1 Analysis. The Model Element may be analyzed for performance of selected systems by application of generalized performance criteria assigned to the representative Model Elements.

§ 2.3.2.2 Cost Estimating. The Model Element may be used to develop cost estimates based on the approximate data provided and quantitative estimating techniques (e.g., volume and quantity of elements or type of system selected).

§ 2.3.2.3 Schedule. The Model Element may be used to show ordered, time-scaled appearance of major elements and systems.

§ 2.3.2.4 Coordination. The Model Element may be used for general coordination with other Model Elements in terms of its size, location and clearance to other Model Elements.

§ 2.3.2.5 Other Authorized Uses. Additional Authorized Uses of the Model Element developed to LOD 200, if any, are as follows:

§ 2.4 LOD 300

§ 2.4.1 Model Element Content Requirements. The Model Element is graphically represented within the Model as a specific system, object or assembly in terms of quantity, size, shape, location, and orientation. Non-graphic information may also be attached to the Model Element.

§ 2.4.2 Authorized Uses

§ 2.4.2.1 Analysis. The Model Element may be analyzed for performance of selected systems by application of specific performance criteria assigned to the representative Model Element.

§ 2.4.2.2 Cost Estimating. The Model Element may be used to develop cost estimates suitable for procurement based on the specific data provided.

§ 2.4.2.3 Schedule. The Model Element may be used to show ordered, time-scaled appearance of detailed elements and systems.

§ 2.4.2.4 Coordination. The Model Element may be used for specific coordination with other Model Elements in terms of its size, location and clearance to other Model Elements including general operation issues.

§ 2.4.2.5 Other Authorized Uses. Additional Authorized Uses of the Model Element developed to LOD 300, if any, are as follows:

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§ 2.5 LOD 400

§ 2.5.1 Model Element Content Requirements. The Model Element is graphically represented within the Model as a specific system, object or assembly in terms of size, shape, location, quantity, and orientation with detailing, fabrication, assembly, and installation information. Non-graphic information may also be attached to the Model Element.

§ 2.5.2 Authorized Uses

§ 2.5.2.1 Analysis. The Model Element may be analyzed for performance of systems by application of actual performance criteria assigned to the Model Element.

§ 2.5.2.2 Cost Estimating. Costs are based on the actual cost of the Model Element at buyout.

§ 2.5.2.3 Schedule. The Model may be used to show ordered, time-scaled appearance of detailed specific elements and systems including construction means and methods.

§ 2.5.2.4 Coordination. The Model Element may be used for coordination with other Model Elements in terms of its size, location and clearance to other Model Elements, including fabrication, installation and detailed operation issues.

§ 2.5.2.5 Other Authorized Uses. Additional Authorized Uses of the Model Element developed to LOD 400, if any, are as follows:

§ 2.6 LOD 500

§ 2.6.1 Model Element Content Requirements. The Model Element is a field verified representation in terms of size, shape, location, quantity, and orientation. Non-graphic information may also be attached to the Model Elements.

§ 2.6.2 Authorized Uses. Specific Authorized Uses of the Model Element developed to LOD 500, if any, are as follows:

ARTICLE 3 MODEL ELEMENTS

§ 3.1 Reliance on Model Elements

§ 3.1.1 At any particular Project milestone, a Project Participant may rely on the accuracy and completeness of a Model Element only to the extent consistent with the minimum data required for the Model Element's LOD for that Project milestone as identified below in the Model Element Table, even if the content of a specific Model Element includes data that exceeds the minimum data required for the identified LOD.

§ 3.1.2 Coordination and Model Refinement

Where conflicts are found in the Model, regardless of the phase of the Project or LOD, the Project Participant that identifies the conflict shall promptly notify the Model Element Authors and the Project Participant identified in AIA Document E203–2013 Section 4.8 as being responsible for Model management. Upon such notification, the Model Element Author(s) shall act promptly to evaluate, mitigate and resolve the conflict in accordance with the processes established in Section 1.7.7, if applicable.

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§ 3.2 Table Instructions

§ 3.2.1 The Model Element Table in Section 3.3 indicates the LOD to which each Model Element shall be developed at each identified Project milestone and the Model Element Author.

§ 3.2.2 Abbreviations for each Model Element Author to be used in the Model Element Table are as follows:
(Provide abbreviations, such as "A—Architect," or "C—Contractor.")

Abbreviation	Model Element Author (MEA)

§ 3.3 Model Element Table

		Required LOD at Project milestones as defined in EXH-B Project Milestones & Deliverables					
Model Element Category	**Scope Status**	**15%**	**25%**	**50%**	**75%**	**90%**	**100%**
Exterior Walls	Within Scope	200	300	300	300	300	300
	Outside of Scope	100	300	300	300	300	300
Interior Walls	Within Scope	200	300	300	300	300	300
	Outside of Scope	100	200	200	200	200	200
Roofs	Within Scope	200	300	300	300	300	300
	Outside of Scope	100	300	300	300	300	300
Floors	Within Scope	200	300	300	300	300	300
	Outside of Scope	100	200	200	200	200	200
Exterior doors and windows	Within Scope	200	300	300	300	300	300
	Outside of Scope	100	300	300	300	300	300
Interior doors and windows	Within Scope	200	200	300	300	300	300
	Outside of Scope	100	200	200	200	200	200
Major structural elements	Within Scope	Not required	200	200	300	300	300
	Outside of Scope	Not required	Not required	Not required	Not required	Not required	Not required
Plumbing Fixtures	Within Scope	100	300	300	300	300	300
	Outside of Scope	Not required	Not required	Not required	Not required	Not required	Not required

§ 3.4 Model Element Table Notes

Notes:
(List by number shown on table.)

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Additions and Deletions Report for

AIA® Document G202™ – 2013

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PAGE 1

Defined in EXH-A Project Charter

...

DATE: March 13, 2018
PREPARED BY: Minneapolis Public Schools

...

Defined in EXH-A Project Charter

PAGE 5

§ 3.3 Model Element Table

		Required LOD at Project milestones as defined in EXH-B Project Milestones & Deliverables					
Model Element Category	**Scope Status**	**15%**	**25%**	**50%**	**75%**	**90%**	**100%**
Exterior Walls	Within Scope	200	300	300	300	300	300
	Outside of Scope	100	300	300	300	300	300
Interior Walls	Within Scope	200	300	300	300	300	300
	Outside of Scope	100	200	200	200	200	200
Roofs	Within Scope	200	300	300	300	300	300
	Outside of Scope	100	300	300	300	300	300
Floors	Within Scope	200	300	300	300	300	300
	Outside of Scope	100	200	200	200	200	200
Exterior doors and windows	Within Scope	200	300	300	300	300	300
	Outside of Scope	100	300	300	300	300	300
Interior doors and windows	Within Scope	200	200	300	300	300	300

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	Outside of Scope	100	200	200	200	200	200
Major structural elements	Within Scope	Not required	200	200	300	300	300
	Outside of Scope	Not required	Not required	Not required	Not required	Not required	Not required
Plumbing Fixtures	Within Scope	100	300	300	300	300	300
	Outside of Scope	Not required	Not required	Not required	Not required	Not required	Not required

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Certification of Document's Authenticity

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I, , hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with its associated Additions and Deletions Report and this certification at 12:25:37 on 03/23/2018 under Order No. 8259021829 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document G202™ – 2013, Project Building Information Modeling Protocol Form , as published by the AIA in its software, other than those additions and deletions shown in the associated Additions and Deletions Report.

_____

(Signed)

_____

(Title)

_____

(Dated)

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FY25 Anthony Entrance Phase III

Contract Sum: $353,442.00

Contractor: Morcon Construction Co., Inc.

Project Name and Number

Anthony Middle School
5757 Irving Ave. S
Minneapolis, MN 55419
Minneapolis Public Schools Project Number
OP 25-2510
RFP 20-41

Description

Parking lot modifications, landscaping, and trash enclosure per the project documents prepared by TKDA.

Contract Sum details

Item	Price	Status
Base Bid	$345,492.00	accepted
Alt #1: Two Landscape planting maintenance	$100.00	accepted
Alt #2: Concrete drive replacement	$7,850.00	accepted

Contract Documents

AIA Document A101-2017
AIA Document A101 Exhibit A-2017
Exhibit B – Project Charter
Exhibit C – Owner Insurance
Exhibit D – Project Schedule
AIA Document A201-2017
AIA Document E402-2022 (optional BIM models)

AIA® Document A101® – 2017

Standard Form of Agreement Between Owner and Contractor *where the basis of payment is a Stipulated Sum*

AGREEMENT made as of the Third day of February in the year Two Thousand Twenty-Five
(In words, indicate day, month and year.)

BETWEEN the Owner:
(Name, legal status, address and other information)

Minneapolis Public Schools Special School District #1
1250 West Broadway Avenue
Minneapolis, MN 55411

and the Contractor:
(Name, legal status, address and other information)

Morcon Construction Co., Inc.
5151 Industrial Blvd. NE
Fridley, MN 55421

for the following Project:
(Name, location and detailed description)

Anthony Entrance Phase III
5757 Irving Avenue South
Minneapolis, MN 55419

The Architect:
(Name, legal status, address and other information)

TKDA
Suite 1500
444 Cedar Street
Saint Paul, MN 55101

The Owner and Contractor agree as follows.

ADDITIONS AND DELETIONS:
The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

The parties should complete A101®–2017, Exhibit A, Insurance and Bonds, contemporaneously with this Agreement. AIA Document A201®–2017, General Conditions of the Contract for Construction, is adopted in this document by reference. Do not use with other general conditions unless this document is modified.

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TABLE OF ARTICLES

1 THE CONTRACT DOCUMENTS

2 THE WORK OF THIS CONTRACT

3 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

4 CONTRACT SUM

5 PAYMENTS

6 DISPUTE RESOLUTION

7 TERMINATION OR SUSPENSION

8 MISCELLANEOUS PROVISIONS

9 ENUMERATION OF CONTRACT DOCUMENTS

EXHIBIT A INSURANCE AND BONDS

ARTICLE 1 THE CONTRACT DOCUMENTS

The Contract Documents consist of this Agreement, Conditions of the Contract (General, Supplementary, and other Conditions), Drawings, Specifications, Addenda issued prior to execution of this Agreement, other documents listed in this Agreement, and Modifications issued after execution of this Agreement, all of which form the Contract, and are as fully a part of the Contract as if attached to this Agreement or repeated herein. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations, or agreements, either written or oral. An enumeration of the Contract Documents, other than a Modification, appears in Article 9.

ARTICLE 2 THE WORK OF THIS CONTRACT

The Contractor shall fully execute the Work described in the Contract Documents, except as specifically indicated in the Contract Documents to be the responsibility of others.

ARTICLE 3 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

§ 3.1 The date of commencement of the Work shall be:
(Check one of the following boxes.)

[ ] The date of this Agreement.

[X] A date set forth in a notice to proceed issued by the Owner.

[ ] Established as follows:
(Insert a date or a means to determine the date of commencement of the Work.)

If a date of commencement of the Work is not selected, then the date of commencement shall be the date of this Agreement.

§ 3.2 The Contract Time shall be measured from the date of commencement of the Work.

§ 3.3 Substantial Completion

§ 3.3.1 The Contractor shall achieve Substantial Completion of the entire Work:
(Check one of the following boxes and complete the necessary information.)

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[ ] Not later than ( ) calendar days from the date of commencement of the Work.

[X] By the following date: Defined in EXH-D Project Schedule

§ 3.3.2 Subject to adjustments of the Contract Time as provided in the Contract Documents, if portions of the Work are to be completed prior to Substantial Completion of the entire Work, the Contractor shall achieve Substantial Completion of such portions by the following dates are defined in EXH-D Project Schedule. Such portions of the work not completed as defined in EXH-D Project Schedule shall be subject to liquidated damages as set forth in Article 4.5.

(Table Deleted)

§ 3.3.3 If the Contractor fails to achieve Substantial Completion as provided in this Section 3.3, liquidated damages, if any, shall be assessed as set forth in Section 4.5.

ARTICLE 4 CONTRACT SUM

§ 4.1 The Owner shall pay the Contractor the Contract Sum in current funds for the Contractor's performance of the Contract as defined in EXH-B Project Charter, subject to additions and deductions as provided in the Contract Documents.

§ 4.2 Alternates

§ 4.2.1 Alternates, if any, included in the Contract Sum are defined in EXH-B Project Charter.

(Table Deleted)

§ 4.2.2 Subject to the conditions noted in EXH-B Project Charter, alternates may be accepted by the Owner following execution of this Agreement. Upon acceptance, the Owner shall issue a Modification to this Agreement.

(Paragraph Deleted)

(Table Deleted)

§ 4.3 Allowances, if any, included in the Contract
Sum are defined in EXH-B Project Charter.

(Table Deleted)

§ 4.4 Unit prices, if any are defined in EXH-B Project Charter.

(Paragraph Deleted)

(Table Deleted)

§ 4.5 Liquidated damages
Contractor and Owner recognized that time is of the essence for the Project and the Owner will suffer financial loss if the Work is not completed in the time specified in the Contract Documents. The parties also recognized the delays,

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expenses, and difficulties involved in proving in a legal or arbitration proceeding the actual loss suffered by the Owner if the Work is not completed on time. Accordingly, instead of requiring such proof, the Owner and Contractor agree that as liquidated
damages for delay (but not as penalty), Contractor shall pay Owner $1,000.00 per calendar day for each day that expires after the time specified for Substantial Completion in EXH-D Project Schedule until such time the Work is determined to be substantially complete by the
Owner.

(Paragraph Deleted)

After Substantial Completion, if Contractor shall neglect, refuse, or fail to complete the remaining work within the Contract time specified in the Contract Documents, the contractor shall pay the Owner $1,000.00 per day that expires after the time specified in the Contract Documents for Final Completion and readiness for Final Payment until the Work is completed.

ARTICLE 5 PAYMENTS

§ 5.1 Progress Payments

§ 5.1.1 Based upon Applications for Payment submitted to the Architect by the Contractor and Certificates for Payment issued by the Architect, the Owner shall make progress payments on account of the Contract Sum to the Contractor as provided below and elsewhere in the Contract Documents.

§ 5.1.2 The period covered by each Application for Payment shall be one calendar month ending on the last day of the month.

§ 5.1.3 When an Application for Payment is received by the Architect, payment of the amount certified shall be made by the Owner not later than 45 (forty-five) days after the Architect receives the Application for Payment.

(Paragraph Deleted)

§ 5.1.4 Each Application for Payment shall be based on the most recent schedule of values submitted by the Contractor on AIA G702 Application and Certificate for Payment in accordance with the Contract Documents. The schedule of values shall allocate the entire Contract Sum among the various portions of the Work. The schedule of values shall be prepared in such form, and supported by such data to substantiate its accuracy, as the Architect may require. This schedule of values shall be used as a basis for reviewing the Contractor's Applications for Payment.

§ 5.1.5 Applications for Payment shall show the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment.

§ 5.1.6 In accordance with AIA Document A201™–2017, General Conditions of the Contract for Construction, and subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

§ 5.1.6.1 The amount of each progress payment shall first include:

- **.1** That portion of the Contract Sum properly allocable to completed Work;
- **.2** That portion of the Contract Sum properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction, or, if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing; and
- **.3** That portion of Construction Change Directives that the Architect determines, in the Architect's professional judgment, to be reasonably justified.

§ 5.1.6.2 The amount of each progress payment shall then be reduced by:

- **.1** The aggregate of any amounts previously paid by the Owner;
- **.2** The amount, if any, for Work that remains uncorrected and for which the Architect has previously withheld a Certificate for Payment as provided in Article 9 of AIA Document A201–2017;

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.3 Any amount for which the Contractor does not intend to pay a Subcontractor or material supplier, unless the Work has been performed by others the Contractor intends to pay;

.4 For Work performed or defects discovered since the last payment application, any amount for which the Architect may withhold payment, or nullify a Certificate of Payment in whole or in part, as provided in Article 9 of AIA Document A201–2017; and

.5 Retainage withheld pursuant to Section 5.1.7.

§ 5.1.7 Retainage

§ 5.1.7.1 For each progress payment made prior to Substantial Completion of the Work, the Owner may withhold the following amount, as retainage, from the payment otherwise due:

(Paragraph Deleted)

5% (five percent)

§ 5.1.7.1.1 The following items are not subject to retainage:
(Insert any items not subject to the withholding of retainage, such as general conditions, insurance, etc.)

For major items installed into the Work, the Contractor may request full payment for the items to ensure prompt delivery and fabrication. Such items shall be recommended by the Architect and approved by the Owner as not requiring retainage. Prompt payment for the items shall be documented by the Contractor to the Owner in the subsequent payment application by submitting a full lien release for the items. Major items may include mechanical units with long lead times, structural systems with long lead times, critical path systems or items, etc. Major items will be discussed and defined by Owner, Architect, and Contractor.

§ 5.1.7.2 Reduction or limitation of retainage, if any, shall be as follows:
Prior to Substantial Completion and at the discretion of the Owner, retainage may be reduced. If the Work has been 50% completed as
determined by the Architect and is satisfactory to the Owner, then 90% of the retained amount may be released to the Contractor for completed work (with 10% of the total retained by the Owner.) Upon Substantial Completion, additional retainage may be returned to the Contractor as recommended by the Architect and approved by the Owner to an amount sufficient to satisfactorily complete the Work. Retainage release will comply with Minnesota Statute 15.72 after Substantial Completion and punch list acceptance by the Owner.

(Paragraph Deleted)

§ 5.1.8 If final completion of the Work is materially delayed through no fault of the Contractor, the Owner shall pay the Contractor any additional amounts in accordance with Article 9 of AIA Document A201–2017.

§ 5.1.9 Except with the Owner's prior approval, the Contractor shall not make advance payments to suppliers for materials or equipment which have not been delivered and stored at the site or otherwise stored offsite with adequate Owner approved insurance provided to the Owner.

§ 5.2 Final Payment

§ 5.2.1 Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Contractor when

.1 the Contractor has fully performed the Contract except for the Contractor's responsibility to correct Work as provided in Article 12 of AIA Document A201–2017, and to satisfy other requirements, if any, which extend beyond final payment; and

.2 a final Certificate for Payment has been issued by the Architect.

.3 all lien waivers and IC134 forms have been delivered to the Owner.

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§ 5.2.2 The Owner's final payment to the Contractor shall be made no later than 45 days after the issuance of the Architect's final Certificate for Payment.

§ 5.3 Interest

Payments due and unpaid under the Contract shall bear interest from the date payment is due at the rate stated below, or in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located. Owner will pay the Contractor 0% interest for Payments not due made within forty five (45) days.

(Paragraph Deleted)

§ 5.4 Prompt Payment to Subcontractors

This Contract requires the Contractor and all Subcontractors and Sub-subcontractors (of any tier) to promptly pay any subcontractor or material supplier contract within ten (10) days of receipt of payment by Owner for undisputed services provided by the party requesting payment. The party responsible for payment (other than the Owner) shall pay interest of one and one half (1-1/2) percent per month to the party requesting payment on any undisputed amount not paid on time. The minimum monthly interest penalty payment for an unpaid balance of $100 or more is $10. For an unpaid balance of less than $100, the party responsible for payment shall pay the actual penalty due to the party requesting payment.

ARTICLE 6 DISPUTE RESOLUTION

§ 6.1 Initial Decision Maker

The Architect will serve as the Initial Decision Maker pursuant to Article 15 of AIA Document A201–2017.

§ 6.1.1 Mediation

Either the Owner or the Contractor may request mediation of any Claim submitted to the Architect for decision before such decision becomes final and binding. The mediation will be governed by the Construction Industry Mediation Rules of the American Arbitration Association in effect at the date of this contract. The request for mediation shall be made in writing to the American Arbitration Association and to the other party of this contract.

Owner and Contractor shall participate in the mediation process in good faith. The process shall be concluded within sixty (60) days of the date of filing the request.

If the Claim is not resolved by mediation, the Architect's action shall become final and binding thirty (30) days after termination of the mediation proceedings. Within the time period, the Owner and Contractor mayrequest Binding Dispute Resolution.

The Work must continue, at the Owner's discretion, in accordance with paragraph 15.1.4.1 of AIA Document A201-2017.

§ 6.2 Binding Dispute Resolution

For any Claim subject to, but not resolved by, mediation pursuant to Article 15 of AIA Document A201–2017, the method of binding dispute resolution shall be as follows:
(Check the appropriate box.)

[ ] Arbitration pursuant to Section 15.4 of AIA Document A201–2017

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[X] Litigation in a court of competent jurisdiction

[ ] Other *(Specify)*

If the Owner and Contractor do not select a method of binding dispute resolution, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, Claims will be resolved by litigation in a court of competent jurisdiction.

ARTICLE 7 TERMINATION OR SUSPENSION

§ 7.1 The Contract may be terminated by the Owner or the Contractor as provided in Article 14 of AIA Document A201–2017.

§ 7.1.1 If the Contract is terminated for the Owner's convenience in accordance with Article 14 of AIA Document A201–2017, then the Owner shall pay the Contractor a termination fee as follows:
(Insert the amount of, or method for determining, the fee, if any, payable to the Contractor following a termination for the Owner's convenience.)

Termination fee will be based on the percentage of work completed and any materials purchased or in production at the time of termination. Said fee and justification shall be provided to the Owner by the Contractor within ten (10) days of the notice of termination.

§ 7.2 The Work may be suspended by the Owner as provided in Article 14 of AIA Document A201–2017.

ARTICLE 8 MISCELLANEOUS PROVISIONS

§ 8.1 Where reference is made in this Agreement to a provision of AIA Document A201–2017 or another Contract Document, the reference refers to that provision as amended or supplemented by other provisions of the Contract Documents.

§ 8.2 The Owner's representative:
(Name, address, email address, and other information)

Don Bielinski
1250 West Broadway Avenue
Minneapolis, MN 55411

§ 8.3 The Contractor's representative:
(Name, address, email address, and other information)

Tony Peterson
President
Morcon Construction Co., Inc.
5151 Industrial Blvd.
Fridley, MN 55421

§ 8.4 Neither the Owner's nor the Contractor's representative shall be changed without ten days' prior notice to the other party.

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§ 8.5 Insurance and Bonds

§ 8.5.1 The Owner and the Contractor shall purchase and maintain insurance as set forth in AIA Document A101™–2017, Standard Form of Agreement Between Owner and Contractor where the basis of payment is a Stipulated Sum, Exhibit A, Insurance and Bonds, and elsewhere in the Contract Documents.

§ 8.5.2 The Contractor shall provide bonds as set forth in AIA Document A101™–2017 Exhibit A, and elsewhere in the Contract Documents.

§ 8.6 Notice in electronic format, pursuant to Article 1 of AIA Document A201–2017, may be given in accordance with AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, if completed, or as otherwise set forth below:

(If other than in accordance with AIA Document E203–2013, insert requirements for delivering notice in electronic format such as name, title, and email address of the recipient and whether and how the system will be required to generate a read receipt for the transmission.)

§ 8.7 Other provisions:

Owner prohibits Contractor from using the Work in any marketing material or business developement practice. Contractor is prohibited from communication with any news outlet or public without Owner's written approval.

Floor plans, designs, wiring, safety and security measures shall be kept confidential by the Contractor, the Subcontractors, the Sub-subcontractors (of any tier) during and after completion of the Work.

ARTICLE 9 ENUMERATION OF CONTRACT DOCUMENTS

§ 9.1 This Agreement is comprised of the following documents:

.1 AIA Document A101™–2017, Standard Form of Agreement Between Owner and Contractor

.2 AIA Document A101™–2017, Exhibit A, Insurance and Bonds

.3 AIA Document A201™–2017, General Conditions of the Contract for Construction

.4 AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, dated as indicated below:

(Insert the date of the E203-2013 incorporated into this Agreement.)

January 31, 2020

.5 Drawings

Number	Title	Date

.6 Specifications

Section	Title	Date	Pages

.7 Addenda, if any:

Number	Date	Pages

Portions of Addenda relating to bidding or proposal requirements are not part of the Contract Documents unless the bidding or proposal requirements are also enumerated in this Article 9.

.8 Other Exhibits:

(Paragraphs Deleted)

EXH-B Project Charter

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(Paragraph Deleted)

EXH-C Owner Insurance
EXH-D Project Schedule

(Paragraph Deleted)

(Table Deleted)

[ ] Supplementary and other Conditions of the Contract:

Document	Title	Date	Pages

.9 Other documents, if any, listed below:
(List here any additional documents that are intended to form part of the Contract Documents. AIA Document A201™–2017 provides that the advertisement or invitation to bid, Instructions to Bidders, sample forms, the Contractor's bid or proposal, portions of Addenda relating to bidding or proposal requirements, and other information furnished by the Owner in anticipation of receiving bids or proposals, are not part of the Contract Documents unless enumerated in this Agreement. Any such documents should be listed here only if intended to be part of the Contract Documents.)

This Agreement entered into as of the day and year first written above.

OWNER *(Signature)*	**CONTRACTOR** *(Signature)*
	Tony Peterson, President
(Printed name and title)	*(Printed name and title)*

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Additions and Deletions Report for
AIA® Document A101® – 2017

This Additions and Deletions Report, as defined on page 1 of the associated document, reproduces below all text the author has added to the standard form AIA document in order to complete it, as well as any text the author may have added to or deleted from the original AIA text. Added text is shown underlined. Deleted text is indicated with a horizontal line through the original AIA text.

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PAGE 1

AGREEMENT made as of the Third day of February in the year Two Thousand Twenty-Five

...

Minneapolis Public Schools Special School District #1
1250 West Broadway Avenue
Minneapolis, MN 55411

...

Morcon Construction Co., Inc.
5151 Industrial Blvd. NE
Fridley, MN 55421

...

Anthony Entrance Phase III
5757 Irving Avenue South
Minneapolis, MN 55419

...

TKDA
Suite 1500
444 Cedar Street
Saint Paul, MN 55101

PAGE 2

[X] A date set forth in a notice to proceed issued by the Owner.

...

§ 3.3.1 ~~Subject to adjustments of the Contract Time as provided in the Contract Documents, the~~ The Contractor shall achieve Substantial Completion of the entire Work:

PAGE 3

[X] By the following date: Defined in EXH-D Project Schedule

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...

§ 3.3.2 Subject to adjustments of the Contract Time as provided in the Contract Documents, if portions of the Work are to be completed prior to Substantial Completion of the entire Work, the Contractor shall achieve Substantial Completion of such portions by the following ~~dates:~~dates are defined in EXH-D Project Schedule. Such portions of the work not completed as defined in EXH-D Project Schedule shall be subject to liquidated damages as set forth in Article 4.5.

...

~~**Portion of Work** **Substantial Completion Date**~~

...

§ 4.1 The Owner shall pay the Contractor the Contract Sum in current funds for the Contractor's performance of the ~~Contract. The Contract Sum shall be ($),~~ Contract as defined in EXH-B Project Charter, subject to additions and deductions as provided in the Contract Documents.

...

§ 4.2.1 Alternates, if any, included in the Contract ~~Sum:~~Sum are defined in EXH-B Project Charter.

...

~~**Item** **Price**~~

...

§ 4.2.2 Subject to the conditions noted ~~below, the following~~ in EXH-B Project Charter, alternates may be accepted by the Owner following execution of this Agreement. Upon acceptance, the Owner shall issue a Modification to this Agreement.

...

~~*(Insert below each alternate and the conditions that must be met for the Owner to accept the alternate.)*~~

...

~~**Item** **Price** **Conditions for Acceptance**~~

...

§ 4.3 Allowances, if any, included in the Contract ~~Sum:~~

...

~~*(Identify each allowance.)*~~*Sum are defined in EXH-B Project Charter.*

...

~~**Item** **Price**~~

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...

§ 4.4 Unit prices, if ~~any:~~any are defined in EXH-B Project Charter.

...

~~*(Identify the item and state the unit price and quantity limitations, if any, to which the unit price will be applicable.)*~~

...

~~Item~~	~~Units and Limitations~~	~~Price per Unit ($0.00)~~

...

§ 4.5 Liquidated ~~damages, if any:~~damages

PAGE 4

~~*(Insert terms and conditions for liquidateddamages, if any.)*~~*Contractor and Owner recognized that time is of the essence for the Project and the Owner will suffer financial loss if the Work is not completed in the time specified in the Contract Documents. The parties also recognized the delays, expenses, and difficulties involved in proving in a legal or arbitration proceeding the actual loss suffered by the Owner if the Work is not completed on time. Accordingly, instead of requiring such proof, the Owner and Contractor agree that as liquidated*

...

damages for delay (but not as penalty), Contractor shall pay Owner $1,000.00 per calendar day for each day that expires after the time specified for Substantial Completion in EXH-D Project Schedule until such time the Work is determined to be substantially complete by the

...

Owner.

...

~~**§ 4.6** Other:~~

...

~~*(Insert provisions for bonus or other incentives, if any, that might result in a change to the Contract Sum.)*~~*After Substantial Completion, if Contractor shall neglect, refuse, or fail to complete the remaining work within the Contract time specified in the Contract Documents, the contractor shall pay the Owner $1,000.00 per day that expires after the time specified in the Contract Documents for Final Completion and readiness for Final Payment until the Work is completed.*

...

§ 5.1.2 The period covered by each Application for Payment shall be one calendar month ending on the last day of the ~~month, or as follows:~~month.

...

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§ 5.1.3 ~~Provided that~~ When an Application for Payment is received by the Architect~~not later than the - day of a month, the Owner shall make payment of the amount certified to the Contractor not later than the - day of the - month. If an Application for Payment is received by the Architect after the application date fixed above,~~ , payment of the amount certified shall be made by the Owner not later than 45 (forty-five) days after the Architect receives the Application for Payment.

...

~~*(Federal, state or local laws may require payment within a certain period of time.)*~~

...

§ 5.1.4 Each Application for Payment shall be based on the most recent schedule of values submitted by the Contractor on AIA G702 Application and Certificate for Payment in accordance with the Contract Documents. The schedule of values shall allocate the entire Contract Sum among the various portions of the Work. The schedule of values shall be prepared in such form, and supported by such data to substantiate its accuracy, as the Architect may require. This schedule of values shall be used as a basis for reviewing the Contractor's Applications for Payment.

PAGE 5

~~*(Insert a percentage or amount to be withheld as retainage from each Application for Payment. The amount of retainage may be limited by governing law.)*~~

...

5% (five percent)

...

For major items installed into the Work, the Contractor may request full payment for the items to ensure prompt delivery and fabrication. Such items shall be recommended by the Architect and approved by the Owner as not requiring retainage. Prompt payment for the items shall be documented by the Contractor to the Owner in the subsequent payment application by submitting a full lien release for the items. Major items may include mechanical units with long lead times, structural systems with long lead times, critical path systems or items, etc. Major items will be discussed and defined by Owner, Architect, and Contractor.

...

~~*(If the retainage established in Section 5.1.7.1 is to be modified prior to Substantial Completion of the entire Work, including modifications for Substantial Completion of portions of the Work asprovided in Section 3.3.2, insert provisions for such modifications.)*~~*Prior to Substantial Completion and at the discretion of the Owner, retainage may be reduced. If the Work has been 50% completed as*

...

~~**§ 5.1.7.3** Except as set forth in this Section 5.1.7.3, upon Substantial Completion of the Work, the Contractor may submit an Application for Payment that includes the retainage withheld from prior Applications for Payment pursuant to this Section 5.1.7. The Application for Payment submitted at Substantial Completion shall not include retainage as follows:~~determined by the Architect and is satisfactory to the Owner, then 90% of the retained amount may be released to the Contractor for completed work (with 10% of the total retained by the Owner.) Upon Substantial Completion, additional retainage may be returned to the Contractor as recommended by the Architect

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and approved by the Owner to an amount sufficient to satisfactorily complete the Work. Retainage release will comply with Minnesota Statute 15.72 after Substantial Completion and punch list acceptance by the Owner.

...

~~*(Insert any other conditions for release of retainage upon Substantial Completion.)*~~

...

§ 5.1.9 Except with the Owner's prior approval, the Contractor shall not make advance payments to suppliers for materials or equipment which have not been delivered and stored at the ~~site.~~site or otherwise stored offsite with adequate Owner approved insurance provided to the Owner.

...

.3 all lien waivers and IC134 forms have been delivered to the Owner.

PAGE 6

§ 5.2.2 The Owner's final payment to the Contractor shall be made no later than ~~30~~ 45 days after the issuance of the Architect's final Certificate for ~~Payment, or as follows:~~Payment.

...

Payments due and unpaid under the Contract shall bear interest from the date payment is due at the rate stated below, or in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located. Owner will pay the Contractor 0% interest for Payments not due made within forty five (45) days.

...

~~*(Insert rate*~~

...

§ 5.4 Prompt Payment to Subcontractors

...

This Contract requires the Contractor and all Subcontractors and Sub-subcontractors (of any tier) to promptly pay any subcontractor or material supplier contract within ten (10) days of receipt of ~~interest agreed upon, if any.)~~payment by Owner for undisputed services provided by the party requesting payment. The party responsible for payment (other than the Owner) shall pay interest of one and one half (1-1/2) percent per month to the party requesting payment on any undisputed amount not paid on time. The minimum monthly interest penalty payment for an unpaid balance of $100 or more is $10. For an unpaid balance of less than $100, the party responsible for payment shall pay the actual penalty due to the party requesting payment.

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...

The Architect will serve as the Initial Decision Maker pursuant to Article 15 of AIA Document ~~A201–2017, unless~~ A201–2017.

...

§ 6.1.1 Mediation

...

~~the parties appoint below another individual, not a party to this Agreement, to serve as the Initial Decision Maker.~~Either the Owner or the Contractor may request mediation of any Claim submitted to the Architect for decision before such decision becomes final and binding. The mediation will be governed by the Construction Industry Mediation Rules of the American Arbitration Association in effect at the date of this contract. The request for mediation shall be made in writing to the American Arbitration Association and to the other party of this contract.

...

Owner and Contractor shall participate in the mediation process in good faith. The process shall be concluded within sixty (60) days of the date of filing the request.

...

~~*(If the parties mutually agree, insert the name, address and other contact information of the Initial Decision Maker, if other than the Architect.)*~~*If the Claim is not resolved by mediation, the Architect's action shall become final and binding thirty (30) days after termination of the mediation proceedings. Within the time period, the Owner and Contractor mayrequest Binding Dispute Resolution.*

...

The Work must continue, at the Owner's discretion, in accordance with paragraph 15.1.4.1 of AIA Document A201-2017.

PAGE 7

[**X**] Litigation in a court of competent jurisdiction

...

Termination fee will be based on the percentage of work completed and any materials purchased or in production at the time of termination. Said fee and justification shall be provided to the Owner by the Contractor within ten (10) days of the notice of termination.

...

Don Bielinski
1250 West Broadway Avenue

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Minneapolis, MN 55411

...

Tony Peterson
President
Morcon Construction Co., Inc.
5151 Industrial Blvd.
Fridley, MN 55421

PAGE 8

§ 8.6 Notice in electronic format, pursuant to Article 1 of AIA Document A201–2017, may be given in accordance with ~~a building information modeling exhibit,~~ AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, if completed, or as otherwise set forth below:

...

(If other than in accordance with ~~a building information modeling exhibit,~~ AIA Document E203–2013, insert requirements for delivering notice in electronic format such as name, title, and email address of the recipient and whether and how the system will be required to generate a read receipt for the transmission.)

...

Owner prohibits Contractor from using the Work in any marketing material or business developement practice. Contractor is prohibited from communication with any news outlet or public without Owner's written approval.

Floor plans, designs, wiring, safety and security measures shall be kept confidential by the Contractor, the Subcontractors, the Sub-subcontractors (of any tier) during and after completion of the Work.

...

.4 ~~Building information modeling exhibit,~~ AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, dated as indicated below:

...

(Insert the date of the ~~building information modeling exhibit~~ E203-2013 incorporated into this Agreement.)

...

January 31, 2020

...

~~*(Check all boxes that apply and include appropriate information identifying the exhibit where required.)*~~

...

~~[ ] AIA Document E204™–2017, Sustainable Projects Exhibit, dated as indicated below:~~

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...

EXH-B Project Charter

PAGE 9

~~(Insert the date of the E204-2017 incorporated into this Agreement.)~~

...

EXH-C Owner Insurance

...

EXH-D Project Schedule

...

~~[ ] The Sustainability Plan:~~

...

~~Title~~	~~Date~~	~~Pages~~

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User Notes: (3B9ADA39)

Certification of Document's Authenticity

AIA® Document D401™ – 2003

I, , hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with its associated Additions and Deletions Report and this certification at 12:51:49 CT on 02/03/2025 under Order No. 4104251278 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document A101™ - 2017, Standard Form of Agreement Between Owner and Contractor where the basis of payment is a Stipulated Sum, other than those additions and deletions shown in the associated Additions and Deletions Report.



(Signed)

Curtis Hartog, Executive Director

(Title)

2/3/2025

(Dated)

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User Notes: (3B9ADA39)

AIA® Document A101® – 2017 Exhibit A

Insurance and Bonds

This Insurance and Bonds Exhibit is part of the Agreement, between the Owner and the Contractor, dated the Third day of February in the year Two Thousand Twenty-Five
(In words, indicate day, month and year.)

for the following **PROJECT**:
(Name and location or address)

Anthony Entrance Phase III
5757 Irving Avenue South
Minneapolis, MN 55419

THE OWNER:
(Name, legal status and address)

Minneapolis Public Schools Special School District No. 1
1250 West Broadway Ave.
Minneapolis, MN 55411

THE CONTRACTOR:
(Name, legal status and address)

Morcon Construction Co., Inc.
5151 Industrial Blvd.
Fridley, MN 55421

TABLE OF ARTICLES

A.1 GENERAL

A.2 OWNER'S INSURANCE

A.3 CONTRACTOR'S INSURANCE AND BONDS

A.4 SPECIAL TERMS AND CONDITIONS

ADDITIONS AND DELETIONS:
The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

This document is intended to be used in conjunction with AIA Document A201®–2017, General Conditions of the Contract for Construction. Article 11 of A201®–2017 contains additional insurance provisions.

ARTICLE A.1 GENERAL

The Owner and Contractor shall purchase and maintain insurance, and provide bonds, as set forth in this Exhibit. As used in this Exhibit, the term General Conditions refers to AIA Document A201™–2017, General Conditions of the Contract for Construction.

ARTICLE A.2 OWNER'S INSURANCE

§ A.2.1 General

Prior to commencement of the Work, the Owner shall secure the insurance, and provide evidence of the coverage, required under this Article A.2 and, upon the Contractor's request, provide a copy of the property insurance policy or policies required by Section A.2.3. The copy of the policy or policies provided shall contain all applicable conditions, definitions, exclusions, and endorsements.

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§ A.2.2 Liability Insurance
The Owner shall be responsible for purchasing and maintaining the Owner's usual general liability insurance.

§ A.2.3 Required Property Insurance
§ A.2.3.1 Unless this obligation is placed on the Contractor pursuant to Section A.3.3.2.1, the Owner shall purchase and maintain, from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located, property insurance written on a builder's risk "all-risks" completed value or equivalent policy form and sufficient to cover the total value of the entire Project on a replacement cost basis. The Owner's property insurance coverage shall be no less than the amount of the initial Contract Sum, plus the value of subsequent Modifications and labor performed and materials or equipment supplied by others. The property insurance shall be maintained until Substantial Completion and thereafter as provided in Section A.2.3.1.3, unless otherwise provided in the Contract Documents or otherwise agreed in writing by the parties to this Agreement. This insurance shall include the interests of the Owner, Contractor, Subcontractors, and Sub-subcontractors in the Project as insureds. This insurance shall include the interests of mortgagees as loss payees.

§ A.2.3.1.1 Causes of Loss. The insurance required by this Section A.2.3.1 shall provide coverage for direct physical loss or damage, and shall not exclude the risks of fire, explosion, theft, vandalism, malicious mischief, collapse, earthquake, flood, or windstorm. The insurance shall also provide coverage for ensuing loss or resulting damage from error, omission, or deficiency in construction methods, design, specifications, workmanship, or materials. Sub-limits, if any, are as follows:
(Indicate below the cause of loss and any applicable sub-limit.)

Causes of Loss	Sub-Limit

§ A.2.3.1.2 Specific Required Coverages. The insurance required by this Section A.2.3.1 shall provide coverage for loss or damage to falsework and other temporary structures, and to building systems from testing and startup. The insurance shall also cover debris removal, including demolition occasioned by enforcement of any applicable legal requirements, and reasonable compensation for the Architect's and Contractor's services and expenses required as a result of such insured loss, including claim preparation expenses. Sub-limits, if any, are as follows:
(Indicate below type of coverage and any applicable sub-limit for specific required coverages.)

Coverage	Sub-Limit

§ A.2.3.1.3 Unless the parties agree otherwise, upon Substantial Completion, the Owner shall continue the insurance required by Section A.2.3.1 or, if necessary, replace the insurance policy required under Section A.2.3.1 with property insurance written for the total value of the Project that shall remain in effect until expiration of the period for correction of the Work set forth in Section 12.2.2 of the General Conditions.

§ A.2.3.1.4 Deductibles and Self-Insured Retentions. If the insurance required by this Section A.2.3 is subject to deductibles or self-insured retentions, the Owner shall be responsible for all loss not covered because of such deductibles or retentions.

§ A.2.3.2 Occupancy or Use Prior to Substantial Completion. The Owner's occupancy or use of any completed or partially completed portion of the Work prior to Substantial Completion shall not commence until the insurance company or companies providing the insurance under Section A.2.3.1 have consented in writing to the continuance of coverage. The Owner and the Contractor shall take no action with respect to partial occupancy or use that would cause cancellation, lapse, or reduction of insurance, unless they agree otherwise in writing.

§ A.2.3.3 Insurance for Existing Structures
If the Work involves remodeling an existing structure or constructing an addition to an existing structure, the Owner shall purchase and maintain, until the expiration of the period for correction of Work as set forth in Section 12.2.2 of the General Conditions, "all-risks" property insurance, on a replacement cost basis, protecting the existing structure against direct physical loss or damage from the causes of loss identified in Section A.2.3.1, notwithstanding the undertaking of the Work. The Owner shall be responsible for all co-insurance penalties.

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§ A.2.4 Optional Extended Property Insurance.
The Owner shall purchase and maintain the insurance selected and described below.
(Select the types of insurance the Owner is required to purchase and maintain by placing an X in the box(es) next to the description(s) of selected insurance. For each type of insurance selected, indicate applicable limits of coverage or other conditions in the fill point below the selected item.)

[ ] **§ A.2.4.1 Loss of Use, Business Interruption, and Delay in Completion Insurance**, to reimburse the Owner for loss of use of the Owner's property, or the inability to conduct normal operations due to a covered cause of loss.

[ ] **§ A.2.4.2 Ordinance or Law Insurance**, for the reasonable and necessary costs to satisfy the minimum requirements of the enforcement of any law or ordinance regulating the demolition, construction, repair, replacement or use of the Project.

[ ] **§ A.2.4.3 Expediting Cost Insurance**, for the reasonable and necessary costs for the temporary repair of damage to insured property, and to expedite the permanent repair or replacement of the damaged property.

[ ] **§ A.2.4.4 Extra Expense Insurance**, to provide reimbursement of the reasonable and necessary excess costs incurred during the period of restoration or repair of the damaged property that are over and above the total costs that would normally have been incurred during the same period of time had no loss or damage occurred.

[ ] **§ A.2.4.5 Civil Authority Insurance**, for losses or costs arising from an order of a civil authority prohibiting access to the Project, provided such order is the direct result of physical damage covered under the required property insurance.

[ ] **§ A.2.4.6 Ingress/Egress Insurance**, for loss due to the necessary interruption of the insured's business due to physical prevention of ingress to, or egress from, the Project as a direct result of physical damage.

[ ] **§ A.2.4.7 Soft Costs Insurance**, to reimburse the Owner for costs due to the delay of completion of the Work, arising out of physical loss or damage covered by the required property insurance: including construction loan fees; leasing and marketing expenses; additional fees, including those of architects, engineers, consultants, attorneys and accountants, needed for the completion of the construction, repairs, or reconstruction; and carrying costs such as property taxes, building permits, additional interest on loans, realty taxes, and insurance premiums over and above normal expenses.

§ A.2.5 Other Optional Insurance.
The Owner shall purchase and maintain the insurance selected below.

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(Select the types of insurance the Owner is required to purchase and maintain by placing an X in the box(es) next to the description(s) of selected insurance.)

[ ] **§ A.2.5.1 Cyber Security Insurance** for loss to the Owner due to data security and privacy breach, including costs of investigating a potential or actual breach of confidential or private information. *(Indicate applicable limits of coverage or other conditions in the fill point below.)*

[ ] **§ A.2.5.2 Other Insurance**
(List below any other insurance coverage to be provided by the Owner and any applicable limits.)

Coverage	Limits

ARTICLE A.3 CONTRACTOR'S INSURANCE AND BONDS

§ A.3.1 General

§ A.3.1.1 Certificates of Insurance. The Contractor shall provide certificates of insurance acceptable to the Owner evidencing compliance with the requirements in this Article A.3 at the following times: (1) prior to commencement of the Work; (2) upon renewal or replacement of each required policy of insurance; and (3) upon the Owner's written request. An additional certificate evidencing continuation of commercial liability coverage, including coverage for completed operations, shall be submitted with the final Application for Payment and thereafter upon renewal or replacement of such coverage until the expiration of the periods required by Section A.3.2.1 and Section A.3.3.1. The certificates will show the Owner as an additional insured on the Contractor's Commercial General Liability and excess or umbrella liability policy or policies.

§ A.3.1.2 Deductibles and Self-Insured Retentions. The Contractor shall disclose to the Owner any deductible or self-insured retentions applicable to any insurance required to be provided by the Contractor.

§ A.3.1.3 Additional Insured Obligations. To the fullest extent permitted by law, the Contractor shall cause the commercial general liability coverage to include (1) the Owner, the Architect, and the Architect's consultants as additional insureds for claims caused in whole or in part by the Contractor's negligent acts or omissions during the Contractor's operations; and (2) the Owner as an additional insured for claims caused in whole or in part by the Contractor's negligent acts or omissions for which loss occurs during completed operations. The additional insured coverage shall be primary and non-contributory to any of the Owner's general liability insurance policies and shall apply to both ongoing and completed operations. To the extent commercially available, the additional insured coverage shall be no less than that provided by Insurance Services Office, Inc. (ISO) forms CG 20 10 07 04, CG 20 37 07 04, and, with respect to the Architect and the Architect's consultants, CG 20 32 07 04.

§ A.3.2 Contractor's Required Insurance Coverage

§ A.3.2.1 The Contractor shall purchase and maintain the following types and limits of insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The Contractor shall maintain the required insurance until the expiration of the period for correction of Work as set forth in Section 12.2.2 of the General Conditions, unless a different duration is stated below:
(If the Contractor is required to maintain insurance for a duration other than the expiration of the period for correction of Work, state the duration.)

§ A.3.2.2 Commercial General Liability

§ A.3.2.2.1 Commercial General Liability insurance for the Project written on an occurrence form with policy limits as defined is ECH-C Owner Insurance, providing coverage for claims including

.1 damages because of bodily injury, sickness or disease, including occupational sickness or disease, and death of any person;

.2 personal injury and advertising injury;

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.3 damages because of physical damage to or destruction of tangible property, including the loss of use of such property;
.4 bodily injury or property damage arising out of completed operations; and
.5 the Contractor's indemnity obligations under Section 3.18 of the General Conditions.

§ A.3.2.2.2 The Contractor's Commercial General Liability policy under this Section A.3.2.2 shall not contain an exclusion or restriction of coverage for the following:

.1 Claims by one insured against another insured, if the exclusion or restriction is based solely on the fact that the claimant is an insured, and there would otherwise be coverage for the claim.
.2 Claims for property damage to the Contractor's Work arising out of the products-completed operations hazard where the damaged Work or the Work out of which the damage arises was performed by a Subcontractor.
.3 Claims for bodily injury other than to employees of the insured.
.4 Claims for indemnity under Section 3.18 of the General Conditions arising out of injury to employees of the insured.
.5 Claims or loss excluded under a prior work endorsement or other similar exclusionary language.
.6 Claims or loss due to physical damage under a prior injury endorsement or similar exclusionary language.
.7 Claims related to residential, multi-family, or other habitational projects, if the Work is to be performed on such a project.
.8 Claims related to roofing, if the Work involves roofing.
.9 Claims related to exterior insulation finish systems (EIFS), synthetic stucco or similar exterior coatings or surfaces, if the Work involves such coatings or surfaces.
.10 Claims related to earth subsidence or movement, where the Work involves such hazards.
.11 Claims related to explosion, collapse and underground hazards, where the Work involves such hazards.

§ A.3.2.3 Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Contractor, with policy limits as defined in EXH-C Owner Insurance .

§ A.3.2.4 The Contractor may achieve the required limits and coverage for Commercial General Liability and Automobile Liability through a combination of primary and excess or umbrella liability insurance, provided such primary and excess or umbrella insurance policies result in the same or greater coverage as the coverages required under Section A.3.2.2 and A.3.2.3, and in no event shall any excess or umbrella liability insurance provide narrower coverage than the primary policy. The excess policy shall not require the exhaustion of the underlying limits only through the actual payment by the underlying insurers. Umbrella coverage as defined in EXH-C Owner Insurance

§ A.3.2.5 Workers' Compensation at statutory limits for Coverage A as defined in EXH-C Owner Insurance.

§ A.3.2.6 Employers' Liability Coverage B as defined in EXH-C Owner Insurance .

(Paragraph deleted)

§ A.3.2.8 If the Contractor is required to furnish professional services as part of the Work, the Contractor shall procure Professional Liability insurance covering performance of the professional services, with policy limits as defined in EXH-C Owner Insurance .

.

(Paragraphs deleted)

§ A.3.2.12 Insurance for the use or operation of manned or unmanned aircraft, if the Work requires such activities, with policy limits as defined in EXH-C Owner Insurance.

§ A.3.3 Contractor's Other Insurance Coverage

§ A.3.3.1 Insurance selected and described in this Section A.3.3 shall be purchased from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The

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Contractor shall maintain the required insurance until the expiration of the period for correction of Work as set forth in Section 12.2.2 of the General Conditions, unless a different duration is stated below:
(If the Contractor is required to maintain any of the types of insurance selected below for a duration other than the expiration of the period for correction of Work, state the duration.)

If Professional Liability Insurance is required as part of this contract or becomes required during the course of the project coverage shall be in accordance with A.3.2.8, the insurance coverage shall be maintained for one calendar year after the date of Substantial Completion

§ A.3.3.2 The Contractor shall purchase and maintain the following types and limits of insurance in accordance with Section A.3.3.1 as defined in EXH-C Owner Insurance.

(Paragraphs deleted)

§ A.3.4 Performance Bond and Payment Bond

The Contractor shall provide surety bonds, from a company or companies lawfully authorized to issue surety bonds in the jurisdiction where the Project is located, as follows:
(Specify type and penal sum of bonds.)

Type	Penal Sum ($0.00)
Payment Bond	Full contract value
Performance Bond	Full contract value

Payment and Performance Bonds shall be AIA Document A312™, Payment Bond and Performance Bond, or contain provisions identical to AIA Document A312™, current as of the date of this Agreement.

ARTICLE A.4 SPECIAL TERMS AND CONDITIONS

Special terms and conditions that modify this Insurance and Bonds Exhibit, if any, are as follows:

None

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Additions and Deletions Report for

AIA® Document A101® – 2017 Exhibit A

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PAGE 1

This Insurance and Bonds Exhibit is part of the Agreement, between the Owner and the Contractor, dated the Third day of February in the year Two Thousand Twenty-Five

...

Anthony Entrance Phase III
5757 Irving Avenue South
Minneapolis, MN 55419

...

Minneapolis Public Schools Special School District No. 1
1250 West Broadway Ave.
Minneapolis, MN 55411

...

Morcon Construction Co., Inc.
5151 Industrial Blvd.
Fridley, MN 55421

PAGE 4

§ A.3.2.2.1 Commercial General Liability insurance for the Project written on an occurrence form with policy limits ~~of not less than ($) each occurrence, ($) general aggregate, and ($) aggregate for products-completed operations hazard,~~ as defined is ECH-C Owner Insurance, providing coverage for claims including

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§ A.3.2.3 Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Contractor, with policy limits ~~of not less than ($) per accident, for bodily injury, death of any person, and property damage arising out of the ownership, maintenance and use of those motor vehicles along with any other statutorily required automobile coverage.~~as defined in EXH-C Owner Insurance .

§ A.3.2.4 The Contractor may achieve the required limits and coverage for Commercial General Liability and Automobile Liability through a combination of primary and excess or umbrella liability insurance, provided such primary and excess or umbrella insurance policies result in the same or greater coverage as the coverages required under Section A.3.2.2 and A.3.2.3, and in no event shall any excess or umbrella liability insurance provide narrower coverage than the primary policy. The excess policy shall not require the exhaustion of the underlying limits only through the actual payment by the underlying insurers. Umbrella coverage as defined in EXH-C Owner Insurance

§ A.3.2.5 Workers' Compensation at statutory ~~limits.~~limits for Coverage A as defined in EXH-C Owner Insurance.

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§ A.3.2.6 Employers' Liability ~~with policy limits not less than ($) each accident, ($) each employee, and ($) policy limit.~~Coverage B as defined in EXH-C Owner Insurance .

~~**§ A.3.2.7** Jones Act, and the Longshore & Harbor Workers' Compensation Act, as required, if the Work involves hazards arising from work on or near navigable waterways, including vessels and docks~~

§ A.3.2.8 If the Contractor is required to furnish professional services as part of the Work, the Contractor shall procure Professional Liability insurance covering performance of the professional services, with policy limits ~~of not less than ($) per claim and ($) in the aggregate.~~as defined in EXH-C Owner Insurance .

.

~~**§ A.3.2.9** If the Work involves the transport, dissemination, use, or release of pollutants, the Contractor shall procure Pollution Liability insurance, with policy limits of not less than ($) per claim and ($) in the aggregate.~~

~~**§ A.3.2.10** Coverage under Sections A.3.2.8 and A.3.2.9 may be procured through a Combined Professional Liability and Pollution Liability insurance policy, with combined policy limits of not less than ($) per claim and ($) in the aggregate.~~

~~**§ A.3.2.11** Insurance for maritime liability risks associated with the operation of a vessel, if the Work requires such activities, with policy limits of not less than ($) per claim and ($) in the aggregate.~~

§ A.3.2.12 Insurance for the use or operation of manned or unmanned aircraft, if the Work requires such activities, with policy limits ~~of not less than ($) per claim and ($) in the aggregate.~~as defined in EXH-C Owner Insurance.
PAGE 6

If Professional Liability Insurance is required as part of this contract or becomes required during the course of the project coverage shall be in accordance with A.3.2.8, the insurance coverage shall be maintained for one calendar year after the date of Substantial Completion

§ A.3.3.2 The Contractor shall purchase and maintain the following types and limits of insurance in accordance with Section ~~A.3.3.1.~~
~~*(Select the types of insurance the Contractor is required to purchase and maintain by placing an X in the box(es) next to the description(s) of selected insurance. Where policy limits are provided, include the policy limit in the appropriate fill point.)*~~A.3.3.1 as defined in EXH-C Owner Insurance.

~~[ ] **§ A.3.3.2.1** Property insurance of the same type and scope satisfying the requirements identified in Section A.2.3, which, if selected in this section A.3.3.2.1, relieves the Owner of the responsibility to purchase and maintain such insurance except insurance required by Section A.2.3.1.3 and Section A.2.3.3. The Contractor shall comply with all obligations of the Owner under Section A.2.3 except to the extent provided below. The Contractor shall disclose to the Owner the amount of any deductible, and the Owner shall be responsible for losses within the deductible. Upon request, the Contractor shall provide the Owner with a copy of the property insurance policy or policies required. The Owner shall adjust and settle the loss with the insurer and be the trustee of the proceeds of the property insurance in accordance with Article 11 of the General Conditions unless otherwise set forth below:
(Where the Contractor's obligation to provide property insurance differs from the Owner's obligations as described under Section A.2.3, indicate such differences in the space below. Additionally, if a party other than the Owner will be responsible for adjusting and settling a loss with the insurer and acting as the trustee of the proceeds of property insurance in accordance with Article 11 of the General Conditions, indicate the responsible party below.)~~

~~[ ] **§ A.3.3.2.2 Railroad Protective Liability Insurance**, with policy limits of not less than ($) per claim and ($) in the aggregate, for Work within fifty (50) feet of railroad property.~~

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[–] **§ A.3.3.2.3 Asbestos Abatement Liability Insurance**, with policy limits of not less than ($) per claim and ($) in the aggregate, for liability arising from the encapsulation, removal, handling, storage, transportation, and disposal of asbestos-containing materials.

[–] **§ A.3.3.2.4** Insurance for physical damage to property while it is in storage and in transit to the construction site on an "all-risks" completed value form.

[–] **§ A.3.3.2.5** Property insurance on an "all-risks" completed value form, covering property owned by the Contractor and used on the Project, including scaffolding and other equipment.

[–] **§ A.3.3.2.6 Other Insurance**

(List below any other insurance coverage to be provided by the Contractor and any applicable limits.)

Coverage	**Limits**

§ A.3.4 Performance Bond and Payment Bond

...

Payment Bond	Full contract value
Performance Bond	Full contract value

...

None

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General Conditions of the Contract for Construction

for the following PROJECT:
(Name and location or address)

Anthony Entrance Phase III Project
Anthony Middle School
5757 Irving Ave. S.
Minneapolis, MN 55419

THE OWNER:
(Name, legal status and address)

Minneapolis Public Schools Special School District 1
1250 West Broadway Avenue
Minneapolis, MN 55411

THE ARCHITECT:
(Name, legal status and address)

TKDA
444 Cedar Street
Saint Paul, MN 55101

TABLE OF ARTICLES

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12 UNCOVERING AND CORRECTION OF WORK

13 MISCELLANEOUS PROVISIONS

ADDITIONS AND DELETIONS:
The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

For guidance in modifying this document to include supplementary conditions, see AIA Document A503™, Guide for Supplementary Conditions.

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ARTICLE 1 GENERAL PROVISIONS

§ 1.1 Basic Definitions

§ 1.1.1 The Contract Documents

The Contract Documents are enumerated in the Agreement between the Owner and Contractor (hereinafter the Agreement) and consist of the Agreement, Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, Addenda issued prior to execution of the Contract, other documents listed in the Agreement, and Modifications issued after execution of the Contract. A Modification is (1) a written amendment to the Contract signed by both parties, (2) a Change Order, (3) a Construction Change Directive, or (4) a written order for a minor change in the Work issued by the Architect. Unless specifically enumerated in the Agreement, the Contract Documents do not include the advertisement or invitation to bid, Instructions to Bidders, sample forms, other information furnished by the Owner in anticipation of receiving bids or proposals, the Contractor's bid or proposal, or portions of Addenda relating to bidding or proposal requirements.

§ 1.1.2 The Contract

The Contract Documents form the Contract for Construction. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations, or agreements, either written or oral. The Contract may be amended or modified only by a Modification. The Contract Documents shall not be construed to create a contractual relationship of any kind (1) between the Contractor and the Architect or the Architect's consultants, (2) between the Owner and a Subcontractor or a Sub-subcontractor, (3) between the Owner and the Architect or the Architect's consultants, or (4) between any persons or entities other than the Owner and the Contractor. The Architect shall, however, be entitled to performance and enforcement of obligations under the Contract intended to facilitate performance of the Architect's duties.

§ 1.1.3 The Work

The term "Work" means the construction and services required by the Contract Documents, whether completed or partially completed, and includes all other labor, materials, equipment, and services provided or to be provided by the Contractor to fulfill the Contractor's obligations. The Work may constitute the whole or a part of the Project.

§ 1.1.4 The Project

The Project is the total construction of which the Work performed under the Contract Documents may be the whole or a part and which may include construction by the Owner and by Separate Contractors.

§ 1.1.5 The Drawings

The Drawings are the graphic and pictorial portions of the Contract Documents showing the design, location and dimensions of the Work, generally including plans, elevations, sections, details, schedules, and diagrams.

§ 1.1.6 The Specifications

The Specifications are that portion of the Contract Documents consisting of the written requirements for materials, equipment, systems, standards and workmanship for the Work, and performance of related services.

§ 1.1.7 Instruments of Service

Instruments of Service are representations, in any medium of expression now known or later developed, of the tangible and intangible creative work performed by the Architect and the Architect's consultants under their respective professional services agreements. Instruments of Service may include, without limitation, studies, surveys, models, sketches, drawings, specifications, and other similar materials.

§ 1.1.8 Initial Decision Maker

The Initial Decision Maker is the person identified in the Agreement to render initial decisions on Claims in accordance with Section 15.2. The Initial Decision Maker shall not show partiality to the Owner or Contractor and shall not be liable for results of interpretations or decisions rendered in good faith.

§ 1.2 Correlation and Intent of the Contract Documents

§ 1.2.1 The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work by the Contractor. The Contract Documents are complementary, and what is required by one shall be as binding as if required by all; performance by the Contractor shall be required only to the extent consistent with the Contract Documents and reasonably inferable from them as being necessary to produce the indicated results.

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§ 1.2.1.1 The invalidity of any provision of the Contract Documents shall not invalidate the Contract or its remaining provisions. If it is determined that any provision of the Contract Documents violates any law, or is otherwise invalid or unenforceable, then that provision shall be revised to the extent necessary to make that provision legal and enforceable. In such case the Contract Documents shall be construed, to the fullest extent permitted by law, to give effect to the parties' intentions and purposes in executing the Contract.

§ 1.2.2 Organization of the Specifications into divisions, sections and articles, and arrangement of Drawings shall not control the Contractor in dividing the Work among Subcontractors or in establishing the extent of Work to be performed by any trade.

§ 1.2.3 Unless otherwise stated in the Contract Documents, words that have well-known technical or construction industry meanings are used in the Contract Documents in accordance with such recognized meanings.

§ 1.3 Capitalization

Terms capitalized in these General Conditions include those that are (1) specifically defined, (2) the titles of numbered articles, or (3) the titles of other documents published by the American Institute of Architects.

§ 1.4 Interpretation

In the interest of brevity the Contract Documents frequently omit modifying words such as "all" and "any" and articles such as "the" and "an," but the fact that a modifier or an article is absent from one statement and appears in another is not intended to affect the interpretation of either statement.

§ 1.5 Ownership and Use of Drawings, Specifications, and Other Instruments of Service

§ 1.5.1 The Architect and the Architect's consultants shall be deemed the authors and owners of their respective Instruments of Service, including the Drawings and Specifications, and retain all common law, statutory, and other reserved rights in their Instruments of Service, including copyrights. The Contractor, Subcontractors, Sub-subcontractors, and suppliers shall not own or claim a copyright in the Instruments of Service. Submittal or distribution to meet official regulatory requirements or for other purposes in connection with the Project is not to be construed as publication in derogation of the Architect's or Architect's consultants' reserved rights.

§ 1.5.2 The Contractor, Subcontractors, Sub-subcontractors, and suppliers are authorized to use and reproduce the Instruments of Service provided to them, subject to any protocols established pursuant to Sections 1.7 and 1.8, solely and exclusively for execution of the Work. All copies made under this authorization shall bear the copyright notice, if any, shown on the Instruments of Service. The Contractor, Subcontractors, Sub-subcontractors, and suppliers may not use the Instruments of Service on other projects or for additions to the Project outside the scope of the Work without the specific written consent of the Owner, Architect, and the Architect's consultants.

§ 1.6 Notice

§ 1.6.1 Except as otherwise provided in Section 1.6.2, where the Contract Documents require one party to notify or give notice to the other party, such notice shall be provided in writing to the designated representative of the party to whom the notice is addressed and shall be deemed to have been duly served if delivered in person, by mail, by courier, or by electronic transmission if a method for electronic transmission is set forth in the Agreement.

§ 1.6.2 Notice of Claims as provided in Section 15.1.3 shall be provided in writing and shall be deemed to have been duly served only if delivered to the designated representative of the party to whom the notice is addressed by certified or registered mail, or by courier providing proof of delivery.

§ 1.7 Digital Data Use and Transmission

The parties shall agree upon protocols governing the transmission and use of Instruments of Service or any other information or documentation in digital form. The parties will use AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, to establish the protocols for the development, use, transmission, and exchange of digital data.

§ 1.8 Building Information Models Use and Reliance

Any use of, or reliance on, all or a portion of a building information model without agreement to protocols governing the use of, and reliance on, the information contained in the model and without having those protocols set forth in AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, and the requisite AIA Document

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G202™–2013, Project Building Information Modeling Protocol Form, shall be at the using or relying party's sole risk and without liability to the other party and its contractors or consultants, the authors of, or contributors to, the building information model, and each of their agents and employees.

ARTICLE 2 OWNER

§ 2.1 General

§ 2.1.1 The Owner is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The Owner shall designate in writing a representative who shall have express authority to bind the Owner with respect to all matters requiring the Owner's approval or authorization. Except as otherwise provided in Section 4.2.1, the Architect does not have such authority. The term "Owner" means the Owner or the Owner's authorized representative.

§ 2.1.2 The Owner shall furnish to the Contractor, within fifteen days after receipt of a written request, information necessary and relevant for the Contractor to evaluate, give notice of, or enforce mechanic's lien rights. Such information shall include a correct statement of the record legal title to the property on which the Project is located, usually referred to as the site, and the Owner's interest therein.

§ 2.2 Evidence of the Owner's Financial Arrangements

§ 2.2.1 Prior to commencement of the Work and upon written request by the Contractor, the Owner shall furnish to the Contractor reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Contract. The Contractor shall have no obligation to commence the Work until the Owner provides such evidence. If commencement of the Work is delayed under this Section 2.2.1, the Contract Time shall be extended appropriately.

§ 2.2.2 Following commencement of the Work and upon written request by the Contractor, the Owner shall furnish to the Contractor reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Contract only if (1) the Owner fails to make payments to the Contractor as the Contract Documents require; (2) the Contractor identifies in writing a reasonable concern regarding the Owner's ability to make payment when due; or (3) a change in the Work materially changes the Contract Sum. If the Owner fails to provide such evidence, as required, within fourteen days of the Contractor's request, the Contractor may immediately stop the Work and, in that event, shall notify the Owner that the Work has stopped. However, if the request is made because a change in the Work materially changes the Contract Sum under (3) above, the Contractor may immediately stop only that portion of the Work affected by the change until reasonable evidence is provided. If the Work is stopped under this Section 2.2.2, the Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable costs of shutdown, delay and start-up, plus interest as provided in the Contract Documents.

§ 2.2.3 After the Owner furnishes evidence of financial arrangements under this Section 2.2, the Owner shall not materially vary such financial arrangements without prior notice to the Contractor.

§ 2.2.4 Where the Owner has designated information furnished under this Section 2.2 as "confidential," the Contractor shall keep the information confidential and shall not disclose it to any other person. However, the Contractor may disclose "confidential" information, after seven (7) days' notice to the Owner, where disclosure is required by law, including a subpoena or other form of compulsory legal process issued by a court or governmental entity, or by court or arbitrator(s) order. The Contractor may also disclose "confidential" information to its employees, consultants, sureties, Subcontractors and their employees, Sub-subcontractors, and others who need to know the content of such information solely and exclusively for the Project and who agree to maintain the confidentiality of such information.

§ 2.3 Information and Services Required of the Owner

§ 2.3.1 Except for permits and fees that are the responsibility of the Contractor under the Contract Documents, including those required under Section 3.7.1, the Owner shall secure and pay for necessary approvals, easements, assessments and charges required for construction, use or occupancy of permanent structures or for permanent changes in existing facilities.

§ 2.3.2 The Owner shall retain an architect lawfully licensed to practice architecture, or an entity lawfully practicing architecture, in the jurisdiction where the Project is located. That person or entity is identified as the Architect in the Agreement and is referred to throughout the Contract Documents as if singular in number.

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§ 2.3.3 If the employment of the Architect terminates, the Owner shall employ a successor to whom the Contractor has no reasonable objection and whose status under the Contract Documents shall be that of the Architect.

§ 2.3.4 The Owner shall furnish surveys describing physical characteristics, legal limitations and utility locations for the site of the Project, and a legal description of the site. The Contractor shall be entitled to rely on the accuracy of information furnished by the Owner but shall exercise proper precautions relating to the safe performance of the Work.

§ 2.3.5 The Owner shall furnish information or services required of the Owner by the Contract Documents with reasonable promptness. The Owner shall also furnish any other information or services under the Owner's control and relevant to the Contractor's performance of the Work with reasonable promptness after receiving the Contractor's written request for such information or services.

§ 2.3.6 Unless otherwise provided in the Contract Documents, the Owner shall furnish to the Contractor one copy of the Contract Documents for purposes of making reproductions pursuant to Section 1.5.2.

§ 2.4 Owner's Right to Stop the Work

If the Contractor fails to correct Work that is not in accordance with the requirements of the Contract Documents as required by Section 12.2 or repeatedly fails to carry out Work in accordance with the Contract Documents, the Owner may issue a written order to the Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, the right of the Owner to stop the Work shall not give rise to a duty on the part of the Owner to exercise this right for the benefit of the Contractor or any other person or entity, except to the extent required by Section 6.1.3.

§ 2.5 Owner's Right to Carry Out the Work

If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within a ten-day period after receipt of notice from the Owner to commence and continue correction of such default or neglect with diligence and promptness, the Owner may, without prejudice to other remedies the Owner may have, correct such default or neglect. Such action by the Owner and amounts charged to the Contractor are both subject to prior approval of the Architect and the Architect may, pursuant to Section 9.5.1, withhold or nullify a Certificate for Payment in whole or in part, to the extent reasonably necessary to reimburse the Owner for the reasonable cost of correcting such deficiencies, including Owner's expenses and compensation for the Architect's additional services made necessary by such default, neglect, or failure. If current and future payments are not sufficient to cover such amounts, the Contractor shall pay the difference to the Owner. If the Contractor disagrees with the actions of the Owner or the Architect, or the amounts claimed as costs to the Owner, the Contractor may file a Claim pursuant to Article 15.

ARTICLE 3 CONTRACTOR

§ 3.1 General

§ 3.1.1 The Contractor is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The Contractor shall be lawfully licensed, if required in the jurisdiction where the Project is located. The Contractor shall designate in writing a representative who shall have express authority to bind the Contractor with respect to all matters under this Contract. The term "Contractor" means the Contractor or the Contractor's authorized representative.

§ 3.1.2 The Contractor shall perform the Work in accordance with the Contract Documents.

§ 3.1.3 The Contractor shall not be relieved of its obligations to perform the Work in accordance with the Contract Documents either by activities or duties of the Architect in the Architect's administration of the Contract, or by tests, inspections or approvals required or performed by persons or entities other than the Contractor.

§ 3.2 Review of Contract Documents and Field Conditions by Contractor

§ 3.2.1 Execution of the Contract by the Contractor is a representation that the Contractor has visited the site, become generally familiar with local conditions under which the Work is to be performed, and correlated personal observations with requirements of the Contract Documents.

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§ 3.2.2 Because the Contract Documents are complementary, the Contractor shall, before starting each portion of the Work, carefully study and compare the various Contract Documents relative to that portion of the Work, as well as the information furnished by the Owner pursuant to Section 2.3.4, shall take field measurements of any existing conditions related to that portion of the Work, and shall observe any conditions at the site affecting it. These obligations are for the purpose of facilitating coordination and construction by the Contractor and are not for the purpose of discovering errors, omissions, or inconsistencies in the Contract Documents; however, the Contractor shall promptly report to the Architect any errors, inconsistencies or omissions discovered by or made known to the Contractor as a request for information in such form as the Architect may require. It is recognized that the Contractor's review is made in the Contractor's capacity as a contractor and not as a licensed design professional, unless otherwise specifically provided in the Contract Documents.

§ 3.2.3 The Contractor is not required to ascertain that the Contract Documents are in accordance with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, but the Contractor shall promptly report to the Architect any nonconformity discovered by or made known to the Contractor as a request for information in such form as the Architect may require.

§ 3.2.4 If the Contractor believes that additional cost or time is involved because of clarifications or instructions the Architect issues in response to the Contractor's notices or requests for information pursuant to Sections 3.2.2 or 3.2.3, the Contractor shall submit Claims as provided in Article 15. If the Contractor fails to perform the obligations of Sections 3.2.2 or 3.2.3, the Contractor shall pay such costs and damages to the Owner, subject to Section 15.1.7, as would have been avoided if the Contractor had performed such obligations. If the Contractor performs those obligations, the Contractor shall not be liable to the Owner or Architect for damages resulting from errors, inconsistencies or omissions in the Contract Documents, for differences between field measurements or conditions and the Contract Documents, or for nonconformities of the Contract Documents to applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities.

§ 3.3 Supervision and Construction Procedures

§ 3.3.1 The Contractor shall supervise and direct the Work, using the Contractor's best skill and attention. The Contractor shall be solely responsible for, and have control over, construction means, methods, techniques, sequences, and procedures, and for coordinating all portions of the Work under the Contract. If the Contract Documents give specific instructions concerning construction means, methods, techniques, sequences, or procedures, the Contractor shall evaluate the jobsite safety thereof and shall be solely responsible for the jobsite safety of such means, methods, techniques, sequences, or procedures. If the Contractor determines that such means, methods, techniques, sequences or procedures may not be safe, the Contractor shall give timely notice to the Owner and Architect, and shall propose alternative means, methods, techniques, sequences, or procedures. The Architect shall evaluate the proposed alternative solely for conformance with the design intent for the completed construction. Unless the Architect objects to the Contractor's proposed alternative, the Contractor shall perform the Work using its alternative means, methods, techniques, sequences, or procedures.

§ 3.3.2 The Contractor shall be responsible to the Owner for acts and omissions of the Contractor's employees, Subcontractors and their agents and employees, and other persons or entities performing portions of the Work for, or on behalf of, the Contractor or any of its Subcontractors.

§ 3.3.3 The Contractor shall be responsible for inspection of portions of Work already performed to determine that such portions are in proper condition to receive subsequent Work.

§ 3.4 Labor and Materials

§ 3.4.1 Unless otherwise provided in the Contract Documents, the Contractor shall provide and pay for labor, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation, and other facilities and services necessary for proper execution and completion of the Work, whether temporary or permanent and whether or not incorporated or to be incorporated in the Work.

§ 3.4.2 Except in the case of minor changes in the Work approved by the Architect in accordance with Section 3.12.8 or ordered by the Architect in accordance with Section 7.4, the Contractor may make substitutions only with the consent of the Owner, after evaluation by the Architect and in accordance with a Change Order or Construction Change Directive.

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§ 3.4.3 The Contractor shall enforce strict discipline and good order among the Contractor's employees and other persons carrying out the Work. The Contractor shall not permit employment of unfit persons or persons not properly skilled in tasks assigned to them.

§ 3.5 Warranty

§ 3.5.1 The Contractor warrants to the Owner and Architect that materials and equipment furnished under the Contract will be of good quality and new unless the Contract Documents require or permit otherwise. The Contractor further warrants that the Work will conform to the requirements of the Contract Documents and will be free from defects, except for those inherent in the quality of the Work the Contract Documents require or permit. Work, materials, or equipment not conforming to these requirements may be considered defective. The Contractor's warranty excludes remedy for damage or defect caused by abuse, alterations to the Work not executed by the Contractor, improper or insufficient maintenance, improper operation, or normal wear and tear and normal usage. If required by the Architect, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment.

§ 3.5.2 All material, equipment, or other special warranties required by the Contract Documents shall be issued in the name of the Owner, or shall be transferable to the Owner, and shall commence in accordance with Section 9.8.4.

§ 3.6 Taxes

The Contractor shall pay sales, consumer, use and similar taxes for the Work provided by the Contractor that are legally enacted when bids are received or negotiations concluded, whether or not yet effective or merely scheduled to go into effect.

§ 3.7 Permits, Fees, Notices and Compliance with Laws

§ 3.7.1 Unless otherwise provided in the Contract Documents, the Contractor shall secure and pay for the building permit as well as for other permits, fees, licenses, and inspections by government agencies necessary for proper execution and completion of the Work that are customarily secured after execution of the Contract and legally required at the time bids are received or negotiations concluded.

§ 3.7.2 The Contractor shall comply with and give notices required by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities applicable to performance of the Work.

§ 3.7.3 If the Contractor performs Work knowing it to be contrary to applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, the Contractor shall assume appropriate responsibility for such Work and shall bear the costs attributable to correction.

§ 3.7.4 Concealed or Unknown Conditions

If the Contractor encounters conditions at the site that are (1) subsurface or otherwise concealed physical conditions that differ materially from those indicated in the Contract Documents or (2) unknown physical conditions of an unusual nature that differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents, the Contractor shall promptly provide notice to the Owner and the Architect before conditions are disturbed and in no event later than 14 days after first observance of the conditions. The Architect will promptly investigate such conditions and, if the Architect determines that they differ materially and cause an increase or decrease in the Contractor's cost of, or time required for, performance of any part of the Work, will recommend that an equitable adjustment be made in the Contract Sum or Contract Time, or both. If the Architect determines that the conditions at the site are not materially different from those indicated in the Contract Documents and that no change in the terms of the Contract is justified, the Architect shall promptly notify the Owner and Contractor, stating the reasons. If either party disputes the Architect's determination or recommendation, that party may submit a Claim as provided in Article 15.

§ 3.7.5 If, in the course of the Work, the Contractor encounters human remains or recognizes the existence of burial markers, archaeological sites or wetlands not indicated in the Contract Documents, the Contractor shall immediately suspend any operations that would affect them and shall notify the Owner and Architect. Upon receipt of such notice, the Owner shall promptly take any action necessary to obtain governmental authorization required to resume the operations. The Contractor shall continue to suspend such operations until otherwise instructed by the Owner but shall continue with all other operations that do not affect those remains or features. Requests for adjustments in the Contract Sum and Contract Time arising from the existence of such remains or features may be made as provided in Article 15.

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§ 3.8 Allowances

§ 3.8.1 The Contractor shall include in the Contract Sum all allowances stated in the Contract Documents. Items covered by allowances shall be supplied for such amounts and by such persons or entities as the Owner may direct, but the Contractor shall not be required to employ persons or entities to whom the Contractor has reasonable objection.

§ 3.8.2 Unless otherwise provided in the Contract Documents,

- **.1** allowances shall cover the cost to the Contractor of materials and equipment delivered at the site and all required taxes, less applicable trade discounts;
- **.2** Contractor's costs for unloading and handling at the site, labor, installation costs, overhead, profit, and other expenses contemplated for stated allowance amounts shall be included in the Contract Sum but not in the allowances; and
- **.3** whenever costs are more than or less than allowances, the Contract Sum shall be adjusted accordingly by Change Order. The amount of the Change Order shall reflect (1) the difference between actual costs and the allowances under Section 3.8.2.1 and (2) changes in Contractor's costs under Section 3.8.2.2.

§ 3.8.3 Materials and equipment under an allowance shall be selected by the Owner with reasonable promptness.

§ 3.9 Superintendent

§ 3.9.1 The Contractor shall employ a competent superintendent and necessary assistants who shall be in attendance at the Project site during performance of the Work. The superintendent shall represent the Contractor, and communications given to the superintendent shall be as binding as if given to the Contractor.

§ 3.9.2 The Contractor, as soon as practicable after award of the Contract, shall notify the Owner and Architect of the name and qualifications of a proposed superintendent. Within 14 days of receipt of the information, the Architect may notify the Contractor, stating whether the Owner or the Architect (1) has reasonable objection to the proposed superintendent or (2) requires additional time for review. Failure of the Architect to provide notice within the 14-day period shall constitute notice of no reasonable objection.

§ 3.9.3 The Contractor shall not employ a proposed superintendent to whom the Owner or Architect has made reasonable and timely objection. The Contractor shall not change the superintendent without the Owner's consent, which shall not unreasonably be withheld or delayed.

§ 3.10 Contractor's Construction and Submittal Schedules

§ 3.10.1 The Contractor, promptly after being awarded the Contract, shall submit for the Owner's and Architect's information a Contractor's construction schedule for the Work. The schedule shall contain detail appropriate for the Project, including (1) the date of commencement of the Work, interim schedule milestone dates, and the date of Substantial Completion; (2) an apportionment of the Work by construction activity; and (3) the time required for completion of each portion of the Work. The schedule shall provide for the orderly progression of the Work to completion and shall not exceed time limits current under the Contract Documents. The schedule shall be revised at appropriate intervals as required by the conditions of the Work and Project.

§ 3.10.2 The Contractor, promptly after being awarded the Contract and thereafter as necessary to maintain a current submittal schedule, shall submit a submittal schedule for the Architect's approval. The Architect's approval shall not be unreasonably delayed or withheld. The submittal schedule shall (1) be coordinated with the Contractor's construction schedule, and (2) allow the Architect reasonable time to review submittals. If the Contractor fails to submit a submittal schedule, or fails to provide submittals in accordance with the approved submittal schedule, the Contractor shall not be entitled to any increase in Contract Sum or extension of Contract Time based on the time required for review of submittals.

§ 3.10.3 The Contractor shall perform the Work in general accordance with the most recent schedules submitted to the Owner and Architect.

§ 3.11 Documents and Samples at the Site

The Contractor shall make available, at the Project site, the Contract Documents, including Change Orders, Construction Change Directives, and other Modifications, in good order and marked currently to indicate field changes and selections made during construction, and the approved Shop Drawings, Product Data, Samples, and similar required submittals. These shall be in electronic form or paper copy, available to the Architect and Owner, and

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delivered to the Architect for submittal to the Owner upon completion of the Work as a record of the Work as constructed.

§ 3.12 Shop Drawings, Product Data and Samples

§ 3.12.1 Shop Drawings are drawings, diagrams, schedules, and other data specially prepared for the Work by the Contractor or a Subcontractor, Sub-subcontractor, manufacturer, supplier, or distributor to illustrate some portion of the Work.

§ 3.12.2 Product Data are illustrations, standard schedules, performance charts, instructions, brochures, diagrams, and other information furnished by the Contractor to illustrate materials or equipment for some portion of the Work.

§ 3.12.3 Samples are physical examples that illustrate materials, equipment, or workmanship, and establish standards by which the Work will be judged.

§ 3.12.4 Shop Drawings, Product Data, Samples, and similar submittals are not Contract Documents. Their purpose is to demonstrate how the Contractor proposes to conform to the information given and the design concept expressed in the Contract Documents for those portions of the Work for which the Contract Documents require submittals. Review by the Architect is subject to the limitations of Section 4.2.7. Informational submittals upon which the Architect is not expected to take responsive action may be so identified in the Contract Documents. Submittals that are not required by the Contract Documents may be returned by the Architect without action.

§ 3.12.5 The Contractor shall review for compliance with the Contract Documents, approve, and submit to the Architect, Shop Drawings, Product Data, Samples, and similar submittals required by the Contract Documents, in accordance with the submittal schedule approved by the Architect or, in the absence of an approved submittal schedule, with reasonable promptness and in such sequence as to cause no delay in the Work or in the activities of the Owner or of Separate Contractors.

§ 3.12.6 By submitting Shop Drawings, Product Data, Samples, and similar submittals, the Contractor represents to the Owner and Architect that the Contractor has (1) reviewed and approved them, (2) determined and verified materials, field measurements and field construction criteria related thereto, or will do so, and (3) checked and coordinated the information contained within such submittals with the requirements of the Work and of the Contract Documents.

§ 3.12.7 The Contractor shall perform no portion of the Work for which the Contract Documents require submittal and review of Shop Drawings, Product Data, Samples, or similar submittals, until the respective submittal has been approved by the Architect.

§ 3.12.8 The Work shall be in accordance with approved submittals except that the Contractor shall not be relieved of responsibility for deviations from the requirements of the Contract Documents by the Architect's approval of Shop Drawings, Product Data, Samples, or similar submittals, unless the Contractor has specifically notified the Architect of such deviation at the time of submittal and (1) the Architect has given written approval to the specific deviation as a minor change in the Work, or (2) a Change Order or Construction Change Directive has been issued authorizing the deviation. The Contractor shall not be relieved of responsibility for errors or omissions in Shop Drawings, Product Data, Samples, or similar submittals, by the Architect's approval thereof.

§ 3.12.9 The Contractor shall direct specific attention, in writing or on resubmitted Shop Drawings, Product Data, Samples, or similar submittals, to revisions other than those requested by the Architect on previous submittals. In the absence of such notice, the Architect's approval of a resubmission shall not apply to such revisions.

§ 3.12.10 The Contractor shall not be required to provide professional services that constitute the practice of architecture or engineering unless such services are specifically required by the Contract Documents for a portion of the Work or unless the Contractor needs to provide such services in order to carry out the Contractor's responsibilities for construction means, methods, techniques, sequences, and procedures. The Contractor shall not be required to provide professional services in violation of applicable law.

§ 3.12.10.1 If professional design services or certifications by a design professional related to systems, materials, or equipment are specifically required of the Contractor by the Contract Documents, the Owner and the Architect will

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specify all performance and design criteria that such services must satisfy. The Contractor shall be entitled to rely upon the adequacy and accuracy of the performance and design criteria provided in the Contract Documents. The Contractor shall cause such services or certifications to be provided by an appropriately licensed design professional, whose signature and seal shall appear on all drawings, calculations, specifications, certifications, Shop Drawings, and other submittals prepared by such professional. Shop Drawings, and other submittals related to the Work, designed or certified by such professional, if prepared by others, shall bear such professional's written approval when submitted to the Architect. The Owner and the Architect shall be entitled to rely upon the adequacy and accuracy of the services, certifications, and approvals performed or provided by such design professionals, provided the Owner and Architect have specified to the Contractor the performance and design criteria that such services must satisfy. Pursuant to this Section 3.12.10, the Architect will review and approve or take other appropriate action on submittals only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents.

§ 3.12.10.2 If the Contract Documents require the Contractor's design professional to certify that the Work has been performed in accordance with the design criteria, the Contractor shall furnish such certifications to the Architect at the time and in the form specified by the Architect.

§ 3.13 Use of Site

The Contractor shall confine operations at the site to areas permitted by applicable laws, statutes, ordinances, codes, rules and regulations, lawful orders of public authorities, and the Contract Documents and shall not unreasonably encumber the site with materials or equipment.

§ 3.14 Cutting and Patching

§ 3.14.1 The Contractor shall be responsible for cutting, fitting, or patching required to complete the Work or to make its parts fit together properly. All areas requiring cutting, fitting, or patching shall be restored to the condition existing prior to the cutting, fitting, or patching, unless otherwise required by the Contract Documents.

§ 3.14.2 The Contractor shall not damage or endanger a portion of the Work or fully or partially completed construction of the Owner or Separate Contractors by cutting, patching, or otherwise altering such construction, or by excavation. The Contractor shall not cut or otherwise alter construction by the Owner or a Separate Contractor except with written consent of the Owner and of the Separate Contractor. Consent shall not be unreasonably withheld. The Contractor shall not unreasonably withhold, from the Owner or a Separate Contractor, its consent to cutting or otherwise altering the Work.

§ 3.15 Cleaning Up

§ 3.15.1 The Contractor shall keep the premises and surrounding area free from accumulation of waste materials and rubbish caused by operations under the Contract. At completion of the Work, the Contractor shall remove waste materials, rubbish, the Contractor's tools, construction equipment, machinery, and surplus materials from and about the Project.

§ 3.15.2 If the Contractor fails to clean up as provided in the Contract Documents, the Owner may do so and the Owner shall be entitled to reimbursement from the Contractor.

§ 3.16 Access to Work

The Contractor shall provide the Owner and Architect with access to the Work in preparation and progress wherever located.

§ 3.17 Royalties, Patents and Copyrights

The Contractor shall pay all royalties and license fees. The Contractor shall defend suits or claims for infringement of copyrights and patent rights and shall hold the Owner and Architect harmless from loss on account thereof, but shall not be responsible for defense or loss when a particular design, process, or product of a particular manufacturer or manufacturers is required by the Contract Documents, or where the copyright violations are contained in Drawings, Specifications, or other documents prepared by the Owner or Architect. However, if an infringement of a copyright or patent is discovered by, or made known to, the Contractor, the Contractor shall be responsible for the loss unless the information is promptly furnished to the Architect.

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§ 3.18 Indemnification

§ 3.18.1 To the fullest extent permitted by law, the Contractor shall indemnify and hold harmless the Owner, Architect, Architect's consultants, and agents and employees of any of them from and against claims, damages, losses, and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), but only to the extent caused by the negligent acts or omissions of the Contractor, a Subcontractor, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss, or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity that would otherwise exist as to a party or person described in this Section 3.18.

§ 3.18.2 In claims against any person or entity indemnified under this Section 3.18 by an employee of the Contractor, a Subcontractor, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, the indemnification obligation under Section 3.18.1 shall not be limited by a limitation on amount or type of damages, compensation, or benefits payable by or for the Contractor or a Subcontractor under workers' compensation acts, disability benefit acts, or other employee benefit acts.

ARTICLE 4 ARCHITECT

§ 4.1 General

§ 4.1.1 The Architect is the person or entity retained by the Owner pursuant to Section 2.3.2 and identified as such in the Agreement.

§ 4.1.2 Duties, responsibilities, and limitations of authority of the Architect as set forth in the Contract Documents shall not be restricted, modified, or extended without written consent of the Owner, Contractor, and Architect. Consent shall not be unreasonably withheld.

§ 4.2 Administration of the Contract

§ 4.2.1 The Architect will provide administration of the Contract as described in the Contract Documents and will be an Owner's representative during construction until the date the Architect issues the final Certificate for Payment. The Architect will have authority to act on behalf of the Owner only to the extent provided in the Contract Documents.

§ 4.2.2 The Architect will visit the site at intervals appropriate to the stage of construction, or as otherwise agreed with the Owner, to become generally familiar with the progress and quality of the portion of the Work completed, and to determine in general if the Work observed is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the Architect will not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. The Architect will not have control over, charge of, or responsibility for the construction means, methods, techniques, sequences or procedures, or for the safety precautions and programs in connection with the Work, since these are solely the Contractor's rights and responsibilities under the Contract Documents.

§ 4.2.3 On the basis of the site visits, the Architect will keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, and promptly report to the Owner (1) known deviations from the Contract Documents, (2) known deviations from the most recent construction schedule submitted by the Contractor, and (3) defects and deficiencies observed in the Work. The Architect will not be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The Architect will not have control over or charge of, and will not be responsible for acts or omissions of, the Contractor, Subcontractors, or their agents or employees, or any other persons or entities performing portions of the Work.

§ 4.2.4 Communications

The Owner and Contractor shall include the Architect in all communications that relate to or affect the Architect's services or professional responsibilities. The Owner shall promptly notify the Architect of the substance of any direct communications between the Owner and the Contractor otherwise relating to the Project. Communications by and with the Architect's consultants shall be through the Architect. Communications by and with Subcontractors and suppliers shall be through the Contractor. Communications by and with Separate Contractors shall be through the Owner. The Contract Documents may specify other communication protocols.

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§ 4.2.5 Based on the Architect's evaluations of the Contractor's Applications for Payment, the Architect will review and certify the amounts due the Contractor and will issue Certificates for Payment in such amounts.

§ 4.2.6 The Architect has authority to reject Work that does not conform to the Contract Documents. Whenever the Architect considers it necessary or advisable, the Architect will have authority to require inspection or testing of the Work in accordance with Sections 13.4.2 and 13.4.3, whether or not the Work is fabricated, installed or completed. However, neither this authority of the Architect nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect to the Contractor, Subcontractors, suppliers, their agents or employees, or other persons or entities performing portions of the Work.

§ 4.2.7 The Architect will review and approve, or take other appropriate action upon, the Contractor's submittals such as Shop Drawings, Product Data, and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Architect's action will be taken in accordance with the submittal schedule approved by the Architect or, in the absence of an approved submittal schedule, with reasonable promptness while allowing sufficient time in the Architect's professional judgment to permit adequate review. Review of such submittals is not conducted for the purpose of determining the accuracy and completeness of other details such as dimensions and quantities, or for substantiating instructions for installation or performance of equipment or systems, all of which remain the responsibility of the Contractor as required by the Contract Documents. The Architect's review of the Contractor's submittals shall not relieve the Contractor of the obligations under Sections 3.3, 3.5, and 3.12. The Architect's review shall not constitute approval of safety precautions or of any construction means, methods, techniques, sequences, or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

§ 4.2.8 The Architect will prepare Change Orders and Construction Change Directives, and may order minor changes in the Work as provided in Section 7.4. The Architect will investigate and make determinations and recommendations regarding concealed and unknown conditions as provided in Section 3.7.4.

§ 4.2.9 The Architect will conduct inspections to determine the date or dates of Substantial Completion and the date of final completion; issue Certificates of Substantial Completion pursuant to Section 9.8; receive and forward to the Owner, for the Owner's review and records, written warranties and related documents required by the Contract and assembled by the Contractor pursuant to Section 9.10; and issue a final Certificate for Payment pursuant to Section 9.10.

§ 4.2.10 If the Owner and Architect agree, the Architect will provide one or more Project representatives to assist in carrying out the Architect's responsibilities at the site. The Owner shall notify the Contractor of any change in the duties, responsibilities and limitations of authority of the Project representatives.

§ 4.2.11 The Architect will interpret and decide matters concerning performance under, and requirements of, the Contract Documents on written request of either the Owner or Contractor. The Architect's response to such requests will be made in writing within any time limits agreed upon or otherwise with reasonable promptness.

§ 4.2.12 Interpretations and decisions of the Architect will be consistent with the intent of, and reasonably inferable from, the Contract Documents and will be in writing or in the form of drawings. When making such interpretations and decisions, the Architect will endeavor to secure faithful performance by both Owner and Contractor, will not show partiality to either, and will not be liable for results of interpretations or decisions rendered in good faith.

§ 4.2.13 The Architect's decisions on matters relating to aesthetic effect will be final if consistent with the intent expressed in the Contract Documents.

§ 4.2.14 The Architect will review and respond to requests for information about the Contract Documents. The Architect's response to such requests will be made in writing within any time limits agreed upon or otherwise with reasonable promptness. If appropriate, the Architect will prepare and issue supplemental Drawings and Specifications in response to the requests for information.

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ARTICLE 5 SUBCONTRACTORS

§ 5.1 Definitions

§ 5.1.1 A Subcontractor is a person or entity who has a direct contract with the Contractor to perform a portion of the Work at the site. The term "Subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Subcontractor or an authorized representative of the Subcontractor. The term "Subcontractor" does not include a Separate Contractor or the subcontractors of a Separate Contractor.

§ 5.1.2 A Sub-subcontractor is a person or entity who has a direct or indirect contract with a Subcontractor to perform a portion of the Work at the site. The term "Sub-subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Sub-subcontractor or an authorized representative of the Sub-subcontractor.

§ 5.2 Award of Subcontracts and Other Contracts for Portions of the Work

§ 5.2.1 Unless otherwise stated in the Contract Documents, the Contractor, as soon as practicable after award of the Contract, shall notify the Owner and Architect of the persons or entities proposed for each principal portion of the Work, including those who are to furnish materials or equipment fabricated to a special design. Within 14 days of receipt of the information, the Architect may notify the Contractor whether the Owner or the Architect (1) has reasonable objection to any such proposed person or entity or (2) requires additional time for review. Failure of the Architect to provide notice within the 14-day period shall constitute notice of no reasonable objection.

§ 5.2.2 The Contractor shall not contract with a proposed person or entity to whom the Owner or Architect has made reasonable and timely objection. The Contractor shall not be required to contract with anyone to whom the Contractor has made reasonable objection.

§ 5.2.3 If the Owner or Architect has reasonable objection to a person or entity proposed by the Contractor, the Contractor shall propose another to whom the Owner or Architect has no reasonable objection. If the proposed but rejected Subcontractor was reasonably capable of performing the Work, the Contract Sum and Contract Time shall be increased or decreased by the difference, if any, occasioned by such change, and an appropriate Change Order shall be issued before commencement of the substitute Subcontractor's Work. However, no increase in the Contract Sum or Contract Time shall be allowed for such change unless the Contractor has acted promptly and responsively in submitting names as required.

§ 5.2.4 The Contractor shall not substitute a Subcontractor, person, or entity for one previously selected if the Owner or Architect makes reasonable objection to such substitution.

§ 5.3 Subcontractual Relations

By appropriate written agreement, the Contractor shall require each Subcontractor, to the extent of the Work to be performed by the Subcontractor, to be bound to the Contractor by terms of the Contract Documents, and to assume toward the Contractor all the obligations and responsibilities, including the responsibility for safety of the Subcontractor's Work that the Contractor, by these Contract Documents, assumes toward the Owner and Architect. Each subcontract agreement shall preserve and protect the rights of the Owner and Architect under the Contract Documents with respect to the Work to be performed by the Subcontractor so that subcontracting thereof will not prejudice such rights, and shall allow to the Subcontractor, unless specifically provided otherwise in the subcontract agreement, the benefit of all rights, remedies, and redress against the Contractor that the Contractor, by the Contract Documents, has against the Owner. Where appropriate, the Contractor shall require each Subcontractor to enter into similar agreements with Sub-subcontractors. The Contractor shall make available to each proposed Subcontractor, prior to the execution of the subcontract agreement, copies of the Contract Documents to which the Subcontractor will be bound, and, upon written request of the Subcontractor, identify to the Subcontractor terms and conditions of the proposed subcontract agreement that may be at variance with the Contract Documents. Subcontractors will similarly make copies of applicable portions of such documents available to their respective proposed Sub-subcontractors.

§ 5.4 Contingent Assignment of Subcontracts

§ 5.4.1 Each subcontract agreement for a portion of the Work is assigned by the Contractor to the Owner, provided that

- **.1** assignment is effective only after termination of the Contract by the Owner for cause pursuant to Section 14.2 and only for those subcontract agreements that the Owner accepts by notifying the Subcontractor and Contractor; and
- **.2** assignment is subject to the prior rights of the surety, if any, obligated under bond relating to the Contract.

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When the Owner accepts the assignment of a subcontract agreement, the Owner assumes the Contractor's rights and obligations under the subcontract.

§ 5.4.2 Upon such assignment, if the Work has been suspended for more than 30 days, the Subcontractor's compensation shall be equitably adjusted for increases in cost resulting from the suspension.

§ 5.4.3 Upon assignment to the Owner under this Section 5.4, the Owner may further assign the subcontract to a successor contractor or other entity. If the Owner assigns the subcontract to a successor contractor or other entity, the Owner shall nevertheless remain legally responsible for all of the successor contractor's obligations under the subcontract.

ARTICLE 6 CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTORS

§ 6.1 Owner's Right to Perform Construction and to Award Separate Contracts

§ 6.1.1 The term "Separate Contractor(s)" shall mean other contractors retained by the Owner under separate agreements. The Owner reserves the right to perform construction or operations related to the Project with the Owner's own forces, and with Separate Contractors retained under Conditions of the Contract substantially similar to those of this Contract, including those provisions of the Conditions of the Contract related to insurance and waiver of subrogation.

§ 6.1.2 When separate contracts are awarded for different portions of the Project or other construction or operations on the site, the term "Contractor" in the Contract Documents in each case shall mean the Contractor who executes each separate Owner-Contractor Agreement.

§ 6.1.3 The Owner shall provide for coordination of the activities of the Owner's own forces and of each Separate Contractor with the Work of the Contractor, who shall cooperate with them. The Contractor shall participate with any Separate Contractors and the Owner in reviewing their construction schedules. The Contractor shall make any revisions to its construction schedule deemed necessary after a joint review and mutual agreement. The construction schedules shall then constitute the schedules to be used by the Contractor, Separate Contractors, and the Owner until subsequently revised.

§ 6.1.4 Unless otherwise provided in the Contract Documents, when the Owner performs construction or operations related to the Project with the Owner's own forces or with Separate Contractors, the Owner or its Separate Contractors shall have the same obligations and rights that the Contractor has under the Conditions of the Contract, including, without excluding others, those stated in Article 3, this Article 6, and Articles 10, 11, and 12.

§ 6.2 Mutual Responsibility

§ 6.2.1 The Contractor shall afford the Owner and Separate Contractors reasonable opportunity for introduction and storage of their materials and equipment and performance of their activities, and shall connect and coordinate the Contractor's construction and operations with theirs as required by the Contract Documents.

§ 6.2.2 If part of the Contractor's Work depends for proper execution or results upon construction or operations by the Owner or a Separate Contractor, the Contractor shall, prior to proceeding with that portion of the Work, promptly notify the Architect of apparent discrepancies or defects in the construction or operations by the Owner or Separate Contractor that would render it unsuitable for proper execution and results of the Contractor's Work. Failure of the Contractor to notify the Architect of apparent discrepancies or defects prior to proceeding with the Work shall constitute an acknowledgment that the Owner's or Separate Contractor's completed or partially completed construction is fit and proper to receive the Contractor's Work. The Contractor shall not be responsible for discrepancies or defects in the construction or operations by the Owner or Separate Contractor that are not apparent.

§ 6.2.3 The Contractor shall reimburse the Owner for costs the Owner incurs that are payable to a Separate Contractor because of the Contractor's delays, improperly timed activities or defective construction. The Owner shall be responsible to the Contractor for costs the Contractor incurs because of a Separate Contractor's delays, improperly timed activities, damage to the Work or defective construction.

§ 6.2.4 The Contractor shall promptly remedy damage that the Contractor wrongfully causes to completed or partially completed construction or to property of the Owner or Separate Contractor as provided in Section 10.2.5.

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§ 6.2.5 The Owner and each Separate Contractor shall have the same responsibilities for cutting and patching as are described for the Contractor in Section 3.14.

§ 6.3 Owner's Right to Clean Up

If a dispute arises among the Contractor, Separate Contractors, and the Owner as to the responsibility under their respective contracts for maintaining the premises and surrounding area free from waste materials and rubbish, the Owner may clean up and the Architect will allocate the cost among those responsible.

ARTICLE 7 CHANGES IN THE WORK

§ 7.1 General

§ 7.1.1 Changes in the Work may be accomplished after execution of the Contract, and without invalidating the Contract, by Change Order, Construction Change Directive or order for a minor change in the Work, subject to the limitations stated in this Article 7 and elsewhere in the Contract Documents.

§ 7.1.2 A Change Order shall be based upon agreement among the Owner, Contractor, and Architect. A Construction Change Directive requires agreement by the Owner and Architect and may or may not be agreed to by the Contractor. An order for a minor change in the Work may be issued by the Architect alone.

§ 7.1.3 Changes in the Work shall be performed under applicable provisions of the Contract Documents. The Contractor shall proceed promptly with changes in the Work, unless otherwise provided in the Change Order, Construction Change Directive, or order for a minor change in the Work.

§ 7.2 Change Orders

§ 7.2.1 A Change Order is a written instrument prepared by the Architect and signed by the Owner, Contractor, and Architect stating their agreement upon all of the following:

- **.1** The change in the Work;
- **.2** The amount of the adjustment, if any, in the Contract Sum; and
- **.3** The extent of the adjustment, if any, in the Contract Time.

§ 7.3 Construction Change Directives

§ 7.3.1 A Construction Change Directive is a written order prepared by the Architect and signed by the Owner and Architect, directing a change in the Work prior to agreement on adjustment, if any, in the Contract Sum or Contract Time, or both. The Owner may by Construction Change Directive, without invalidating the Contract, order changes in the Work within the general scope of the Contract consisting of additions, deletions, or other revisions, the Contract Sum and Contract Time being adjusted accordingly.

§ 7.3.2 A Construction Change Directive shall be used in the absence of total agreement on the terms of a Change Order.

§ 7.3.3 If the Construction Change Directive provides for an adjustment to the Contract Sum, the adjustment shall be based on one of the following methods:

- **.1** Mutual acceptance of a lump sum properly itemized and supported by sufficient substantiating data to permit evaluation;
- **.2** Unit prices stated in the Contract Documents or subsequently agreed upon;
- **.3** Cost to be determined in a manner agreed upon by the parties and a mutually acceptable fixed or percentage fee; or
- **.4** As provided in Section 7.3.4.

§ 7.3.4 If the Contractor does not respond promptly or disagrees with the method for adjustment in the Contract Sum, the Architect shall determine the adjustment on the basis of reasonable expenditures and savings of those performing the Work attributable to the change, including, in case of an increase in the Contract Sum, an amount for overhead and profit as set forth in the Agreement, or if no such amount is set forth in the Agreement, a reasonable amount. In such case, and also under Section 7.3.3.3, the Contractor shall keep and present, in such form as the Architect may prescribe, an itemized accounting together with appropriate supporting data. Unless otherwise provided in the Contract Documents, costs for the purposes of this Section 7.3.4 shall be limited to the following:

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.1 Costs of labor, including applicable payroll taxes, fringe benefits required by agreement or custom, workers' compensation insurance, and other employee costs approved by the Architect;

.2 Costs of materials, supplies, and equipment, including cost of transportation, whether incorporated or consumed;

.3 Rental costs of machinery and equipment, exclusive of hand tools, whether rented from the Contractor or others;

.4 Costs of premiums for all bonds and insurance, permit fees, and sales, use, or similar taxes, directly related to the change; and

.5 Costs of supervision and field office personnel directly attributable to the change.

§ 7.3.5 If the Contractor disagrees with the adjustment in the Contract Time, the Contractor may make a Claim in accordance with applicable provisions of Article 15.

§ 7.3.6 Upon receipt of a Construction Change Directive, the Contractor shall promptly proceed with the change in the Work involved and advise the Architect of the Contractor's agreement or disagreement with the method, if any, provided in the Construction Change Directive for determining the proposed adjustment in the Contract Sum or Contract Time.

§ 7.3.7 A Construction Change Directive signed by the Contractor indicates the Contractor's agreement therewith, including adjustment in Contract Sum and Contract Time or the method for determining them. Such agreement shall be effective immediately and shall be recorded as a Change Order.

§ 7.3.8 The amount of credit to be allowed by the Contractor to the Owner for a deletion or change that results in a net decrease in the Contract Sum shall be actual net cost as confirmed by the Architect. When both additions and credits covering related Work or substitutions are involved in a change, the allowance for overhead and profit shall be figured on the basis of net increase, if any, with respect to that change.

§ 7.3.9 Pending final determination of the total cost of a Construction Change Directive to the Owner, the Contractor may request payment for Work completed under the Construction Change Directive in Applications for Payment. The Architect will make an interim determination for purposes of monthly certification for payment for those costs and certify for payment the amount that the Architect determines, in the Architect's professional judgment, to be reasonably justified. The Architect's interim determination of cost shall adjust the Contract Sum on the same basis as a Change Order, subject to the right of either party to disagree and assert a Claim in accordance with Article 15.

§ 7.3.10 When the Owner and Contractor agree with a determination made by the Architect concerning the adjustments in the Contract Sum and Contract Time, or otherwise reach agreement upon the adjustments, such agreement shall be effective immediately and the Architect will prepare a Change Order. Change Orders may be issued for all or any part of a Construction Change Directive.

§ 7.4 Minor Changes in the Work

The Architect may order minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. The Architect's order for minor changes shall be in writing. If the Contractor believes that the proposed minor change in the Work will affect the Contract Sum or Contract Time, the Contractor shall notify the Architect and shall not proceed to implement the change in the Work. If the Contractor performs the Work set forth in the Architect's order for a minor change without prior notice to the Architect that such change will affect the Contract Sum or Contract Time, the Contractor waives any adjustment to the Contract Sum or extension of the Contract Time.

ARTICLE 8 TIME

§ 8.1 Definitions

§ 8.1.1 Unless otherwise provided, Contract Time is the period of time, including authorized adjustments, allotted in the Contract Documents for Substantial Completion of the Work.

§ 8.1.2 The date of commencement of the Work is the date established in the Agreement.

§ 8.1.3 The date of Substantial Completion is the date certified by the Architect in accordance with Section 9.8.

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§ 8.1.4 The term "day" as used in the Contract Documents shall mean calendar day unless otherwise specifically defined.

§ 8.2 Progress and Completion

§ 8.2.1 Time limits stated in the Contract Documents are of the essence of the Contract. By executing the Agreement, the Contractor confirms that the Contract Time is a reasonable period for performing the Work.

§ 8.2.2 The Contractor shall not knowingly, except by agreement or instruction of the Owner in writing, commence the Work prior to the effective date of insurance required to be furnished by the Contractor and Owner.

§ 8.2.3 The Contractor shall proceed expeditiously with adequate forces and shall achieve Substantial Completion within the Contract Time.

§ 8.3 Delays and Extensions of Time

§ 8.3.1 If the Contractor is delayed at any time in the commencement or progress of the Work by (1) an act or neglect of the Owner or Architect, of an employee of either, or of a Separate Contractor; (2) by changes ordered in the Work; (3) by labor disputes, fire, unusual delay in deliveries, unavoidable casualties, adverse weather conditions documented in accordance with Section 15.1.6.2, or other causes beyond the Contractor's control; (4) by delay authorized by the Owner pending mediation and binding dispute resolution; or (5) by other causes that the Contractor asserts, and the Architect determines, justify delay, then the Contract Time shall be extended for such reasonable time as the Architect may determine.

§ 8.3.2 Claims relating to time shall be made in accordance with applicable provisions of Article 15.

§ 8.3.3 This Section 8.3 does not preclude recovery of damages for delay by either party under other provisions of the Contract Documents.

ARTICLE 9 PAYMENTS AND COMPLETION

§ 9.1 Contract Sum

§ 9.1.1 The Contract Sum is stated in the Agreement and, including authorized adjustments, is the total amount payable by the Owner to the Contractor for performance of the Work under the Contract Documents.

§ 9.1.2 If unit prices are stated in the Contract Documents or subsequently agreed upon, and if quantities originally contemplated are materially changed so that application of such unit prices to the actual quantities causes substantial inequity to the Owner or Contractor, the applicable unit prices shall be equitably adjusted.

§ 9.2 Schedule of Values

Where the Contract is based on a stipulated sum or Guaranteed Maximum Price, the Contractor shall submit a schedule of values to the Architect before the first Application for Payment, allocating the entire Contract Sum to the various portions of the Work. The schedule of values shall be prepared in the form, and supported by the data to substantiate its accuracy, required by the Architect. This schedule, unless objected to by the Architect, shall be used as a basis for reviewing the Contractor's Applications for Payment. Any changes to the schedule of values shall be submitted to the Architect and supported by such data to substantiate its accuracy as the Architect may require, and unless objected to by the Architect, shall be used as a basis for reviewing the Contractor's subsequent Applications for Payment.

§ 9.3 Applications for Payment

§ 9.3.1 At least ten days before the date established for each progress payment, the Contractor shall submit to the Architect an itemized Application for Payment prepared in accordance with the schedule of values, if required under Section 9.2, for completed portions of the Work. The application shall be notarized, if required, and supported by all data substantiating the Contractor's right to payment that the Owner or Architect require, such as copies of requisitions, and releases and waivers of liens from Subcontractors and suppliers, and shall reflect retainage if provided for in the Contract Documents.

§ 9.3.1.1 As provided in Section 7.3.9, such applications may include requests for payment on account of changes in the Work that have been properly authorized by Construction Change Directives, or by interim determinations of the Architect, but not yet included in Change Orders.

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§ 9.3.1.2 Applications for Payment shall not include requests for payment for portions of the Work for which the Contractor does not intend to pay a Subcontractor or supplier, unless such Work has been performed by others whom the Contractor intends to pay.

§ 9.3.2 Unless otherwise provided in the Contract Documents, payments shall be made on account of materials and equipment delivered and suitably stored at the site for subsequent incorporation in the Work. If approved in advance by the Owner, payment may similarly be made for materials and equipment suitably stored off the site at a location agreed upon in writing. Payment for materials and equipment stored on or off the site shall be conditioned upon compliance by the Contractor with procedures satisfactory to the Owner to establish the Owner's title to such materials and equipment or otherwise protect the Owner's interest, and shall include the costs of applicable insurance, storage, and transportation to the site, for such materials and equipment stored off the site.

§ 9.3.3 The Contractor warrants that title to all Work covered by an Application for Payment will pass to the Owner no later than the time of payment. The Contractor further warrants that upon submittal of an Application for Payment all Work for which Certificates for Payment have been previously issued and payments received from the Owner shall, to the best of the Contractor's knowledge, information, and belief, be free and clear of liens, claims, security interests, or encumbrances, in favor of the Contractor, Subcontractors, suppliers, or other persons or entities that provided labor, materials, and equipment relating to the Work.

§ 9.4 Certificates for Payment

§ 9.4.1 The Architect will, within seven days after receipt of the Contractor's Application for Payment, either (1) issue to the Owner a Certificate for Payment in the full amount of the Application for Payment, with a copy to the Contractor; or (2) issue to the Owner a Certificate for Payment for such amount as the Architect determines is properly due, and notify the Contractor and Owner of the Architect's reasons for withholding certification in part as provided in Section 9.5.1; or (3) withhold certification of the entire Application for Payment, and notify the Contractor and Owner of the Architect's reason for withholding certification in whole as provided in Section 9.5.1.

§ 9.4.2 The issuance of a Certificate for Payment will constitute a representation by the Architect to the Owner, based on the Architect's evaluation of the Work and the data in the Application for Payment, that, to the best of the Architect's knowledge, information, and belief, the Work has progressed to the point indicated, the quality of the Work is in accordance with the Contract Documents, and that the Contractor is entitled to payment in the amount certified. The foregoing representations are subject to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, to results of subsequent tests and inspections, to correction of minor deviations from the Contract Documents prior to completion, and to specific qualifications expressed by the Architect. However, the issuance of a Certificate for Payment will not be a representation that the Architect has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work; (2) reviewed construction means, methods, techniques, sequences, or procedures; (3) reviewed copies of requisitions received from Subcontractors and suppliers and other data requested by the Owner to substantiate the Contractor's right to payment; or (4) made examination to ascertain how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

§ 9.5 Decisions to Withhold Certification

§ 9.5.1 The Architect may withhold a Certificate for Payment in whole or in part, to the extent reasonably necessary to protect the Owner, if in the Architect's opinion the representations to the Owner required by Section 9.4.2 cannot be made. If the Architect is unable to certify payment in the amount of the Application, the Architect will notify the Contractor and Owner as provided in Section 9.4.1. If the Contractor and Architect cannot agree on a revised amount, the Architect will promptly issue a Certificate for Payment for the amount for which the Architect is able to make such representations to the Owner. The Architect may also withhold a Certificate for Payment or, because of subsequently discovered evidence, may nullify the whole or a part of a Certificate for Payment previously issued, to such extent as may be necessary in the Architect's opinion to protect the Owner from loss for which the Contractor is responsible, including loss resulting from acts and omissions described in Section 3.3.2, because of

- **.1** defective Work not remedied;
- **.2** third party claims filed or reasonable evidence indicating probable filing of such claims, unless security acceptable to the Owner is provided by the Contractor;
- **.3** failure of the Contractor to make payments properly to Subcontractors or suppliers for labor, materials or equipment;

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.4 reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Sum;
.5 damage to the Owner or a Separate Contractor;
.6 reasonable evidence that the Work will not be completed within the Contract Time, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay; or
.7 repeated failure to carry out the Work in accordance with the Contract Documents.

§ 9.5.2 When either party disputes the Architect's decision regarding a Certificate for Payment under Section 9.5.1, in whole or in part, that party may submit a Claim in accordance with Article 15.

§ 9.5.3 When the reasons for withholding certification are removed, certification will be made for amounts previously withheld.

§ 9.5.4 If the Architect withholds certification for payment under Section 9.5.1.3, the Owner may, at its sole option, issue joint checks to the Contractor and to any Subcontractor or supplier to whom the Contractor failed to make payment for Work properly performed or material or equipment suitably delivered. If the Owner makes payments by joint check, the Owner shall notify the Architect and the Contractor shall reflect such payment on its next Application for Payment.

§ 9.6 Progress Payments

§ 9.6.1 After the Architect has issued a Certificate for Payment, the Owner shall make payment in the manner and within the time provided in the Contract Documents, and shall so notify the Architect.

§ 9.6.2 The Contractor shall pay each Subcontractor, no later than seven days after receipt of payment from the Owner, the amount to which the Subcontractor is entitled, reflecting percentages actually retained from payments to the Contractor on account of the Subcontractor's portion of the Work. The Contractor shall, by appropriate agreement with each Subcontractor, require each Subcontractor to make payments to Sub-subcontractors in a similar manner.

§ 9.6.3 The Architect will, on request, furnish to a Subcontractor, if practicable, information regarding percentages of completion or amounts applied for by the Contractor and action taken thereon by the Architect and Owner on account of portions of the Work done by such Subcontractor.

§ 9.6.4 The Owner has the right to request written evidence from the Contractor that the Contractor has properly paid Subcontractors and suppliers amounts paid by the Owner to the Contractor for subcontracted Work. If the Contractor fails to furnish such evidence within seven days, the Owner shall have the right to contact Subcontractors and suppliers to ascertain whether they have been properly paid. Neither the Owner nor Architect shall have an obligation to pay, or to see to the payment of money to, a Subcontractor or supplier, except as may otherwise be required by law.

§ 9.6.5 The Contractor's payments to suppliers shall be treated in a manner similar to that provided in Sections 9.6.2, 9.6.3 and 9.6.4.

§ 9.6.6 A Certificate for Payment, a progress payment, or partial or entire use or occupancy of the Project by the Owner shall not constitute acceptance of Work not in accordance with the Contract Documents.

§ 9.6.7 Unless the Contractor provides the Owner with a payment bond in the full penal sum of the Contract Sum, payments received by the Contractor for Work properly performed by Subcontractors or provided by suppliers shall be held by the Contractor for those Subcontractors or suppliers who performed Work or furnished materials, or both, under contract with the Contractor for which payment was made by the Owner. Nothing contained herein shall require money to be placed in a separate account and not commingled with money of the Contractor, create any fiduciary liability or tort liability on the part of the Contractor for breach of trust, or entitle any person or entity to an award of punitive damages against the Contractor for breach of the requirements of this provision.

§ 9.6.8 Provided the Owner has fulfilled its payment obligations under the Contract Documents, the Contractor shall defend and indemnify the Owner from all loss, liability, damage or expense, including reasonable attorney's fees and litigation expenses, arising out of any lien claim or other claim for payment by any Subcontractor or supplier of any tier. Upon receipt of notice of a lien claim or other claim for payment, the Owner shall notify the Contractor. If approved by the applicable court, when required, the Contractor may substitute a surety bond for the property against which the lien or other claim for payment has been asserted.

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§ 9.7 Failure of Payment

If the Architect does not issue a Certificate for Payment, through no fault of the Contractor, within seven days after receipt of the Contractor's Application for Payment, or if the Owner does not pay the Contractor within seven days after the date established in the Contract Documents, the amount certified by the Architect or awarded by binding dispute resolution, then the Contractor may, upon seven additional days' notice to the Owner and Architect, stop the Work until payment of the amount owing has been received. The Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable costs of shutdown, delay and start-up, plus interest as provided for in the Contract Documents.

§ 9.8 Substantial Completion

§ 9.8.1 Substantial Completion is the stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work for its intended use.

§ 9.8.2 When the Contractor considers that the Work, or a portion thereof which the Owner agrees to accept separately, is substantially complete, the Contractor shall prepare and submit to the Architect a comprehensive list of items to be completed or corrected prior to final payment. Failure to include an item on such list does not alter the responsibility of the Contractor to complete all Work in accordance with the Contract Documents.

§ 9.8.3 Upon receipt of the Contractor's list, the Architect will make an inspection to determine whether the Work or designated portion thereof is substantially complete. If the Architect's inspection discloses any item, whether or not included on the Contractor's list, which is not sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work or designated portion thereof for its intended use, the Contractor shall, before issuance of the Certificate of Substantial Completion, complete or correct such item upon notification by the Architect. In such case, the Contractor shall then submit a request for another inspection by the Architect to determine Substantial Completion.

§ 9.8.4 When the Work or designated portion thereof is substantially complete, the Architect will prepare a Certificate of Substantial Completion that shall establish the date of Substantial Completion; establish responsibilities of the Owner and Contractor for security, maintenance, heat, utilities, damage to the Work and insurance; and fix the time within which the Contractor shall finish all items on the list accompanying the Certificate. Warranties required by the Contract Documents shall commence on the date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion.

§ 9.8.5 The Certificate of Substantial Completion shall be submitted to the Owner and Contractor for their written acceptance of responsibilities assigned to them in the Certificate. Upon such acceptance, and consent of surety if any, the Owner shall make payment of retainage applying to the Work or designated portion thereof. Such payment shall be adjusted for Work that is incomplete or not in accordance with the requirements of the Contract Documents.

§ 9.9 Partial Occupancy or Use

§ 9.9.1 The Owner may occupy or use any completed or partially completed portion of the Work at any stage when such portion is designated by separate agreement with the Contractor, provided such occupancy or use is consented to by the insurer and authorized by public authorities having jurisdiction over the Project. Such partial occupancy or use may commence whether or not the portion is substantially complete, provided the Owner and Contractor have accepted in writing the responsibilities assigned to each of them for payments, retainage, if any, security, maintenance, heat, utilities, damage to the Work and insurance, and have agreed in writing concerning the period for correction of the Work and commencement of warranties required by the Contract Documents. When the Contractor considers a portion substantially complete, the Contractor shall prepare and submit a list to the Architect as provided under Section 9.8.2. Consent of the Contractor to partial occupancy or use shall not be unreasonably withheld. The stage of the progress of the Work shall be determined by written agreement between the Owner and Contractor or, if no agreement is reached, by decision of the Architect.

§ 9.9.2 Immediately prior to such partial occupancy or use, the Owner, Contractor, and Architect shall jointly inspect the area to be occupied or portion of the Work to be used in order to determine and record the condition of the Work.

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§ 9.9.3 Unless otherwise agreed upon, partial occupancy or use of a portion or portions of the Work shall not constitute acceptance of Work not complying with the requirements of the Contract Documents.

§ 9.10 Final Completion and Final Payment

§ 9.10.1 Upon receipt of the Contractor's notice that the Work is ready for final inspection and acceptance and upon receipt of a final Application for Payment, the Architect will promptly make such inspection. When the Architect finds the Work acceptable under the Contract Documents and the Contract fully performed, the Architect will promptly issue a final Certificate for Payment stating that to the best of the Architect's knowledge, information and belief, and on the basis of the Architect's on-site visits and inspections, the Work has been completed in accordance with the Contract Documents and that the entire balance found to be due the Contractor and noted in the final Certificate is due and payable. The Architect's final Certificate for Payment will constitute a further representation that conditions listed in Section 9.10.2 as precedent to the Contractor's being entitled to final payment have been fulfilled.

§ 9.10.2 Neither final payment nor any remaining retained percentage shall become due until the Contractor submits to the Architect (1) an affidavit that payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which the Owner or the Owner's property might be responsible or encumbered (less amounts withheld by Owner) have been paid or otherwise satisfied, (2) a certificate evidencing that insurance required by the Contract Documents to remain in force after final payment is currently in effect, (3) a written statement that the Contractor knows of no reason that the insurance will not be renewable to cover the period required by the Contract Documents, (4) consent of surety, if any, to final payment, (5) documentation of any special warranties, such as manufacturers' warranties or specific Subcontractor warranties, and (6) if required by the Owner, other data establishing payment or satisfaction of obligations, such as receipts and releases and waivers of liens, claims, security interests, or encumbrances arising out of the Contract, to the extent and in such form as may be designated by the Owner. If a Subcontractor refuses to furnish a release or waiver required by the Owner, the Contractor may furnish a bond satisfactory to the Owner to indemnify the Owner against such lien, claim, security interest, or encumbrance. If a lien, claim, security interest, or encumbrance remains unsatisfied after payments are made, the Contractor shall refund to the Owner all money that the Owner may be compelled to pay in discharging the lien, claim, security interest, or encumbrance, including all costs and reasonable attorneys' fees.

§ 9.10.3 If, after Substantial Completion of the Work, final completion thereof is materially delayed through no fault of the Contractor or by issuance of Change Orders affecting final completion, and the Architect so confirms, the Owner shall, upon application by the Contractor and certification by the Architect, and without terminating the Contract, make payment of the balance due for that portion of the Work fully completed, corrected, and accepted. If the remaining balance for Work not fully completed or corrected is less than retainage stipulated in the Contract Documents, and if bonds have been furnished, the written consent of the surety to payment of the balance due for that portion of the Work fully completed and accepted shall be submitted by the Contractor to the Architect prior to certification of such payment. Such payment shall be made under terms and conditions governing final payment, except that it shall not constitute a waiver of Claims.

§ 9.10.4 The making of final payment shall constitute a waiver of Claims by the Owner except those arising from

- **.1** liens, Claims, security interests, or encumbrances arising out of the Contract and unsettled;
- **.2** failure of the Work to comply with the requirements of the Contract Documents;
- **.3** terms of special warranties required by the Contract Documents; or
- **.4** audits performed by the Owner, if permitted by the Contract Documents, after final payment.

§ 9.10.5 Acceptance of final payment by the Contractor, a Subcontractor, or a supplier, shall constitute a waiver of claims by that payee except those previously made in writing and identified by that payee as unsettled at the time of final Application for Payment.

ARTICLE 10 PROTECTION OF PERSONS AND PROPERTY

§ 10.1 Safety Precautions and Programs

The Contractor shall be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the performance of the Contract.

§ 10.2 Safety of Persons and Property

§ 10.2.1 The Contractor shall take reasonable precautions for safety of, and shall provide reasonable protection to prevent damage, injury, or loss to

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.1 employees on the Work and other persons who may be affected thereby;
.2 the Work and materials and equipment to be incorporated therein, whether in storage on or off the site, under care, custody, or control of the Contractor, a Subcontractor, or a Sub-subcontractor; and
.3 other property at the site or adjacent thereto, such as trees, shrubs, lawns, walks, pavements, roadways, structures, and utilities not designated for removal, relocation, or replacement in the course of construction.

§ 10.2.2 The Contractor shall comply with, and give notices required by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities, bearing on safety of persons or property or their protection from damage, injury, or loss.

§ 10.2.3 The Contractor shall implement, erect, and maintain, as required by existing conditions and performance of the Contract, reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards; promulgating safety regulations; and notifying the owners and users of adjacent sites and utilities of the safeguards.

§ 10.2.4 When use or storage of explosives or other hazardous materials or equipment, or unusual methods are necessary for execution of the Work, the Contractor shall exercise utmost care and carry on such activities under supervision of properly qualified personnel.

§ 10.2.5 The Contractor shall promptly remedy damage and loss (other than damage or loss insured under property insurance required by the Contract Documents) to property referred to in Sections 10.2.1.2 and 10.2.1.3 caused in whole or in part by the Contractor, a Subcontractor, a Sub-subcontractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable and for which the Contractor is responsible under Sections 10.2.1.2 and 10.2.1.3. The Contractor may make a Claim for the cost to remedy the damage or loss to the extent such damage or loss is attributable to acts or omissions of the Owner or Architect or anyone directly or indirectly employed by either of them, or by anyone for whose acts either of them may be liable, and not attributable to the fault or negligence of the Contractor. The foregoing obligations of the Contractor are in addition to the Contractor's obligations under Section 3.18.

§ 10.2.6 The Contractor shall designate a responsible member of the Contractor's organization at the site whose duty shall be the prevention of accidents. This person shall be the Contractor's superintendent unless otherwise designated by the Contractor in writing to the Owner and Architect.

§ 10.2.7 The Contractor shall not permit any part of the construction or site to be loaded so as to cause damage or create an unsafe condition.

§ 10.2.8 Injury or Damage to Person or Property

If either party suffers injury or damage to person or property because of an act or omission of the other party, or of others for whose acts such party is legally responsible, notice of the injury or damage, whether or not insured, shall be given to the other party within a reasonable time not exceeding 21 days after discovery. The notice shall provide sufficient detail to enable the other party to investigate the matter.

§ 10.3 Hazardous Materials and Substances

§ 10.3.1 The Contractor is responsible for compliance with any requirements included in the Contract Documents regarding hazardous materials or substances. If the Contractor encounters a hazardous material or substance not addressed in the Contract Documents and if reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a material or substance, including but not limited to asbestos or polychlorinated biphenyl (PCB), encountered on the site by the Contractor, the Contractor shall, upon recognizing the condition, immediately stop Work in the affected area and notify the Owner and Architect of the condition.

§ 10.3.2 Upon receipt of the Contractor's notice, the Owner shall obtain the services of a licensed laboratory to verify the presence or absence of the material or substance reported by the Contractor and, in the event such material or substance is found to be present, to cause it to be rendered harmless. Unless otherwise required by the Contract Documents, the Owner shall furnish in writing to the Contractor and Architect the names and qualifications of persons or entities who are to perform tests verifying the presence or absence of the material or substance or who are to perform the task of removal or safe containment of the material or substance. The Contractor and the Architect will

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promptly reply to the Owner in writing stating whether or not either has reasonable objection to the persons or entities proposed by the Owner. If either the Contractor or Architect has an objection to a person or entity proposed by the Owner, the Owner shall propose another to whom the Contractor and the Architect have no reasonable objection. When the material or substance has been rendered harmless, Work in the affected area shall resume upon written agreement of the Owner and Contractor. By Change Order, the Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable additional costs of shutdown, delay, and start-up.

§ 10.3.3 To the fullest extent permitted by law, the Owner shall indemnify and hold harmless the Contractor, Subcontractors, Architect, Architect's consultants, and agents and employees of any of them from and against claims, damages, losses, and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work in the affected area if in fact the material or substance presents the risk of bodily injury or death as described in Section 10.3.1 and has not been rendered harmless, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), except to the extent that such damage, loss, or expense is due to the fault or negligence of the party seeking indemnity.

§ 10.3.4 The Owner shall not be responsible under this Section 10.3 for hazardous materials or substances the Contractor brings to the site unless such materials or substances are required by the Contract Documents. The Owner shall be responsible for hazardous materials or substances required by the Contract Documents, except to the extent of the Contractor's fault or negligence in the use and handling of such materials or substances.

§ 10.3.5 The Contractor shall reimburse the Owner for the cost and expense the Owner incurs (1) for remediation of hazardous materials or substances the Contractor brings to the site and negligently handles, or (2) where the Contractor fails to perform its obligations under Section 10.3.1, except to the extent that the cost and expense are due to the Owner's fault or negligence.

§ 10.3.6 If, without negligence on the part of the Contractor, the Contractor is held liable by a government agency for the cost of remediation of a hazardous material or substance solely by reason of performing Work as required by the Contract Documents, the Owner shall reimburse the Contractor for all cost and expense thereby incurred.

§ 10.4 Emergencies

In an emergency affecting safety of persons or property, the Contractor shall act, at the Contractor's discretion, to prevent threatened damage, injury, or loss. Additional compensation or extension of time claimed by the Contractor on account of an emergency shall be determined as provided in Article 15 and Article 7.

ARTICLE 11 INSURANCE AND BONDS

§ 11.1 Contractor's Insurance and Bonds

§ 11.1.1 The Contractor shall purchase and maintain insurance of the types and limits of liability, containing the endorsements, and subject to the terms and conditions, as described in the Agreement or elsewhere in the Contract Documents. The Contractor shall purchase and maintain the required insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The Owner, Architect, and Architect's consultants shall be named as additional insureds under the Contractor's commercial general liability policy or as otherwise described in the Contract Documents.

§ 11.1.2 The Contractor shall provide surety bonds of the types, for such penal sums, and subject to such terms and conditions as required by the Contract Documents. The Contractor shall purchase and maintain the required bonds from a company or companies lawfully authorized to issue surety bonds in the jurisdiction where the Project is located.

§ 11.1.3 Upon the request of any person or entity appearing to be a potential beneficiary of bonds covering payment of obligations arising under the Contract, the Contractor shall promptly furnish a copy of the bonds or shall authorize a copy to be furnished.

§ 11.1.4 Notice of Cancellation or Expiration of Contractor's Required Insurance. Within three (3) business days of the date the Contractor becomes aware of an impending or actual cancellation or expiration of any insurance required by the Contract Documents, the Contractor shall provide notice to the Owner of such impending or actual cancellation or expiration. Upon receipt of notice from the Contractor, the Owner shall, unless the lapse in coverage arises from an act

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or omission of the Owner, have the right to stop the Work until the lapse in coverage has been cured by the procurement of replacement coverage by the Contractor. The furnishing of notice by the Contractor shall not relieve the Contractor of any contractual obligation to provide any required coverage.

§ 11.2 Owner's Insurance

§ 11.2.1 The Owner shall purchase and maintain insurance of the types and limits of liability, containing the endorsements, and subject to the terms and conditions, as described in the Agreement or elsewhere in the Contract Documents. The Owner shall purchase and maintain the required insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located.

§ 11.2.2 Failure to Purchase Required Property Insurance. If the Owner fails to purchase and maintain the required property insurance, with all of the coverages and in the amounts described in the Agreement or elsewhere in the Contract Documents, the Owner shall inform the Contractor in writing prior to commencement of the Work. Upon receipt of notice from the Owner, the Contractor may delay commencement of the Work and may obtain insurance that will protect the interests of the Contractor, Subcontractors, and Sub-Subcontractors in the Work. When the failure to provide coverage has been cured or resolved, the Contract Sum and Contract Time shall be equitably adjusted. In the event the Owner fails to procure coverage, the Owner waives all rights against the Contractor, Subcontractors, and Sub-subcontractors to the extent the loss to the Owner would have been covered by the insurance to have been procured by the Owner. The cost of the insurance shall be charged to the Owner by a Change Order. If the Owner does not provide written notice, and the Contractor is damaged by the failure or neglect of the Owner to purchase or maintain the required insurance, the Owner shall reimburse the Contractor for all reasonable costs and damages attributable thereto.

§ 11.2.3 Notice of Cancellation or Expiration of Owner's Required Property Insurance. Within three (3) business days of the date the Owner becomes aware of an impending or actual cancellation or expiration of any property insurance required by the Contract Documents, the Owner shall provide notice to the Contractor of such impending or actual cancellation or expiration. Unless the lapse in coverage arises from an act or omission of the Contractor: (1) the Contractor, upon receipt of notice from the Owner, shall have the right to stop the Work until the lapse in coverage has been cured by the procurement of replacement coverage by either the Owner or the Contractor; (2) the Contract Time and Contract Sum shall be equitably adjusted; and (3) the Owner waives all rights against the Contractor, Subcontractors, and Sub-subcontractors to the extent any loss to the Owner would have been covered by the insurance had it not expired or been cancelled. If the Contractor purchases replacement coverage, the cost of the insurance shall be charged to the Owner by an appropriate Change Order. The furnishing of notice by the Owner shall not relieve the Owner of any contractual obligation to provide required insurance.

§ 11.3 Waivers of Subrogation

§ 11.3.1 The Owner and Contractor waive all rights against (1) each other and any of their subcontractors, sub-subcontractors, agents, and employees, each of the other; (2) the Architect and Architect's consultants; and (3) Separate Contractors, if any, and any of their subcontractors, sub-subcontractors, agents, and employees, for damages caused by fire, or other causes of loss, to the extent those losses are covered by property insurance required by the Agreement or other property insurance applicable to the Project, except such rights as they have to proceeds of such insurance. The Owner or Contractor, as appropriate, shall require similar written waivers in favor of the individuals and entities identified above from the Architect, Architect's consultants, Separate Contractors, subcontractors, and sub-subcontractors. The policies of insurance purchased and maintained by each person or entity agreeing to waive claims pursuant to this section 11.3.1 shall not prohibit this waiver of subrogation. This waiver of subrogation shall be effective as to a person or entity (1) even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, (2) even though that person or entity did not pay the insurance premium directly or indirectly, or (3) whether or not the person or entity had an insurable interest in the damaged property.

§ 11.3.2 If during the Project construction period the Owner insures properties, real or personal or both, at or adjacent to the site by property insurance under policies separate from those insuring the Project, or if after final payment property insurance is to be provided on the completed Project through a policy or policies other than those insuring the Project during the construction period, to the extent permissible by such policies, the Owner waives all rights in accordance with the terms of Section 11.3.1 for damages caused by fire or other causes of loss covered by this separate property insurance.

§ 11.4 Loss of Use, Business Interruption, and Delay in Completion Insurance

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The Owner, at the Owner's option, may purchase and maintain insurance that will protect the Owner against loss of use of the Owner's property, or the inability to conduct normal operations, due to fire or other causes of loss. The Owner waives all rights of action against the Contractor and Architect for loss of use of the Owner's property, due to fire or other hazards however caused.

§11.5 Adjustment and Settlement of Insured Loss

§ 11.5.1 A loss insured under the property insurance required by the Agreement shall be adjusted by the Owner as fiduciary and made payable to the Owner as fiduciary for the insureds, as their interests may appear, subject to requirements of any applicable mortgagee clause and of Section 11.5.2. The Owner shall pay the Architect and Contractor their just shares of insurance proceeds received by the Owner, and by appropriate agreements the Architect and Contractor shall make payments to their consultants and Subcontractors in similar manner.

§ 11.5.2 Prior to settlement of an insured loss, the Owner shall notify the Contractor of the terms of the proposed settlement as well as the proposed allocation of the insurance proceeds. The Contractor shall have 14 days from receipt of notice to object to the proposed settlement or allocation of the proceeds. If the Contractor does not object, the Owner shall settle the loss and the Contractor shall be bound by the settlement and allocation. Upon receipt, the Owner shall deposit the insurance proceeds in a separate account and make the appropriate distributions. Thereafter, if no other agreement is made or the Owner does not terminate the Contract for convenience, the Owner and Contractor shall execute a Change Order for reconstruction of the damaged or destroyed Work in the amount allocated for that purpose. If the Contractor timely objects to either the terms of the proposed settlement or the allocation of the proceeds, the Owner may proceed to settle the insured loss, and any dispute between the Owner and Contractor arising out of the settlement or allocation of the proceeds shall be resolved pursuant to Article 15. Pending resolution of any dispute, the Owner may issue a Construction Change Directive for the reconstruction of the damaged or destroyed Work.

ARTICLE 12 UNCOVERING AND CORRECTION OF WORK

§ 12.1 Uncovering of Work

§ 12.1.1 If a portion of the Work is covered contrary to the Architect's request or to requirements specifically expressed in the Contract Documents, it must, if requested in writing by the Architect, be uncovered for the Architect's examination and be replaced at the Contractor's expense without change in the Contract Time.

§ 12.1.2 If a portion of the Work has been covered that the Architect has not specifically requested to examine prior to its being covered, the Architect may request to see such Work and it shall be uncovered by the Contractor. If such Work is in accordance with the Contract Documents, the Contractor shall be entitled to an equitable adjustment to the Contract Sum and Contract Time as may be appropriate. If such Work is not in accordance with the Contract Documents, the costs of uncovering the Work, and the cost of correction, shall be at the Contractor's expense.

§ 12.2 Correction of Work

§ 12.2.1 Before Substantial Completion

The Contractor shall promptly correct Work rejected by the Architect or failing to conform to the requirements of the Contract Documents, discovered before Substantial Completion and whether or not fabricated, installed or completed. Costs of correcting such rejected Work, including additional testing and inspections, the cost of uncovering and replacement, and compensation for the Architect's services and expenses made necessary thereby, shall be at the Contractor's expense.

§ 12.2.2 After Substantial Completion

§ 12.2.2.1 In addition to the Contractor's obligations under Section 3.5, if, within one year after the date of Substantial Completion of the Work or designated portion thereof or after the date for commencement of warranties established under Section 9.9.1, or by terms of any applicable special warranty required by the Contract Documents, any of the Work is found to be not in accordance with the requirements of the Contract Documents, the Contractor shall correct it promptly after receipt of notice from the Owner to do so, unless the Owner has previously given the Contractor a written acceptance of such condition. The Owner shall give such notice promptly after discovery of the condition. During the one-year period for correction of Work, if the Owner fails to notify the Contractor and give the Contractor an opportunity to make the correction, the Owner waives the rights to require correction by the Contractor and to make a claim for breach of warranty. If the Contractor fails to correct nonconforming Work within a reasonable time during that period after receipt of notice from the Owner or Architect, the Owner may correct it in accordance with Section 2.5.

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§ 12.2.2.2 The one-year period for correction of Work shall be extended with respect to portions of Work first performed after Substantial Completion by the period of time between Substantial Completion and the actual completion of that portion of the Work.

§ 12.2.2.3 The one-year period for correction of Work shall not be extended by corrective Work performed by the Contractor pursuant to this Section 12.2.

§ 12.2.3 The Contractor shall remove from the site portions of the Work that are not in accordance with the requirements of the Contract Documents and are neither corrected by the Contractor nor accepted by the Owner.

§ 12.2.4 The Contractor shall bear the cost of correcting destroyed or damaged construction of the Owner or Separate Contractors, whether completed or partially completed, caused by the Contractor's correction or removal of Work that is not in accordance with the requirements of the Contract Documents.

§ 12.2.5 Nothing contained in this Section 12.2 shall be construed to establish a period of limitation with respect to other obligations the Contractor has under the Contract Documents. Establishment of the one-year period for correction of Work as described in Section 12.2.2 relates only to the specific obligation of the Contractor to correct the Work, and has no relationship to the time within which the obligation to comply with the Contract Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Contractor's liability with respect to the Contractor's obligations other than specifically to correct the Work.

§ 12.3 Acceptance of Nonconforming Work

If the Owner prefers to accept Work that is not in accordance with the requirements of the Contract Documents, the Owner may do so instead of requiring its removal and correction, in which case the Contract Sum will be reduced as appropriate and equitable. Such adjustment shall be effected whether or not final payment has been made.

ARTICLE 13 MISCELLANEOUS PROVISIONS

§ 13.1 Governing Law

The Contract shall be governed by the law of the place where the Project is located, excluding that jurisdiction's choice of law rules. If the parties have selected arbitration as the method of binding dispute resolution, the Federal Arbitration Act shall govern Section 15.4.

§ 13.2 Successors and Assigns

§ 13.2.1 The Owner and Contractor respectively bind themselves, their partners, successors, assigns, and legal representatives to covenants, agreements, and obligations contained in the Contract Documents. Except as provided in Section 13.2.2, neither party to the Contract shall assign the Contract as a whole without written consent of the other. If either party attempts to make an assignment without such consent, that party shall nevertheless remain legally responsible for all obligations under the Contract.

§ 13.2.2 The Owner may, without consent of the Contractor, assign the Contract to a lender providing construction financing for the Project, if the lender assumes the Owner's rights and obligations under the Contract Documents. The Contractor shall execute all consents reasonably required to facilitate the assignment.

§ 13.3 Rights and Remedies

§ 13.3.1 Duties and obligations imposed by the Contract Documents and rights and remedies available thereunder shall be in addition to and not a limitation of duties, obligations, rights, and remedies otherwise imposed or available by law.

§ 13.3.2 No action or failure to act by the Owner, Architect, or Contractor shall constitute a waiver of a right or duty afforded them under the Contract, nor shall such action or failure to act constitute approval of or acquiescence in a breach thereunder, except as may be specifically agreed upon in writing.

§ 13.4 Tests and Inspections

§ 13.4.1 Tests, inspections, and approvals of portions of the Work shall be made as required by the Contract Documents and by applicable laws, statutes, ordinances, codes, rules, and regulations or lawful orders of public authorities. Unless otherwise provided, the Contractor shall make arrangements for such tests, inspections, and

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approvals with an independent testing laboratory or entity acceptable to the Owner, or with the appropriate public authority, and shall bear all related costs of tests, inspections, and approvals. The Contractor shall give the Architect timely notice of when and where tests and inspections are to be made so that the Architect may be present for such procedures. The Owner shall bear costs of tests, inspections, or approvals that do not become requirements until after bids are received or negotiations concluded. The Owner shall directly arrange and pay for tests, inspections, or approvals where building codes or applicable laws or regulations so require.

§ 13.4.2 If the Architect, Owner, or public authorities having jurisdiction determine that portions of the Work require additional testing, inspection, or approval not included under Section 13.4.1, the Architect will, upon written authorization from the Owner, instruct the Contractor to make arrangements for such additional testing, inspection, or approval, by an entity acceptable to the Owner, and the Contractor shall give timely notice to the Architect of when and where tests and inspections are to be made so that the Architect may be present for such procedures. Such costs, except as provided in Section 13.4.3, shall be at the Owner's expense.

§ 13.4.3 If procedures for testing, inspection, or approval under Sections 13.4.1 and 13.4.2 reveal failure of the portions of the Work to comply with requirements established by the Contract Documents, all costs made necessary by such failure, including those of repeated procedures and compensation for the Architect's services and expenses, shall be at the Contractor's expense.

§ 13.4.4 Required certificates of testing, inspection, or approval shall, unless otherwise required by the Contract Documents, be secured by the Contractor and promptly delivered to the Architect.

§ 13.4.5 If the Architect is to observe tests, inspections, or approvals required by the Contract Documents, the Architect will do so promptly and, where practicable, at the normal place of testing.

§ 13.4.6 Tests or inspections conducted pursuant to the Contract Documents shall be made promptly to avoid unreasonable delay in the Work.

§ 13.5 Interest

Payments due and unpaid under the Contract Documents shall bear interest from the date payment is due at the rate the parties agree upon in writing or, in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located.

ARTICLE 14 TERMINATION OR SUSPENSION OF THE CONTRACT

§ 14.1 Termination by the Contractor

§ 14.1.1 The Contractor may terminate the Contract if the Work is stopped for a period of 30 consecutive days through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, their agents or employees, or any other persons or entities performing portions of the Work, for any of the following reasons:

- **.1** Issuance of an order of a court or other public authority having jurisdiction that requires all Work to be stopped;
- **.2** An act of government, such as a declaration of national emergency, that requires all Work to be stopped;
- **.3** Because the Architect has not issued a Certificate for Payment and has not notified the Contractor of the reason for withholding certification as provided in Section 9.4.1, or because the Owner has not made payment on a Certificate for Payment within the time stated in the Contract Documents; or
- **.4** The Owner has failed to furnish to the Contractor reasonable evidence as required by Section 2.2.

§ 14.1.2 The Contractor may terminate the Contract if, through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, their agents or employees, or any other persons or entities performing portions of the Work, repeated suspensions, delays, or interruptions of the entire Work by the Owner as described in Section 14.3, constitute in the aggregate more than 100 percent of the total number of days scheduled for completion, or 120 days in any 365-day period, whichever is less.

§ 14.1.3 If one of the reasons described in Section 14.1.1 or 14.1.2 exists, the Contractor may, upon seven days' notice to the Owner and Architect, terminate the Contract and recover from the Owner payment for Work executed, as well as reasonable overhead and profit on Work not executed, and costs incurred by reason of such termination.

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§ 14.1.4 If the Work is stopped for a period of 60 consecutive days through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, or their agents or employees or any other persons or entities performing portions of the Work because the Owner has repeatedly failed to fulfill the Owner's obligations under the Contract Documents with respect to matters important to the progress of the Work, the Contractor may, upon seven additional days' notice to the Owner and the Architect, terminate the Contract and recover from the Owner as provided in Section 14.1.3.

§ 14.2 Termination by the Owner for Cause

§ 14.2.1 The Owner may terminate the Contract if the Contractor

- **.1** repeatedly refuses or fails to supply enough properly skilled workers or proper materials;
- **.2** fails to make payment to Subcontractors or suppliers in accordance with the respective agreements between the Contractor and the Subcontractors or suppliers;
- **.3** repeatedly disregards applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of a public authority; or
- **.4** otherwise is guilty of substantial breach of a provision of the Contract Documents.

§ 14.2.2 When any of the reasons described in Section 14.2.1 exist, and upon certification by the Architect that sufficient cause exists to justify such action, the Owner may, without prejudice to any other rights or remedies of the Owner and after giving the Contractor and the Contractor's surety, if any, seven days' notice, terminate employment of the Contractor and may, subject to any prior rights of the surety:

- **.1** Exclude the Contractor from the site and take possession of all materials, equipment, tools, and construction equipment and machinery thereon owned by the Contractor;
- **.2** Accept assignment of subcontracts pursuant to Section 5.4; and
- **.3** Finish the Work by whatever reasonable method the Owner may deem expedient. Upon written request of the Contractor, the Owner shall furnish to the Contractor a detailed accounting of the costs incurred by the Owner in finishing the Work.

§ 14.2.3 When the Owner terminates the Contract for one of the reasons stated in Section 14.2.1, the Contractor shall not be entitled to receive further payment until the Work is finished.

§ 14.2.4 If the unpaid balance of the Contract Sum exceeds costs of finishing the Work, including compensation for the Architect's services and expenses made necessary thereby, and other damages incurred by the Owner and not expressly waived, such excess shall be paid to the Contractor. If such costs and damages exceed the unpaid balance, the Contractor shall pay the difference to the Owner. The amount to be paid to the Contractor or Owner, as the case may be, shall be certified by the Initial Decision Maker, upon application, and this obligation for payment shall survive termination of the Contract.

§ 14.3 Suspension by the Owner for Convenience

§ 14.3.1 The Owner may, without cause, order the Contractor in writing to suspend, delay or interrupt the Work, in whole or in part for such period of time as the Owner may determine.

§ 14.3.2 The Contract Sum and Contract Time shall be adjusted for increases in the cost and time caused by suspension, delay, or interruption under Section 14.3.1. Adjustment of the Contract Sum shall include profit. No adjustment shall be made to the extent

- **.1** that performance is, was, or would have been, so suspended, delayed, or interrupted, by another cause for which the Contractor is responsible; or
- **.2** that an equitable adjustment is made or denied under another provision of the Contract.

§ 14.4 Termination by the Owner for Convenience

§ 14.4.1 The Owner may, at any time, terminate the Contract for the Owner's convenience and without cause.

§ 14.4.2 Upon receipt of notice from the Owner of such termination for the Owner's convenience, the Contractor shall

- **.1** cease operations as directed by the Owner in the notice;
- **.2** take actions necessary, or that the Owner may direct, for the protection and preservation of the Work; and
- **.3** except for Work directed to be performed prior to the effective date of termination stated in the notice, terminate all existing subcontracts and purchase orders and enter into no further subcontracts and purchase orders.

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§ 14.4.3 In case of such termination for the Owner's convenience, the Owner shall pay the Contractor for Work properly executed; costs incurred by reason of the termination, including costs attributable to termination of Subcontracts; and the termination fee, if any, set forth in the Agreement.

ARTICLE 15 CLAIMS AND DISPUTES

§ 15.1 Claims

§ 15.1.1 Definition

A Claim is a demand or assertion by one of the parties seeking, as a matter of right, payment of money, a change in the Contract Time, or other relief with respect to the terms of the Contract. The term "Claim" also includes other disputes and matters in question between the Owner and Contractor arising out of or relating to the Contract. The responsibility to substantiate Claims shall rest with the party making the Claim. This Section 15.1.1 does not require the Owner to file a Claim in order to impose liquidated damages in accordance with the Contract Documents.

§ 15.1.2 Time Limits on Claims

The Owner and Contractor shall commence all Claims and causes of action against the other and arising out of or related to the Contract, whether in contract, tort, breach of warranty or otherwise, in accordance with the requirements of the binding dispute resolution method selected in the Agreement and within the period specified by applicable law, but in any case not more than 10 years after the date of Substantial Completion of the Work. The Owner and Contractor waive all Claims and causes of action not commenced in accordance with this Section 15.1.2.

§ 15.1.3 Notice of Claims

§ 15.1.3.1 Claims by either the Owner or Contractor, where the condition giving rise to the Claim is first discovered prior to expiration of the period for correction of the Work set forth in Section 12.2.2, shall be initiated by notice to the other party and to the Initial Decision Maker with a copy sent to the Architect, if the Architect is not serving as the Initial Decision Maker. Claims by either party under this Section 15.1.3.1 shall be initiated within 21 days after occurrence of the event giving rise to such Claim or within 21 days after the claimant first recognizes the condition giving rise to the Claim, whichever is later.

§ 15.1.3.2 Claims by either the Owner or Contractor, where the condition giving rise to the Claim is first discovered after expiration of the period for correction of the Work set forth in Section 12.2.2, shall be initiated by notice to the other party. In such event, no decision by the Initial Decision Maker is required.

§ 15.1.4 Continuing Contract Performance

§ 15.1.4.1 Pending final resolution of a Claim, except as otherwise agreed in writing or as provided in Section 9.7 and Article 14, the Contractor shall proceed diligently with performance of the Contract and the Owner shall continue to make payments in accordance with the Contract Documents.

§ 15.1.4.2 The Contract Sum and Contract Time shall be adjusted in accordance with the Initial Decision Maker's decision, subject to the right of either party to proceed in accordance with this Article 15. The Architect will issue Certificates for Payment in accordance with the decision of the Initial Decision Maker.

§ 15.1.5 Claims for Additional Cost

If the Contractor wishes to make a Claim for an increase in the Contract Sum, notice as provided in Section 15.1.3 shall be given before proceeding to execute the portion of the Work that is the subject of the Claim. Prior notice is not required for Claims relating to an emergency endangering life or property arising under Section 10.4.

§ 15.1.6 Claims for Additional Time

§ 15.1.6.1 If the Contractor wishes to make a Claim for an increase in the Contract Time, notice as provided in Section 15.1.3 shall be given. The Contractor's Claim shall include an estimate of cost and of probable effect of delay on progress of the Work. In the case of a continuing delay, only one Claim is necessary.

§ 15.1.6.2 If adverse weather conditions are the basis for a Claim for additional time, such Claim shall be documented by data substantiating that weather conditions were abnormal for the period of time, could not have been reasonably anticipated, and had an adverse effect on the scheduled construction.

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§ 15.1.7 Waiver of Claims for Consequential Damages

The Contractor and Owner waive Claims against each other for consequential damages arising out of or relating to this Contract. This mutual waiver includes

.1 damages incurred by the Owner for rental expenses, for losses of use, income, profit, financing, business and reputation, and for loss of management or employee productivity or of the services of such persons; and

.2 damages incurred by the Contractor for principal office expenses including the compensation of personnel stationed there, for losses of financing, business and reputation, and for loss of profit, except anticipated profit arising directly from the Work.

This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination in accordance with Article 14. Nothing contained in this Section 15.1.7 shall be deemed to preclude assessment of liquidated damages, when applicable, in accordance with the requirements of the Contract Documents.

§ 15.2 Initial Decision

§ 15.2.1 Claims, excluding those where the condition giving rise to the Claim is first discovered after expiration of the period for correction of the Work set forth in Section 12.2.2 or arising under Sections 10.3, 10.4, and 11.5, shall be referred to the Initial Decision Maker for initial decision. The Architect will serve as the Initial Decision Maker, unless otherwise indicated in the Agreement. Except for those Claims excluded by this Section 15.2.1, an initial decision shall be required as a condition precedent to mediation of any Claim. If an initial decision has not been rendered within 30 days after the Claim has been referred to the Initial Decision Maker, the party asserting the Claim may demand mediation and binding dispute resolution without a decision having been rendered. Unless the Initial Decision Maker and all affected parties agree, the Initial Decision Maker will not decide disputes between the Contractor and persons or entities other than the Owner.

§ 15.2.2 The Initial Decision Maker will review Claims and within ten days of the receipt of a Claim take one or more of the following actions: (1) request additional supporting data from the claimant or a response with supporting data from the other party, (2) reject the Claim in whole or in part, (3) approve the Claim, (4) suggest a compromise, or (5) advise the parties that the Initial Decision Maker is unable to resolve the Claim if the Initial Decision Maker lacks sufficient information to evaluate the merits of the Claim or if the Initial Decision Maker concludes that, in the Initial Decision Maker's sole discretion, it would be inappropriate for the Initial Decision Maker to resolve the Claim.

§ 15.2.3 In evaluating Claims, the Initial Decision Maker may, but shall not be obligated to, consult with or seek information from either party or from persons with special knowledge or expertise who may assist the Initial Decision Maker in rendering a decision. The Initial Decision Maker may request the Owner to authorize retention of such persons at the Owner's expense.

§ 15.2.4 If the Initial Decision Maker requests a party to provide a response to a Claim or to furnish additional supporting data, such party shall respond, within ten days after receipt of the request, and shall either (1) provide a response on the requested supporting data, (2) advise the Initial Decision Maker when the response or supporting data will be furnished, or (3) advise the Initial Decision Maker that no supporting data will be furnished. Upon receipt of the response or supporting data, if any, the Initial Decision Maker will either reject or approve the Claim in whole or in part.

§ 15.2.5 The Initial Decision Maker will render an initial decision approving or rejecting the Claim, or indicating that the Initial Decision Maker is unable to resolve the Claim. This initial decision shall (1) be in writing; (2) state the reasons therefor; and (3) notify the parties and the Architect, if the Architect is not serving as the Initial Decision Maker, of any change in the Contract Sum or Contract Time or both. The initial decision shall be final and binding on the parties but subject to mediation and, if the parties fail to resolve their dispute through mediation, to binding dispute resolution.

§ 15.2.6 Either party may file for mediation of an initial decision at any time, subject to the terms of Section 15.2.6.1.

§ 15.2.6.1 Either party may, within 30 days from the date of receipt of an initial decision, demand in writing that the other party file for mediation. If such a demand is made and the party receiving the demand fails to file for mediation within 30 days after receipt thereof, then both parties waive their rights to mediate or pursue binding dispute resolution proceedings with respect to the initial decision.

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§ 15.2.7 In the event of a Claim against the Contractor, the Owner may, but is not obligated to, notify the surety, if any, of the nature and amount of the Claim. If the Claim relates to a possibility of a Contractor's default, the Owner may, but is not obligated to, notify the surety and request the surety's assistance in resolving the controversy.

§ 15.2.8 If a Claim relates to or is the subject of a mechanic's lien, the party asserting such Claim may proceed in accordance with applicable law to comply with the lien notice or filing deadlines.

§ 15.3 Mediation

§ 15.3.1 Claims, disputes, or other matters in controversy arising out of or related to the Contract, except those waived as provided for in Sections 9.10.4, 9.10.5, and 15.1.7, shall be subject to mediation as a condition precedent to binding dispute resolution.

§ 15.3.2 The parties shall endeavor to resolve their Claims by mediation which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Mediation Procedures in effect on the date of the Agreement. A request for mediation shall be made in writing, delivered to the other party to the Contract, and filed with the person or entity administering the mediation. The request may be made concurrently with the filing of binding dispute resolution proceedings but, in such event, mediation shall proceed in advance of binding dispute resolution proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order. If an arbitration is stayed pursuant to this Section 15.3.2, the parties may nonetheless proceed to the selection of the arbitrator(s) and agree upon a schedule for later proceedings.

§ 15.3.3 Either party may, within 30 days from the date that mediation has been concluded without resolution of the dispute or 60 days after mediation has been demanded without resolution of the dispute, demand in writing that the other party file for binding dispute resolution. If such a demand is made and the party receiving the demand fails to file for binding dispute resolution within 60 days after receipt thereof, then both parties waive their rights to binding dispute resolution proceedings with respect to the initial decision.

§ 15.3.4 The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

§ 15.4 Arbitration

§ 15.4.1 If the parties have selected arbitration as the method for binding dispute resolution in the Agreement, any Claim subject to, but not resolved by, mediation shall be subject to arbitration which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Arbitration Rules in effect on the date of the Agreement. The Arbitration shall be conducted in the place where the Project is located, unless another location is mutually agreed upon. A demand for arbitration shall be made in writing, delivered to the other party to the Contract, and filed with the person or entity administering the arbitration. The party filing a notice of demand for arbitration must assert in the demand all Claims then known to that party on which arbitration is permitted to be demanded.

§ 15.4.1.1 A demand for arbitration shall be made no earlier than concurrently with the filing of a request for mediation, but in no event shall it be made after the date when the institution of legal or equitable proceedings based on the Claim would be barred by the applicable statute of limitations. For statute of limitations purposes, receipt of a written demand for arbitration by the person or entity administering the arbitration shall constitute the institution of legal or equitable proceedings based on the Claim.

§ 15.4.2 The award rendered by the arbitrator or arbitrators shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.

§ 15.4.3 The foregoing agreement to arbitrate and other agreements to arbitrate with an additional person or entity duly consented to by parties to the Agreement, shall be specifically enforceable under applicable law in any court having jurisdiction thereof.

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§ 15.4.4 Consolidation or Joinder

§ 15.4.4.1 Subject to the rules of the American Arbitration Association or other applicable arbitration rules, either party may consolidate an arbitration conducted under this Agreement with any other arbitration to which it is a party provided that (1) the arbitration agreement governing the other arbitration permits consolidation, (2) the arbitrations to be consolidated substantially involve common questions of law or fact, and (3) the arbitrations employ materially similar procedural rules and methods for selecting arbitrator(s).

§ 15.4.4.2 Subject to the rules of the American Arbitration Association or other applicable arbitration rules, either party may include by joinder persons or entities substantially involved in a common question of law or fact whose presence is required if complete relief is to be accorded in arbitration, provided that the party sought to be joined consents in writing to such joinder. Consent to arbitration involving an additional person or entity shall not constitute consent to arbitration of any claim, dispute or other matter in question not described in the written consent.

§ 15.4.4.3 The Owner and Contractor grant to any person or entity made a party to an arbitration conducted under this Section 15.4, whether by joinder or consolidation, the same rights of joinder and consolidation as those of the Owner and Contractor under this Agreement.

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Additions and Deletions Report for

AIA® Document A201® – 2017

This Additions and Deletions Report, as defined on page 1 of the associated document, reproduces below all text the author has added to the standard form AIA document in order to complete it, as well as any text the author may have added to or deleted from the original AIA text. Added text is shown underlined. Deleted text is indicated with a horizontal line through the original AIA text.

Note: This Additions and Deletions Report is provided for information purposes only and is not incorporated into or constitute any part of the associated AIA document. This Additions and Deletions Report and its associated document were generated simultaneously by AIA software at 12:54:42 CT on 02/03/2025.

PAGE 1

Anthony Entrance Phase III Project
Anthony Middle School
5757 Irving Ave. S.
Minneapolis, MN 55419

...

Minneapolis Public Schools Special School District 1
1250 West Broadway Avenue
Minneapolis, MN 55411

...

TKDA
444 Cedar Street
Saint Paul, MN 55101

PAGE 11

The parties shall agree upon ~~written~~ protocols governing the transmission and use ~~of, and reliance on,~~ of Instruments of Service or any other information or documentation in digital form. The parties will use AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, to establish the protocols for the development, use, transmission, and exchange of digital data.

...

Any use of, or reliance on, all or a portion of a building information model without agreement to ~~written~~ protocols governing the use of, and reliance on, the information contained in the model and without having those protocols set forth in AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, and the requisite AIA Document G202™–2013, Project Building Information Modeling Protocol Form, shall be at the using or relying party's sole risk and without liability to the other party and its contractors or consultants, the authors of, or contributors to, the building information model, and each of their agents and employees.

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Certification of Document's Authenticity

AIA® Document D401™ – 2003

I, , hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with its associated Additions and Deletions Report and this certification at 12:54:42 CT on 02/03/2025 under Order No. 4104251278 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document A201™ – 2017, General Conditions of the Contract for Construction, other than those additions and deletions shown in the associated Additions and Deletions Report.



(Signed)

Curtis Hartog, Executive Director

(Title)

2/3/2025

(Dated)

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Exhibit B – Project Charter

Project Name and Number

Anthony Entrance Phase III OP 25-2510

Description

Parking lot modifications, landscaping, and trash enclosure per the project documents prepared by TKDA.

Contract Sum

The Contract Sum shall be $353,442.00

Alternates

Item	Price	Status
Add Alternate No. 1 – Two-year landscape planting maintenance	$100.00	accepted
Add Alternate No. 2 – Concrete drive replacement	$7,850.00	accepted

Unit Prices

Item	Units and Limitations	Price per Unit ($0.00)
Unit Price No. 1 – remove existing pavement.	Per square foot	$2.00
Unit Price No. 2 – Bituminous patching.	Per square foot	$16.35
Unit Price No. 3 – Remove existing curb.	Per linear foot	$8.00
Unit Price No. 4 – Concrete curb and gutter.	Per linear foot	$27.50

EXHIBIT C Owner Insurance

Insurance Requirements

1. CONSULTANT'S INSURANCE – to be used with AIA B101-2017, AIA C103-2015, or similar non-contractor consultants:
   The Consultant shall at its own expense maintain in effect at all times during the performance of the Work under the Agreement at least the following coverage and limits of insurance:

   a. Worker's Compensation and Employer's Liability Insurance

      i. Coverage A is statutory.

      ii. Coverage B
      $500,000 Each Accident
      $500,000 Each Employee
      $500,000 Policy Limit (Disease)

   b. Comprehensive General Liability Insurance *

General Aggregate	$1,000,000
Products/Completed Operations Aggregate	$1,000,000
Per Occurrence	$1,000,000
Medical Payments	$10,000

   * The Owner should be named as an additional insured for Comprehensive General Liability Insurance.

   c. Automobile Insurance

Per Occurrence	$1,000,000
PIP	Basic
Underinsured Motorist	$1,000,000
Uninsured Motorist	$1,000,000

   d. Professional Liability Insurance

      i. Per Claim $2,000,000

ii. For projects with an estimated construction Contract Sum of over $10,000,000 or major structural work an aggregate is required as follows:
Aggregate $4,000,000

e. Umbrella Liability Insurance

i. Per Occurrence $2,000,000

ii. For projects with an estimated construction Contract Sum of over $10,000,000 or major structural work an aggregate is required as follows:
Aggregate $2,000,000

f. Manned or Unmanned Aircraft Coverage (if used)

i. Per Claim $1,000,000

ii. Aggregate $1,000,000

For specialty consultants used for commissioning activities, studies, asbestos surveys and security, items A, B, C and F shall apply.

Special Asbestos Abatement Liability Insurance is required for Asbestos Abatement Contractors. The limits are $1,500,000 per claim, for liability arising from the encapsulation, removal, handling, storage, transportation, and disposal of asbestos-containing materials.

2. CONSULTANT'S OBLIGATIONS

Consultant shall not violate or knowingly permit any violation of any conditions or terms of the policies of insurance required to be carried under the terms hereof and shall endeavor to satisfy the requirements of the insurance companies issuing them. In the event Consultant neglects, refuses or fails to provide or maintain any of the insurance required to be carried under the Agreement, or if such insurance is canceled for any reason, the Owner or the Owner's lender(s) shall have the right, but not the duty, to procure or maintain the same.

In the event the Owner or the Owner's lender(s) do procure or maintain such insurance, the Owner or the Owner's lender(s) shall have, in additional to any and all other available remedies, the right to recover from the Consultant (including the right of set-off against sums otherwise due the Consultant) all of the costs associated with procuring or maintaining such insurance.

3. PROFESSIONAL LIABILITY INSURANCE

   a. Professional Liability Coverage of $2,000,000 shall be maintained for one (1) year from the date of Substantial Completion. If the Consultant discontinues its business and if directed by Owner in writing, Consultant shall purchase such insurance in such amount for an extended discovery period beyond the one (1) year after the date of Substantial Completion, with the premium cost to be a reimbursable expense paid by the Owner. The limit of liability for such policy may not be reduced below $2,000,000 without the Owner giving its prior, written consent. All policies of insurance that Consultant is required under the terms of this Exhibit C Owner's Insurance to secure and maintain shall bear the endorsement "Not to be canceled until sixty (60) calendar days after Owner has received a written notice from insurer as evidence by a return receipt of registered or certified mail."

   b. The Owner shall not be responsible for obtaining or paying premiums or other expenses in connection with insurance required to be carried under the Agreement or normally carried by the Consultant's consultants, and the obligation to obtain such insurance and to pay such premiums and other expenses shall be solely that of the Consultant.

   c. The Consultant shall bear all the costs of any and all deductible amounts under any insurance policies required to be carried under the Agreement and shall remain solely and fully liable for the full amount of any claim or item not compensated by insurance (to the extent that any amount resulted from damages that arose out of the Consultant's sole negligence.)

4. COVERAGE
   The coverage's referred to above are set forth in full in the respective policy forms, and the foregoing descriptions of such policies are not intended to be complete.

5. GENERALLY

   a. The Consultant thereby represents and warrants to the Owner that, as of the date of the execution of the Agreement, the Consultant is not aware of any claims or potential claims which have been made, filed or threatened against any of the insurance or for damages covered by any of the insurance required to be carried under the Agreement that would affect the Consultant's ability to provide the insurance coverage required by this agreement.

b. It is understood that the provisions in the Agreement requiring the Consultant to carry insurance shall not be construed as in any manner waiving or restricting the liability of the Consultant as to any obligations imposed under the Agreement, including, but not limited to, obligations imposed under the provisions of Article 11 of the AIA A201-2017 General Conditions.

Insurance requirements for Contractors

1. CONTRACTOR'S INSURANCE – to be used with AIA A101-2017
   The Contractor shall at its own expense maintain in effect at all times during the performance of the Work under the Agreement at least the following coverage and limits of insurance:

   a. Commercial General Liability

      i. General Aggregate $1,500,000

      ii. Products/Completed Operations Aggregate $1,500,000

      iii. Per Occurrence $1,500,000

      The Owner shall be named as additional insured for Commercial General Liability Insurance

   b. Automobile Insurance

      i. Per Occurrence $1,000,000

      ii. PIP Basic

      iii. Underinsured Motorist $1,000,000

      iv. Uninsured Motorist $1,000,000

   c. Workers Compensation

      i. Coverage A is statutory.

      ii. Coverage B $500,000 Each Accident

      iii. $500,000 Each Employee

d. Professional Liability (if the Contractor is hiring professionals)

   i. Per Claim $2,000,000

   For Projects with an estimated construction cost of over $10,000,000 or major structural work, additional Aggregate coverage of $4,000,000 is required.

e. Manned or Unmanned Aircraft Coverage (if used)

   i. Per Claim $1,000,000

   ii. Aggregate $1,000,000

f. Property Insurance

   i. Per Claim $1,000,000

   ii. Aggregate $1,000,000

   This insurance is only required for materials stored offsite and not incorporated into the project at delivery. For material stored on site, no additional insurance is required.

g. Builders “all risk” Insurance

   i. Per Claim $2,000,000

   ii. Aggregate $4,000,000

   This insurance is only required for additions exceeding $10,000,000. Renovations to existing schools are not required to have builders all risk insurance.

h. Umbrella Liability

   i. Aggregate limit $5,000,000

   This insurance is required only for projects larger than $10,000,000 in total construction costs.

Exhibit D – Project Schedule

Project Name and Number

MPS Project Number: 25ANTH001

Project Name: Anthony Entrance Phase III

School: Anthony Middle School

Address: 5757 Irving Ave. S, Minneapolis, MN 55419

OP#: 25-2510

Description

Parking lot modifications, landscaping, and trash enclosure per the project documents prepared by TKDA.

Schedule

Last Day of School: June 06, 2025

Last Day for Staff: June 10, 2025

Construction Commences: June 11, 2025

Juneteenth Holiday: June 19, 2025 (All MPS Buildings Closed)

Substantial Completion: On or before July 24, 2025

Final Completion: On or before August 7, 2025

MPS teachers and staff return: August 18, 2025

First day of School: September 2, 2025

Close-out Documents due within 45 days of Substantial Completion

Substantial Completion

The Work will be substantially complete on or before July 24, 2025.

FY25 Washburn High School Stadium Bleacher Repairs

Contract Sum: $249,250.00

Contractor: Morcon Construction Co., Inc.

Project Name and Number

Washburn High School
201 W 49th Street
Minneapolis, MN 55419
Minneapolis Public Schools Project Number 25WASH001
OP#25-2514

Description

Repairs to the bleachers at Washburn High School. The repairs to the bleachers structural beams will be performed to reduce deflections in the framing members of the bleachers.

Contract Documents

AIA Document A101-2017
AIA Document A101 Exhibit A-2017
Exhibit B – Project Charter
Exhibit C – Owner Insurance
Exhibit D – Project Schedule
AIA Document A201-2017

AIA® Document A101® – 2017

Standard Form of Agreement Between Owner and Contractor where the basis of payment is a Stipulated Sum

AGREEMENT made as of the eleventh day of March in the year 2025
(In words, indicate day, month and year.)

BETWEEN the Owner:
(Name, legal status, address and other information)

Minneapolis Public Schools Special School District #1
1250 West Broadway Avenue
Minneapolis, MN 55411

and the Contractor:
(Name, legal status, address and other information)

Morcon Construction Co., Inc.
5151 Industrial Blvd NE
Fridley, MN 55421

for the following Project:
(Name, location and detailed description)

FY25 Stadium Bleacher Repairs
Washburn High School
201 West 49th Street
Minneapolis, MN 55419

The Architect:
(Name, legal status, address and other information)

Buildings Consulting Group, Inc.
2855 Anthony Lane South Suite 201
Minneapolis, MN 55418

The Owner and Contractor agree as follows.

ADDITIONS AND DELETIONS:
The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

The parties should complete A101®–2017, Exhibit A, Insurance and Bonds, contemporaneously with this Agreement. AIA Document A201®–2017, General Conditions of the Contract for Construction, is adopted in this document by reference. Do not use with other general conditions unless this document is modified.

Init.
/
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TABLE OF ARTICLES

1 THE CONTRACT DOCUMENTS

2 THE WORK OF THIS CONTRACT

3 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

4 CONTRACT SUM

5 PAYMENTS

6 DISPUTE RESOLUTION

7 TERMINATION OR SUSPENSION

8 MISCELLANEOUS PROVISIONS

9 ENUMERATION OF CONTRACT DOCUMENTS

EXHIBIT A INSURANCE AND BONDS

ARTICLE 1 THE CONTRACT DOCUMENTS

The Contract Documents consist of this Agreement, Conditions of the Contract (General, Supplementary, and other Conditions), Drawings, Specifications, Addenda issued prior to execution of this Agreement, other documents listed in this Agreement, and Modifications issued after execution of this Agreement, all of which form the Contract, and are as fully a part of the Contract as if attached to this Agreement or repeated herein. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations, or agreements, either written or oral. An enumeration of the Contract Documents, other than a Modification, appears in Article 9.

ARTICLE 2 THE WORK OF THIS CONTRACT

The Contractor shall fully execute the Work described in the Contract Documents, except as specifically indicated in the Contract Documents to be the responsibility of others.

ARTICLE 3 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

§ 3.1 The date of commencement of the Work shall be:
(Check one of the following boxes.)

[ ] The date of this Agreement.

[X] A date set forth in a notice to proceed issued by the Owner.

[ ] Established as follows:
(Insert a date or a means to determine the date of commencement of the Work.)

If a date of commencement of the Work is not selected, then the date of commencement shall be the date of this Agreement.

§ 3.2 The Contract Time shall be measured from the date of commencement of the Work.

§ 3.3 Substantial Completion

§ 3.3.1 The Contractor shall achieve Substantial Completion of the entire Work:
(Check one of the following boxes and complete the necessary information.)

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[ ] Not later than ( ) calendar days from the date of commencement of the Work.

[X] By the following date: Defined in EXH-D Project Schedule

§ 3.3.2 Subject to adjustments of the Contract Time as provided in the Contract Documents, if portions of the Work are to be completed prior to Substantial Completion of the entire Work, the Contractor shall achieve Substantial Completion of such portions by the following dates are defined in EXH-D Project Schedule. Such portions of the work not completed as defined in EXH-D Project Schedule shall be subject to liquidated damages as set forth in Article 4.5.

(Table Deleted)

§ 3.3.3 If the Contractor fails to achieve Substantial Completion as provided in this Section 3.3, liquidated damages, if any, shall be assessed as set forth in Section 4.5.

ARTICLE 4 CONTRACT SUM

§ 4.1 The Owner shall pay the Contractor the Contract Sum in current funds for the Contractor's performance of the Contract as defined in EXH-B Project Charter, subject to additions and deductions as provided in the Contract Documents.

§ 4.2 Alternates

§ 4.2.1 Alternates, if any, included in the Contract Sum are defined in EXH-B Project Charter.

(Table Deleted)

§ 4.2.2 Subject to the conditions noted in EXH-B Project Charter, alternates may be accepted by the Owner following execution of this Agreement. Upon acceptance, the Owner shall issue a Modification to this Agreement.

(Paragraph Deleted)

(Table Deleted)

§ 4.3 Allowances, if any, included in the Contract Sum are defined in EXH-B Project Charter.

(Paragraph Deleted)

(Table Deleted)

§ 4.4 Unit prices, if any are defined in EXH-B Project Charter.

(Paragraph Deleted)

(Table Deleted)

§ 4.5 Liquidated damages

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(3B9ADA35)

Contractor and Owner recognized that time is of the essence for the Project and the Owner will suffer financial loss if the Work is not completed in the time specified in the Contract Documents. The parties also recognized the delays, expenses, and difficulties involved in proving in a legal or arbitration proceeding the actual loss suffered by the Owner if the Work is not completed on time. Accordingly, instead of requiring such proof, the Owner and Contractor agree that as liquidated
damages for delay (but not as penalty), Contractor shall pay Owner $1,000.00 per calendar day for each day that expires after the time specified for Substantial Completion in EXH-D Project Schedule until such time the Work is determined to be substantially complete by the
Owner.

(Paragraph Deleted)

After Substantial Completion, if Contractor shall neglect, refuse, or fail to complete the remaining work within the Contract time specified in the Contract Documents, the contractor shall pay the Owner $1,000.00 per day that expires after the time specified in the Contract Documents for Final Completion and readiness for Final Payment until the Work is completed.

ARTICLE 5 PAYMENTS

§ 5.1 Progress Payments

§ 5.1.1 Based upon Applications for Payment submitted to the Architect by the Contractor and Certificates for Payment issued by the Architect, the Owner shall make progress payments on account of the Contract Sum to the Contractor as provided below and elsewhere in the Contract Documents.

§ 5.1.2 The period covered by each Application for Payment shall be one calendar month ending on the last day of the month.

§ 5.1.3 When an Application for Payment is received by the Architect, payment of the amount certified shall be made by the Owner not later than 45 (forty-five) days after the Architect receives the Application for Payment.

(Paragraph Deleted)

§ 5.1.4 Each Application for Payment shall be based on the most recent schedule of values submitted by the Contractor on AIA G702 Application and Certificate for Payment in accordance with the Contract Documents. The schedule of values shall allocate the entire Contract Sum among the various portions of the Work. The schedule of values shall be prepared in such form, and supported by such data to substantiate its accuracy, as the Architect may require. This schedule of values shall be used as a basis for reviewing the Contractor's Applications for Payment.

§ 5.1.5 Applications for Payment shall show the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment.

§ 5.1.6 In accordance with AIA Document A201™–2017, General Conditions of the Contract for Construction, and subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

§ 5.1.6.1 The amount of each progress payment shall first include:

- **.1** That portion of the Contract Sum properly allocable to completed Work;
- **.2** That portion of the Contract Sum properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction, or, if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing; and
- **.3** That portion of Construction Change Directives that the Architect determines, in the Architect's professional judgment, to be reasonably justified.

§ 5.1.6.2 The amount of each progress payment shall then be reduced by:

- **.1** The aggregate of any amounts previously paid by the Owner;

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.2 The amount, if any, for Work that remains uncorrected and for which the Architect has previously withheld a Certificate for Payment as provided in Article 9 of AIA Document A201–2017;

.3 Any amount for which the Contractor does not intend to pay a Subcontractor or material supplier, unless the Work has been performed by others the Contractor intends to pay;

.4 For Work performed or defects discovered since the last payment application, any amount for which the Architect may withhold payment, or nullify a Certificate of Payment in whole or in part, as provided in Article 9 of AIA Document A201–2017; and

.5 Retainage withheld pursuant to Section 5.1.7.

§ 5.1.7 Retainage

§ 5.1.7.1 For each progress payment made prior to Substantial Completion of the Work, the Owner may withhold the following amount, as retainage, from the payment otherwise due:

(Paragraph Deleted)

5% (five percent)

§ 5.1.7.1.1 The following items are not subject to retainage:
(Insert any items not subject to the withholding of retainage, such as general conditions, insurance, etc.)

For major items installed into the Work, the Contractor may request full payment for the items to ensure prompt delivery and fabrication. Such items shall be recommended by the Architect and approved by the Owner as not requiring retainage. Prompt payment for the items shall be documented by the Contractor to the Owner in the subsequent payment application by submitting a full lien release for the items. Major items may include mechanical units with long lead times, structural systems with long lead times, critical path systems or items, etc. Major items will be discussed and defined by Owner, Architect, and Contractor.

§ 5.1.7.2 Reduction or limitation of retainage, if any, shall be as follows:
Prior to Substantial Completion and at the discretion of the Owner, retainage may be reduced. If the Work has been 50% completed as
determined by the Architect and is satisfactory to the Owner, then 90% of the retained amount may be released to the Contractor for completed work (with 10% of the total retained by the Owner.) Upon Substantial Completion, additional retainage may be returned to the Contractor as recommended by the Architect and approved by the Owner to an amount sufficient to satisfactorily complete the Work. Retainage release will comply with Minnesota Statute 15.72 after Substantial Completion and punch list acceptance by the Owner.

(Paragraph Deleted)

§ 5.1.8 If final completion of the Work is materially delayed through no fault of the Contractor, the Owner shall pay the Contractor any additional amounts in accordance with Article 9 of AIA Document A201–2017.

§ 5.1.9 Except with the Owner's prior approval, the Contractor shall not make advance payments to suppliers for materials or equipment which have not been delivered and stored at the site or otherwise stored offsite with adequate Owner approved insurance provided to the Owner.

§ 5.2 Final Payment

§ 5.2.1 Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Contractor when

.1 the Contractor has fully performed the Contract except for the Contractor's responsibility to correct Work as provided in Article 12 of AIA Document A201–2017, and to satisfy other requirements, if any, which extend beyond final payment; and

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.2 a final Certificate for Payment has been issued by the Architect.
.3 all lien waivers and IC134 forms have been delivered to the Owner.

§ 5.2.2 The Owner's final payment to the Contractor shall be made no later than 45 days after the issuance of the Architect's final Certificate for Payment.

§ 5.3 Interest

Payments due and unpaid under the Contract shall bear interest from the date payment is due at the rate stated below, or in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located. Owner will pay the Contractor 0% interest for Payments not due made within forty five (45) days.

§ 5.4 Prompt Payment to Subcontractors

This Contract requires the Contractor and all Subcontractors and Sub-subcontractors (of any tier) to promptly pay any subcontractor or material supplier contract within ten (10) days of receipt of payment by Owner for undisputed services provided by the party requesting payment. The party responsible for payment (other than the Owner) shall pay interest of one and one half (1-1/2) percent per month to the party requesting payment on any undisputed amount not paid on time. The minimum monthly interest penalty payment for an unpaid balance of $100 or more is $10. For an unpaid balance of less than $100, the party responsible for payment shall pay the actual penalty due to the party requesting payment.

ARTICLE 6 DISPUTE RESOLUTION

§ 6.1 Initial Decision Maker

The Architect will serve as the Initial Decision Maker pursuant to Article 15 of AIA Document A201–2017.

§ 6.1.1 Mediation

Either the Owner or the Contractor may request mediation of any Claim submitted to the Architect for decision before such decision becomes final and binding. The mediation will be governed by the Construction Industry Mediation Rules of the American Arbitration Association in effect at the date of this contract. The request for mediation shall be made in writing to the American Arbitration Association and to the other party of this contract.

Owner and Contractor shall participate in the mediation process in good faith. The process shall be concluded within sixty (60) days of the date of filing the request.

If the Claim is not resolved by mediation, the Architect's action shall become final and binding thirty (30) days after termination of the mediation proceedings. Within the time period, the Owner and Contractor mayrequest Binding Dispute Resolution.

The Work must continue, at the Owner's discretion, in accordance with paragraph 15.1.4.1 of AIA Document A201-2017.

§ 6.2 Binding Dispute Resolution

For any Claim subject to, but not resolved by, mediation pursuant to Article 15 of AIA Document A201–2017, the method of binding dispute resolution shall be as follows:
(Check the appropriate box.)

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[ ] Arbitration pursuant to Section 15.4 of AIA Document A201–2017

[X] Litigation in a court of competent jurisdiction

[ ] Other *(Specify)*

If the Owner and Contractor do not select a method of binding dispute resolution, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, Claims will be resolved by litigation in a court of competent jurisdiction.

ARTICLE 7 TERMINATION OR SUSPENSION

§ 7.1 The Contract may be terminated by the Owner or the Contractor as provided in Article 14 of AIA Document A201–2017.

§ 7.1.1 If the Contract is terminated for the Owner's convenience in accordance with Article 14 of AIA Document A201–2017, then the Owner shall pay the Contractor a termination fee as follows:
(Insert the amount of, or method for determining, the fee, if any, payable to the Contractor following a termination for the Owner's convenience.)

Termination fee will be based on the percentage of work completed and any materials purchased or in production at the time of termination. Said fee and justification shall be provided to the Owner by the Contractor within ten (10) days of the notice of termination.

§ 7.2 The Work may be suspended by the Owner as provided in Article 14 of AIA Document A201–2017.

ARTICLE 8 MISCELLANEOUS PROVISIONS

§ 8.1 Where reference is made in this Agreement to a provision of AIA Document A201–2017 or another Contract Document, the reference refers to that provision as amended or supplemented by other provisions of the Contract Documents.

§ 8.2 The Owner's representative:
(Name, address, email address, and other information)

Diedra Geye
1250 West Broadway Avenue
Minneapolis, MN 55411

§ 8.3 The Contractor's representative:
(Name, address, email address, and other information)

Morcon Construction Co., Inc.
5151 Industrial Blvd NE
Fridley, MN 55421
mblees@morcon.com

§ 8.4 Neither the Owner's nor the Contractor's representative shall be changed without ten days' prior notice to the other party.

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§ 8.5 Insurance and Bonds

§ 8.5.1 The Owner and the Contractor shall purchase and maintain insurance as set forth in AIA Document A101™–2017, Standard Form of Agreement Between Owner and Contractor where the basis of payment is a Stipulated Sum, Exhibit A, Insurance and Bonds, and elsewhere in the Contract Documents.

§ 8.5.2 The Contractor shall provide bonds as set forth in AIA Document A101™–2017 Exhibit A, and elsewhere in the Contract Documents.

§ 8.6 Notice in electronic format, pursuant to Article 1 of AIA Document A201–2017, may be given in accordance with AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, if completed, or as otherwise set forth below:

(If other than in accordance with AIA Document E203–2013, insert requirements for delivering notice in electronic format such as name, title, and email address of the recipient and whether and how the system will be required to generate a read receipt for the transmission.)

§ 8.7 Other provisions:

Owner prohibits Contractor from using the Work in any marketing material or business developement practice. Contractor is prohibited from communication with any news outlet or public without Owner's written approval.

Floor plans, designs, wiring, safety and security measures shall be kept confidential by the Contractor, the Subcontractors, the Sub-subcontractors (of any tier) during and after completion of the Work.

ARTICLE 9 ENUMERATION OF CONTRACT DOCUMENTS

§ 9.1 This Agreement is comprised of the following documents:

.1 AIA Document A101™–2017, Standard Form of Agreement Between Owner and Contractor

.2 AIA Document A101™–2017, Exhibit A, Insurance and Bonds

.3 AIA Document A201™–2017, General Conditions of the Contract for Construction

.4 AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, dated as indicated below:

(Insert the date of the E203-2013 incorporated into this Agreement.)

January 31, 2020

.5 Drawings

Number	Title	Date

.6 Specifications

Section	Title	Date	Pages

.7 Addenda, if any:

Number	Date	Pages

Portions of Addenda relating to bidding or proposal requirements are not part of the Contract Documents unless the bidding or proposal requirements are also enumerated in this Article 9.

.8 Other Exhibits:

(Paragraphs Deleted)

EXH-B Project Charter

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(Paragraph Deleted)

EXH-C Owner Insurance
EXH-D Project Schedule

(Paragraph Deleted)

(Table Deleted)

[ ] Supplementary and other Conditions of the Contract:

Document	Title	Date	Pages

.9 Other documents, if any, listed below:
(List here any additional documents that are intended to form part of the Contract Documents. AIA Document A201™–2017 provides that the advertisement or invitation to bid, Instructions to Bidders, sample forms, the Contractor's bid or proposal, portions of Addenda relating to bidding or proposal requirements, and other information furnished by the Owner in anticipation of receiving bids or proposals, are not part of the Contract Documents unless enumerated in this Agreement. Any such documents should be listed here only if intended to be part of the Contract Documents.)

This Agreement entered into as of the day and year first written above.

OWNER *(Signature)*

(Printed name and title)

CONTRACTOR *(Signature)*

Joe Montgomery VP
(Printed name and title)

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Additions and Deletions Report for
AIA® Document A101® – 2017

This Additions and Deletions Report, as defined on page 1 of the associated document, reproduces below all text the author has added to the standard form AIA document in order to complete it, as well as any text the author may have added to or deleted from the original AIA text. Added text is shown underlined. Deleted text is indicated with a horizontal line through the original AIA text.

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PAGE 1

AGREEMENT made as of the eleventh day of March in the year 2025

...

Minneapolis Public Schools Special School District #1
1250 West Broadway Avenue
Minneapolis, MN 55411

...

Morcon Construction Co., Inc.
5151 Industrial Blvd NE
Fridley, MN 55421

...

FY25 Stadium Bleacher Repairs
Washburn High School
201 West 49th Street
Minneapolis, MN 55419

...

Buildings Consulting Group, Inc.
2855 Anthony Lane South Suite 201
Minneapolis, MN 55418

PAGE 2

[X] A date set forth in a notice to proceed issued by the Owner.

...

§ 3.3.1 ~~Subject to adjustments of the Contract Time as provided in the Contract Documents, the~~ The Contractor shall achieve Substantial Completion of the entire Work:

PAGE 3

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[X] By the following date: Defined in EXH-D Project Schedule

...

§ 3.3.2 Subject to adjustments of the Contract Time as provided in the Contract Documents, if portions of the Work are to be completed prior to Substantial Completion of the entire Work, the Contractor shall achieve Substantial Completion of such portions by the following ~~dates:~~dates are defined in EXH-D Project Schedule. Such portions of the work not completed as defined in EXH-D Project Schedule shall be subject to liquidated damages as set forth in Article 4.5.

...

~~**Portion of Work** **Substantial Completion Date**~~

...

§ 4.1 The Owner shall pay the Contractor the Contract Sum in current funds for the Contractor's performance of the ~~Contract. The Contract Sum shall be ($),~~ Contract as defined in EXH-B Project Charter, subject to additions and deductions as provided in the Contract Documents.

...

§ 4.2.1 Alternates, if any, included in the Contract ~~Sum:~~Sum are defined in EXH-B Project Charter.

...

~~**Item** **Price**~~

...

§ 4.2.2 Subject to the conditions noted ~~below, the following~~ in EXH-B Project Charter, alternates may be accepted by the Owner following execution of this Agreement. Upon acceptance, the Owner shall issue a Modification to this Agreement.

...

~~*(Insert below each alternate and the conditions that must be met for the Owner to accept the alternate.)*~~

...

~~**Item** **Price** **Conditions for Acceptance**~~

...

§ 4.3 Allowances, if any, included in the Contract ~~Sum:~~Sum are defined in EXH-B Project Charter.

...

~~*(Identify each allowance.)*~~

...

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~~Item~~ ~~Price~~

...

§ 4.4 Unit prices, if ~~any:~~any are defined in EXH-B Project Charter.

...

~~*(Identify the item and state the unit price and quantity limitations, if any, to which the unit price will be applicable.)*~~

...

~~Item~~ ~~Units and Limitations~~ ~~Price per Unit ($0.00)~~

...

§ 4.5 Liquidated ~~damages, if any:~~damages

PAGE 4

~~*(Insert terms and conditions for liquidateddamages, if any.)*~~*Contractor and Owner recognized that time is of the essence for the Project and the Owner will suffer financial loss if the Work is not completed in the time specified in the Contract Documents. The parties also recognized the delays, expenses, and difficulties involved in proving in a legal or arbitration proceeding the actual loss suffered by the Owner if the Work is not completed on time. Accordingly, instead of requiring such proof, the Owner and Contractor agree that as liquidated*

...

damages for delay (but not as penalty), Contractor shall pay Owner $1,000.00 per calendar day for each day that expires after the time specified for Substantial Completion in EXH-D Project Schedule until such time the Work is determined to be substantially complete by the

...

Owner.

...

~~**§ 4.6** Other:~~

...

~~*(Insert provisions for bonus or other incentives, if any, that might result in a change to the Contract Sum.)*~~*After Substantial Completion, if Contractor shall neglect, refuse, or fail to complete the remaining work within the Contract time specified in the Contract Documents, the contractor shall pay the Owner $1,000.00 per day that expires after the time specified in the Contract Documents for Final Completion and readiness for Final Payment until the Work is completed.*

...

§ 5.1.2 The period covered by each Application for Payment shall be one calendar month ending on the last day of the ~~month, or as follows:~~month.

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...

§ 5.1.3 ~~Provided that~~ When an Application for Payment is received by the Architect~~not later than the day of a month, the Owner shall make payment of the amount certified to the Contractor not later than the day of the month. If an Application for Payment is received by the Architect after the application date fixed above,~~ , payment of the amount certified shall be made by the Owner not later than 45 (forty-five) days after the Architect receives the Application for Payment.

...

~~*(Federal, state or local laws may require payment within a certain period of time.)*~~

...

§ 5.1.4 Each Application for Payment shall be based on the most recent schedule of values submitted by the Contractor on AIA G702 Application and Certificate for Payment in accordance with the Contract Documents. The schedule of values shall allocate the entire Contract Sum among the various portions of the Work. The schedule of values shall be prepared in such form, and supported by such data to substantiate its accuracy, as the Architect may require. This schedule of values shall be used as a basis for reviewing the Contractor's Applications for Payment.

PAGE 5

~~*(Insert a percentage or amount to be withheld as retainage from each Application for Payment. The amount of retainage may be limited by governing law.)*~~

...

5% (five percent)

...

For major items installed into the Work, the Contractor may request full payment for the items to ensure prompt delivery and fabrication. Such items shall be recommended by the Architect and approved by the Owner as not requiring retainage. Prompt payment for the items shall be documented by the Contractor to the Owner in the subsequent payment application by submitting a full lien release for the items. Major items may include mechanical units with long lead times, structural systems with long lead times, critical path systems or items, etc. Major items will be discussed and defined by Owner, Architect, and Contractor.

...

~~*(If the retainage established in Section 5.1.7.1 is to be modified prior to Substantial Completion of the entire Work, including modifications for Substantial Completion of portions of the Work asprovided in Section 3.3.2, insert provisions for such modifications.)*~~*Prior to Substantial Completion and at the discretion of the Owner, retainage may be reduced. If the Work has been 50% completed as*

...

~~**§ 5.1.7.3** Except as set forth in this Section 5.1.7.3, upon Substantial Completion of the Work, the Contractor may submit an Application for Payment that includes the retainage withheld from prior Applications for Payment pursuant to this Section 5.1.7. The Application for Payment submitted at Substantial Completion shall not include retainage as follows:~~determined by the Architect and is satisfactory to the Owner, then 90% of the retained amount may be released to the Contractor for completed work (with 10% of the total retained by the Owner.) Upon

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Substantial Completion, additional retainage may be returned to the Contractor as recommended by the Architect and approved by the Owner to an amount sufficient to satisfactorily complete the Work. Retainage release will comply with Minnesota Statute 15.72 after Substantial Completion and punch list acceptance by the Owner.

...

~~*(Insert any other conditions for release of retainage upon Substantial Completion.)*~~

...

§ 5.1.9 Except with the Owner's prior approval, the Contractor shall not make advance payments to suppliers for materials or equipment which have not been delivered and stored at the ~~site.~~site or otherwise stored offsite with adequate Owner approved insurance provided to the Owner.

PAGE 6

.3 all lien waivers and IC134 forms have been delivered to the Owner.

...

§ 5.2.2 The Owner's final payment to the Contractor shall be made no later than ~~30~~ 45 days after the issuance of the Architect's final Certificate for ~~Payment, or as follows:~~Payment.

...

Payments due and unpaid under the Contract shall bear interest from the date payment is due at the rate stated below, or in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located. Owner will pay the Contractor 0% interest for Payments not due made within forty five (45) days.

...

~~*(Insert rate*~~ ***§ 5.4 Prompt Payment to Subcontractors***

...

This Contract requires the Contractor and all Subcontractors and Sub-subcontractors (of any tier) to promptly pay any subcontractor or material supplier contract within ten (10) days of receipt of payment by Owner for undisputed services provided by the party requesting payment. The party responsible for payment (other than the Owner) shall pay interest of ~~interest agreed upon, if any.)~~one and one half (1-1/2) percent per month to the party requesting payment on any undisputed amount not paid on time. The minimum monthly interest penalty payment for an unpaid balance of $100 or more is $10. For an unpaid balance of less than $100, the party responsible for payment shall pay the actual penalty due to the party requesting payment.

...

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The Architect will serve as the Initial Decision Maker pursuant to Article 15 of AIA Document ~~A201–2017, unless~~ A201–2017.

...

§ 6.1.1 Mediation

...

~~the parties appoint below another individual, not a party to this Agreement, to serve as the Initial Decision Maker.~~Either the Owner or the Contractor may request mediation of any Claim submitted to the Architect for decision before such decision becomes final and binding. The mediation will be governed by the Construction Industry Mediation Rules of the American Arbitration Association in effect at the date of this contract. The request for mediation shall be made in writing to the American Arbitration Association and to the other party of this contract.

...

Owner and Contractor shall participate in the mediation process in good faith. The process shall be concluded within sixty (60) days of the date of filing the request.

...

~~(If the parties mutually agree, insert the name, address and other contact information of the Initial Decision Maker, if other than the Architect.)~~If the Claim is not resolved by mediation, the Architect's action shall become final and binding thirty (30) days after termination of the mediation proceedings. Within the time period, the Owner and Contractor mayrequest Binding Dispute Resolution.

...

The Work must continue, at the Owner's discretion, in accordance with paragraph 15.1.4.1 of AIA Document A201-2017.

PAGE 7

[**X**] Litigation in a court of competent jurisdiction

...

Termination fee will be based on the percentage of work completed and any materials purchased or in production at the time of termination. Said fee and justification shall be provided to the Owner by the Contractor within ten (10) days of the notice of termination.

...

Diedra Geye
1250 West Broadway Avenue
Minneapolis, MN 55411

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...

Morcon Construction Co., Inc.
5151 Industrial Blvd NE
Fridley, MN 55421
mblees@morcon.com

PAGE 8

§ 8.6 Notice in electronic format, pursuant to Article 1 of AIA Document A201–2017, may be given in accordance with ~~a building information modeling exhibit,~~ AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, if completed, or as otherwise set forth below:

...

(If other than in accordance with ~~a building information modeling exhibit,~~ AIA Document E203–2013, insert requirements for delivering notice in electronic format such as name, title, and email address of the recipient and whether and how the system will be required to generate a read receipt for the transmission.)

...

Owner prohibits Contractor from using the Work in any marketing material or business developement practice. Contractor is prohibited from communication with any news outlet or public without Owner's written approval.

Floor plans, designs, wiring, safety and security measures shall be kept confidential by the Contractor, the Subcontractors, the Sub-subcontractors (of any tier) during and after completion of the Work.

...

.4 ~~Building information modeling exhibit,~~ AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, dated as indicated below:

...

(Insert the date of the ~~building information modeling exhibit~~ E203-2013 incorporated into this Agreement.)

...

January 31, 2020

...

~~*(Check all boxes that apply and include appropriate information identifying the exhibit where required.)*~~

...

~~[ ] AIA Document E204™–2017, Sustainable Projects Exhibit, dated as indicated below:~~

...

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EXH-B Project Charter

PAGE 9

~~(Insert the date of the E204-2017 incorporated into this Agreement.)~~

...

EXH-C Owner Insurance

...

EXH-D Project Schedule

...

~~[~] The Sustainability Plan:~~

...

~~Title~~	~~Date~~	~~Pages~~

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Certification of Document's Authenticity

AIA® Document D401™ – 2003

I, , hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with its associated Additions and Deletions Report and this certification at 13:37:05 CT on 02/20/2025 under Order No. 4104251278 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document A101™ - 2017, Standard Form of Agreement Between Owner and Contractor where the basis of payment is a Stipulated Sum, other than those additions and deletions shown in the associated Additions and Deletions Report.

_____

(Signed)

_____

(Title)

_____

(Dated)

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AIA® Document A101® – 2017 Exhibit A

Insurance and Bonds

This Insurance and Bonds Exhibit is part of the Agreement, between the Owner and the Contractor, dated the eleventh day of March in the year 2025
(In words, indicate day, month and year.)

for the following **PROJECT**:
(Name and location or address)

FY25 Stadium Bleacher Repairs
Washburn High School
201 West 49th Street
Minneapolis, MN 55419

THE OWNER:
(Name, legal status and address)

Minneapolis Public Schools Special School District #1
1250 West Broadway Avenue
Minneapolis, MN 55411

THE CONTRACTOR:
(Name, legal status and address)

Buildings Consulting Group, Inc.
2855 Anthony Lane South Suite 201
Minneapolis, MN 55418

ADDITIONS AND DELETIONS:
The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

This document is intended to be used in conjunction with AIA Document A201®–2017, General Conditions of the Contract for Construction. Article 11 of A201®–2017 contains additional insurance provisions.

TABLE OF ARTICLES

A.1 GENERAL

A.2 OWNER'S INSURANCE

A.3 CONTRACTOR'S INSURANCE AND BONDS

A.4 SPECIAL TERMS AND CONDITIONS

ARTICLE A.1 GENERAL

The Owner and Contractor shall purchase and maintain insurance, and provide bonds, as set forth in this Exhibit. As used in this Exhibit, the term General Conditions refers to AIA Document A201™–2017, General Conditions of the Contract for Construction.

ARTICLE A.2 OWNER'S INSURANCE

§ A.2.1 General

Prior to commencement of the Work, the Owner shall secure the insurance, and provide evidence of the coverage, required under this Article A.2 and, upon the Contractor's

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request, provide a copy of the property insurance policy or policies required by Section A.2.3. The copy of the policy or policies provided shall contain all applicable conditions, definitions, exclusions, and endorsements.

§ A.2.2 Liability Insurance
The Owner shall be responsible for purchasing and maintaining the Owner's usual general liability insurance.

§ A.2.3 Required Property Insurance
§ A.2.3.1 Unless this obligation is placed on the Contractor pursuant to Section A.3.3.2.1, the Owner shall purchase and maintain, from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located, property insurance written on a builder's risk "all-risks" completed value or equivalent policy form and sufficient to cover the total value of the entire Project on a replacement cost basis. The Owner's property insurance coverage shall be no less than the amount of the initial Contract Sum, plus the value of subsequent Modifications and labor performed and materials or equipment supplied by others. The property insurance shall be maintained until Substantial Completion and thereafter as provided in Section A.2.3.1.3, unless otherwise provided in the Contract Documents or otherwise agreed in writing by the parties to this Agreement. This insurance shall include the interests of the Owner, Contractor, Subcontractors, and Sub-subcontractors in the Project as insureds. This insurance shall include the interests of mortgagees as loss payees.

§ A.2.3.1.1 Causes of Loss. The insurance required by this Section A.2.3.1 shall provide coverage for direct physical loss or damage, and shall not exclude the risks of fire, explosion, theft, vandalism, malicious mischief, collapse, earthquake, flood, or windstorm. The insurance shall also provide coverage for ensuing loss or resulting damage from error, omission, or deficiency in construction methods, design, specifications, workmanship, or materials. Sub-limits, if any, are as follows:
(Indicate below the cause of loss and any applicable sub-limit.)

Causes of Loss	Sub-Limit

§ A.2.3.1.2 Specific Required Coverages. The insurance required by this Section A.2.3.1 shall provide coverage for loss or damage to falsework and other temporary structures, and to building systems from testing and startup. The insurance shall also cover debris removal, including demolition occasioned by enforcement of any applicable legal requirements, and reasonable compensation for the Architect's and Contractor's services and expenses required as a result of such insured loss, including claim preparation expenses. Sub-limits, if any, are as follows:
(Indicate below type of coverage and any applicable sub-limit for specific required coverages.)

Coverage	Sub-Limit

§ A.2.3.1.3 Unless the parties agree otherwise, upon Substantial Completion, the Owner shall continue the insurance required by Section A.2.3.1 or, if necessary, replace the insurance policy required under Section A.2.3.1 with property insurance written for the total value of the Project that shall remain in effect until expiration of the period for correction of the Work set forth in Section 12.2.2 of the General Conditions.

§ A.2.3.1.4 Deductibles and Self-Insured Retentions. If the insurance required by this Section A.2.3 is subject to deductibles or self-insured retentions, the Owner shall be responsible for all loss not covered because of such deductibles or retentions.

§ A.2.3.2 Occupancy or Use Prior to Substantial Completion. The Owner's occupancy or use of any completed or partially completed portion of the Work prior to Substantial Completion shall not commence until the insurance company or companies providing the insurance under Section A.2.3.1 have consented in writing to the continuance of coverage. The Owner and the Contractor shall take no action with respect to partial occupancy or use that would cause cancellation, lapse, or reduction of insurance, unless they agree otherwise in writing.

§ A.2.3.3 Insurance for Existing Structures
If the Work involves remodeling an existing structure or constructing an addition to an existing structure, the Owner shall purchase and maintain, until the expiration of the period for correction of Work as set forth in Section 12.2.2 of

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the General Conditions, "all-risks" property insurance, on a replacement cost basis, protecting the existing structure against direct physical loss or damage from the causes of loss identified in Section A.2.3.1, notwithstanding the undertaking of the Work. The Owner shall be responsible for all co-insurance penalties.

§ A.2.4 Optional Extended Property Insurance.
The Owner shall purchase and maintain the insurance selected and described below.
(Select the types of insurance the Owner is required to purchase and maintain by placing an X in the box(es) next to the description(s) of selected insurance. For each type of insurance selected, indicate applicable limits of coverage or other conditions in the fill point below the selected item.)

[ ] **§ A.2.4.1 Loss of Use, Business Interruption, and Delay in Completion Insurance**, to reimburse the Owner for loss of use of the Owner's property, or the inability to conduct normal operations due to a covered cause of loss.

[ ] **§ A.2.4.2 Ordinance or Law Insurance**, for the reasonable and necessary costs to satisfy the minimum requirements of the enforcement of any law or ordinance regulating the demolition, construction, repair, replacement or use of the Project.

[ ] **§ A.2.4.3 Expediting Cost Insurance**, for the reasonable and necessary costs for the temporary repair of damage to insured property, and to expedite the permanent repair or replacement of the damaged property.

[ ] **§ A.2.4.4 Extra Expense Insurance**, to provide reimbursement of the reasonable and necessary excess costs incurred during the period of restoration or repair of the damaged property that are over and above the total costs that would normally have been incurred during the same period of time had no loss or damage occurred.

[ ] **§ A.2.4.5 Civil Authority Insurance**, for losses or costs arising from an order of a civil authority prohibiting access to the Project, provided such order is the direct result of physical damage covered under the required property insurance.

[ ] **§ A.2.4.6 Ingress/Egress Insurance**, for loss due to the necessary interruption of the insured's business due to physical prevention of ingress to, or egress from, the Project as a direct result of physical damage.

[ ] **§ A.2.4.7 Soft Costs Insurance**, to reimburse the Owner for costs due to the delay of completion of the Work, arising out of physical loss or damage covered by the required property insurance: including construction loan fees; leasing and marketing expenses; additional fees, including those of architects, engineers, consultants, attorneys and accountants, needed for the completion of the construction, repairs, or reconstruction; and carrying costs such as property taxes, building permits, additional interest on loans, realty taxes, and insurance premiums over and above normal expenses.

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§ A.2.5 Other Optional Insurance.
The Owner shall purchase and maintain the insurance selected below.
(Select the types of insurance the Owner is required to purchase and maintain by placing an X in the box(es) next to the description(s) of selected insurance.)

[ ] **§ A.2.5.1 Cyber Security Insurance** for loss to the Owner due to data security and privacy breach, including costs of investigating a potential or actual breach of confidential or private information.
(Indicate applicable limits of coverage or other conditions in the fill point below.)

[ ] **§ A.2.5.2 Other Insurance**
(List below any other insurance coverage to be provided by the Owner and any applicable limits.)

Coverage	Limits

ARTICLE A.3 CONTRACTOR'S INSURANCE AND BONDS

§ A.3.1 General

§ A.3.1.1 Certificates of Insurance. The Contractor shall provide certificates of insurance acceptable to the Owner evidencing compliance with the requirements in this Article A.3 at the following times: (1) prior to commencement of the Work; (2) upon renewal or replacement of each required policy of insurance; and (3) upon the Owner's written request. An additional certificate evidencing continuation of commercial liability coverage, including coverage for completed operations, shall be submitted with the final Application for Payment and thereafter upon renewal or replacement of such coverage until the expiration of the periods required by Section A.3.2.1 and Section A.3.3.1. The certificates will show the Owner as an additional insured on the Contractor's Commercial General Liability and excess or umbrella liability policy or policies.

§ A.3.1.2 Deductibles and Self-Insured Retentions. The Contractor shall disclose to the Owner any deductible or self-insured retentions applicable to any insurance required to be provided by the Contractor.

§ A.3.1.3 Additional Insured Obligations. To the fullest extent permitted by law, the Contractor shall cause the commercial general liability coverage to include (1) the Owner, the Architect, and the Architect's consultants as additional insureds for claims caused in whole or in part by the Contractor's negligent acts or omissions during the Contractor's operations; and (2) the Owner as an additional insured for claims caused in whole or in part by the Contractor's negligent acts or omissions for which loss occurs during completed operations. The additional insured coverage shall be primary and non-contributory to any of the Owner's general liability insurance policies and shall apply to both ongoing and completed operations. To the extent commercially available, the additional insured coverage shall be no less than that provided by Insurance Services Office, Inc. (ISO) forms CG 20 10 07 04, CG 20 37 07 04, and, with respect to the Architect and the Architect's consultants, CG 20 32 07 04.

§ A.3.2 Contractor's Required Insurance Coverage

§ A.3.2.1 The Contractor shall purchase and maintain the following types and limits of insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The Contractor shall maintain the required insurance until the expiration of the period for correction of Work as set forth in Section 12.2.2 of the General Conditions, unless a different duration is stated below:
(If the Contractor is required to maintain insurance for a duration other than the expiration of the period for correction of Work, state the duration.)

§ A.3.2.2 Commercial General Liability

§ A.3.2.2.1 Commercial General Liability insurance for the Project written on an occurrence form with policy limits as defined is ECH-C Owner Insurance, providing coverage for claims including

.1 damages because of bodily injury, sickness or disease, including occupational sickness or disease, and death of any person;

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.2 personal injury and advertising injury;
.3 damages because of physical damage to or destruction of tangible property, including the loss of use of such property;
.4 bodily injury or property damage arising out of completed operations; and
.5 the Contractor's indemnity obligations under Section 3.18 of the General Conditions.

§ A.3.2.2.2 The Contractor's Commercial General Liability policy under this Section A.3.2.2 shall not contain an exclusion or restriction of coverage for the following:

.1 Claims by one insured against another insured, if the exclusion or restriction is based solely on the fact that the claimant is an insured, and there would otherwise be coverage for the claim.
.2 Claims for property damage to the Contractor's Work arising out of the products-completed operations hazard where the damaged Work or the Work out of which the damage arises was performed by a Subcontractor.
.3 Claims for bodily injury other than to employees of the insured.
.4 Claims for indemnity under Section 3.18 of the General Conditions arising out of injury to employees of the insured.
.5 Claims or loss excluded under a prior work endorsement or other similar exclusionary language.
.6 Claims or loss due to physical damage under a prior injury endorsement or similar exclusionary language.
.7 Claims related to residential, multi-family, or other habitational projects, if the Work is to be performed on such a project.
.8 Claims related to roofing, if the Work involves roofing.
.9 Claims related to exterior insulation finish systems (EIFS), synthetic stucco or similar exterior coatings or surfaces, if the Work involves such coatings or surfaces.
.10 Claims related to earth subsidence or movement, where the Work involves such hazards.
.11 Claims related to explosion, collapse and underground hazards, where the Work involves such hazards.

§ A.3.2.3 Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Contractor, with policy limits as defined in EXH-C Owner Insurance .

§ A.3.2.4 The Contractor may achieve the required limits and coverage for Commercial General Liability and Automobile Liability through a combination of primary and excess or umbrella liability insurance, provided such primary and excess or umbrella insurance policies result in the same or greater coverage as the coverages required under Section A.3.2.2 and A.3.2.3, and in no event shall any excess or umbrella liability insurance provide narrower coverage than the primary policy. The excess policy shall not require the exhaustion of the underlying limits only through the actual payment by the underlying insurers. Umbrella coverage as defined in EXH-C Owner Insurance

§ A.3.2.5 Workers' Compensation at statutory limits for Coverage A as defined in EXH-C Owner Insurance.

§ A.3.2.6 Employers' Liability Coverage B as defined in EXH-C Owner Insurance .

(Paragraph deleted)
§ A.3.2.8 If the Contractor is required to furnish professional services as part of the Work, the Contractor shall procure Professional Liability insurance covering performance of the professional services, with policy limits as defined in EXH-C Owner Insurance .

.

(Paragraphs deleted)
§ A.3.2.12 Insurance for the use or operation of manned or unmanned aircraft, if the Work requires such activities, with policy limits as defined in EXH-C Owner Insurance.

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§ A.3.3 Contractor's Other Insurance Coverage

§ A.3.3.1 Insurance selected and described in this Section A.3.3 shall be purchased from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The Contractor shall maintain the required insurance until the expiration of the period for correction of Work as set forth in Section 12.2.2 of the General Conditions, unless a different duration is stated below:
(If the Contractor is required to maintain any of the types of insurance selected below for a duration other than the expiration of the period for correction of Work, state the duration.)

If Professional Liability Insurance is required as part of this contract or becomes required during the course of the project coverage shall be in accordance with A.3.2.8, the insurance coverage shall be maintained for one calendar year after the date of Substantial Completion

§ A.3.3.2 The Contractor shall purchase and maintain the following types and limits of insurance in accordance with Section A.3.3.1 as defined in EXH-C Owner Insurance.

(Paragraphs deleted)

§ A.3.4 Performance Bond and Payment Bond

The Contractor shall provide surety bonds, from a company or companies lawfully authorized to issue surety bonds in the jurisdiction where the Project is located, as follows:
(Specify type and penal sum of bonds.)

Type	Penal Sum ($0.00)
Payment Bond	Full contract value
Performance Bond	Full contract value

Payment and Performance Bonds shall be AIA Document A312™, Payment Bond and Performance Bond, or contain provisions identical to AIA Document A312™, current as of the date of this Agreement.

ARTICLE A.4 SPECIAL TERMS AND CONDITIONS

Special terms and conditions that modify this Insurance and Bonds Exhibit, if any, are as follows:

None

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AIA® Document A101® – 2017 Exhibit A

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PAGE 1

This Insurance and Bonds Exhibit is part of the Agreement, between the Owner and the Contractor, dated the eleventh day of March in the year 2025

...

(Name and location or address)

FY25 Stadium Bleacher Repairs
Washburn High School
201 West 49th Street
Minneapolis, MN 55419

...

(Name, legal status and address)

Minneapolis Public Schools Special School District #1
1250 West Broadway Avenue
Minneapolis, MN 55411

...

(Name, legal status and address)

Buildings Consulting Group, Inc.
2855 Anthony Lane South Suite 201
Minneapolis, MN 55418

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§ A.3.2.2.1 Commercial General Liability insurance for the Project written on an occurrence form with policy limits ~~of not less than ($) each occurrence, ($) general aggregate, and ($) aggregate for products-completed operations hazard,~~ as defined is ECH-C Owner Insurance, providing coverage for claims including

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§ A.3.2.3 Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Contractor, with policy limits ~~of not less than ($) per accident, for bodily injury, death of any person, and property damage arising out of the ownership, maintenance and use of those motor vehicles along with any other statutorily required automobile coverage.~~as defined in EXH-C Owner Insurance .

§ A.3.2.4 The Contractor may achieve the required limits and coverage for Commercial General Liability and Automobile Liability through a combination of primary and excess or umbrella liability insurance, provided such primary and excess or umbrella insurance policies result in the same or greater coverage as the coverages required

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under Section A.3.2.2 and A.3.2.3, and in no event shall any excess or umbrella liability insurance provide narrower coverage than the primary policy. The excess policy shall not require the exhaustion of the underlying limits only through the actual payment by the underlying insurers. Umbrella coverage as defined in EXH-C Owner Insurance

§ A.3.2.5 Workers' Compensation at statutory ~~limits.~~limits for Coverage A as defined in EXH-C Owner Insurance.

§ A.3.2.6 Employers' Liability ~~with policy limits not less than ($) each accident, ($) each employee, and ($) policy limit.~~Coverage B as defined in EXH-C Owner Insurance .

~~**§ A.3.2.7** Jones Act, and the Longshore & Harbor Workers' Compensation Act, as required, if the Work involves hazards arising from work on or near navigable waterways, including vessels and docks~~

§ A.3.2.8 If the Contractor is required to furnish professional services as part of the Work, the Contractor shall procure Professional Liability insurance covering performance of the professional services, with policy limits ~~of not less than ($) per claim and ($) in the aggregate.~~as defined in EXH-C Owner Insurance .

.

~~**§ A.3.2.9** If the Work involves the transport, dissemination, use, or release of pollutants, the Contractor shall procure Pollution Liability insurance, with policy limits of not less than ($) per claim and ($) in the aggregate.~~

~~**§ A.3.2.10** Coverage under Sections A.3.2.8 and A.3.2.9 may be procured through a Combined Professional Liability and Pollution Liability insurance policy, with combined policy limits of not less than ($) per claim and ($) in the aggregate.~~

~~**§ A.3.2.11** Insurance for maritime liability risks associated with the operation of a vessel, if the Work requires such activities, with policy limits of not less than ($) per claim and ($) in the aggregate.~~

§ A.3.2.12 Insurance for the use or operation of manned or unmanned aircraft, if the Work requires such activities, with policy limits ~~of not less than ($) per claim and ($) in the aggregate.~~as defined in EXH-C Owner Insurance.
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If Professional Liability Insurance is required as part of this contract or becomes required during the course of the project coverage shall be in accordance with A.3.2.8, the insurance coverage shall be maintained for one calendar year after the date of Substantial Completion

§ A.3.3.2 The Contractor shall purchase and maintain the following types and limits of insurance in accordance with Section ~~A.3.3.1.~~
~~*(Select the types of insurance the Contractor is required to purchase and maintain by placing an X in the box(es) next to the description(s) of selected insurance. Where policy limits are provided, include the policy limit in the appropriate fill point.)*~~A.3.3.1 as defined in EXH-C Owner Insurance.

~~[ ] **§ A.3.3.2.1** Property insurance of the same type and scope satisfying the requirements identified in Section A.2.3, which, if selected in this section A.3.3.2.1, relieves the Owner of the responsibility to purchase and maintain such insurance except insurance required by Section A.2.3.1.3 and Section A.2.3.3. The Contractor shall comply with all obligations of the Owner under Section A.2.3 except to the extent provided below. The Contractor shall disclose to the Owner the amount of any deductible, and the Owner shall be responsible for losses within the deductible. Upon request, the Contractor shall provide the Owner with a copy of the property insurance policy or policies required. The Owner shall adjust and settle the loss with the insurer and be the trustee of the proceeds of the property insurance in accordance with Article 11 of the General Conditions unless otherwise set forth below:~~
~~*(Where the Contractor's obligation to provide property insurance differs from the Owner's obligations as described under Section A.2.3, indicate such differences in the space below. Additionally, if a party other than the Owner will be responsible for adjusting and settling a loss with the insurer and acting as the trustee of the proceeds of property insurance in accordance with Article 11 of the General Conditions, indicate the responsible party below.)*~~

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[–] ~~§ A.3.3.2.2 Railroad Protective Liability Insurance, with policy limits of not less than ($) per claim and ($) in the aggregate, for Work within fifty (50) feet of railroad property.~~

[–] ~~§ A.3.3.2.3 Asbestos Abatement Liability Insurance, with policy limits of not less than ($) per claim and ($) in the aggregate, for liability arising from the encapsulation, removal, handling, storage, transportation, and disposal of asbestos-containing materials.~~

[–] ~~§ A.3.3.2.4 Insurance for physical damage to property while it is in storage and in transit to the construction site on an "all-risks" completed value form.~~

[–] ~~§ A.3.3.2.5 Property insurance on an "all-risks" completed value form, covering property owned by the Contractor and used on the Project, including scaffolding and other equipment.~~

[–] ~~§ A.3.3.2.6 Other Insurance~~
~~*(List below any other insurance coverage to be provided by the Contractor and any applicable limits.)*~~

~~Coverage~~	~~Limits~~

§ A.3.4 Performance Bond and Payment Bond

...

Payment Bond	Full contract value
Performance Bond	Full contract value

...

None

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Exhibit B – Project Charter

FY25 Washburn High School Stadium Bleacher Repairs

Description

Repairs to the bleachers at Washburn High School. The repairs to the bleachers structural beams will be performed to reduce deflections in the framing members of the bleachers.

Contract Sum

The Contract Sum shall be $249,250.00

Alternates

Item	Price	Status
N/A		

Conditions

Item	Price	Conditions for Acceptance
N/A		

Allowances

Item	Price
N/A	

Unit Prices

Item	Units and Limitations	Price per Unit ($0.00)
N/A		

EXHIBIT C Owner Insurance

Insurance Requirements

1. CONSULTANT'S INSURANCE – to be used with AIA B101-2017, AIA C103-2015, or similar non-contractor consultants:
   The Consultant shall at its own expense maintain in effect at all times during the performance of the Work under the Agreement at least the following coverage and limits of insurance:

   a. Worker's Compensation and Employer's Liability Insurance

      i. Coverage A is statutory.

      ii. Coverage B
      $500,000 Each Accident
      $500,000 Each Employee
      $500,000 Policy Limit (Disease)

   b. Comprehensive General Liability Insurance *

General Aggregate	$1,000,000
Products/Completed Operations Aggregate	$1,000,000
Per Occurrence	$1,000,000
Medical Payments	$10,000

   * The Owner should be named as an additional insured for Comprehensive General Liability Insurance.

   c. Automobile Insurance

Per Occurrence	$1,000,000
PIP	Basic
Underinsured Motorist	$1,000,000
Uninsured Motorist	$1,000,000

   d. Professional Liability Insurance

      i. Per Claim $2,000,000

ii. For projects with an estimated construction Contract Sum of over $10,000,000 or major structural work an aggregate is required as follows:
Aggregate $4,000,000

e. Umbrella Liability Insurance

i. Per Occurrence $2,000,000

ii. For projects with an estimated construction Contract Sum of over $10,000,000 or major structural work an aggregate is required as follows:
Aggregate $2,000,000

f. Manned or Unmanned Aircraft Coverage (if used)

i. Per Claim $1,000,000

ii. Aggregate $1,000,000

For specialty consultants used for commissioning activities, studies, asbestos surveys and security, items A, B, C and F shall apply.

Special Asbestos Abatement Liability Insurance is required for Asbestos Abatement Contractors. The limits are $1,500,000 per claim, for liability arising from the encapsulation, removal, handling, storage, transportation, and disposal of asbestos-containing materials.

2. CONSULTANT'S OBLIGATIONS

Consultant shall not violate or knowingly permit any violation of any conditions or terms of the policies of insurance required to be carried under the terms hereof and shall endeavor to satisfy the requirements of the insurance companies issuing them. In the event Consultant neglects, refuses or fails to provide or maintain any of the insurance required to be carried under the Agreement, or if such insurance is canceled for any reason, the Owner or the Owner's lender(s) shall have the right, but not the duty, to procure or maintain the same.

In the event the Owner or the Owner's lender(s) do procure or maintain such insurance, the Owner or the Owner's lender(s) shall have, in additional to any and all other available remedies, the right to recover from the Consultant (including the right of set-off against sums otherwise due the Consultant) all of the costs associated with procuring or maintaining such insurance.

3. PROFESSIONAL LIABILITY INSURANCE

   a. Professional Liability Coverage of $2,000,000 shall be maintained for one (1) year from the date of Substantial Completion. If the Consultant discontinues its business and if directed by Owner in writing, Consultant shall purchase such insurance in such amount for an extended discovery period beyond the one (1) year after the date of Substantial Completion, with the premium cost to be a reimbursable expense paid by the Owner. The limit of liability for such policy may not be reduced below $2,000,000 without the Owner giving its prior, written consent. All policies of insurance that Consultant is required under the terms of this Exhibit C Owner's Insurance to secure and maintain shall bear the endorsement "Not to be canceled until sixty (60) calendar days after Owner has received a written notice from insurer as evidence by a return receipt of registered or certified mail."

   b. The Owner shall not be responsible for obtaining or paying premiums or other expenses in connection with insurance required to be carried under the Agreement or normally carried by the Consultant's consultants, and the obligation to obtain such insurance and to pay such premiums and other expenses shall be solely that of the Consultant.

   c. The Consultant shall bear all the costs of any and all deductible amounts under any insurance policies required to be carried under the Agreement and shall remain solely and fully liable for the full amount of any claim or item not compensated by insurance (to the extent that any amount resulted from damages that arose out of the Consultant's sole negligence.)

4. COVERAGE

   The coverage's referred to above are set forth in full in the respective policy forms, and the foregoing descriptions of such policies are not intended to be complete.

5. GENERALLY

   a. The Consultant thereby represents and warrants to the Owner that, as of the date of the execution of the Agreement, the Consultant is not aware of any claims or potential claims which have been made, filed or threatened against any of the insurance or for damages covered by any of the insurance required to be carried under the Agreement that would affect the Consultant's ability to provide the insurance coverage required by this agreement.

b. It is understood that the provisions in the Agreement requiring the Consultant to carry insurance shall not be construed as in any manner waiving or restricting the liability of the Consultant as to any obligations imposed under the Agreement, including, but not limited to, obligations imposed under the provisions of Article 11 of the AIA A201-2017 General Conditions.

Insurance requirements for Contractors

1. CONTRACTOR'S INSURANCE – to be used with AIA A101-2017
   The Contractor shall at its own expense maintain in effect at all times during the performance of the Work under the Agreement at least the following coverage and limits of insurance:

   a. Commercial General Liability

      i. General Aggregate $1,500,000

      ii. Products/Completed Operations Aggregate $1,500,000

      iii. Per Occurrence $1,500,000

      The Owner shall be named as additional insured for Commercial General Liability Insurance

   b. Automobile Insurance

      i. Per Occurrence $1,000,000

      ii. PIP Basic

      iii. Underinsured Motorist $1,000,000

      iv. Uninsured Motorist $1,000,000

   c. Workers Compensation

      i. Coverage A is statutory.

      ii. Coverage B $500,000 Each Accident

      iii. $500,000 Each Employee

d. Professional Liability (if the Contractor is hiring professionals)

   i. Per Claim $2,000,000

   For Projects with an estimated construction cost of over $10,000,000 or major structural work, additional Aggregate coverage of $4,000,000 is required.

e. Manned or Unmanned Aircraft Coverage (if used)

   i. Per Claim $1,000,000

   ii. Aggregate $1,000,000

f. Property Insurance

   i. Per Claim $1,000,000

   ii. Aggregate $1,000,000

   This insurance is only required for materials stored offsite and not incorporated into the project at delivery. For material stored on site, no additional insurance is required.

g. Builders "all risk" Insurance

   i. Per Claim $2,000,000

   ii. Aggregate $4,000,000

   This insurance is only required for additions exceeding $10,000,000. Renovations to existing schools are not required to have builders all risk insurance.

h. Umbrella Liability

   i. Aggregate limit $5,000,000

   This insurance is required only for projects larger than $10,000,000 in total construction costs.

Exhibit D – Project Schedule

Project Name and Number

FY25 Stadium Bleacher Repairs
Washburn High School
201 W 49th Street
Minneapolis, MN 55419
Minneapolis Public Schools Project Number 25WASH001
OP#25-2514

Description

Repairs to the bleachers at Washburn High School. The repairs to the bleachers structural beams will be performed to reduce deflections in the framing members of the bleachers.

Schedule

Last Day of School: June 5, 2025

Construction Commences: June 9, 2025

Juneteenth Holiday: June 19, 2025 (All MPS Buildings Closed)

Substantial Completion: August 1, 2025

Final Completion: August 15, 2025

Close-out Documents no later than 45 days past date of Substantial Completion

Substantial Completion

The Work will be substantially complete on or before August 1, 2025.

AIA® Document A201® – 2017

General Conditions of the Contract for Construction

for the following PROJECT:
(Name and location or address)

FY25 Stadium Bleacher Repairs
Washburn High School
201 West 49th Street
Minneapolis, MN 55419

THE OWNER:
(Name, legal status and address)

Minneapolis Public Schools Special School District 1
1250 West Broadway Avenue
Minneapolis, MN 55411

THE ARCHITECT:
(Name, legal status and address)

Buildings Consulting Group, Inc.
2855 Anthony Lane South Suite 201
Minneapolis, MN 55418

ADDITIONS AND DELETIONS:
The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

For guidance in modifying this document to include supplementary conditions, see AIA Document A503™, Guide for Supplementary Conditions.

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ARTICLE 1 GENERAL PROVISIONS

§ 1.1 Basic Definitions

§ 1.1.1 The Contract Documents

The Contract Documents are enumerated in the Agreement between the Owner and Contractor (hereinafter the Agreement) and consist of the Agreement, Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, Addenda issued prior to execution of the Contract, other documents listed in the Agreement, and Modifications issued after execution of the Contract. A Modification is (1) a written amendment to the Contract signed by both parties, (2) a Change Order, (3) a Construction Change Directive, or (4) a written order for a minor change in the Work issued by the Architect. Unless specifically enumerated in the Agreement, the Contract Documents do not include the advertisement or invitation to bid, Instructions to Bidders, sample forms, other information furnished by the Owner in anticipation of receiving bids or proposals, the Contractor's bid or proposal, or portions of Addenda relating to bidding or proposal requirements.

§ 1.1.2 The Contract

The Contract Documents form the Contract for Construction. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations, or agreements, either written or oral. The Contract may be amended or modified only by a Modification. The Contract Documents shall not be construed to create a contractual relationship of any kind (1) between the Contractor and the Architect or the Architect's consultants, (2) between the Owner and a Subcontractor or a Sub-subcontractor, (3) between the Owner and the Architect or the Architect's consultants, or (4) between any persons or entities other than the Owner and the Contractor. The Architect shall, however, be entitled to performance and enforcement of obligations under the Contract intended to facilitate performance of the Architect's duties.

§ 1.1.3 The Work

The term "Work" means the construction and services required by the Contract Documents, whether completed or partially completed, and includes all other labor, materials, equipment, and services provided or to be provided by the Contractor to fulfill the Contractor's obligations. The Work may constitute the whole or a part of the Project.

§ 1.1.4 The Project

The Project is the total construction of which the Work performed under the Contract Documents may be the whole or a part and which may include construction by the Owner and by Separate Contractors.

§ 1.1.5 The Drawings

The Drawings are the graphic and pictorial portions of the Contract Documents showing the design, location and dimensions of the Work, generally including plans, elevations, sections, details, schedules, and diagrams.

§ 1.1.6 The Specifications

The Specifications are that portion of the Contract Documents consisting of the written requirements for materials, equipment, systems, standards and workmanship for the Work, and performance of related services.

§ 1.1.7 Instruments of Service

Instruments of Service are representations, in any medium of expression now known or later developed, of the tangible and intangible creative work performed by the Architect and the Architect's consultants under their respective professional services agreements. Instruments of Service may include, without limitation, studies, surveys, models, sketches, drawings, specifications, and other similar materials.

§ 1.1.8 Initial Decision Maker

The Initial Decision Maker is the person identified in the Agreement to render initial decisions on Claims in accordance with Section 15.2. The Initial Decision Maker shall not show partiality to the Owner or Contractor and shall not be liable for results of interpretations or decisions rendered in good faith.

§ 1.2 Correlation and Intent of the Contract Documents

§ 1.2.1 The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work by the Contractor. The Contract Documents are complementary, and what is required by one shall be as binding as if required by all; performance by the Contractor shall be required only to the extent consistent with the Contract Documents and reasonably inferable from them as being necessary to produce the indicated results.

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§ 1.2.1.1 The invalidity of any provision of the Contract Documents shall not invalidate the Contract or its remaining provisions. If it is determined that any provision of the Contract Documents violates any law, or is otherwise invalid or unenforceable, then that provision shall be revised to the extent necessary to make that provision legal and enforceable. In such case the Contract Documents shall be construed, to the fullest extent permitted by law, to give effect to the parties' intentions and purposes in executing the Contract.

§ 1.2.2 Organization of the Specifications into divisions, sections and articles, and arrangement of Drawings shall not control the Contractor in dividing the Work among Subcontractors or in establishing the extent of Work to be performed by any trade.

§ 1.2.3 Unless otherwise stated in the Contract Documents, words that have well-known technical or construction industry meanings are used in the Contract Documents in accordance with such recognized meanings.

§ 1.3 Capitalization

Terms capitalized in these General Conditions include those that are (1) specifically defined, (2) the titles of numbered articles, or (3) the titles of other documents published by the American Institute of Architects.

§ 1.4 Interpretation

In the interest of brevity the Contract Documents frequently omit modifying words such as "all" and "any" and articles such as "the" and "an," but the fact that a modifier or an article is absent from one statement and appears in another is not intended to affect the interpretation of either statement.

§ 1.5 Ownership and Use of Drawings, Specifications, and Other Instruments of Service

§ 1.5.1 The Architect and the Architect's consultants shall be deemed the authors and owners of their respective Instruments of Service, including the Drawings and Specifications, and retain all common law, statutory, and other reserved rights in their Instruments of Service, including copyrights. The Contractor, Subcontractors, Sub-subcontractors, and suppliers shall not own or claim a copyright in the Instruments of Service. Submittal or distribution to meet official regulatory requirements or for other purposes in connection with the Project is not to be construed as publication in derogation of the Architect's or Architect's consultants' reserved rights.

§ 1.5.2 The Contractor, Subcontractors, Sub-subcontractors, and suppliers are authorized to use and reproduce the Instruments of Service provided to them, subject to any protocols established pursuant to Sections 1.7 and 1.8, solely and exclusively for execution of the Work. All copies made under this authorization shall bear the copyright notice, if any, shown on the Instruments of Service. The Contractor, Subcontractors, Sub-subcontractors, and suppliers may not use the Instruments of Service on other projects or for additions to the Project outside the scope of the Work without the specific written consent of the Owner, Architect, and the Architect's consultants.

§ 1.6 Notice

§ 1.6.1 Except as otherwise provided in Section 1.6.2, where the Contract Documents require one party to notify or give notice to the other party, such notice shall be provided in writing to the designated representative of the party to whom the notice is addressed and shall be deemed to have been duly served if delivered in person, by mail, by courier, or by electronic transmission if a method for electronic transmission is set forth in the Agreement.

§ 1.6.2 Notice of Claims as provided in Section 15.1.3 shall be provided in writing and shall be deemed to have been duly served only if delivered to the designated representative of the party to whom the notice is addressed by certified or registered mail, or by courier providing proof of delivery.

§ 1.7 Digital Data Use and Transmission

The parties shall agree upon protocols governing the transmission and use of Instruments of Service or any other information or documentation in digital form. The parties will use AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, to establish the protocols for the development, use, transmission, and exchange of digital data.

§ 1.8 Building Information Models Use and Reliance

Any use of, or reliance on, all or a portion of a building information model without agreement to protocols governing the use of, and reliance on, the information contained in the model and without having those protocols set forth in AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, and the requisite AIA Document

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G202™–2013, Project Building Information Modeling Protocol Form, shall be at the using or relying party's sole risk and without liability to the other party and its contractors or consultants, the authors of, or contributors to, the building information model, and each of their agents and employees.

ARTICLE 2 OWNER

§ 2.1 General

§ 2.1.1 The Owner is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The Owner shall designate in writing a representative who shall have express authority to bind the Owner with respect to all matters requiring the Owner's approval or authorization. Except as otherwise provided in Section 4.2.1, the Architect does not have such authority. The term "Owner" means the Owner or the Owner's authorized representative.

§ 2.1.2 The Owner shall furnish to the Contractor, within fifteen days after receipt of a written request, information necessary and relevant for the Contractor to evaluate, give notice of, or enforce mechanic's lien rights. Such information shall include a correct statement of the record legal title to the property on which the Project is located, usually referred to as the site, and the Owner's interest therein.

§ 2.2 Evidence of the Owner's Financial Arrangements

§ 2.2.1 Prior to commencement of the Work and upon written request by the Contractor, the Owner shall furnish to the Contractor reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Contract. The Contractor shall have no obligation to commence the Work until the Owner provides such evidence. If commencement of the Work is delayed under this Section 2.2.1, the Contract Time shall be extended appropriately.

§ 2.2.2 Following commencement of the Work and upon written request by the Contractor, the Owner shall furnish to the Contractor reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Contract only if (1) the Owner fails to make payments to the Contractor as the Contract Documents require; (2) the Contractor identifies in writing a reasonable concern regarding the Owner's ability to make payment when due; or (3) a change in the Work materially changes the Contract Sum. If the Owner fails to provide such evidence, as required, within fourteen days of the Contractor's request, the Contractor may immediately stop the Work and, in that event, shall notify the Owner that the Work has stopped. However, if the request is made because a change in the Work materially changes the Contract Sum under (3) above, the Contractor may immediately stop only that portion of the Work affected by the change until reasonable evidence is provided. If the Work is stopped under this Section 2.2.2, the Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable costs of shutdown, delay and start-up, plus interest as provided in the Contract Documents.

§ 2.2.3 After the Owner furnishes evidence of financial arrangements under this Section 2.2, the Owner shall not materially vary such financial arrangements without prior notice to the Contractor.

§ 2.2.4 Where the Owner has designated information furnished under this Section 2.2 as "confidential," the Contractor shall keep the information confidential and shall not disclose it to any other person. However, the Contractor may disclose "confidential" information, after seven (7) days' notice to the Owner, where disclosure is required by law, including a subpoena or other form of compulsory legal process issued by a court or governmental entity, or by court or arbitrator(s) order. The Contractor may also disclose "confidential" information to its employees, consultants, sureties, Subcontractors and their employees, Sub-subcontractors, and others who need to know the content of such information solely and exclusively for the Project and who agree to maintain the confidentiality of such information.

§ 2.3 Information and Services Required of the Owner

§ 2.3.1 Except for permits and fees that are the responsibility of the Contractor under the Contract Documents, including those required under Section 3.7.1, the Owner shall secure and pay for necessary approvals, easements, assessments and charges required for construction, use or occupancy of permanent structures or for permanent changes in existing facilities.

§ 2.3.2 The Owner shall retain an architect lawfully licensed to practice architecture, or an entity lawfully practicing architecture, in the jurisdiction where the Project is located. That person or entity is identified as the Architect in the Agreement and is referred to throughout the Contract Documents as if singular in number.

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§ 2.3.3 If the employment of the Architect terminates, the Owner shall employ a successor to whom the Contractor has no reasonable objection and whose status under the Contract Documents shall be that of the Architect.

§ 2.3.4 The Owner shall furnish surveys describing physical characteristics, legal limitations and utility locations for the site of the Project, and a legal description of the site. The Contractor shall be entitled to rely on the accuracy of information furnished by the Owner but shall exercise proper precautions relating to the safe performance of the Work.

§ 2.3.5 The Owner shall furnish information or services required of the Owner by the Contract Documents with reasonable promptness. The Owner shall also furnish any other information or services under the Owner's control and relevant to the Contractor's performance of the Work with reasonable promptness after receiving the Contractor's written request for such information or services.

§ 2.3.6 Unless otherwise provided in the Contract Documents, the Owner shall furnish to the Contractor one copy of the Contract Documents for purposes of making reproductions pursuant to Section 1.5.2.

§ 2.4 Owner's Right to Stop the Work

If the Contractor fails to correct Work that is not in accordance with the requirements of the Contract Documents as required by Section 12.2 or repeatedly fails to carry out Work in accordance with the Contract Documents, the Owner may issue a written order to the Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, the right of the Owner to stop the Work shall not give rise to a duty on the part of the Owner to exercise this right for the benefit of the Contractor or any other person or entity, except to the extent required by Section 6.1.3.

§ 2.5 Owner's Right to Carry Out the Work

If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within a ten-day period after receipt of notice from the Owner to commence and continue correction of such default or neglect with diligence and promptness, the Owner may, without prejudice to other remedies the Owner may have, correct such default or neglect. Such action by the Owner and amounts charged to the Contractor are both subject to prior approval of the Architect and the Architect may, pursuant to Section 9.5.1, withhold or nullify a Certificate for Payment in whole or in part, to the extent reasonably necessary to reimburse the Owner for the reasonable cost of correcting such deficiencies, including Owner's expenses and compensation for the Architect's additional services made necessary by such default, neglect, or failure. If current and future payments are not sufficient to cover such amounts, the Contractor shall pay the difference to the Owner. If the Contractor disagrees with the actions of the Owner or the Architect, or the amounts claimed as costs to the Owner, the Contractor may file a Claim pursuant to Article 15.

ARTICLE 3 CONTRACTOR

§ 3.1 General

§ 3.1.1 The Contractor is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The Contractor shall be lawfully licensed, if required in the jurisdiction where the Project is located. The Contractor shall designate in writing a representative who shall have express authority to bind the Contractor with respect to all matters under this Contract. The term "Contractor" means the Contractor or the Contractor's authorized representative.

§ 3.1.2 The Contractor shall perform the Work in accordance with the Contract Documents.

§ 3.1.3 The Contractor shall not be relieved of its obligations to perform the Work in accordance with the Contract Documents either by activities or duties of the Architect in the Architect's administration of the Contract, or by tests, inspections or approvals required or performed by persons or entities other than the Contractor.

§ 3.2 Review of Contract Documents and Field Conditions by Contractor

§ 3.2.1 Execution of the Contract by the Contractor is a representation that the Contractor has visited the site, become generally familiar with local conditions under which the Work is to be performed, and correlated personal observations with requirements of the Contract Documents.

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§ 3.2.2 Because the Contract Documents are complementary, the Contractor shall, before starting each portion of the Work, carefully study and compare the various Contract Documents relative to that portion of the Work, as well as the information furnished by the Owner pursuant to Section 2.3.4, shall take field measurements of any existing conditions related to that portion of the Work, and shall observe any conditions at the site affecting it. These obligations are for the purpose of facilitating coordination and construction by the Contractor and are not for the purpose of discovering errors, omissions, or inconsistencies in the Contract Documents; however, the Contractor shall promptly report to the Architect any errors, inconsistencies or omissions discovered by or made known to the Contractor as a request for information in such form as the Architect may require. It is recognized that the Contractor's review is made in the Contractor's capacity as a contractor and not as a licensed design professional, unless otherwise specifically provided in the Contract Documents.

§ 3.2.3 The Contractor is not required to ascertain that the Contract Documents are in accordance with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, but the Contractor shall promptly report to the Architect any nonconformity discovered by or made known to the Contractor as a request for information in such form as the Architect may require.

§ 3.2.4 If the Contractor believes that additional cost or time is involved because of clarifications or instructions the Architect issues in response to the Contractor's notices or requests for information pursuant to Sections 3.2.2 or 3.2.3, the Contractor shall submit Claims as provided in Article 15. If the Contractor fails to perform the obligations of Sections 3.2.2 or 3.2.3, the Contractor shall pay such costs and damages to the Owner, subject to Section 15.1.7, as would have been avoided if the Contractor had performed such obligations. If the Contractor performs those obligations, the Contractor shall not be liable to the Owner or Architect for damages resulting from errors, inconsistencies or omissions in the Contract Documents, for differences between field measurements or conditions and the Contract Documents, or for nonconformities of the Contract Documents to applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities.

§ 3.3 Supervision and Construction Procedures

§ 3.3.1 The Contractor shall supervise and direct the Work, using the Contractor's best skill and attention. The Contractor shall be solely responsible for, and have control over, construction means, methods, techniques, sequences, and procedures, and for coordinating all portions of the Work under the Contract. If the Contract Documents give specific instructions concerning construction means, methods, techniques, sequences, or procedures, the Contractor shall evaluate the jobsite safety thereof and shall be solely responsible for the jobsite safety of such means, methods, techniques, sequences, or procedures. If the Contractor determines that such means, methods, techniques, sequences or procedures may not be safe, the Contractor shall give timely notice to the Owner and Architect, and shall propose alternative means, methods, techniques, sequences, or procedures. The Architect shall evaluate the proposed alternative solely for conformance with the design intent for the completed construction. Unless the Architect objects to the Contractor's proposed alternative, the Contractor shall perform the Work using its alternative means, methods, techniques, sequences, or procedures.

§ 3.3.2 The Contractor shall be responsible to the Owner for acts and omissions of the Contractor's employees, Subcontractors and their agents and employees, and other persons or entities performing portions of the Work for, or on behalf of, the Contractor or any of its Subcontractors.

§ 3.3.3 The Contractor shall be responsible for inspection of portions of Work already performed to determine that such portions are in proper condition to receive subsequent Work.

§ 3.4 Labor and Materials

§ 3.4.1 Unless otherwise provided in the Contract Documents, the Contractor shall provide and pay for labor, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation, and other facilities and services necessary for proper execution and completion of the Work, whether temporary or permanent and whether or not incorporated or to be incorporated in the Work.

§ 3.4.2 Except in the case of minor changes in the Work approved by the Architect in accordance with Section 3.12.8 or ordered by the Architect in accordance with Section 7.4, the Contractor may make substitutions only with the consent of the Owner, after evaluation by the Architect and in accordance with a Change Order or Construction Change Directive.

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§ 3.4.3 The Contractor shall enforce strict discipline and good order among the Contractor's employees and other persons carrying out the Work. The Contractor shall not permit employment of unfit persons or persons not properly skilled in tasks assigned to them.

§ 3.5 Warranty

§ 3.5.1 The Contractor warrants to the Owner and Architect that materials and equipment furnished under the Contract will be of good quality and new unless the Contract Documents require or permit otherwise. The Contractor further warrants that the Work will conform to the requirements of the Contract Documents and will be free from defects, except for those inherent in the quality of the Work the Contract Documents require or permit. Work, materials, or equipment not conforming to these requirements may be considered defective. The Contractor's warranty excludes remedy for damage or defect caused by abuse, alterations to the Work not executed by the Contractor, improper or insufficient maintenance, improper operation, or normal wear and tear and normal usage. If required by the Architect, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment.

§ 3.5.2 All material, equipment, or other special warranties required by the Contract Documents shall be issued in the name of the Owner, or shall be transferable to the Owner, and shall commence in accordance with Section 9.8.4.

§ 3.6 Taxes

The Contractor shall pay sales, consumer, use and similar taxes for the Work provided by the Contractor that are legally enacted when bids are received or negotiations concluded, whether or not yet effective or merely scheduled to go into effect.

§ 3.7 Permits, Fees, Notices and Compliance with Laws

§ 3.7.1 Unless otherwise provided in the Contract Documents, the Contractor shall secure and pay for the building permit as well as for other permits, fees, licenses, and inspections by government agencies necessary for proper execution and completion of the Work that are customarily secured after execution of the Contract and legally required at the time bids are received or negotiations concluded.

§ 3.7.2 The Contractor shall comply with and give notices required by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities applicable to performance of the Work.

§ 3.7.3 If the Contractor performs Work knowing it to be contrary to applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, the Contractor shall assume appropriate responsibility for such Work and shall bear the costs attributable to correction.

§ 3.7.4 Concealed or Unknown Conditions

If the Contractor encounters conditions at the site that are (1) subsurface or otherwise concealed physical conditions that differ materially from those indicated in the Contract Documents or (2) unknown physical conditions of an unusual nature that differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents, the Contractor shall promptly provide notice to the Owner and the Architect before conditions are disturbed and in no event later than 14 days after first observance of the conditions. The Architect will promptly investigate such conditions and, if the Architect determines that they differ materially and cause an increase or decrease in the Contractor's cost of, or time required for, performance of any part of the Work, will recommend that an equitable adjustment be made in the Contract Sum or Contract Time, or both. If the Architect determines that the conditions at the site are not materially different from those indicated in the Contract Documents and that no change in the terms of the Contract is justified, the Architect shall promptly notify the Owner and Contractor, stating the reasons. If either party disputes the Architect's determination or recommendation, that party may submit a Claim as provided in Article 15.

§ 3.7.5 If, in the course of the Work, the Contractor encounters human remains or recognizes the existence of burial markers, archaeological sites or wetlands not indicated in the Contract Documents, the Contractor shall immediately suspend any operations that would affect them and shall notify the Owner and Architect. Upon receipt of such notice, the Owner shall promptly take any action necessary to obtain governmental authorization required to resume the operations. The Contractor shall continue to suspend such operations until otherwise instructed by the Owner but shall continue with all other operations that do not affect those remains or features. Requests for adjustments in the Contract Sum and Contract Time arising from the existence of such remains or features may be made as provided in Article 15.

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§ 3.8 Allowances

§ 3.8.1 The Contractor shall include in the Contract Sum all allowances stated in the Contract Documents. Items covered by allowances shall be supplied for such amounts and by such persons or entities as the Owner may direct, but the Contractor shall not be required to employ persons or entities to whom the Contractor has reasonable objection.

§ 3.8.2 Unless otherwise provided in the Contract Documents,

.1 allowances shall cover the cost to the Contractor of materials and equipment delivered at the site and all required taxes, less applicable trade discounts;

.2 Contractor's costs for unloading and handling at the site, labor, installation costs, overhead, profit, and other expenses contemplated for stated allowance amounts shall be included in the Contract Sum but not in the allowances; and

.3 whenever costs are more than or less than allowances, the Contract Sum shall be adjusted accordingly by Change Order. The amount of the Change Order shall reflect (1) the difference between actual costs and the allowances under Section 3.8.2.1 and (2) changes in Contractor's costs under Section 3.8.2.2.

§ 3.8.3 Materials and equipment under an allowance shall be selected by the Owner with reasonable promptness.

§ 3.9 Superintendent

§ 3.9.1 The Contractor shall employ a competent superintendent and necessary assistants who shall be in attendance at the Project site during performance of the Work. The superintendent shall represent the Contractor, and communications given to the superintendent shall be as binding as if given to the Contractor.

§ 3.9.2 The Contractor, as soon as practicable after award of the Contract, shall notify the Owner and Architect of the name and qualifications of a proposed superintendent. Within 14 days of receipt of the information, the Architect may notify the Contractor, stating whether the Owner or the Architect (1) has reasonable objection to the proposed superintendent or (2) requires additional time for review. Failure of the Architect to provide notice within the 14-day period shall constitute notice of no reasonable objection.

§ 3.9.3 The Contractor shall not employ a proposed superintendent to whom the Owner or Architect has made reasonable and timely objection. The Contractor shall not change the superintendent without the Owner's consent, which shall not unreasonably be withheld or delayed.

§ 3.10 Contractor's Construction and Submittal Schedules

§ 3.10.1 The Contractor, promptly after being awarded the Contract, shall submit for the Owner's and Architect's information a Contractor's construction schedule for the Work. The schedule shall contain detail appropriate for the Project, including (1) the date of commencement of the Work, interim schedule milestone dates, and the date of Substantial Completion; (2) an apportionment of the Work by construction activity; and (3) the time required for completion of each portion of the Work. The schedule shall provide for the orderly progression of the Work to completion and shall not exceed time limits current under the Contract Documents. The schedule shall be revised at appropriate intervals as required by the conditions of the Work and Project.

§ 3.10.2 The Contractor, promptly after being awarded the Contract and thereafter as necessary to maintain a current submittal schedule, shall submit a submittal schedule for the Architect's approval. The Architect's approval shall not be unreasonably delayed or withheld. The submittal schedule shall (1) be coordinated with the Contractor's construction schedule, and (2) allow the Architect reasonable time to review submittals. If the Contractor fails to submit a submittal schedule, or fails to provide submittals in accordance with the approved submittal schedule, the Contractor shall not be entitled to any increase in Contract Sum or extension of Contract Time based on the time required for review of submittals.

§ 3.10.3 The Contractor shall perform the Work in general accordance with the most recent schedules submitted to the Owner and Architect.

§ 3.11 Documents and Samples at the Site

The Contractor shall make available, at the Project site, the Contract Documents, including Change Orders, Construction Change Directives, and other Modifications, in good order and marked currently to indicate field changes and selections made during construction, and the approved Shop Drawings, Product Data, Samples, and similar required submittals. These shall be in electronic form or paper copy, available to the Architect and Owner, and

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delivered to the Architect for submittal to the Owner upon completion of the Work as a record of the Work as constructed.

§ 3.12 Shop Drawings, Product Data and Samples

§ 3.12.1 Shop Drawings are drawings, diagrams, schedules, and other data specially prepared for the Work by the Contractor or a Subcontractor, Sub-subcontractor, manufacturer, supplier, or distributor to illustrate some portion of the Work.

§ 3.12.2 Product Data are illustrations, standard schedules, performance charts, instructions, brochures, diagrams, and other information furnished by the Contractor to illustrate materials or equipment for some portion of the Work.

§ 3.12.3 Samples are physical examples that illustrate materials, equipment, or workmanship, and establish standards by which the Work will be judged.

§ 3.12.4 Shop Drawings, Product Data, Samples, and similar submittals are not Contract Documents. Their purpose is to demonstrate how the Contractor proposes to conform to the information given and the design concept expressed in the Contract Documents for those portions of the Work for which the Contract Documents require submittals. Review by the Architect is subject to the limitations of Section 4.2.7. Informational submittals upon which the Architect is not expected to take responsive action may be so identified in the Contract Documents. Submittals that are not required by the Contract Documents may be returned by the Architect without action.

§ 3.12.5 The Contractor shall review for compliance with the Contract Documents, approve, and submit to the Architect, Shop Drawings, Product Data, Samples, and similar submittals required by the Contract Documents, in accordance with the submittal schedule approved by the Architect or, in the absence of an approved submittal schedule, with reasonable promptness and in such sequence as to cause no delay in the Work or in the activities of the Owner or of Separate Contractors.

§ 3.12.6 By submitting Shop Drawings, Product Data, Samples, and similar submittals, the Contractor represents to the Owner and Architect that the Contractor has (1) reviewed and approved them, (2) determined and verified materials, field measurements and field construction criteria related thereto, or will do so, and (3) checked and coordinated the information contained within such submittals with the requirements of the Work and of the Contract Documents.

§ 3.12.7 The Contractor shall perform no portion of the Work for which the Contract Documents require submittal and review of Shop Drawings, Product Data, Samples, or similar submittals, until the respective submittal has been approved by the Architect.

§ 3.12.8 The Work shall be in accordance with approved submittals except that the Contractor shall not be relieved of responsibility for deviations from the requirements of the Contract Documents by the Architect's approval of Shop Drawings, Product Data, Samples, or similar submittals, unless the Contractor has specifically notified the Architect of such deviation at the time of submittal and (1) the Architect has given written approval to the specific deviation as a minor change in the Work, or (2) a Change Order or Construction Change Directive has been issued authorizing the deviation. The Contractor shall not be relieved of responsibility for errors or omissions in Shop Drawings, Product Data, Samples, or similar submittals, by the Architect's approval thereof.

§ 3.12.9 The Contractor shall direct specific attention, in writing or on resubmitted Shop Drawings, Product Data, Samples, or similar submittals, to revisions other than those requested by the Architect on previous submittals. In the absence of such notice, the Architect's approval of a resubmission shall not apply to such revisions.

§ 3.12.10 The Contractor shall not be required to provide professional services that constitute the practice of architecture or engineering unless such services are specifically required by the Contract Documents for a portion of the Work or unless the Contractor needs to provide such services in order to carry out the Contractor's responsibilities for construction means, methods, techniques, sequences, and procedures. The Contractor shall not be required to provide professional services in violation of applicable law.

§ 3.12.10.1 If professional design services or certifications by a design professional related to systems, materials, or equipment are specifically required of the Contractor by the Contract Documents, the Owner and the Architect will

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specify all performance and design criteria that such services must satisfy. The Contractor shall be entitled to rely upon the adequacy and accuracy of the performance and design criteria provided in the Contract Documents. The Contractor shall cause such services or certifications to be provided by an appropriately licensed design professional, whose signature and seal shall appear on all drawings, calculations, specifications, certifications, Shop Drawings, and other submittals prepared by such professional. Shop Drawings, and other submittals related to the Work, designed or certified by such professional, if prepared by others, shall bear such professional's written approval when submitted to the Architect. The Owner and the Architect shall be entitled to rely upon the adequacy and accuracy of the services, certifications, and approvals performed or provided by such design professionals, provided the Owner and Architect have specified to the Contractor the performance and design criteria that such services must satisfy. Pursuant to this Section 3.12.10, the Architect will review and approve or take other appropriate action on submittals only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents.

§ 3.12.10.2 If the Contract Documents require the Contractor's design professional to certify that the Work has been performed in accordance with the design criteria, the Contractor shall furnish such certifications to the Architect at the time and in the form specified by the Architect.

§ 3.13 Use of Site

The Contractor shall confine operations at the site to areas permitted by applicable laws, statutes, ordinances, codes, rules and regulations, lawful orders of public authorities, and the Contract Documents and shall not unreasonably encumber the site with materials or equipment.

§ 3.14 Cutting and Patching

§ 3.14.1 The Contractor shall be responsible for cutting, fitting, or patching required to complete the Work or to make its parts fit together properly. All areas requiring cutting, fitting, or patching shall be restored to the condition existing prior to the cutting, fitting, or patching, unless otherwise required by the Contract Documents.

§ 3.14.2 The Contractor shall not damage or endanger a portion of the Work or fully or partially completed construction of the Owner or Separate Contractors by cutting, patching, or otherwise altering such construction, or by excavation. The Contractor shall not cut or otherwise alter construction by the Owner or a Separate Contractor except with written consent of the Owner and of the Separate Contractor. Consent shall not be unreasonably withheld. The Contractor shall not unreasonably withhold, from the Owner or a Separate Contractor, its consent to cutting or otherwise altering the Work.

§ 3.15 Cleaning Up

§ 3.15.1 The Contractor shall keep the premises and surrounding area free from accumulation of waste materials and rubbish caused by operations under the Contract. At completion of the Work, the Contractor shall remove waste materials, rubbish, the Contractor's tools, construction equipment, machinery, and surplus materials from and about the Project.

§ 3.15.2 If the Contractor fails to clean up as provided in the Contract Documents, the Owner may do so and the Owner shall be entitled to reimbursement from the Contractor.

§ 3.16 Access to Work

The Contractor shall provide the Owner and Architect with access to the Work in preparation and progress wherever located.

§ 3.17 Royalties, Patents and Copyrights

The Contractor shall pay all royalties and license fees. The Contractor shall defend suits or claims for infringement of copyrights and patent rights and shall hold the Owner and Architect harmless from loss on account thereof, but shall not be responsible for defense or loss when a particular design, process, or product of a particular manufacturer or manufacturers is required by the Contract Documents, or where the copyright violations are contained in Drawings, Specifications, or other documents prepared by the Owner or Architect. However, if an infringement of a copyright or patent is discovered by, or made known to, the Contractor, the Contractor shall be responsible for the loss unless the information is promptly furnished to the Architect.

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§ 3.18 Indemnification

§ 3.18.1 To the fullest extent permitted by law, the Contractor shall indemnify and hold harmless the Owner, Architect, Architect's consultants, and agents and employees of any of them from and against claims, damages, losses, and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), but only to the extent caused by the negligent acts or omissions of the Contractor, a Subcontractor, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss, or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity that would otherwise exist as to a party or person described in this Section 3.18.

§ 3.18.2 In claims against any person or entity indemnified under this Section 3.18 by an employee of the Contractor, a Subcontractor, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, the indemnification obligation under Section 3.18.1 shall not be limited by a limitation on amount or type of damages, compensation, or benefits payable by or for the Contractor or a Subcontractor under workers' compensation acts, disability benefit acts, or other employee benefit acts.

ARTICLE 4 ARCHITECT

§ 4.1 General

§ 4.1.1 The Architect is the person or entity retained by the Owner pursuant to Section 2.3.2 and identified as such in the Agreement.

§ 4.1.2 Duties, responsibilities, and limitations of authority of the Architect as set forth in the Contract Documents shall not be restricted, modified, or extended without written consent of the Owner, Contractor, and Architect. Consent shall not be unreasonably withheld.

§ 4.2 Administration of the Contract

§ 4.2.1 The Architect will provide administration of the Contract as described in the Contract Documents and will be an Owner's representative during construction until the date the Architect issues the final Certificate for Payment. The Architect will have authority to act on behalf of the Owner only to the extent provided in the Contract Documents.

§ 4.2.2 The Architect will visit the site at intervals appropriate to the stage of construction, or as otherwise agreed with the Owner, to become generally familiar with the progress and quality of the portion of the Work completed, and to determine in general if the Work observed is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the Architect will not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. The Architect will not have control over, charge of, or responsibility for the construction means, methods, techniques, sequences or procedures, or for the safety precautions and programs in connection with the Work, since these are solely the Contractor's rights and responsibilities under the Contract Documents.

§ 4.2.3 On the basis of the site visits, the Architect will keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, and promptly report to the Owner (1) known deviations from the Contract Documents, (2) known deviations from the most recent construction schedule submitted by the Contractor, and (3) defects and deficiencies observed in the Work. The Architect will not be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The Architect will not have control over or charge of, and will not be responsible for acts or omissions of, the Contractor, Subcontractors, or their agents or employees, or any other persons or entities performing portions of the Work.

§ 4.2.4 Communications

The Owner and Contractor shall include the Architect in all communications that relate to or affect the Architect's services or professional responsibilities. The Owner shall promptly notify the Architect of the substance of any direct communications between the Owner and the Contractor otherwise relating to the Project. Communications by and with the Architect's consultants shall be through the Architect. Communications by and with Subcontractors and suppliers shall be through the Contractor. Communications by and with Separate Contractors shall be through the Owner. The Contract Documents may specify other communication protocols.

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§ 4.2.5 Based on the Architect's evaluations of the Contractor's Applications for Payment, the Architect will review and certify the amounts due the Contractor and will issue Certificates for Payment in such amounts.

§ 4.2.6 The Architect has authority to reject Work that does not conform to the Contract Documents. Whenever the Architect considers it necessary or advisable, the Architect will have authority to require inspection or testing of the Work in accordance with Sections 13.4.2 and 13.4.3, whether or not the Work is fabricated, installed or completed. However, neither this authority of the Architect nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect to the Contractor, Subcontractors, suppliers, their agents or employees, or other persons or entities performing portions of the Work.

§ 4.2.7 The Architect will review and approve, or take other appropriate action upon, the Contractor's submittals such as Shop Drawings, Product Data, and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Architect's action will be taken in accordance with the submittal schedule approved by the Architect or, in the absence of an approved submittal schedule, with reasonable promptness while allowing sufficient time in the Architect's professional judgment to permit adequate review. Review of such submittals is not conducted for the purpose of determining the accuracy and completeness of other details such as dimensions and quantities, or for substantiating instructions for installation or performance of equipment or systems, all of which remain the responsibility of the Contractor as required by the Contract Documents. The Architect's review of the Contractor's submittals shall not relieve the Contractor of the obligations under Sections 3.3, 3.5, and 3.12. The Architect's review shall not constitute approval of safety precautions or of any construction means, methods, techniques, sequences, or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

§ 4.2.8 The Architect will prepare Change Orders and Construction Change Directives, and may order minor changes in the Work as provided in Section 7.4. The Architect will investigate and make determinations and recommendations regarding concealed and unknown conditions as provided in Section 3.7.4.

§ 4.2.9 The Architect will conduct inspections to determine the date or dates of Substantial Completion and the date of final completion; issue Certificates of Substantial Completion pursuant to Section 9.8; receive and forward to the Owner, for the Owner's review and records, written warranties and related documents required by the Contract and assembled by the Contractor pursuant to Section 9.10; and issue a final Certificate for Payment pursuant to Section 9.10.

§ 4.2.10 If the Owner and Architect agree, the Architect will provide one or more Project representatives to assist in carrying out the Architect's responsibilities at the site. The Owner shall notify the Contractor of any change in the duties, responsibilities and limitations of authority of the Project representatives.

§ 4.2.11 The Architect will interpret and decide matters concerning performance under, and requirements of, the Contract Documents on written request of either the Owner or Contractor. The Architect's response to such requests will be made in writing within any time limits agreed upon or otherwise with reasonable promptness.

§ 4.2.12 Interpretations and decisions of the Architect will be consistent with the intent of, and reasonably inferable from, the Contract Documents and will be in writing or in the form of drawings. When making such interpretations and decisions, the Architect will endeavor to secure faithful performance by both Owner and Contractor, will not show partiality to either, and will not be liable for results of interpretations or decisions rendered in good faith.

§ 4.2.13 The Architect's decisions on matters relating to aesthetic effect will be final if consistent with the intent expressed in the Contract Documents.

§ 4.2.14 The Architect will review and respond to requests for information about the Contract Documents. The Architect's response to such requests will be made in writing within any time limits agreed upon or otherwise with reasonable promptness. If appropriate, the Architect will prepare and issue supplemental Drawings and Specifications in response to the requests for information.

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ARTICLE 5 SUBCONTRACTORS

§ 5.1 Definitions

§ 5.1.1 A Subcontractor is a person or entity who has a direct contract with the Contractor to perform a portion of the Work at the site. The term "Subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Subcontractor or an authorized representative of the Subcontractor. The term "Subcontractor" does not include a Separate Contractor or the subcontractors of a Separate Contractor.

§ 5.1.2 A Sub-subcontractor is a person or entity who has a direct or indirect contract with a Subcontractor to perform a portion of the Work at the site. The term "Sub-subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Sub-subcontractor or an authorized representative of the Sub-subcontractor.

§ 5.2 Award of Subcontracts and Other Contracts for Portions of the Work

§ 5.2.1 Unless otherwise stated in the Contract Documents, the Contractor, as soon as practicable after award of the Contract, shall notify the Owner and Architect of the persons or entities proposed for each principal portion of the Work, including those who are to furnish materials or equipment fabricated to a special design. Within 14 days of receipt of the information, the Architect may notify the Contractor whether the Owner or the Architect (1) has reasonable objection to any such proposed person or entity or (2) requires additional time for review. Failure of the Architect to provide notice within the 14-day period shall constitute notice of no reasonable objection.

§ 5.2.2 The Contractor shall not contract with a proposed person or entity to whom the Owner or Architect has made reasonable and timely objection. The Contractor shall not be required to contract with anyone to whom the Contractor has made reasonable objection.

§ 5.2.3 If the Owner or Architect has reasonable objection to a person or entity proposed by the Contractor, the Contractor shall propose another to whom the Owner or Architect has no reasonable objection. If the proposed but rejected Subcontractor was reasonably capable of performing the Work, the Contract Sum and Contract Time shall be increased or decreased by the difference, if any, occasioned by such change, and an appropriate Change Order shall be issued before commencement of the substitute Subcontractor's Work. However, no increase in the Contract Sum or Contract Time shall be allowed for such change unless the Contractor has acted promptly and responsively in submitting names as required.

§ 5.2.4 The Contractor shall not substitute a Subcontractor, person, or entity for one previously selected if the Owner or Architect makes reasonable objection to such substitution.

§ 5.3 Subcontractual Relations

By appropriate written agreement, the Contractor shall require each Subcontractor, to the extent of the Work to be performed by the Subcontractor, to be bound to the Contractor by terms of the Contract Documents, and to assume toward the Contractor all the obligations and responsibilities, including the responsibility for safety of the Subcontractor's Work that the Contractor, by these Contract Documents, assumes toward the Owner and Architect. Each subcontract agreement shall preserve and protect the rights of the Owner and Architect under the Contract Documents with respect to the Work to be performed by the Subcontractor so that subcontracting thereof will not prejudice such rights, and shall allow to the Subcontractor, unless specifically provided otherwise in the subcontract agreement, the benefit of all rights, remedies, and redress against the Contractor that the Contractor, by the Contract Documents, has against the Owner. Where appropriate, the Contractor shall require each Subcontractor to enter into similar agreements with Sub-subcontractors. The Contractor shall make available to each proposed Subcontractor, prior to the execution of the subcontract agreement, copies of the Contract Documents to which the Subcontractor will be bound, and, upon written request of the Subcontractor, identify to the Subcontractor terms and conditions of the proposed subcontract agreement that may be at variance with the Contract Documents. Subcontractors will similarly make copies of applicable portions of such documents available to their respective proposed Sub-subcontractors.

§ 5.4 Contingent Assignment of Subcontracts

§ 5.4.1 Each subcontract agreement for a portion of the Work is assigned by the Contractor to the Owner, provided that

- **.1** assignment is effective only after termination of the Contract by the Owner for cause pursuant to Section 14.2 and only for those subcontract agreements that the Owner accepts by notifying the Subcontractor and Contractor; and
- **.2** assignment is subject to the prior rights of the surety, if any, obligated under bond relating to the Contract.

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When the Owner accepts the assignment of a subcontract agreement, the Owner assumes the Contractor's rights and obligations under the subcontract.

§ 5.4.2 Upon such assignment, if the Work has been suspended for more than 30 days, the Subcontractor's compensation shall be equitably adjusted for increases in cost resulting from the suspension.

§ 5.4.3 Upon assignment to the Owner under this Section 5.4, the Owner may further assign the subcontract to a successor contractor or other entity. If the Owner assigns the subcontract to a successor contractor or other entity, the Owner shall nevertheless remain legally responsible for all of the successor contractor's obligations under the subcontract.

ARTICLE 6 CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTORS

§ 6.1 Owner's Right to Perform Construction and to Award Separate Contracts

§ 6.1.1 The term "Separate Contractor(s)" shall mean other contractors retained by the Owner under separate agreements. The Owner reserves the right to perform construction or operations related to the Project with the Owner's own forces, and with Separate Contractors retained under Conditions of the Contract substantially similar to those of this Contract, including those provisions of the Conditions of the Contract related to insurance and waiver of subrogation.

§ 6.1.2 When separate contracts are awarded for different portions of the Project or other construction or operations on the site, the term "Contractor" in the Contract Documents in each case shall mean the Contractor who executes each separate Owner-Contractor Agreement.

§ 6.1.3 The Owner shall provide for coordination of the activities of the Owner's own forces and of each Separate Contractor with the Work of the Contractor, who shall cooperate with them. The Contractor shall participate with any Separate Contractors and the Owner in reviewing their construction schedules. The Contractor shall make any revisions to its construction schedule deemed necessary after a joint review and mutual agreement. The construction schedules shall then constitute the schedules to be used by the Contractor, Separate Contractors, and the Owner until subsequently revised.

§ 6.1.4 Unless otherwise provided in the Contract Documents, when the Owner performs construction or operations related to the Project with the Owner's own forces or with Separate Contractors, the Owner or its Separate Contractors shall have the same obligations and rights that the Contractor has under the Conditions of the Contract, including, without excluding others, those stated in Article 3, this Article 6, and Articles 10, 11, and 12.

§ 6.2 Mutual Responsibility

§ 6.2.1 The Contractor shall afford the Owner and Separate Contractors reasonable opportunity for introduction and storage of their materials and equipment and performance of their activities, and shall connect and coordinate the Contractor's construction and operations with theirs as required by the Contract Documents.

§ 6.2.2 If part of the Contractor's Work depends for proper execution or results upon construction or operations by the Owner or a Separate Contractor, the Contractor shall, prior to proceeding with that portion of the Work, promptly notify the Architect of apparent discrepancies or defects in the construction or operations by the Owner or Separate Contractor that would render it unsuitable for proper execution and results of the Contractor's Work. Failure of the Contractor to notify the Architect of apparent discrepancies or defects prior to proceeding with the Work shall constitute an acknowledgment that the Owner's or Separate Contractor's completed or partially completed construction is fit and proper to receive the Contractor's Work. The Contractor shall not be responsible for discrepancies or defects in the construction or operations by the Owner or Separate Contractor that are not apparent.

§ 6.2.3 The Contractor shall reimburse the Owner for costs the Owner incurs that are payable to a Separate Contractor because of the Contractor's delays, improperly timed activities or defective construction. The Owner shall be responsible to the Contractor for costs the Contractor incurs because of a Separate Contractor's delays, improperly timed activities, damage to the Work or defective construction.

§ 6.2.4 The Contractor shall promptly remedy damage that the Contractor wrongfully causes to completed or partially completed construction or to property of the Owner or Separate Contractor as provided in Section 10.2.5.

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§ 6.2.5 The Owner and each Separate Contractor shall have the same responsibilities for cutting and patching as are described for the Contractor in Section 3.14.

§ 6.3 Owner's Right to Clean Up

If a dispute arises among the Contractor, Separate Contractors, and the Owner as to the responsibility under their respective contracts for maintaining the premises and surrounding area free from waste materials and rubbish, the Owner may clean up and the Architect will allocate the cost among those responsible.

ARTICLE 7 CHANGES IN THE WORK

§ 7.1 General

§ 7.1.1 Changes in the Work may be accomplished after execution of the Contract, and without invalidating the Contract, by Change Order, Construction Change Directive or order for a minor change in the Work, subject to the limitations stated in this Article 7 and elsewhere in the Contract Documents.

§ 7.1.2 A Change Order shall be based upon agreement among the Owner, Contractor, and Architect. A Construction Change Directive requires agreement by the Owner and Architect and may or may not be agreed to by the Contractor. An order for a minor change in the Work may be issued by the Architect alone.

§ 7.1.3 Changes in the Work shall be performed under applicable provisions of the Contract Documents. The Contractor shall proceed promptly with changes in the Work, unless otherwise provided in the Change Order, Construction Change Directive, or order for a minor change in the Work.

§ 7.2 Change Orders

§ 7.2.1 A Change Order is a written instrument prepared by the Architect and signed by the Owner, Contractor, and Architect stating their agreement upon all of the following:

- **.1** The change in the Work;
- **.2** The amount of the adjustment, if any, in the Contract Sum; and
- **.3** The extent of the adjustment, if any, in the Contract Time.

§ 7.3 Construction Change Directives

§ 7.3.1 A Construction Change Directive is a written order prepared by the Architect and signed by the Owner and Architect, directing a change in the Work prior to agreement on adjustment, if any, in the Contract Sum or Contract Time, or both. The Owner may by Construction Change Directive, without invalidating the Contract, order changes in the Work within the general scope of the Contract consisting of additions, deletions, or other revisions, the Contract Sum and Contract Time being adjusted accordingly.

§ 7.3.2 A Construction Change Directive shall be used in the absence of total agreement on the terms of a Change Order.

§ 7.3.3 If the Construction Change Directive provides for an adjustment to the Contract Sum, the adjustment shall be based on one of the following methods:

- **.1** Mutual acceptance of a lump sum properly itemized and supported by sufficient substantiating data to permit evaluation;
- **.2** Unit prices stated in the Contract Documents or subsequently agreed upon;
- **.3** Cost to be determined in a manner agreed upon by the parties and a mutually acceptable fixed or percentage fee; or
- **.4** As provided in Section 7.3.4.

§ 7.3.4 If the Contractor does not respond promptly or disagrees with the method for adjustment in the Contract Sum, the Architect shall determine the adjustment on the basis of reasonable expenditures and savings of those performing the Work attributable to the change, including, in case of an increase in the Contract Sum, an amount for overhead and profit as set forth in the Agreement, or if no such amount is set forth in the Agreement, a reasonable amount. In such case, and also under Section 7.3.3.3, the Contractor shall keep and present, in such form as the Architect may prescribe, an itemized accounting together with appropriate supporting data. Unless otherwise provided in the Contract Documents, costs for the purposes of this Section 7.3.4 shall be limited to the following:

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.1 Costs of labor, including applicable payroll taxes, fringe benefits required by agreement or custom, workers' compensation insurance, and other employee costs approved by the Architect;
.2 Costs of materials, supplies, and equipment, including cost of transportation, whether incorporated or consumed;
.3 Rental costs of machinery and equipment, exclusive of hand tools, whether rented from the Contractor or others;
.4 Costs of premiums for all bonds and insurance, permit fees, and sales, use, or similar taxes, directly related to the change; and
.5 Costs of supervision and field office personnel directly attributable to the change.

§ 7.3.5 If the Contractor disagrees with the adjustment in the Contract Time, the Contractor may make a Claim in accordance with applicable provisions of Article 15.

§ 7.3.6 Upon receipt of a Construction Change Directive, the Contractor shall promptly proceed with the change in the Work involved and advise the Architect of the Contractor's agreement or disagreement with the method, if any, provided in the Construction Change Directive for determining the proposed adjustment in the Contract Sum or Contract Time.

§ 7.3.7 A Construction Change Directive signed by the Contractor indicates the Contractor's agreement therewith, including adjustment in Contract Sum and Contract Time or the method for determining them. Such agreement shall be effective immediately and shall be recorded as a Change Order.

§ 7.3.8 The amount of credit to be allowed by the Contractor to the Owner for a deletion or change that results in a net decrease in the Contract Sum shall be actual net cost as confirmed by the Architect. When both additions and credits covering related Work or substitutions are involved in a change, the allowance for overhead and profit shall be figured on the basis of net increase, if any, with respect to that change.

§ 7.3.9 Pending final determination of the total cost of a Construction Change Directive to the Owner, the Contractor may request payment for Work completed under the Construction Change Directive in Applications for Payment. The Architect will make an interim determination for purposes of monthly certification for payment for those costs and certify for payment the amount that the Architect determines, in the Architect's professional judgment, to be reasonably justified. The Architect's interim determination of cost shall adjust the Contract Sum on the same basis as a Change Order, subject to the right of either party to disagree and assert a Claim in accordance with Article 15.

§ 7.3.10 When the Owner and Contractor agree with a determination made by the Architect concerning the adjustments in the Contract Sum and Contract Time, or otherwise reach agreement upon the adjustments, such agreement shall be effective immediately and the Architect will prepare a Change Order. Change Orders may be issued for all or any part of a Construction Change Directive.

§ 7.4 Minor Changes in the Work

The Architect may order minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. The Architect's order for minor changes shall be in writing. If the Contractor believes that the proposed minor change in the Work will affect the Contract Sum or Contract Time, the Contractor shall notify the Architect and shall not proceed to implement the change in the Work. If the Contractor performs the Work set forth in the Architect's order for a minor change without prior notice to the Architect that such change will affect the Contract Sum or Contract Time, the Contractor waives any adjustment to the Contract Sum or extension of the Contract Time.

ARTICLE 8 TIME

§ 8.1 Definitions

§ 8.1.1 Unless otherwise provided, Contract Time is the period of time, including authorized adjustments, allotted in the Contract Documents for Substantial Completion of the Work.

§ 8.1.2 The date of commencement of the Work is the date established in the Agreement.

§ 8.1.3 The date of Substantial Completion is the date certified by the Architect in accordance with Section 9.8.

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§ 8.1.4 The term "day" as used in the Contract Documents shall mean calendar day unless otherwise specifically defined.

§ 8.2 Progress and Completion

§ 8.2.1 Time limits stated in the Contract Documents are of the essence of the Contract. By executing the Agreement, the Contractor confirms that the Contract Time is a reasonable period for performing the Work.

§ 8.2.2 The Contractor shall not knowingly, except by agreement or instruction of the Owner in writing, commence the Work prior to the effective date of insurance required to be furnished by the Contractor and Owner.

§ 8.2.3 The Contractor shall proceed expeditiously with adequate forces and shall achieve Substantial Completion within the Contract Time.

§ 8.3 Delays and Extensions of Time

§ 8.3.1 If the Contractor is delayed at any time in the commencement or progress of the Work by (1) an act or neglect of the Owner or Architect, of an employee of either, or of a Separate Contractor; (2) by changes ordered in the Work; (3) by labor disputes, fire, unusual delay in deliveries, unavoidable casualties, adverse weather conditions documented in accordance with Section 15.1.6.2, or other causes beyond the Contractor's control; (4) by delay authorized by the Owner pending mediation and binding dispute resolution; or (5) by other causes that the Contractor asserts, and the Architect determines, justify delay, then the Contract Time shall be extended for such reasonable time as the Architect may determine.

§ 8.3.2 Claims relating to time shall be made in accordance with applicable provisions of Article 15.

§ 8.3.3 This Section 8.3 does not preclude recovery of damages for delay by either party under other provisions of the Contract Documents.

ARTICLE 9 PAYMENTS AND COMPLETION

§ 9.1 Contract Sum

§ 9.1.1 The Contract Sum is stated in the Agreement and, including authorized adjustments, is the total amount payable by the Owner to the Contractor for performance of the Work under the Contract Documents.

§ 9.1.2 If unit prices are stated in the Contract Documents or subsequently agreed upon, and if quantities originally contemplated are materially changed so that application of such unit prices to the actual quantities causes substantial inequity to the Owner or Contractor, the applicable unit prices shall be equitably adjusted.

§ 9.2 Schedule of Values

Where the Contract is based on a stipulated sum or Guaranteed Maximum Price, the Contractor shall submit a schedule of values to the Architect before the first Application for Payment, allocating the entire Contract Sum to the various portions of the Work. The schedule of values shall be prepared in the form, and supported by the data to substantiate its accuracy, required by the Architect. This schedule, unless objected to by the Architect, shall be used as a basis for reviewing the Contractor's Applications for Payment. Any changes to the schedule of values shall be submitted to the Architect and supported by such data to substantiate its accuracy as the Architect may require, and unless objected to by the Architect, shall be used as a basis for reviewing the Contractor's subsequent Applications for Payment.

§ 9.3 Applications for Payment

§ 9.3.1 At least ten days before the date established for each progress payment, the Contractor shall submit to the Architect an itemized Application for Payment prepared in accordance with the schedule of values, if required under Section 9.2, for completed portions of the Work. The application shall be notarized, if required, and supported by all data substantiating the Contractor's right to payment that the Owner or Architect require, such as copies of requisitions, and releases and waivers of liens from Subcontractors and suppliers, and shall reflect retainage if provided for in the Contract Documents.

§ 9.3.1.1 As provided in Section 7.3.9, such applications may include requests for payment on account of changes in the Work that have been properly authorized by Construction Change Directives, or by interim determinations of the Architect, but not yet included in Change Orders.

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§ 9.3.1.2 Applications for Payment shall not include requests for payment for portions of the Work for which the Contractor does not intend to pay a Subcontractor or supplier, unless such Work has been performed by others whom the Contractor intends to pay.

§ 9.3.2 Unless otherwise provided in the Contract Documents, payments shall be made on account of materials and equipment delivered and suitably stored at the site for subsequent incorporation in the Work. If approved in advance by the Owner, payment may similarly be made for materials and equipment suitably stored off the site at a location agreed upon in writing. Payment for materials and equipment stored on or off the site shall be conditioned upon compliance by the Contractor with procedures satisfactory to the Owner to establish the Owner's title to such materials and equipment or otherwise protect the Owner's interest, and shall include the costs of applicable insurance, storage, and transportation to the site, for such materials and equipment stored off the site.

§ 9.3.3 The Contractor warrants that title to all Work covered by an Application for Payment will pass to the Owner no later than the time of payment. The Contractor further warrants that upon submittal of an Application for Payment all Work for which Certificates for Payment have been previously issued and payments received from the Owner shall, to the best of the Contractor's knowledge, information, and belief, be free and clear of liens, claims, security interests, or encumbrances, in favor of the Contractor, Subcontractors, suppliers, or other persons or entities that provided labor, materials, and equipment relating to the Work.

§ 9.4 Certificates for Payment

§ 9.4.1 The Architect will, within seven days after receipt of the Contractor's Application for Payment, either (1) issue to the Owner a Certificate for Payment in the full amount of the Application for Payment, with a copy to the Contractor; or (2) issue to the Owner a Certificate for Payment for such amount as the Architect determines is properly due, and notify the Contractor and Owner of the Architect's reasons for withholding certification in part as provided in Section 9.5.1; or (3) withhold certification of the entire Application for Payment, and notify the Contractor and Owner of the Architect's reason for withholding certification in whole as provided in Section 9.5.1.

§ 9.4.2 The issuance of a Certificate for Payment will constitute a representation by the Architect to the Owner, based on the Architect's evaluation of the Work and the data in the Application for Payment, that, to the best of the Architect's knowledge, information, and belief, the Work has progressed to the point indicated, the quality of the Work is in accordance with the Contract Documents, and that the Contractor is entitled to payment in the amount certified. The foregoing representations are subject to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, to results of subsequent tests and inspections, to correction of minor deviations from the Contract Documents prior to completion, and to specific qualifications expressed by the Architect. However, the issuance of a Certificate for Payment will not be a representation that the Architect has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work; (2) reviewed construction means, methods, techniques, sequences, or procedures; (3) reviewed copies of requisitions received from Subcontractors and suppliers and other data requested by the Owner to substantiate the Contractor's right to payment; or (4) made examination to ascertain how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

§ 9.5 Decisions to Withhold Certification

§ 9.5.1 The Architect may withhold a Certificate for Payment in whole or in part, to the extent reasonably necessary to protect the Owner, if in the Architect's opinion the representations to the Owner required by Section 9.4.2 cannot be made. If the Architect is unable to certify payment in the amount of the Application, the Architect will notify the Contractor and Owner as provided in Section 9.4.1. If the Contractor and Architect cannot agree on a revised amount, the Architect will promptly issue a Certificate for Payment for the amount for which the Architect is able to make such representations to the Owner. The Architect may also withhold a Certificate for Payment or, because of subsequently discovered evidence, may nullify the whole or a part of a Certificate for Payment previously issued, to such extent as may be necessary in the Architect's opinion to protect the Owner from loss for which the Contractor is responsible, including loss resulting from acts and omissions described in Section 3.3.2, because of

- **.1** defective Work not remedied;
- **.2** third party claims filed or reasonable evidence indicating probable filing of such claims, unless security acceptable to the Owner is provided by the Contractor;
- **.3** failure of the Contractor to make payments properly to Subcontractors or suppliers for labor, materials or equipment;

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.4 reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Sum;
.5 damage to the Owner or a Separate Contractor;
.6 reasonable evidence that the Work will not be completed within the Contract Time, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay; or
.7 repeated failure to carry out the Work in accordance with the Contract Documents.

§ 9.5.2 When either party disputes the Architect's decision regarding a Certificate for Payment under Section 9.5.1, in whole or in part, that party may submit a Claim in accordance with Article 15.

§ 9.5.3 When the reasons for withholding certification are removed, certification will be made for amounts previously withheld.

§ 9.5.4 If the Architect withholds certification for payment under Section 9.5.1.3, the Owner may, at its sole option, issue joint checks to the Contractor and to any Subcontractor or supplier to whom the Contractor failed to make payment for Work properly performed or material or equipment suitably delivered. If the Owner makes payments by joint check, the Owner shall notify the Architect and the Contractor shall reflect such payment on its next Application for Payment.

§ 9.6 Progress Payments

§ 9.6.1 After the Architect has issued a Certificate for Payment, the Owner shall make payment in the manner and within the time provided in the Contract Documents, and shall so notify the Architect.

§ 9.6.2 The Contractor shall pay each Subcontractor, no later than seven days after receipt of payment from the Owner, the amount to which the Subcontractor is entitled, reflecting percentages actually retained from payments to the Contractor on account of the Subcontractor's portion of the Work. The Contractor shall, by appropriate agreement with each Subcontractor, require each Subcontractor to make payments to Sub-subcontractors in a similar manner.

§ 9.6.3 The Architect will, on request, furnish to a Subcontractor, if practicable, information regarding percentages of completion or amounts applied for by the Contractor and action taken thereon by the Architect and Owner on account of portions of the Work done by such Subcontractor.

§ 9.6.4 The Owner has the right to request written evidence from the Contractor that the Contractor has properly paid Subcontractors and suppliers amounts paid by the Owner to the Contractor for subcontracted Work. If the Contractor fails to furnish such evidence within seven days, the Owner shall have the right to contact Subcontractors and suppliers to ascertain whether they have been properly paid. Neither the Owner nor Architect shall have an obligation to pay, or to see to the payment of money to, a Subcontractor or supplier, except as may otherwise be required by law.

§ 9.6.5 The Contractor's payments to suppliers shall be treated in a manner similar to that provided in Sections 9.6.2, 9.6.3 and 9.6.4.

§ 9.6.6 A Certificate for Payment, a progress payment, or partial or entire use or occupancy of the Project by the Owner shall not constitute acceptance of Work not in accordance with the Contract Documents.

§ 9.6.7 Unless the Contractor provides the Owner with a payment bond in the full penal sum of the Contract Sum, payments received by the Contractor for Work properly performed by Subcontractors or provided by suppliers shall be held by the Contractor for those Subcontractors or suppliers who performed Work or furnished materials, or both, under contract with the Contractor for which payment was made by the Owner. Nothing contained herein shall require money to be placed in a separate account and not commingled with money of the Contractor, create any fiduciary liability or tort liability on the part of the Contractor for breach of trust, or entitle any person or entity to an award of punitive damages against the Contractor for breach of the requirements of this provision.

§ 9.6.8 Provided the Owner has fulfilled its payment obligations under the Contract Documents, the Contractor shall defend and indemnify the Owner from all loss, liability, damage or expense, including reasonable attorney's fees and litigation expenses, arising out of any lien claim or other claim for payment by any Subcontractor or supplier of any tier. Upon receipt of notice of a lien claim or other claim for payment, the Owner shall notify the Contractor. If approved by the applicable court, when required, the Contractor may substitute a surety bond for the property against which the lien or other claim for payment has been asserted.

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§ 9.7 Failure of Payment

If the Architect does not issue a Certificate for Payment, through no fault of the Contractor, within seven days after receipt of the Contractor's Application for Payment, or if the Owner does not pay the Contractor within seven days after the date established in the Contract Documents, the amount certified by the Architect or awarded by binding dispute resolution, then the Contractor may, upon seven additional days' notice to the Owner and Architect, stop the Work until payment of the amount owing has been received. The Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable costs of shutdown, delay and start-up, plus interest as provided for in the Contract Documents.

§ 9.8 Substantial Completion

§ 9.8.1 Substantial Completion is the stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work for its intended use.

§ 9.8.2 When the Contractor considers that the Work, or a portion thereof which the Owner agrees to accept separately, is substantially complete, the Contractor shall prepare and submit to the Architect a comprehensive list of items to be completed or corrected prior to final payment. Failure to include an item on such list does not alter the responsibility of the Contractor to complete all Work in accordance with the Contract Documents.

§ 9.8.3 Upon receipt of the Contractor's list, the Architect will make an inspection to determine whether the Work or designated portion thereof is substantially complete. If the Architect's inspection discloses any item, whether or not included on the Contractor's list, which is not sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work or designated portion thereof for its intended use, the Contractor shall, before issuance of the Certificate of Substantial Completion, complete or correct such item upon notification by the Architect. In such case, the Contractor shall then submit a request for another inspection by the Architect to determine Substantial Completion.

§ 9.8.4 When the Work or designated portion thereof is substantially complete, the Architect will prepare a Certificate of Substantial Completion that shall establish the date of Substantial Completion; establish responsibilities of the Owner and Contractor for security, maintenance, heat, utilities, damage to the Work and insurance; and fix the time within which the Contractor shall finish all items on the list accompanying the Certificate. Warranties required by the Contract Documents shall commence on the date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion.

§ 9.8.5 The Certificate of Substantial Completion shall be submitted to the Owner and Contractor for their written acceptance of responsibilities assigned to them in the Certificate. Upon such acceptance, and consent of surety if any, the Owner shall make payment of retainage applying to the Work or designated portion thereof. Such payment shall be adjusted for Work that is incomplete or not in accordance with the requirements of the Contract Documents.

§ 9.9 Partial Occupancy or Use

§ 9.9.1 The Owner may occupy or use any completed or partially completed portion of the Work at any stage when such portion is designated by separate agreement with the Contractor, provided such occupancy or use is consented to by the insurer and authorized by public authorities having jurisdiction over the Project. Such partial occupancy or use may commence whether or not the portion is substantially complete, provided the Owner and Contractor have accepted in writing the responsibilities assigned to each of them for payments, retainage, if any, security, maintenance, heat, utilities, damage to the Work and insurance, and have agreed in writing concerning the period for correction of the Work and commencement of warranties required by the Contract Documents. When the Contractor considers a portion substantially complete, the Contractor shall prepare and submit a list to the Architect as provided under Section 9.8.2. Consent of the Contractor to partial occupancy or use shall not be unreasonably withheld. The stage of the progress of the Work shall be determined by written agreement between the Owner and Contractor or, if no agreement is reached, by decision of the Architect.

§ 9.9.2 Immediately prior to such partial occupancy or use, the Owner, Contractor, and Architect shall jointly inspect the area to be occupied or portion of the Work to be used in order to determine and record the condition of the Work.

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§ 9.9.3 Unless otherwise agreed upon, partial occupancy or use of a portion or portions of the Work shall not constitute acceptance of Work not complying with the requirements of the Contract Documents.

§ 9.10 Final Completion and Final Payment

§ 9.10.1 Upon receipt of the Contractor's notice that the Work is ready for final inspection and acceptance and upon receipt of a final Application for Payment, the Architect will promptly make such inspection. When the Architect finds the Work acceptable under the Contract Documents and the Contract fully performed, the Architect will promptly issue a final Certificate for Payment stating that to the best of the Architect's knowledge, information and belief, and on the basis of the Architect's on-site visits and inspections, the Work has been completed in accordance with the Contract Documents and that the entire balance found to be due the Contractor and noted in the final Certificate is due and payable. The Architect's final Certificate for Payment will constitute a further representation that conditions listed in Section 9.10.2 as precedent to the Contractor's being entitled to final payment have been fulfilled.

§ 9.10.2 Neither final payment nor any remaining retained percentage shall become due until the Contractor submits to the Architect (1) an affidavit that payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which the Owner or the Owner's property might be responsible or encumbered (less amounts withheld by Owner) have been paid or otherwise satisfied, (2) a certificate evidencing that insurance required by the Contract Documents to remain in force after final payment is currently in effect, (3) a written statement that the Contractor knows of no reason that the insurance will not be renewable to cover the period required by the Contract Documents, (4) consent of surety, if any, to final payment, (5) documentation of any special warranties, such as manufacturers' warranties or specific Subcontractor warranties, and (6) if required by the Owner, other data establishing payment or satisfaction of obligations, such as receipts and releases and waivers of liens, claims, security interests, or encumbrances arising out of the Contract, to the extent and in such form as may be designated by the Owner. If a Subcontractor refuses to furnish a release or waiver required by the Owner, the Contractor may furnish a bond satisfactory to the Owner to indemnify the Owner against such lien, claim, security interest, or encumbrance. If a lien, claim, security interest, or encumbrance remains unsatisfied after payments are made, the Contractor shall refund to the Owner all money that the Owner may be compelled to pay in discharging the lien, claim, security interest, or encumbrance, including all costs and reasonable attorneys' fees.

§ 9.10.3 If, after Substantial Completion of the Work, final completion thereof is materially delayed through no fault of the Contractor or by issuance of Change Orders affecting final completion, and the Architect so confirms, the Owner shall, upon application by the Contractor and certification by the Architect, and without terminating the Contract, make payment of the balance due for that portion of the Work fully completed, corrected, and accepted. If the remaining balance for Work not fully completed or corrected is less than retainage stipulated in the Contract Documents, and if bonds have been furnished, the written consent of the surety to payment of the balance due for that portion of the Work fully completed and accepted shall be submitted by the Contractor to the Architect prior to certification of such payment. Such payment shall be made under terms and conditions governing final payment, except that it shall not constitute a waiver of Claims.

§ 9.10.4 The making of final payment shall constitute a waiver of Claims by the Owner except those arising from

- **.1** liens, Claims, security interests, or encumbrances arising out of the Contract and unsettled;
- **.2** failure of the Work to comply with the requirements of the Contract Documents;
- **.3** terms of special warranties required by the Contract Documents; or
- **.4** audits performed by the Owner, if permitted by the Contract Documents, after final payment.

§ 9.10.5 Acceptance of final payment by the Contractor, a Subcontractor, or a supplier, shall constitute a waiver of claims by that payee except those previously made in writing and identified by that payee as unsettled at the time of final Application for Payment.

ARTICLE 10 PROTECTION OF PERSONS AND PROPERTY

§ 10.1 Safety Precautions and Programs

The Contractor shall be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the performance of the Contract.

§ 10.2 Safety of Persons and Property

§ 10.2.1 The Contractor shall take reasonable precautions for safety of, and shall provide reasonable protection to prevent damage, injury, or loss to

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.1 employees on the Work and other persons who may be affected thereby;
.2 the Work and materials and equipment to be incorporated therein, whether in storage on or off the site, under care, custody, or control of the Contractor, a Subcontractor, or a Sub-subcontractor; and
.3 other property at the site or adjacent thereto, such as trees, shrubs, lawns, walks, pavements, roadways, structures, and utilities not designated for removal, relocation, or replacement in the course of construction.

§ 10.2.2 The Contractor shall comply with, and give notices required by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities, bearing on safety of persons or property or their protection from damage, injury, or loss.

§ 10.2.3 The Contractor shall implement, erect, and maintain, as required by existing conditions and performance of the Contract, reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards; promulgating safety regulations; and notifying the owners and users of adjacent sites and utilities of the safeguards.

§ 10.2.4 When use or storage of explosives or other hazardous materials or equipment, or unusual methods are necessary for execution of the Work, the Contractor shall exercise utmost care and carry on such activities under supervision of properly qualified personnel.

§ 10.2.5 The Contractor shall promptly remedy damage and loss (other than damage or loss insured under property insurance required by the Contract Documents) to property referred to in Sections 10.2.1.2 and 10.2.1.3 caused in whole or in part by the Contractor, a Subcontractor, a Sub-subcontractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable and for which the Contractor is responsible under Sections 10.2.1.2 and 10.2.1.3. The Contractor may make a Claim for the cost to remedy the damage or loss to the extent such damage or loss is attributable to acts or omissions of the Owner or Architect or anyone directly or indirectly employed by either of them, or by anyone for whose acts either of them may be liable, and not attributable to the fault or negligence of the Contractor. The foregoing obligations of the Contractor are in addition to the Contractor's obligations under Section 3.18.

§ 10.2.6 The Contractor shall designate a responsible member of the Contractor's organization at the site whose duty shall be the prevention of accidents. This person shall be the Contractor's superintendent unless otherwise designated by the Contractor in writing to the Owner and Architect.

§ 10.2.7 The Contractor shall not permit any part of the construction or site to be loaded so as to cause damage or create an unsafe condition.

§ 10.2.8 Injury or Damage to Person or Property
If either party suffers injury or damage to person or property because of an act or omission of the other party, or of others for whose acts such party is legally responsible, notice of the injury or damage, whether or not insured, shall be given to the other party within a reasonable time not exceeding 21 days after discovery. The notice shall provide sufficient detail to enable the other party to investigate the matter.

§ 10.3 Hazardous Materials and Substances
§ 10.3.1 The Contractor is responsible for compliance with any requirements included in the Contract Documents regarding hazardous materials or substances. If the Contractor encounters a hazardous material or substance not addressed in the Contract Documents and if reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a material or substance, including but not limited to asbestos or polychlorinated biphenyl (PCB), encountered on the site by the Contractor, the Contractor shall, upon recognizing the condition, immediately stop Work in the affected area and notify the Owner and Architect of the condition.

§ 10.3.2 Upon receipt of the Contractor's notice, the Owner shall obtain the services of a licensed laboratory to verify the presence or absence of the material or substance reported by the Contractor and, in the event such material or substance is found to be present, to cause it to be rendered harmless. Unless otherwise required by the Contract Documents, the Owner shall furnish in writing to the Contractor and Architect the names and qualifications of persons or entities who are to perform tests verifying the presence or absence of the material or substance or who are to perform the task of removal or safe containment of the material or substance. The Contractor and the Architect will

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promptly reply to the Owner in writing stating whether or not either has reasonable objection to the persons or entities proposed by the Owner. If either the Contractor or Architect has an objection to a person or entity proposed by the Owner, the Owner shall propose another to whom the Contractor and the Architect have no reasonable objection. When the material or substance has been rendered harmless, Work in the affected area shall resume upon written agreement of the Owner and Contractor. By Change Order, the Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable additional costs of shutdown, delay, and start-up.

§ 10.3.3 To the fullest extent permitted by law, the Owner shall indemnify and hold harmless the Contractor, Subcontractors, Architect, Architect's consultants, and agents and employees of any of them from and against claims, damages, losses, and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work in the affected area if in fact the material or substance presents the risk of bodily injury or death as described in Section 10.3.1 and has not been rendered harmless, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), except to the extent that such damage, loss, or expense is due to the fault or negligence of the party seeking indemnity.

§ 10.3.4 The Owner shall not be responsible under this Section 10.3 for hazardous materials or substances the Contractor brings to the site unless such materials or substances are required by the Contract Documents. The Owner shall be responsible for hazardous materials or substances required by the Contract Documents, except to the extent of the Contractor's fault or negligence in the use and handling of such materials or substances.

§ 10.3.5 The Contractor shall reimburse the Owner for the cost and expense the Owner incurs (1) for remediation of hazardous materials or substances the Contractor brings to the site and negligently handles, or (2) where the Contractor fails to perform its obligations under Section 10.3.1, except to the extent that the cost and expense are due to the Owner's fault or negligence.

§ 10.3.6 If, without negligence on the part of the Contractor, the Contractor is held liable by a government agency for the cost of remediation of a hazardous material or substance solely by reason of performing Work as required by the Contract Documents, the Owner shall reimburse the Contractor for all cost and expense thereby incurred.

§ 10.4 Emergencies

In an emergency affecting safety of persons or property, the Contractor shall act, at the Contractor's discretion, to prevent threatened damage, injury, or loss. Additional compensation or extension of time claimed by the Contractor on account of an emergency shall be determined as provided in Article 15 and Article 7.

ARTICLE 11 INSURANCE AND BONDS

§ 11.1 Contractor's Insurance and Bonds

§ 11.1.1 The Contractor shall purchase and maintain insurance of the types and limits of liability, containing the endorsements, and subject to the terms and conditions, as described in the Agreement or elsewhere in the Contract Documents. The Contractor shall purchase and maintain the required insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The Owner, Architect, and Architect's consultants shall be named as additional insureds under the Contractor's commercial general liability policy or as otherwise described in the Contract Documents.

§ 11.1.2 The Contractor shall provide surety bonds of the types, for such penal sums, and subject to such terms and conditions as required by the Contract Documents. The Contractor shall purchase and maintain the required bonds from a company or companies lawfully authorized to issue surety bonds in the jurisdiction where the Project is located.

§ 11.1.3 Upon the request of any person or entity appearing to be a potential beneficiary of bonds covering payment of obligations arising under the Contract, the Contractor shall promptly furnish a copy of the bonds or shall authorize a copy to be furnished.

§ 11.1.4 Notice of Cancellation or Expiration of Contractor's Required Insurance. Within three (3) business days of the date the Contractor becomes aware of an impending or actual cancellation or expiration of any insurance required by the Contract Documents, the Contractor shall provide notice to the Owner of such impending or actual cancellation or expiration. Upon receipt of notice from the Contractor, the Owner shall, unless the lapse in coverage arises from an act

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or omission of the Owner, have the right to stop the Work until the lapse in coverage has been cured by the procurement of replacement coverage by the Contractor. The furnishing of notice by the Contractor shall not relieve the Contractor of any contractual obligation to provide any required coverage.

§ 11.2 Owner's Insurance

§ 11.2.1 The Owner shall purchase and maintain insurance of the types and limits of liability, containing the endorsements, and subject to the terms and conditions, as described in the Agreement or elsewhere in the Contract Documents. The Owner shall purchase and maintain the required insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located.

§ 11.2.2 Failure to Purchase Required Property Insurance. If the Owner fails to purchase and maintain the required property insurance, with all of the coverages and in the amounts described in the Agreement or elsewhere in the Contract Documents, the Owner shall inform the Contractor in writing prior to commencement of the Work. Upon receipt of notice from the Owner, the Contractor may delay commencement of the Work and may obtain insurance that will protect the interests of the Contractor, Subcontractors, and Sub-Subcontractors in the Work. When the failure to provide coverage has been cured or resolved, the Contract Sum and Contract Time shall be equitably adjusted. In the event the Owner fails to procure coverage, the Owner waives all rights against the Contractor, Subcontractors, and Sub-subcontractors to the extent the loss to the Owner would have been covered by the insurance to have been procured by the Owner. The cost of the insurance shall be charged to the Owner by a Change Order. If the Owner does not provide written notice, and the Contractor is damaged by the failure or neglect of the Owner to purchase or maintain the required insurance, the Owner shall reimburse the Contractor for all reasonable costs and damages attributable thereto.

§ 11.2.3 Notice of Cancellation or Expiration of Owner's Required Property Insurance. Within three (3) business days of the date the Owner becomes aware of an impending or actual cancellation or expiration of any property insurance required by the Contract Documents, the Owner shall provide notice to the Contractor of such impending or actual cancellation or expiration. Unless the lapse in coverage arises from an act or omission of the Contractor: (1) the Contractor, upon receipt of notice from the Owner, shall have the right to stop the Work until the lapse in coverage has been cured by the procurement of replacement coverage by either the Owner or the Contractor; (2) the Contract Time and Contract Sum shall be equitably adjusted; and (3) the Owner waives all rights against the Contractor, Subcontractors, and Sub-subcontractors to the extent any loss to the Owner would have been covered by the insurance had it not expired or been cancelled. If the Contractor purchases replacement coverage, the cost of the insurance shall be charged to the Owner by an appropriate Change Order. The furnishing of notice by the Owner shall not relieve the Owner of any contractual obligation to provide required insurance.

§ 11.3 Waivers of Subrogation

§ 11.3.1 The Owner and Contractor waive all rights against (1) each other and any of their subcontractors, sub-subcontractors, agents, and employees, each of the other; (2) the Architect and Architect's consultants; and (3) Separate Contractors, if any, and any of their subcontractors, sub-subcontractors, agents, and employees, for damages caused by fire, or other causes of loss, to the extent those losses are covered by property insurance required by the Agreement or other property insurance applicable to the Project, except such rights as they have to proceeds of such insurance. The Owner or Contractor, as appropriate, shall require similar written waivers in favor of the individuals and entities identified above from the Architect, Architect's consultants, Separate Contractors, subcontractors, and sub-subcontractors. The policies of insurance purchased and maintained by each person or entity agreeing to waive claims pursuant to this section 11.3.1 shall not prohibit this waiver of subrogation. This waiver of subrogation shall be effective as to a person or entity (1) even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, (2) even though that person or entity did not pay the insurance premium directly or indirectly, or (3) whether or not the person or entity had an insurable interest in the damaged property.

§ 11.3.2 If during the Project construction period the Owner insures properties, real or personal or both, at or adjacent to the site by property insurance under policies separate from those insuring the Project, or if after final payment property insurance is to be provided on the completed Project through a policy or policies other than those insuring the Project during the construction period, to the extent permissible by such policies, the Owner waives all rights in accordance with the terms of Section 11.3.1 for damages caused by fire or other causes of loss covered by this separate property insurance.

§ 11.4 Loss of Use, Business Interruption, and Delay in Completion Insurance

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The Owner, at the Owner's option, may purchase and maintain insurance that will protect the Owner against loss of use of the Owner's property, or the inability to conduct normal operations, due to fire or other causes of loss. The Owner waives all rights of action against the Contractor and Architect for loss of use of the Owner's property, due to fire or other hazards however caused.

§11.5 Adjustment and Settlement of Insured Loss

§ 11.5.1 A loss insured under the property insurance required by the Agreement shall be adjusted by the Owner as fiduciary and made payable to the Owner as fiduciary for the insureds, as their interests may appear, subject to requirements of any applicable mortgagee clause and of Section 11.5.2. The Owner shall pay the Architect and Contractor their just shares of insurance proceeds received by the Owner, and by appropriate agreements the Architect and Contractor shall make payments to their consultants and Subcontractors in similar manner.

§ 11.5.2 Prior to settlement of an insured loss, the Owner shall notify the Contractor of the terms of the proposed settlement as well as the proposed allocation of the insurance proceeds. The Contractor shall have 14 days from receipt of notice to object to the proposed settlement or allocation of the proceeds. If the Contractor does not object, the Owner shall settle the loss and the Contractor shall be bound by the settlement and allocation. Upon receipt, the Owner shall deposit the insurance proceeds in a separate account and make the appropriate distributions. Thereafter, if no other agreement is made or the Owner does not terminate the Contract for convenience, the Owner and Contractor shall execute a Change Order for reconstruction of the damaged or destroyed Work in the amount allocated for that purpose. If the Contractor timely objects to either the terms of the proposed settlement or the allocation of the proceeds, the Owner may proceed to settle the insured loss, and any dispute between the Owner and Contractor arising out of the settlement or allocation of the proceeds shall be resolved pursuant to Article 15. Pending resolution of any dispute, the Owner may issue a Construction Change Directive for the reconstruction of the damaged or destroyed Work.

ARTICLE 12 UNCOVERING AND CORRECTION OF WORK

§ 12.1 Uncovering of Work

§ 12.1.1 If a portion of the Work is covered contrary to the Architect's request or to requirements specifically expressed in the Contract Documents, it must, if requested in writing by the Architect, be uncovered for the Architect's examination and be replaced at the Contractor's expense without change in the Contract Time.

§ 12.1.2 If a portion of the Work has been covered that the Architect has not specifically requested to examine prior to its being covered, the Architect may request to see such Work and it shall be uncovered by the Contractor. If such Work is in accordance with the Contract Documents, the Contractor shall be entitled to an equitable adjustment to the Contract Sum and Contract Time as may be appropriate. If such Work is not in accordance with the Contract Documents, the costs of uncovering the Work, and the cost of correction, shall be at the Contractor's expense.

§ 12.2 Correction of Work

§ 12.2.1 Before Substantial Completion

The Contractor shall promptly correct Work rejected by the Architect or failing to conform to the requirements of the Contract Documents, discovered before Substantial Completion and whether or not fabricated, installed or completed. Costs of correcting such rejected Work, including additional testing and inspections, the cost of uncovering and replacement, and compensation for the Architect's services and expenses made necessary thereby, shall be at the Contractor's expense.

§ 12.2.2 After Substantial Completion

§ 12.2.2.1 In addition to the Contractor's obligations under Section 3.5, if, within one year after the date of Substantial Completion of the Work or designated portion thereof or after the date for commencement of warranties established under Section 9.9.1, or by terms of any applicable special warranty required by the Contract Documents, any of the Work is found to be not in accordance with the requirements of the Contract Documents, the Contractor shall correct it promptly after receipt of notice from the Owner to do so, unless the Owner has previously given the Contractor a written acceptance of such condition. The Owner shall give such notice promptly after discovery of the condition. During the one-year period for correction of Work, if the Owner fails to notify the Contractor and give the Contractor an opportunity to make the correction, the Owner waives the rights to require correction by the Contractor and to make a claim for breach of warranty. If the Contractor fails to correct nonconforming Work within a reasonable time during that period after receipt of notice from the Owner or Architect, the Owner may correct it in accordance with Section 2.5.

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§ 12.2.2.2 The one-year period for correction of Work shall be extended with respect to portions of Work first performed after Substantial Completion by the period of time between Substantial Completion and the actual completion of that portion of the Work.

§ 12.2.2.3 The one-year period for correction of Work shall not be extended by corrective Work performed by the Contractor pursuant to this Section 12.2.

§ 12.2.3 The Contractor shall remove from the site portions of the Work that are not in accordance with the requirements of the Contract Documents and are neither corrected by the Contractor nor accepted by the Owner.

§ 12.2.4 The Contractor shall bear the cost of correcting destroyed or damaged construction of the Owner or Separate Contractors, whether completed or partially completed, caused by the Contractor's correction or removal of Work that is not in accordance with the requirements of the Contract Documents.

§ 12.2.5 Nothing contained in this Section 12.2 shall be construed to establish a period of limitation with respect to other obligations the Contractor has under the Contract Documents. Establishment of the one-year period for correction of Work as described in Section 12.2.2 relates only to the specific obligation of the Contractor to correct the Work, and has no relationship to the time within which the obligation to comply with the Contract Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Contractor's liability with respect to the Contractor's obligations other than specifically to correct the Work.

§ 12.3 Acceptance of Nonconforming Work

If the Owner prefers to accept Work that is not in accordance with the requirements of the Contract Documents, the Owner may do so instead of requiring its removal and correction, in which case the Contract Sum will be reduced as appropriate and equitable. Such adjustment shall be effected whether or not final payment has been made.

ARTICLE 13 MISCELLANEOUS PROVISIONS

§ 13.1 Governing Law

The Contract shall be governed by the law of the place where the Project is located, excluding that jurisdiction's choice of law rules. If the parties have selected arbitration as the method of binding dispute resolution, the Federal Arbitration Act shall govern Section 15.4.

§ 13.2 Successors and Assigns

§ 13.2.1 The Owner and Contractor respectively bind themselves, their partners, successors, assigns, and legal representatives to covenants, agreements, and obligations contained in the Contract Documents. Except as provided in Section 13.2.2, neither party to the Contract shall assign the Contract as a whole without written consent of the other. If either party attempts to make an assignment without such consent, that party shall nevertheless remain legally responsible for all obligations under the Contract.

§ 13.2.2 The Owner may, without consent of the Contractor, assign the Contract to a lender providing construction financing for the Project, if the lender assumes the Owner's rights and obligations under the Contract Documents. The Contractor shall execute all consents reasonably required to facilitate the assignment.

§ 13.3 Rights and Remedies

§ 13.3.1 Duties and obligations imposed by the Contract Documents and rights and remedies available thereunder shall be in addition to and not a limitation of duties, obligations, rights, and remedies otherwise imposed or available by law.

§ 13.3.2 No action or failure to act by the Owner, Architect, or Contractor shall constitute a waiver of a right or duty afforded them under the Contract, nor shall such action or failure to act constitute approval of or acquiescence in a breach thereunder, except as may be specifically agreed upon in writing.

§ 13.4 Tests and Inspections

§ 13.4.1 Tests, inspections, and approvals of portions of the Work shall be made as required by the Contract Documents and by applicable laws, statutes, ordinances, codes, rules, and regulations or lawful orders of public authorities. Unless otherwise provided, the Contractor shall make arrangements for such tests, inspections, and

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approvals with an independent testing laboratory or entity acceptable to the Owner, or with the appropriate public authority, and shall bear all related costs of tests, inspections, and approvals. The Contractor shall give the Architect timely notice of when and where tests and inspections are to be made so that the Architect may be present for such procedures. The Owner shall bear costs of tests, inspections, or approvals that do not become requirements until after bids are received or negotiations concluded. The Owner shall directly arrange and pay for tests, inspections, or approvals where building codes or applicable laws or regulations so require.

§ 13.4.2 If the Architect, Owner, or public authorities having jurisdiction determine that portions of the Work require additional testing, inspection, or approval not included under Section 13.4.1, the Architect will, upon written authorization from the Owner, instruct the Contractor to make arrangements for such additional testing, inspection, or approval, by an entity acceptable to the Owner, and the Contractor shall give timely notice to the Architect of when and where tests and inspections are to be made so that the Architect may be present for such procedures. Such costs, except as provided in Section 13.4.3, shall be at the Owner's expense.

§ 13.4.3 If procedures for testing, inspection, or approval under Sections 13.4.1 and 13.4.2 reveal failure of the portions of the Work to comply with requirements established by the Contract Documents, all costs made necessary by such failure, including those of repeated procedures and compensation for the Architect's services and expenses, shall be at the Contractor's expense.

§ 13.4.4 Required certificates of testing, inspection, or approval shall, unless otherwise required by the Contract Documents, be secured by the Contractor and promptly delivered to the Architect.

§ 13.4.5 If the Architect is to observe tests, inspections, or approvals required by the Contract Documents, the Architect will do so promptly and, where practicable, at the normal place of testing.

§ 13.4.6 Tests or inspections conducted pursuant to the Contract Documents shall be made promptly to avoid unreasonable delay in the Work.

§ 13.5 Interest

Payments due and unpaid under the Contract Documents shall bear interest from the date payment is due at the rate the parties agree upon in writing or, in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located.

ARTICLE 14 TERMINATION OR SUSPENSION OF THE CONTRACT

§ 14.1 Termination by the Contractor

§ 14.1.1 The Contractor may terminate the Contract if the Work is stopped for a period of 30 consecutive days through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, their agents or employees, or any other persons or entities performing portions of the Work, for any of the following reasons:

- **.1** Issuance of an order of a court or other public authority having jurisdiction that requires all Work to be stopped;
- **.2** An act of government, such as a declaration of national emergency, that requires all Work to be stopped;
- **.3** Because the Architect has not issued a Certificate for Payment and has not notified the Contractor of the reason for withholding certification as provided in Section 9.4.1, or because the Owner has not made payment on a Certificate for Payment within the time stated in the Contract Documents; or
- **.4** The Owner has failed to furnish to the Contractor reasonable evidence as required by Section 2.2.

§ 14.1.2 The Contractor may terminate the Contract if, through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, their agents or employees, or any other persons or entities performing portions of the Work, repeated suspensions, delays, or interruptions of the entire Work by the Owner as described in Section 14.3, constitute in the aggregate more than 100 percent of the total number of days scheduled for completion, or 120 days in any 365-day period, whichever is less.

§ 14.1.3 If one of the reasons described in Section 14.1.1 or 14.1.2 exists, the Contractor may, upon seven days' notice to the Owner and Architect, terminate the Contract and recover from the Owner payment for Work executed, as well as reasonable overhead and profit on Work not executed, and costs incurred by reason of such termination.

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§ 14.1.4 If the Work is stopped for a period of 60 consecutive days through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, or their agents or employees or any other persons or entities performing portions of the Work because the Owner has repeatedly failed to fulfill the Owner's obligations under the Contract Documents with respect to matters important to the progress of the Work, the Contractor may, upon seven additional days' notice to the Owner and the Architect, terminate the Contract and recover from the Owner as provided in Section 14.1.3.

§ 14.2 Termination by the Owner for Cause

§ 14.2.1 The Owner may terminate the Contract if the Contractor

- **.1** repeatedly refuses or fails to supply enough properly skilled workers or proper materials;
- **.2** fails to make payment to Subcontractors or suppliers in accordance with the respective agreements between the Contractor and the Subcontractors or suppliers;
- **.3** repeatedly disregards applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of a public authority; or
- **.4** otherwise is guilty of substantial breach of a provision of the Contract Documents.

§ 14.2.2 When any of the reasons described in Section 14.2.1 exist, and upon certification by the Architect that sufficient cause exists to justify such action, the Owner may, without prejudice to any other rights or remedies of the Owner and after giving the Contractor and the Contractor's surety, if any, seven days' notice, terminate employment of the Contractor and may, subject to any prior rights of the surety:

- **.1** Exclude the Contractor from the site and take possession of all materials, equipment, tools, and construction equipment and machinery thereon owned by the Contractor;
- **.2** Accept assignment of subcontracts pursuant to Section 5.4; and
- **.3** Finish the Work by whatever reasonable method the Owner may deem expedient. Upon written request of the Contractor, the Owner shall furnish to the Contractor a detailed accounting of the costs incurred by the Owner in finishing the Work.

§ 14.2.3 When the Owner terminates the Contract for one of the reasons stated in Section 14.2.1, the Contractor shall not be entitled to receive further payment until the Work is finished.

§ 14.2.4 If the unpaid balance of the Contract Sum exceeds costs of finishing the Work, including compensation for the Architect's services and expenses made necessary thereby, and other damages incurred by the Owner and not expressly waived, such excess shall be paid to the Contractor. If such costs and damages exceed the unpaid balance, the Contractor shall pay the difference to the Owner. The amount to be paid to the Contractor or Owner, as the case may be, shall be certified by the Initial Decision Maker, upon application, and this obligation for payment shall survive termination of the Contract.

§ 14.3 Suspension by the Owner for Convenience

§ 14.3.1 The Owner may, without cause, order the Contractor in writing to suspend, delay or interrupt the Work, in whole or in part for such period of time as the Owner may determine.

§ 14.3.2 The Contract Sum and Contract Time shall be adjusted for increases in the cost and time caused by suspension, delay, or interruption under Section 14.3.1. Adjustment of the Contract Sum shall include profit. No adjustment shall be made to the extent

- **.1** that performance is, was, or would have been, so suspended, delayed, or interrupted, by another cause for which the Contractor is responsible; or
- **.2** that an equitable adjustment is made or denied under another provision of the Contract.

§ 14.4 Termination by the Owner for Convenience

§ 14.4.1 The Owner may, at any time, terminate the Contract for the Owner's convenience and without cause.

§ 14.4.2 Upon receipt of notice from the Owner of such termination for the Owner's convenience, the Contractor shall

- **.1** cease operations as directed by the Owner in the notice;
- **.2** take actions necessary, or that the Owner may direct, for the protection and preservation of the Work; and
- **.3** except for Work directed to be performed prior to the effective date of termination stated in the notice, terminate all existing subcontracts and purchase orders and enter into no further subcontracts and purchase orders.

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§ 14.4.3 In case of such termination for the Owner's convenience, the Owner shall pay the Contractor for Work properly executed; costs incurred by reason of the termination, including costs attributable to termination of Subcontracts; and the termination fee, if any, set forth in the Agreement.

ARTICLE 15 CLAIMS AND DISPUTES

§ 15.1 Claims

§ 15.1.1 Definition

A Claim is a demand or assertion by one of the parties seeking, as a matter of right, payment of money, a change in the Contract Time, or other relief with respect to the terms of the Contract. The term "Claim" also includes other disputes and matters in question between the Owner and Contractor arising out of or relating to the Contract. The responsibility to substantiate Claims shall rest with the party making the Claim. This Section 15.1.1 does not require the Owner to file a Claim in order to impose liquidated damages in accordance with the Contract Documents.

§ 15.1.2 Time Limits on Claims

The Owner and Contractor shall commence all Claims and causes of action against the other and arising out of or related to the Contract, whether in contract, tort, breach of warranty or otherwise, in accordance with the requirements of the binding dispute resolution method selected in the Agreement and within the period specified by applicable law, but in any case not more than 10 years after the date of Substantial Completion of the Work. The Owner and Contractor waive all Claims and causes of action not commenced in accordance with this Section 15.1.2.

§ 15.1.3 Notice of Claims

§ 15.1.3.1 Claims by either the Owner or Contractor, where the condition giving rise to the Claim is first discovered prior to expiration of the period for correction of the Work set forth in Section 12.2.2, shall be initiated by notice to the other party and to the Initial Decision Maker with a copy sent to the Architect, if the Architect is not serving as the Initial Decision Maker. Claims by either party under this Section 15.1.3.1 shall be initiated within 21 days after occurrence of the event giving rise to such Claim or within 21 days after the claimant first recognizes the condition giving rise to the Claim, whichever is later.

§ 15.1.3.2 Claims by either the Owner or Contractor, where the condition giving rise to the Claim is first discovered after expiration of the period for correction of the Work set forth in Section 12.2.2, shall be initiated by notice to the other party. In such event, no decision by the Initial Decision Maker is required.

§ 15.1.4 Continuing Contract Performance

§ 15.1.4.1 Pending final resolution of a Claim, except as otherwise agreed in writing or as provided in Section 9.7 and Article 14, the Contractor shall proceed diligently with performance of the Contract and the Owner shall continue to make payments in accordance with the Contract Documents.

§ 15.1.4.2 The Contract Sum and Contract Time shall be adjusted in accordance with the Initial Decision Maker's decision, subject to the right of either party to proceed in accordance with this Article 15. The Architect will issue Certificates for Payment in accordance with the decision of the Initial Decision Maker.

§ 15.1.5 Claims for Additional Cost

If the Contractor wishes to make a Claim for an increase in the Contract Sum, notice as provided in Section 15.1.3 shall be given before proceeding to execute the portion of the Work that is the subject of the Claim. Prior notice is not required for Claims relating to an emergency endangering life or property arising under Section 10.4.

§ 15.1.6 Claims for Additional Time

§ 15.1.6.1 If the Contractor wishes to make a Claim for an increase in the Contract Time, notice as provided in Section 15.1.3 shall be given. The Contractor's Claim shall include an estimate of cost and of probable effect of delay on progress of the Work. In the case of a continuing delay, only one Claim is necessary.

§ 15.1.6.2 If adverse weather conditions are the basis for a Claim for additional time, such Claim shall be documented by data substantiating that weather conditions were abnormal for the period of time, could not have been reasonably anticipated, and had an adverse effect on the scheduled construction.

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§ 15.1.7 Waiver of Claims for Consequential Damages

The Contractor and Owner waive Claims against each other for consequential damages arising out of or relating to this Contract. This mutual waiver includes

.1 damages incurred by the Owner for rental expenses, for losses of use, income, profit, financing, business and reputation, and for loss of management or employee productivity or of the services of such persons; and

.2 damages incurred by the Contractor for principal office expenses including the compensation of personnel stationed there, for losses of financing, business and reputation, and for loss of profit, except anticipated profit arising directly from the Work.

This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination in accordance with Article 14. Nothing contained in this Section 15.1.7 shall be deemed to preclude assessment of liquidated damages, when applicable, in accordance with the requirements of the Contract Documents.

§ 15.2 Initial Decision

§ 15.2.1 Claims, excluding those where the condition giving rise to the Claim is first discovered after expiration of the period for correction of the Work set forth in Section 12.2.2 or arising under Sections 10.3, 10.4, and 11.5, shall be referred to the Initial Decision Maker for initial decision. The Architect will serve as the Initial Decision Maker, unless otherwise indicated in the Agreement. Except for those Claims excluded by this Section 15.2.1, an initial decision shall be required as a condition precedent to mediation of any Claim. If an initial decision has not been rendered within 30 days after the Claim has been referred to the Initial Decision Maker, the party asserting the Claim may demand mediation and binding dispute resolution without a decision having been rendered. Unless the Initial Decision Maker and all affected parties agree, the Initial Decision Maker will not decide disputes between the Contractor and persons or entities other than the Owner.

§ 15.2.2 The Initial Decision Maker will review Claims and within ten days of the receipt of a Claim take one or more of the following actions: (1) request additional supporting data from the claimant or a response with supporting data from the other party, (2) reject the Claim in whole or in part, (3) approve the Claim, (4) suggest a compromise, or (5) advise the parties that the Initial Decision Maker is unable to resolve the Claim if the Initial Decision Maker lacks sufficient information to evaluate the merits of the Claim or if the Initial Decision Maker concludes that, in the Initial Decision Maker's sole discretion, it would be inappropriate for the Initial Decision Maker to resolve the Claim.

§ 15.2.3 In evaluating Claims, the Initial Decision Maker may, but shall not be obligated to, consult with or seek information from either party or from persons with special knowledge or expertise who may assist the Initial Decision Maker in rendering a decision. The Initial Decision Maker may request the Owner to authorize retention of such persons at the Owner's expense.

§ 15.2.4 If the Initial Decision Maker requests a party to provide a response to a Claim or to furnish additional supporting data, such party shall respond, within ten days after receipt of the request, and shall either (1) provide a response on the requested supporting data, (2) advise the Initial Decision Maker when the response or supporting data will be furnished, or (3) advise the Initial Decision Maker that no supporting data will be furnished. Upon receipt of the response or supporting data, if any, the Initial Decision Maker will either reject or approve the Claim in whole or in part.

§ 15.2.5 The Initial Decision Maker will render an initial decision approving or rejecting the Claim, or indicating that the Initial Decision Maker is unable to resolve the Claim. This initial decision shall (1) be in writing; (2) state the reasons therefor; and (3) notify the parties and the Architect, if the Architect is not serving as the Initial Decision Maker, of any change in the Contract Sum or Contract Time or both. The initial decision shall be final and binding on the parties but subject to mediation and, if the parties fail to resolve their dispute through mediation, to binding dispute resolution.

§ 15.2.6 Either party may file for mediation of an initial decision at any time, subject to the terms of Section 15.2.6.1.

§ 15.2.6.1 Either party may, within 30 days from the date of receipt of an initial decision, demand in writing that the other party file for mediation. If such a demand is made and the party receiving the demand fails to file for mediation within 30 days after receipt thereof, then both parties waive their rights to mediate or pursue binding dispute resolution proceedings with respect to the initial decision.

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§ 15.2.7 In the event of a Claim against the Contractor, the Owner may, but is not obligated to, notify the surety, if any, of the nature and amount of the Claim. If the Claim relates to a possibility of a Contractor's default, the Owner may, but is not obligated to, notify the surety and request the surety's assistance in resolving the controversy.

§ 15.2.8 If a Claim relates to or is the subject of a mechanic's lien, the party asserting such Claim may proceed in accordance with applicable law to comply with the lien notice or filing deadlines.

§ 15.3 Mediation

§ 15.3.1 Claims, disputes, or other matters in controversy arising out of or related to the Contract, except those waived as provided for in Sections 9.10.4, 9.10.5, and 15.1.7, shall be subject to mediation as a condition precedent to binding dispute resolution.

§ 15.3.2 The parties shall endeavor to resolve their Claims by mediation which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Mediation Procedures in effect on the date of the Agreement. A request for mediation shall be made in writing, delivered to the other party to the Contract, and filed with the person or entity administering the mediation. The request may be made concurrently with the filing of binding dispute resolution proceedings but, in such event, mediation shall proceed in advance of binding dispute resolution proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order. If an arbitration is stayed pursuant to this Section 15.3.2, the parties may nonetheless proceed to the selection of the arbitrator(s) and agree upon a schedule for later proceedings.

§ 15.3.3 Either party may, within 30 days from the date that mediation has been concluded without resolution of the dispute or 60 days after mediation has been demanded without resolution of the dispute, demand in writing that the other party file for binding dispute resolution. If such a demand is made and the party receiving the demand fails to file for binding dispute resolution within 60 days after receipt thereof, then both parties waive their rights to binding dispute resolution proceedings with respect to the initial decision.

§ 15.3.4 The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

§ 15.4 Arbitration

§ 15.4.1 If the parties have selected arbitration as the method for binding dispute resolution in the Agreement, any Claim subject to, but not resolved by, mediation shall be subject to arbitration which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Arbitration Rules in effect on the date of the Agreement. The Arbitration shall be conducted in the place where the Project is located, unless another location is mutually agreed upon. A demand for arbitration shall be made in writing, delivered to the other party to the Contract, and filed with the person or entity administering the arbitration. The party filing a notice of demand for arbitration must assert in the demand all Claims then known to that party on which arbitration is permitted to be demanded.

§ 15.4.1.1 A demand for arbitration shall be made no earlier than concurrently with the filing of a request for mediation, but in no event shall it be made after the date when the institution of legal or equitable proceedings based on the Claim would be barred by the applicable statute of limitations. For statute of limitations purposes, receipt of a written demand for arbitration by the person or entity administering the arbitration shall constitute the institution of legal or equitable proceedings based on the Claim.

§ 15.4.2 The award rendered by the arbitrator or arbitrators shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.

§ 15.4.3 The foregoing agreement to arbitrate and other agreements to arbitrate with an additional person or entity duly consented to by parties to the Agreement, shall be specifically enforceable under applicable law in any court having jurisdiction thereof.

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§ 15.4.4 Consolidation or Joinder

§ 15.4.4.1 Subject to the rules of the American Arbitration Association or other applicable arbitration rules, either party may consolidate an arbitration conducted under this Agreement with any other arbitration to which it is a party provided that (1) the arbitration agreement governing the other arbitration permits consolidation, (2) the arbitrations to be consolidated substantially involve common questions of law or fact, and (3) the arbitrations employ materially similar procedural rules and methods for selecting arbitrator(s).

§ 15.4.4.2 Subject to the rules of the American Arbitration Association or other applicable arbitration rules, either party may include by joinder persons or entities substantially involved in a common question of law or fact whose presence is required if complete relief is to be accorded in arbitration, provided that the party sought to be joined consents in writing to such joinder. Consent to arbitration involving an additional person or entity shall not constitute consent to arbitration of any claim, dispute or other matter in question not described in the written consent.

§ 15.4.4.3 The Owner and Contractor grant to any person or entity made a party to an arbitration conducted under this Section 15.4, whether by joinder or consolidation, the same rights of joinder and consolidation as those of the Owner and Contractor under this Agreement.

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Additions and Deletions Report for
AIA® Document A201® – 2017

This Additions and Deletions Report, as defined on page 1 of the associated document, reproduces below all text the author has added to the standard form AIA document in order to complete it, as well as any text the author may have added to or deleted from the original AIA text. Added text is shown underlined. Deleted text is indicated with a horizontal line through the original AIA text.

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PAGE 1

FY25 Stadium Bleacher Repairs
Washburn High School
201 West 49th Street
Minneapolis, MN 55419

...

Minneapolis Public Schools Special School District 1
1250 West Broadway Avenue
Minneapolis, MN 55411

...

Buildings Consulting Group, Inc.
2855 Anthony Lane South Suite 201
Minneapolis, MN 55418

PAGE 11

The parties shall agree upon ~~written~~ protocols governing the transmission and use ~~of, and reliance on,~~ of Instruments of Service or any other information or documentation in digital form. The parties will use AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, to establish the protocols for the development, use, transmission, and exchange of digital data.

...

Any use of, or reliance on, all or a portion of a building information model without agreement to ~~written~~ protocols governing the use of, and reliance on, the information contained in the model and without having those protocols set forth in AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, and the requisite AIA Document G202™–2013, Project Building Information Modeling Protocol Form, shall be at the using or relying party's sole risk and without liability to the other party and its contractors or consultants, the authors of, or contributors to, the building information model, and each of their agents and employees.

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Certification of Document's Authenticity

AIA® Document D401™ – 2003

I, , hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with its associated Additions and Deletions Report and this certification at 13:37:32 CT on 02/20/2025 under Order No. 4104251278 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document A201™ – 2017, General Conditions of the Contract for Construction, other than those additions and deletions shown in the associated Additions and Deletions Report.

_____

(Signed)

_____

(Title)

_____

(Dated)

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FY21 North High School Renovations-Bid Pack 4 Work Scope 26-A Electrical

Contract Sum: $3,037,000

Contractor: NAC Mechanical and Electrical Services

Project Name and Number

North High School
1500 James Avenue N
Minneapolis, MN 55411
Minneapolis Public Schools Project Number
OP25-2512

Description

Perform electrical services in accordance with Work Scope 26-A for the North High School Phase 4 renovations

Contract Sum details

Item	Price	Status
Base Bid	$2,650,000	accepted
Alt #1: Health Office	$182,000	rejected
Alt #2: Athletic and Counseling Offices	$141,000	rejected
Alt #3: Electrical panel replacements	$372,000	accepted
Alt #4: AHU-41 replacement	$15,000	accepted
Alt #5: Direct digital controls	$0	accepted

Contract Documents

AIA Document A132-2019
AIA Document A132 Exhibit A-2019
Exhibit B – Project Charter
Exhibit C – Owner Insurance
Exhibit D – Project Schedule
AIA Document A232-2019

AIA® Document A132® – 2019

Standard Form of Agreement Between Owner and Contractor, Construction Manager as Adviser Edition

AGREEMENT made as of the first__ day of _February_____ in the year 2025_
(In words, indicate day, month, and year.)

BETWEEN the Owner:
(Name, legal status, address, and other information)

Minneapolis Public Schools Special School District #1
1250 West Broadway Avenue
Minneapolis, MN 55411

and the Contractor:
(Name, legal status, address, and other information)

NAC Mechanical and Electrical Services
1001 Labore Industrial Court, Suite B
Vadnais Heights, MN 55110

for the following Project:
(Name, location, and detailed description)

North High School Phase 4 Work Scope 26-AElectrical
1500 James Avenue
Minneapolis, MN 55411

The Construction Manager:
(Name, legal status, address, and other information)

Kraus-Anderson Construction Company
501 South 8th Street
Minneapolis, MN 55405

The Architect:
(Name, legal status, address, and other information)

LSE Architects
1401 Glenwood Avenue
Minneapolis, MN 55405

The Owner and Contractor agree as follows.

ADDITIONS AND DELETIONS:
The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

This document is intended to be used in conjunction with AIA Documents A232™–2019, General Conditions of the Contract for Construction, Construction Manager as Adviser Edition; B132™–2019, Standard Form of Agreement Between Owner and Architect, Construction Manager as Adviser Edition; and C132™–2019, Standard Form of Agreement Between Owner and Construction Manager as Adviser. AIA Document A232™–2019 is adopted in this document by reference. Do not use with other general conditions unless this document is modified.

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9 ENUMERATION OF CONTRACT DOCUMENTS

EXHIBIT A INSURANCE AND BONDS
EXHIBIT B DETERMINATION OF THE COST OF THE WORK

ARTICLE 1 THE CONTRACT DOCUMENTS

The Contract Documents consist of this Agreement, Conditions of the Contract (General, Supplementary, and other Conditions), Drawings, Specifications, Addenda issued prior to execution of this Agreement, other documents ("Contract" or "Contract Documents") listed in this Agreement, and Modifications issued after execution of this Agreement, all of which form the Contract, and are as fully a part of the Contract as if attached to this Agreement or repeated herein. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations, or agreements, either written or oral. An enumeration of the Contract Documents, other than Modifications, appears in Article 9.

§ 1.2 In the event that there are inconsistencies between any of the Project Contract Documents, all Contract Documents shall be construed together and shall be read with a purpose and intent to provide that the Contractor shall commit to fully complete its Project Work and services with the greater degree of commitment as referenced in the Contract Documents, including the plans and specifications, to work diligently to ensure completion of the Project in a timely and workmanlike manner and at the earliest stated times provided for in Project schedules, as they may be revised, and to ensure that Contractor, and all of its Subcontractors and suppliers complete the Project on schedule and within Project Contract Price, subject to approved change orders.

§ 1.3 Contractor acknowledges that it has had full, fair, and adequate opportunity to review all of the Project bidding and Contract Documents, that it has fully satisfied itself as to the scope and requirements of the Project, that it has fully and fairly investigated all Project site conditions and circumstances and Contract Documents, including any potential difficulties or interferences present in the same, that it has had the opportunity to ask questions during the bidding phase and that it has received adequate answers to any such questions, that it has had the opportunity to attend and fairly participate in all pre-bid conferences and pre-construction conferences, and that it has required the same of all of its Subcontractors.

ARTICLE 2 THE WORK OF THIS CONTRACT

The Contractor shall fully execute the Work described in the Contract Documents, except as specifically indicated in the Contract Documents to be the responsibility of others.

ARTICLE 3 DATE OF COMMENCEMENT AND DATES OF SUBSTANTIAL COMPLETION

§ 3.1 The date of commencement of the Work shall be:
(Check one of the following boxes.)

[ ] The date of this Agreement.

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[X] A date set forth in a notice to proceed issued by the Owner.

[ ] Established as follows:
(Insert a date or a means to determine the date of commencement of the Work.)

If a date of commencement of the Work is not selected, then the date of commencement shall be the date of this Agreement.

§ 3.2 The Contract Time shall be measured from the date of commencement of the Work.

§ 3.3 Substantial Completion of the Project or Portions Thereof

§ 3.3.1 Subject to adjustments of the Contract Time as provided in the Contract Documents, the date of Substantial Completion of the Work of all of the Contractors for the Project will be:
(Insert the date of Substantial Completion of the Work of all Contractors for the Project.)

Defined in EXH-D Project Schedule

§ 3.3.2 Subject to adjustments of the Contract Time as provided in the Contract Documents, if portions of the Work of all of the Contractors for the Project are to be completed prior to Substantial Completion of the entire Work of all of the Contractors for the Project, the Contractors shall achieve Substantial Completion of such portions by the following dates defined in EXH-D Project Schedule. Such portions of the Work not completed as defined in EXH-D Project Schedule shall be subject to liquidated damages as set forth in Article 4.5.

(Table deleted)
(Table deleted)
(Paragraphs deleted)
§ 3.4.3 If the Contractor fails to substantially complete the Work of this Contract, or portions thereof, as provided in this Section 3.4, liquidated damages, if any, shall be assessed as set forth in Section 4.5.

ARTICLE 4 CONTRACT SUM

§ 4.1 The Owner shall pay the Contractor the Contract Sum in current funds for the Contractor's performance of the
(Paragraphs deleted)
Contract as defined in EXH-B Project Charter, subject to additions and deductions as provided in the Contract Documents.

§ 4.2 Stipulated Sum

§ 4.2.1 The Contract Sum shall be three million, thirty-seven thousand dollars ($ 3,037,000), subject to additions and deductions as provided in the Contract Documents.

§ 4.2.2 Alternates

§ 4.2.2.1 Alternates, if any, included in the Contract Sum are defined in EXH-B Project Charter.
(Table deleted)
§ 4.2.2.2 Subject to the conditions noted in EXH-B Project Charter, alternates may be accepted by the Owner following execution of this Agreement. Upon acceptance, the Owner shall issue a Modification to this Agreement.
(Paragraphs deleted)
(Table deleted)
§ 4.2.3 Allowances, if any, included in the Contract Sum are defined in EXH-B Project Charter.
(Identify each allowance.)

Item	Price

§ 4.2.4 Unit prices, if any are defined in EXH-B Project Charter.

(Table deleted)

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§ 4.3 Allowances, if any, included in the Contract Sum are defined in EXH-B Project Charter.

(Paragraph deleted)
(Table deleted)
(Paragraphs deleted)
§ 4.4 Unit prices, if any, are defined in EXH-B Project Charter.

(Paragraphs deleted)
(Table deleted)
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§ 4.5 Liquidated damages, if any:
(Insert terms and conditions for liquidated damages, if any, to be assessed in accordance with Section 3.4.)

Contractor and Owner recognize that time is of the essence for the Project and the Owner will suffer financial loss if the Work is not completed in the time specified in the Contract Documents. The parties also recognize the delays, expenses, and difficulties involved in proving in a legal proceeding the actual loss suffered by the Owner if the Work is not completed on time. Accordingly, instead of requiring such proof, the Owner and Contractor agree that as liquidated damages for delay (but not as penalty), Contractor shall pay Owner One Thousand Dollars ($1,000.00) per calendar day for each day that expires after the time specified for Substantial Completion in EXH-D Project Schedule until such time the Work is determined to be substantially complete by the Owner.

After Substantial Completion, if Contractor neglects, refuses, or fails to complete the remaining Work within the Contract Time specified in the Contract Documents, the Contractor shall pay the Owner One Thousand Dollars ($1,000.00) per day that expires after the time specified in the Contract Documents for Final Completion and readiness for Final Payment until the Work is completed.

§ 4.6 Other:
(Insert provisions for bonus, cost savings or other incentives, if any, that might result in a change to the Contract Sum.)

None

ARTICLE 5 PAYMENTS

§ 5.1 Progress Payments

§ 5.1.1 Based upon Applications for Payment submitted to the Construction Manager by the Contractor, and Certificates for Payment issued by the Construction Manager and Architect and approval by the Owner's Representative, the Owner shall make progress payments on account of the Contract Sum, to the Contractor, as provided below and elsewhere in the Contract Documents.

§ 5.1.2 The period covered by each Application for Payment shall be one calendar month ending on the last day of the month.

§ 5.1.3 When an Application for Payment is received by the Construction Manager, payment of the amount certified shall be made by the Owner not later than forty-five (45) days after the Construction Manager receives the Application for Payment. Unless expressly otherwise agreed in this Contract, payments and payment disputes shall be governed by the Prompt Payment of Local Government Bills, Minnesota Statutes, Section 471.425 ("Prompt Payment Act").
(Federal, state or local laws may require payment within a certain period of time.)

§ 5.1.4 Progress Payments Where the Contract Sum is Based on a Stipulated Sum

§ 5.1.4.1 Each Application for Payment shall be based on the most recent schedule of values submitted by the Contractor on AIA G702 Application and Certificate for Payment in accordance with the Contract Documents. The schedule of

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values shall allocate the entire Contract Sum among the various portions of the Work. The schedule of values shall be prepared in such form, and supported by such data to substantiate its accuracy, as the Construction Manager and Architect may require. This schedule of values shall be used as a basis for reviewing the Contractor's Applications for Payment.

§ 5.1.4.2 Applications for Payment shall show the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment.

§ 5.1.4.3 In accordance with AIA Document A232™–2019, General Conditions of the Contract for Construction, Construction Manager as Adviser Edition, as modified and subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

§ 5.1.4.3.1 The amount of each progress payment shall first include:

.1 That portion of the Contract Sum properly allocable to completed Work;

.2 That portion of the Contract Sum properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction, or, if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing; and

.3 That portion of Construction Change Directives that the Architect determines, in the Architect's professional judgment, to be reasonably justified.

§ 5.1.4.3.2 The amount of each progress payment shall then be reduced by:

.1 The aggregate of any amounts previously paid by the Owner;

.2 The amount, if any, for Work that remains uncorrected and for which the Architect has previously withheld a Certificate for Payment as provided in Article 9 of AIA Document A232–2019;

.3 Any amount for which the Contractor does not intend to pay a Subcontractor or material supplier, unless the Work has been performed by others the Contractor intends to pay;

.4 For Work performed or defects discovered since the last payment application, any amount for which the Architect may withhold payment, or nullify a Certificate of Payment in whole or in part, as provided in Article 9 of AIA Document A232–2019; and

.5 Retainage withheld pursuant to Section 5.1.7.

(Paragraphs deleted)

§ 5.1.7 Retainage

§ 5.1.7.1 For each progress payment made prior to when the Work of this Contract is substantially complete, the Owner may withhold the following amount, as retainage, from the payment otherwise due:
(Insert a percentage or amount to be withheld as retainage from each Application for Payment. The amount of retainage may be limited by governing law.)

Five Percent (5%)

§ 5.1.7.1.1 The following items are not subject to retainage:
(Insert any items not subject to the withholding of retainage, such as general conditions, insurance, etc.)

For major items installed into the Work, the Contractor may request full payment for the items to ensure prompt delivery and fabrication. Such items shall be recommended by the Architect and approved by the Owner as not requiring retainage. Prompt payment for the items shall be documented by the Contractor to the Owner in the subsequent payment application by submitting a full lien release for the items. Major items may include mechanical units with long lead times, structural systems with long lead times, critical path systems or items, etc. Major items will be discussed and defined by Owner, Architect, Construction Manager and Contractor.

§ 5.1.7.2 Reduction or limitation of retainage, if any, shall be as follows:
(If the retainage established in Section 5.1.7.1 is to be modified prior to when the entire Work of this Contract is substantially complete, including modifications for completion of portions of the Work as provided in Section 3.4.2, insert provisions for such modifications.)

Prior to Substantial Completion and at the discretion of the Owner, retainage may be reduced. If the Work has been fifty percent (50%) completed as determined by the Architect and is satisfactory to the Owner, then ninety percent (90%) of the

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retained amount may be released to the Contractor for completed Work (with ten percent (10%) of the total retained by the Owner).

§ 5.1.7.3 Except as set forth in this Section 5.1.7.3, when the Work of this Contract is substantially complete, the Contractor may submit an Application for Payment that includes the retainage withheld from prior Applications for Payment pursuant to this Section 5.1.7. The Application for Payment submitted when the Work of this Contract is substantially complete shall not include retainage as follows:
(Insert any other conditions for release of retainage when the Work of this Contract is substantially complete, or upon Substantial Completion of the Work of all Contractors on the Project or portions thereof.)

Upon Substantial Completion, additional retainage may be returned to the Contractor as recommended by the Architect and Construction Manager and approved by the Owner to an amount sufficient to satisfactorily complete the Work. Retainage release will comply with Minnesota Statutes, Section 15.72 after Substantial Completion and punch list acceptance by the Owner.

§ 5.2 Final Payment
§ 5.2.1 Final Payment Where the Contract Sum is Based on a Stipulated Sum
§ 5.2.1.1 Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Contractor when

.1 the Contractor has fully performed the Contract except for the Contractor's responsibility to correct Work as provided in Article 12 of AIA Document A232–2019, and to satisfy other requirements, if any, which extend beyond final payment;
.2 a final Certificate for Payment or Project Certificate for Payment has been issued by the Architect; and
.3 all lien waivers and IC134 forms have been delivered to the Owner.

§ 5.2.1.2 The Owner's final payment to the Contractor shall be made no later than forty-five (45) days after the issuance of the Architect's final Certificate for Payment or Project Certificate for Payment, or as follows:

§ 5.2.2 Final Payment Where the Contract Sum is Based on the Cost of the Work with or without a Guaranteed Maximum Price
§ 5.2.2.1 Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Contractor when

.1 the Contractor has fully performed the Contract except for the Contractor's responsibility to correct Work as provided in Article 12 of AIA Document A232–2019, and to satisfy other requirements, if any, which extend beyond final payment;
.2 the Contractor has submitted a final accounting for the Cost of the Work, pursuant to Exhibit B, Determination of the Cost of the Work and a final Application for Payment; and
.3 a final Certificate for Payment or Project Certificate for Payment has been issued by the Architect in accordance with Exhibit B, Determination of the Cost of the Work.

§ 5.2.2.2 The Owner's final payment to the Contractor shall be made no later than 30 days after the issuance of the final Certificate for Payment or Project Certificate for Payment, or as follows:

§ 5.3 Payments due and unpaid under the Contract shall bear interest from the date payment is due at the rate stated below.
(Insert rate of interest agreed upon, if any.)

Zero %

ARTICLE 6 DISPUTE RESOLUTION
§ 6.1 Initial Decision Maker
The Architect will serve as Initial Decision Maker pursuant to Article 15 of AIA Document
(Paragraphs deleted)
A232–2019.

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§ 6.1.1 Mediation

The Owner or the Contractor may request mediation of any Claim submitted to the Initial Decision Maker before the decision becomes final and binding. The mediation shall be governed by the Construction Industry Mediation Rules of the American Arbitration Association in effect at the date of this contract. The request for mediation shall be made in writing by the party requesting mediation and the other party of this contract. The Owner and Contractor shall participate in mediation in good faith. The mediation shall be concluded within 60 days of the request. Mediation is not a condition precedent to commencing litigation. If litigation is commenced, the Owner and Contractor agree to mediate before any dispositive motion or trial.

§ 6.2 Binding Dispute Resolution

For any Claim subject to, but not resolved by, mediation pursuant to Article 15 of AIA Document A232–2019, the method of binding dispute resolution shall be as follows:
(Check the appropriate box.)

[ ] Arbitration pursuant to Article 15 of AIA Document A232–2019.

[X] Litigation in a state or federal court of competent jurisdiction located in Hennepin County, Minnesota.

[ ] Other: *(Specify)*

If the Owner and Contractor do not select a method of binding dispute resolution, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, Claims will be resolved by litigation in a court of competent jurisdiction.

ARTICLE 7 TERMINATION OR SUSPENSION

§ 7.1 Where the Contract Sum is a Stipulated Sum

§ 7.1.1 The Contract may be terminated by the Owner or the Contractor as provided in Article 14 of AIA Document A232–2019.

§ 7.1.1.1 If the Contract is terminated for the Owner's convenience in accordance with Article 14 of AIA Document A232–2019, then the Owner shall pay the Contractor a termination fee as follows:
(Insert the amount of, or method for determining, the fee, if any, payable to the Contractor following a termination for the Owner's convenience.)

Termination fee will be based on the percentage of Work completed and any materials purchased or in production at the time of termination. Said fee and justification shall be provided to the Owner by the Contractor within ten (10) days' notice of the termination.

§ 7.1.2 The Work may be suspended by the Owner as provided in Article 14 of AIA Document A232–2019.

(Paragraphs deleted)

ARTICLE 8 MISCELLANEOUS PROVISIONS

§ 8.1 Where reference is made in this Agreement to a provision of AIA Document A232–2019 or another Contract Document, the reference refers to that provision as amended or supplemented by other provisions of the Contract Documents.

§ 8.2 The Owner's representative:
(Name, address, email address, and other information)

Curtis Hartog, PE, Executive Director
Minneapolis Public Schools, SSD#1
Capital Planning, Construction & Maintenance
1250 West Broadway Avenue, Minneapolis, MN 55411

§ 8.3 The Contractor's representative:

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(Name, address, email address, and other information)

Lynn Bishop
President
NAC Mechanical and Electrical Services
1001 Labore Industrial Court, Suite B
Vadnais Heights, MN 55110

§ 8.4 Neither the Owner's nor the Contractor's representative shall be changed without ten days' prior notice to the other party.

§ 8.5 Record Keeping—Availability and Retention
Pursuant to Minnesota Statutes, Section 16C.05, subd. 5, Contractor agrees that the books, records, documents and accounting procedures and practices of Contractor, that are relevant to the Contract or transaction, are subject to examination by the Owner, the Owner's auditor, and the state auditor for a minimum of six (6) years. Contractor shall maintain such records for a minimum of six (6) years after final payment.

§ 8.6 Data Practices
Pursuant to Minnesota Statutes, Section 13.05, subd. 11, all of the data created, collected, received, stored, used, maintained, or disseminated by Contractor in performing this contract is subject to the requirements of the Minnesota Government Data Practices Act ("MGDPA"), Minnesota Statutes Chapter 13, and Contractor must comply with those requirements as if it were a government entity. The remedies in Minnesota Statutes, Section 13.08 apply to Contractor. Contractor does not have a duty to provide access to public data to the public if the public data are available from the Owner, except as required by the terms of this contract.

§ 8.7 Non-Discrimination
Pursuant to Minnesota Statutes, Section 181.59, the Contractor will take affirmative action to ensure that applicants are selected, and that employees are treated during employment, without regard to their race, color, creed, religion, national origin, sex, sexual orientation, marital status, status with regard to public assistance, membership or activity in a local civil rights commission, disability or age. The Contractor agrees to be bound by the provisions of Minnesota Statutes, Section 181.59, that prohibits certain discriminatory practices and the terms of said section are incorporated into this contract.

§ 8.8 Prompt Payment to Subcontractors
In accordance with the Prompt Payment Act, each Prime Contractor must pay any subcontractor within ten (10) days of the Prime Contractor's receipt of payment from the municipality for undisputed services provided by the subcontractor. The Subcontract must require the Prime Contractor to pay interest of 1-1/2 percent per month or any part of a month to the subcontractor on any undisputed amount not paid on time to the subcontractor. The minimum monthly interest penalty payment for an unpaid balance of $100 or more is $10. For an unpaid balance of less than $100, the Prime Contractor shall pay the actual penalty due to the subcontractor. A subcontractor who prevails in a civil action to collect interest penalties from a Prime Contractor must be awarded its costs and disbursements, including attorney's fees, incurred in bringing the action.

§ 8.9 Prevailing Wage
Contractor agrees that all laborers or mechanics working on the Project shall receive at least the prevailing wage rate in accordance with Minnesota Statutes Section 177.42, *et seq*. Contractor agrees further that it will incorporate any and all necessary contract language in its agreements with any subcontractors to allow Contractor to monitor and enforce the prevailing wage requirement for subcontractors of any tier.

§ 8.5 Insurance and Bonds
§ 8.5.1 The Owner and the Contractor shall purchase and maintain insurance as set forth EXH-C Owner Insurance.

§ 8.5.2 The Contractor shall provide bonds as set forth in AIA Document A132™–2019, Exhibit A, and elsewhere in the Contract Documents.

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§ 8.6 Notice in electronic format, pursuant to Article 1 of AIA Document A232–2019, may be given in accordance with AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, if completed, or as otherwise set forth below:
(If other than in accordance with AIA Document E203–2013, insert requirements for delivering notice in electronic format such as name, title, and email address of the recipient and whether and how the system will be required to generate a read receipt for the transmission.)

email to Owner's representative identified in Section 8.2

§ 8.7 Relationship of the Parties
Where the Contract is based on the Cost of the Work plus the Contractor's Fee, with or without a Guaranteed Maximum Price, the Contractor accepts the relationship of trust and confidence established by this Agreement and covenants with the Owner to cooperate with the Architect and exercise the Contractor's skill and judgment in furthering the interests of the Owner; to furnish efficient business administration and supervision; to furnish at all times an adequate supply of workers and materials; and to perform the Work in an expeditious and economical manner consistent with the Owner's interests. The Owner agrees to furnish and approve, in a timely manner, information required by the Contractor and to make payments to the Contractor in accordance with the requirements of the Contract Documents.

§ 8.8 Other provisions:

Owner prohibits Contractor from using the Work in any marketing material or business development practice. Contractor is prohibited from communication with any news outlet or public without Owner's written approval.

Floor plans, designs, wiring, safety and security measures shall be kept confidential by the Contractor, the Subcontractors, the Sub-Subcontractors (of any tier) during and after completion of the Work.

ARTICLE 9 ENUMERATION OF CONTRACT DOCUMENTS

§ 9.1 This Agreement is comprised of the following documents:

.1 AIA Document A132™–2019, Standard Form of Agreement Between Owner and Contractor, Construction Manager as Adviser Edition

.2 AIA Document A132™–2019, Exhibit A, Insurance and Bonds Exhibit

.3 AIA Document A232™–2019, General Conditions of the Contract for Construction, Construction Manager as Adviser Edition

.4 AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, dated as indicated below:
(Insert the date of the E203-2013 incorporated into this Agreement.)

Not Applicable

.5 Drawings

Number	Title	Date
139	North High School Renovations & CTE Center Vol 1 of 2	November 13, 2024
209	North High School Renovations & CTE Center Vol 2 of 2	November 13, 2024

.6 Specifications

Section	Title	Date	Pages
All Specifications	North High School Renovations and CTE Center Bid Package 4	November 13, 2024	1414

.7 Addenda, if any:

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Number	Date	Pages
1	December 2, 2024	70
2	December 9, 2024	165

Portions of Addenda relating to bidding or proposal requirements are not part of the Contract Documents unless the bidding or proposal requirements are also enumerated in this Article 9.

.8 Other Exhibits:

EXH-B Project Charter
EXH-C Owner Insurance
EXH-D Project Schedule
(Check all boxes that apply and include appropriate information identifying the exhibit where required.)

[ ]
(Paragraphs deleted)
[ ] Supplementary and other Conditions of the Contract:

Document	Title	Date	Pages

.9 Other documents, if any, listed below:
(List here any additional documents that are intended to form part of the Contract Documents. AIA Document A232–2019 provides that the advertisement or invitation to bid, Instructions to Bidders, sample forms, the Contractor's bid or proposal, portions of Addenda relating to bidding or proposal requirements, and other information furnished by the Owner in anticipation of receiving bids or proposals, are not part of the Contract Documents unless enumerated in this Agreement. Any such documents should be listed here only if intended to be part of the Contract Documents.)

Contractors Bid Documents

This Agreement is entered into as of the day and year first written above.

OWNER *(Signature)*	Sarah Selas Digitally signed by Sarah Selas DN: C=US, E=sarah.selas@apigroupinc.us, O="API HVAC Services, Inc.", OU=Contracts Manager, CN=Sarah Selas Date: 2025.02.21 09:30:04-06'00' **CONTRACTOR** *(Signature)*
Tom Parent, Sr Operations Officer *(Printed name and title)*	Contracts Manager *(Printed name and title)*

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Additions and Deletions Report for

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This Additions and Deletions Report, as defined on page 1 of the associated document, reproduces below all text the author has added to the standard form AIA document in order to complete it, as well as any text the author may have added to or deleted from the original AIA text. Added text is shown underlined. Deleted text is indicated with a horizontal line through the original AIA text.

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PAGE 1

AGREEMENT made as of the first___day of _February_____in the year 2025_

...

Minneapolis Public Schools Special School District #1
1250 West Broadway Avenue
Minneapolis, MN 55411

...

NAC Mechanical and Electrical Services
1001 Labore Industrial Court, Suite B
Vadnais Heights, MN 55110

...

North High School Phase 4 Work Scope 26-AElectrical
1500 James Avenue
Minneapolis, MN 55411

...

Kraus-Anderson Construction Company
501 South 8th Street
Minneapolis, MN 55405

...

LSE Architects
1401 Glenwood Avenue
Minneapolis, MN 55405

PAGE 2

The Contract Documents consist of this Agreement, Conditions of the Contract (General, Supplementary, and other Conditions), Drawings, Specifications, Addenda issued prior to execution of this Agreement, other documents ("Contract" or "Contract Documents") listed in this Agreement, and Modifications issued after execution of this Agreement, all of which form the Contract, and are as fully a part of the Contract as if attached to this Agreement or repeated herein. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations, or agreements, either written or oral. An enumeration of the Contract Documents, other than Modifications, appears in Article 9.

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§ 1.2 In the event that there are inconsistencies between any of the Project Contract Documents, all Contract Documents shall be construed together and shall be read with a purpose and intent to provide that the Contractor shall commit to fully complete its Project Work and services with the greater degree of commitment as referenced in the Contract Documents, including the plans and specifications, to work diligently to ensure completion of the Project in a timely and workmanlike manner and at the earliest stated times provided for in Project schedules, as they may be revised, and to ensure that Contractor, and all of its Subcontractors and suppliers complete the Project on schedule and within Project Contract Price, subject to approved change orders.

§ 1.3 Contractor acknowledges that it has had full, fair, and adequate opportunity to review all of the Project bidding and Contract Documents, that it has fully satisfied itself as to the scope and requirements of the Project, that it has fully and fairly investigated all Project site conditions and circumstances and Contract Documents, including any potential difficulties or interferences present in the same, that it has had the opportunity to ask questions during the bidding phase and that it has received adequate answers to any such questions, that it has had the opportunity to attend and fairly participate in all pre-bid conferences and pre-construction conferences, and that it has required the same of all of its Subcontractors.

PAGE 3

[**X**] A date set forth in a notice to proceed issued by the Owner.

...

Defined in EXH-D Project Schedule

§ 3.3.2 Subject to adjustments of the Contract Time as provided in the Contract Documents, if portions of the Work of all of the Contractors for the Project are to be completed prior to Substantial Completion of the entire Work of all of the Contractors for the Project, the Contractors shall achieve Substantial Completion of such portions by the following ~~dates:~~dates defined in EXH-D Project Schedule. Such portions of the Work not completed as defined in EXH-D Project Schedule shall be subject to liquidated damages as set forth in Article 4.5.

~~**Portion of Work** **Substantial Completion Date**~~

~~**§ 3.4 When the Work of this Contract, or any Portion Thereof, is Substantially Complete**~~
~~**§ 3.4.1** Subject to adjustments of the Contract Time as provided in the Contract Documents, the Contractor shall substantially complete the entire Work of this Contract:~~
~~*(Check one of the following boxes and complete the necessary information.)*~~

~~[–] Not later than ( ) calendar days from the date of commencement of the Work.~~

~~[–] By the following date:~~

~~**§ 3.4.2** Subject to adjustments of the Contract Time as provided in the Contract Documents, if portions of the Work of this Contract are to be substantially complete prior to when the entire Work of this Contract shall be substantially complete, the Contractor shall substantially complete such portions by the following dates:~~

~~**Portion of Work** **Date to be substantially complete**~~

...

§ 4.1 The Owner shall pay the Contractor the Contract Sum in current funds for the Contractor's performance of the ~~Contract. The Contract Sum shall be one of the following:~~
~~*(Check the appropriate box.)*~~

~~[–] Stipulated Sum, in accordance with Section 4.2 below~~

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[–] Cost of the Work plus the Contractor's Fee, in accordance with Section 4.3 below

[–] Cost of the Work plus the Contractor's Fee with a Guaranteed Maximum Price, in accordance with Section 4.4 below

(Based on the selection above, complete Section 4.2, 4.3 or 4.4 below.)
Contract as defined in EXH-B Project Charter, subject to additions and deductions as provided in the Contract Documents.

...

§ 4.2.1 The Contract Sum shall be three million, thirty-seven thousand dollars ($ 3,037,000), subject to additions and deductions as provided in the Contract Documents.

...

§ 4.2.2.1 Alternates, if any, included in the Contract Sum:
Sum are defined in EXH-B Project Charter.

Item	Price

§ 4.2.2.2 Subject to the conditions noted below, the following in EXH-B Project Charter, alternates may be accepted by the Owner following execution of this Agreement. Upon acceptance, the Owner shall issue a Modification to this Agreement.
(Insert below each alternate and the conditions that must be met for the Owner to accept the alternate.)

Item	Price	Conditions for Acceptance

§ 4.2.3 Allowances, if any, included in the Contract Sum:Sum are defined in EXH-B Project Charter.

...

§ 4.2.4 Unit prices, if any:
(Identify the item and state the unit price, and quantity limitations, if any, to which the unit price will be applicable.)any are defined in EXH-B Project Charter.

Item	Units and Limitations	Price per Unit ($0.00)

§ 4.3 Cost of the Work Plus Contractor's Fee without a Guaranteed Maximum PriceAllowances, if any, included in the Contract Sum are defined in EXH-B Project Charter.
§ 4.3.1 The Cost of the Work is as defined in Exhibit B, Determination of the Cost of the Work.

§ 4.3.2 The Contractor's Fee:
(State a lump sum, percentage of Cost of the Work or other provision for determining the Contractor's Fee.)

§ 4.3.3 The method of adjustment of the Contractor's Fee for changes in the Work:

§ 4.3.4 Limitations, if any, on a Subcontractor's overhead and profit for increases in the cost of its portion of the Work:

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~~§ 4.3.5 Rental rates for Contractor-owned equipment shall not exceed ( ) percent (%) of the standard rental rate paid at the place of the Project.~~

~~§ 4.3.6 Unit prices, if any:~~
~~*(Identify the item and state the unit price and quantity limitations, if any, to which the unit price will be applicable.)*~~

~~Item~~	~~Units and Limitations~~	~~Price per Unit ($0.00)~~

~~§ 4.3.7 The Contractor shall prepare and submit to the Construction Manager, within 14 days of executing this Agreement, a written Control Estimate for the Owner's review and approval. The Control Estimate shall include the items in Section B.1 of Exhibit B, Determination of the Cost of the Work.~~

~~§ 4.4 Cost of the Work Plus Contractor's Fee with a Guaranteed Maximum Price~~Unit prices, if any, are defined in EXH-B Project Charter.
~~§ 4.4.1 The Cost of the Work is as defined in Exhibit B, Determination of the Cost of the Work.~~

~~§ 4.4.2 The Contractor's Fee:~~
~~*(State a lump sum, percentage of Cost of the Work or other provision for determining the Contractor's Fee.)*~~

~~§ 4.4.3 The method of adjustment of the Contractor's Fee for changes in the Work:~~

~~§ 4.4.4 Limitations, if any, on a Subcontractor's overhead and profit for increases in the cost of its portion of the Work:~~

~~§ 4.4.5 Rental rates for Contractor-owned equipment shall not exceed ( ) percent (%) of the standard rental rate paid at the place of the Project.~~

~~§ 4.4.6 Unit Prices, if any:~~
~~*(Identify the item and state the unit price and quantity limitations, if any, to which the unit price will be applicable.)*~~

~~Item~~	~~Units and Limitations~~	~~Price per Unit ($0.00)~~

~~§ 4.4.7 Guaranteed Maximum Price~~
~~§ 4.4.7.1 The Contract Sum is guaranteed by the Contractor not to exceed ($), subject to additions and deductions by Change Order as provided in the Contract Documents. This maximum sum is referred to in the Contract Documents as the Guaranteed Maximum Price. Costs which would cause the Guaranteed Maximum Price to be exceeded shall be paid by the Contractor without reimbursement by the Owner.~~

~~§ 4.4.7.2 Alternates~~
~~§ 4.4.7.2.1 Alternates, if any, included in the Guaranteed Maximum Price:~~

~~Item~~	~~Price~~

~~§ 4.4.7.2.2 Subject to the conditions noted below, the following alternates may be accepted by the Owner following execution of this Agreement. Upon acceptance, the Owner shall issue a Modification to this Agreement.~~
~~*(Insert below each alternate and the conditions that must be met for the Owner to accept the alternate.)*~~

~~Item~~	~~Price~~	~~Conditions for Acceptance~~

~~§ 4.4.7.3 Allowances, if any, included in the Guaranteed Maximum Price:~~
~~*(Identify each allowance.)*~~

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~~Item~~ ~~Price~~

~~§ 4.4.7.4 Assumptions, if any, upon which the Guaranteed Maximum Price is based:~~
~~*(Identify each assumption.)*~~

~~§ 4.4.8 To the extent that the Contract Documents are anticipated to require further development, the Guaranteed Maximum Price includes the costs attributable to such further development consistent with the Contract Documents and reasonably inferable therefrom. Such further development does not include changes in scope, systems, kinds and quality of materials, finishes, or equipment, all of which, if required, shall be incorporated by Change Order.~~

~~§ 4.4.9 The Owner shall authorize preparation of revisions to the Contract Documents that incorporate the agreed-upon assumptions contained in Section 4.4.7.4. The Owner shall promptly furnish such revised Contract Documents to the Contractor. The Contractor shall notify the Owner and Architect of any inconsistencies between the agreed-upon assumptions contained in Section 4.4.7.4 and the revised Contract Documents.~~

PAGE 4

Contractor and Owner recognize that time is of the essence for the Project and the Owner will suffer financial loss if the Work is not completed in the time specified in the Contract Documents. The parties also recognize the delays, expenses, and difficulties involved in proving in a legal proceeding the actual loss suffered by the Owner if the Work is not completed on time. Accordingly, instead of requiring such proof, the Owner and Contractor agree that as liquidated damages for delay (but not as penalty), Contractor shall pay Owner One Thousand Dollars ($1,000.00) per calendar day for each day that expires after the time specified for Substantial Completion in EXH-D Project Schedule until such time the Work is determined to be substantially complete by the Owner.

After Substantial Completion, if Contractor neglects, refuses, or fails to complete the remaining Work within the Contract Time specified in the Contract Documents, the Contractor shall pay the Owner One Thousand Dollars ($1,000.00) per day that expires after the time specified in the Contract Documents for Final Completion and readiness for Final Payment until the Work is completed.

...

None

...

§ 5.1.1 Based upon Applications for Payment submitted to the Construction Manager by the Contractor, and Certificates for Payment issued by the Construction Manager and ~~Architect,~~ Architect and approval by the Owner's Representative, the Owner shall make progress payments on account of the Contract Sum, to the Contractor, as provided below and elsewhere in the Contract Documents.

§ 5.1.2 The period covered by each Application for Payment shall be one calendar month ending on the last day of the ~~month, or as follows:~~
month.

§ 5.1.3 ~~Provided that~~ When an Application for Payment is received by the Construction ~~Manager not later than the day of a month, the Owner shall make payment of the amount certified to the Contractor not later than the day of the month. If an Application for Payment is received by the Construction Manager after the application date fixed above, payment of the amount certified~~ Manager, payment of the amount certified shall be made by the Owner not later than forty-five (45) days after the Construction Manager receives the Application for Payment. Unless expressly otherwise agreed in this Contract, payments and payment disputes shall be governed by the Prompt Payment of Local Government Bills, Minnesota Statutes, Section 471.425 ("Prompt Payment Act").

...

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§ 5.1.4.1 Each Application for Payment shall be based on the most recent schedule of values submitted by the Contractor on AIA G702 Application and Certificate for Payment in accordance with the Contract Documents. The schedule of values shall allocate the entire Contract Sum among the various portions of the Work. The schedule of values shall be prepared in such form, and supported by such data to substantiate its accuracy, as the Construction Manager and Architect may require. This schedule of values shall be used as a basis for reviewing the Contractor's Applications for Payment.
PAGE 5

§ 5.1.4.3 In accordance with AIA Document A232™–2019, General Conditions of the Contract for Construction, Construction Manager as Adviser Edition, as modified and subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

...

~~**§ 5.1.5 Progress Payments Where the Contract Sum is Based on the Cost of the Work without a Guaranteed Maximum Price**~~

~~**§ 5.1.5.1** With each Application for Payment, the Contractor shall submit the cost control information required in Exhibit B, Determination of the Cost of the Work, along with payrolls, petty cash accounts, receipted invoices, or invoices with check vouchers attached, and any other evidence required by the Owner, Construction Manager or Architect to demonstrate that payments already made by the Contractor on account of the Cost of the Work equal or exceed progress payments already received by the Contractor, plus payrolls for the period covered by the present Application for Payment, less that portion of the payments attributable to the Contractor's Fee.~~

~~**§ 5.1.5.2** Applications for Payment shall show the Cost of the Work actually incurred by the Contractor through the end of the period covered by the Application for Payment and for which the Contractor has made or intends to make actual payment prior to the next Application for Payment.~~

~~**§ 5.1.5.3** In accordance with AIA Document A232–2019 and subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:~~

~~**§ 5.1.5.3.1** The amount of each progress payment shall first include:~~

- ~~**.1** The Cost of the Work as described in Exhibit B, Determination of the Cost of the Work;~~
- ~~**.2** That portion of Construction Change Directives that the Architect determines, in the Architect's professional judgment, to be reasonably justified; and~~
- ~~**.3** The Contractor's Fee computed upon the Cost of the Work described in the preceding Section 5.1.5.3.1.1 at the rate stated in Section 4.3.2; or if the Contractor's Fee is stated as a fixed sum in Section 4.3.2 an amount which bears the same ratio to that fixed-sum Fee as the Cost of the Work included in Section 5.1.5.3.1.1 bears to a reasonable estimate of the probable Cost of the Work upon its completion.~~

~~**§ 5.1.5.3.2** The amount of each progress payment shall then be reduced by:~~

- ~~**.1** The aggregate of any amounts previously paid by the Owner;~~
- ~~**.2** The amount, if any, for Work that remains uncorrected and for which the Architect has previously withheld a Certificate for Payment as provided in Article 9 of AIA Document A232–2019;~~
- ~~**.3** Any amount for which the Contractor does not intend to pay a Subcontractor or material supplier, unless the Work has been performed by others the Contractor intends to pay;~~
- ~~**.4** For Work performed or defects discovered since the last payment application, any amount for which the Architect may withhold payment, or nullify a Certificate of Payment in whole or in part, as provided in Article 9 of AIA Document A232–2019;~~
- ~~**.5** The shortfall, if any, indicated by the Contractor in the documentation required by Section 5.1.5.1 to substantiate prior Applications for Payment, or resulting from errors subsequently discovered by the Owner's auditors in such documentation; and~~
- ~~**.6** Retainage withheld pursuant to Section 5.1.7.~~

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§ 5.1.5.4 The Owner, Construction Manager and Contractor shall agree upon a mutually acceptable procedure for review and approval of payments to Subcontractors and the percentage of retainage held on Subcontracts, and the Contractor shall execute subcontracts in accordance with those agreements.

§ 5.1.5.5 In taking action on the Contractor's Applications for Payment, the Construction Manager and Architect shall be entitled to rely on the accuracy and completeness of the information furnished by the Contractor, and such action shall not be deemed to be a representation that (1) the Construction Manager and Architect have made a detailed examination, audit or arithmetic verification of the documentation submitted in accordance with Article 5 or other supporting data; (2) that the Construction Manager and Architect have made exhaustive or continuous on-site inspections; or (3) that the Construction Manager and Architect have made examinations to ascertain how or for what purposes the Contractor has used amounts previously paid on account of the Contract. Such examinations, audits and verifications, if required by the Owner, will be performed by the Owner's auditors acting in the sole interest of the Owner.

§ 5.1.5.6 Except with the Owner's prior approval, the Contractor shall not make advance payments to suppliers for materials or equipment which have not been delivered and stored at the site.

§ 5.1.5.7 If final completion of the Work is materially delayed through no fault of the Contractor, then the Owner shall pay the Contractor any additional amounts in accordance with Article 9 of AIA Document A232–2019.

§ 5.1.6 Progress Payments Where the Contract Sum is Based on the Cost of the Work with a Guaranteed Maximum Price

§ 5.1.6.1 With each Application for Payment, the Contractor shall submit payrolls, petty cash accounts, receipted invoices or invoices with check vouchers attached, and any other evidence required by the Owner, Construction Manager or Architect to demonstrate that payments already made by the Contractor on account of the Cost of the Work equal or exceed progress payments already received by the Contractor plus payrolls for the period covered by the present Application for Payment, less that portion of the progress payments attributable to the Contractor's Fee.

§ 5.1.6.2 Each Application for Payment shall be based on the most recent schedule of values submitted by the Contractor in accordance with the Contract Documents. The schedule of values shall allocate the entire Guaranteed Maximum Price among: (1) the various portions of the Work; (2) any contingency for costs that are included in the Guaranteed Maximum Price but not otherwise allocated to another line item or included in a Change Order; and (3) the Contractor's Fee.

§ 5.1.6.2.1 The schedule of values shall be prepared in such form, and supported by such data to substantiate its accuracy, as the Construction Manager and Architect may require. This schedule of values shall be used as a basis for reviewing the Contractor's Applications for Payment.

§ 5.1.6.2.2 The allocation of the Guaranteed Maximum Price under this Section 5.1.6.2 shall not constitute a separate guaranteed maximum price for the Cost of the Work of each individual line item in the schedule of values.

§ 5.1.6.2.3 When the Contractor allocates costs from a contingency to another line item in the schedule of values, the Contractor shall submit supporting documentation to the Architect and Construction Manager.

§ 5.1.6.3 Applications for Payment shall show the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment. The percentage of completion shall be the lesser of (1) the percentage of that portion of the Work which has actually been completed; or (2) the percentage obtained by dividing (a) the expense that has actually been incurred by the Contractor on account of that portion of the Work and for which the Contractor has made payment or intends to make payment prior to the next Application for Payment by (b) the share of the Guaranteed Maximum Price allocated to that portion of the Work in the schedule of values.

§ 5.1.6.4 In accordance with AIA Document A232–2019, and subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

§ 5.1.6.4.1 The amount of each progress payment shall first include:

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.1 That portion of the Guaranteed Maximum Price properly allocable to completed Work as determined by multiplying the percentage of completion of each portion of the Work by the share of the Guaranteed Maximum Price allocated to that portion of the Work in the most recent schedule of values;

.2 That portion of the Guaranteed Maximum Price properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction or, if approved in writing in advance by the Owner, suitably stored off the site at a location agreed upon in writing;

.3 That portion of Construction Change Directives that the Architect determines, in the Architect's professional judgment, to be reasonably justified; and

.4 The Contractor's Fee, computed upon the Cost of the Work described in the preceding Sections 5.1.6.4.1.1 and 5.1.6.4.1.2 at the rate stated in Section 4.4.2 or, if the Contractor's Fee is stated as a fixed sum in that Section, an amount that bears the same ratio to that fixed-sum fee as the Cost of the Work included in Sections 5.1.6.4.1.1 and 5.1.6.4.1.2 bears to a reasonable estimate of the probable Cost of the Work upon its completion.

§ 5.1.6.4.2 The amount of each progress payment shall then be reduced by:

.1 The aggregate of any amounts previously paid by the Owner;

.2 The amount, if any, for Work that remains uncorrected and for which the Architect has previously withheld a Certificate for Payment as provided in Article 9 of AIA Document A232–2019;

.3 Any amount for which the Contractor does not intend to pay a Subcontractor or material supplier, unless the Work has been performed by others the Contractor intends to pay;

.4 For Work performed or defects discovered since the last payment application, any amount for which the Architect may withhold payment, or nullify a Certificate of Payment in whole or in part, as provided in Article 9 of AIA Document A232–2019;

.5 The shortfall, if any, indicated by the Contractor in the documentation required by Section 5.1.6.1 to substantiate prior Applications for Payment, or resulting from errors subsequently discovered by the Owner's auditors in such documentation; and

.6 Retainage withheld pursuant to Section 5.1.7.

§ 5.1.6.5 The Owner and the Contractor shall agree upon a mutually acceptable procedure for review and approval of payments to Subcontractors and the percentage of retainage held on Subcontracts, and the Contractor shall execute subcontracts in accordance with those agreements.

§ 5.1.6.6 In taking action on the Contractor's Applications for Payment, the Construction Manager and Architect shall be entitled to rely on the accuracy and completeness of the information furnished by the Contractor and such action shall not be deemed to be a representation that (1) the Construction Manager or Architect have made a detailed examination, audit, or arithmetic verification of the documentation submitted in accordance with Section 5.1.6.1 or other supporting data; (2) that the Construction Manager or Architect have made exhaustive or continuous on-site inspections; or (3) that the Construction Manager or Architect have made examinations to ascertain how or for what purposes the Contractor has used amounts previously paid on account of the Contract. Such examinations, audits, and verifications, if required by the Owner, will be performed by the Owner's auditors acting in the sole interest of the Owner.

§ 5.1.6.7 Except with the Owner's prior approval, the Contractor shall not make advance payments to suppliers for materials or equipment which have not been delivered and stored at the site.

§ 5.1.6.8 If final completion of the Work is materially delayed through no fault of the Contractor, then the Owner shall pay the Contractor any additional amounts in accordance with Article 9 of AIA Document A232-2019.

...

Five Percent (5%)

...

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For major items installed into the Work, the Contractor may request full payment for the items to ensure prompt delivery and fabrication. Such items shall be recommended by the Architect and approved by the Owner as not requiring retainage. Prompt payment for the items shall be documented by the Contractor to the Owner in the subsequent payment application by submitting a full lien release for the items. Major items may include mechanical units with long lead times, structural systems with long lead times, critical path systems or items, etc. Major items will be discussed and defined by Owner, Architect, Construction Manager and Contractor.

...

Prior to Substantial Completion and at the discretion of the Owner, retainage may be reduced. If the Work has been fifty percent (50%) completed as determined by the Architect and is satisfactory to the Owner, then ninety percent (90%) of the retained amount may be released to the Contractor for completed Work (with ten percent (10%) of the total retained by the Owner).

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Upon Substantial Completion, additional retainage may be returned to the Contractor as recommended by the Architect and Construction Manager and approved by the Owner to an amount sufficient to satisfactorily complete the Work. Retainage release will comply with Minnesota Statutes, Section 15.72 after Substantial Completion and punch list acceptance by the Owner.

...

.1 the Contractor has fully performed the Contract except for the Contractor's responsibility to correct Work as provided in Article 12 of AIA Document A232–2019, and to satisfy other requirements, if any, which extend beyond final payment; ~~and~~

.2 a final Certificate for Payment or Project Certificate for Payment has been issued by ~~the Architect.~~the Architect; and

.3 all lien waivers and IC134 forms have been delivered to the Owner.

§ 5.2.1.2 The Owner's final payment to the Contractor shall be made no later than ~~30~~ forty-five (45) days after the issuance of the Architect's final Certificate for Payment or Project Certificate for Payment, or as follows:

...

§ 5.3 Payments due and unpaid under the Contract shall bear interest from the date payment is due at the rate stated ~~below, or in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located.~~below.

...

Zero %

...

The Architect will serve as Initial Decision Maker pursuant to Article 15 of AIA Document ~~A232–2019, unless the parties appoint below another individual, not a party to this Agreement, to serve as Initial Decision Maker.~~
~~*(If the parties mutually agree, insert the name, address and other contact information of the Initial Decision Maker, if other than the Architect.)*~~

A232–2019.

§ 6.1.1 Mediation

The Owner or the Contractor may request mediation of any Claim submitted to the Initial Decision Maker before the decision becomes final and binding. The mediation shall be governed by the Construction Industry Mediation Rules of the American Arbitration Association in effect at the date of this contract. The request for mediation shall be made in

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writing by the party requesting mediation and the other party of this contract. The Owner and Contractor shall participate in mediation in good faith. The mediation shall be concluded within 60 days of the request. Mediation is not a condition precedent to commencing litigation. If litigation is commenced, the Owner and Contractor agree to mediate before any dispositive motion or trial.

PAGE 7

[ ] ~~Litigation in a court of competent jurisdiction.~~ [X] Litigation in a state or federal court of competent jurisdiction located in Hennepin County, Minnesota.

...

Termination fee will be based on the percentage of Work completed and any materials purchased or in production at the time of termination. Said fee and justification shall be provided to the Owner by the Contractor within ten (10) days' notice of the termination.

...

~~**§ 7.2 Where the Contract Sum is Based on the Cost of the Work with or without a Guaranteed Maximum Price**~~

~~**§ 7.2.1 Termination**~~

~~**§ 7.2.1.1** The Contract may be terminated by the Owner or the Contractor as provided in Article 14 of AIA Document A232–2019.~~

~~**§ 7.2.1.2 Termination by the Owner for Cause**~~

~~**§ 7.2.1.2.1** If the Owner terminates the Contract for cause as provided in Article 14 of AIA Document A232–2019, the Owner shall then only pay the Contractor an amount as follows:~~

- ~~**.1** Take the Cost of the Work incurred by the Contractor to the date of termination;~~
- ~~**.2** Add the Contractor's Fee, computed upon the Cost of the Work to the date of termination at the rate stated in Section 4.3.2 or 4.4.2, as applicable, or, if the Contractor's Fee is stated as a fixed sum in that Section, an amount that bears the same ratio to that fixed-sum Fee as the Cost of the Work at the time of termination bears to a reasonable estimate of the probable Cost of the Work upon its completion;~~
- ~~**.3** Subtract the aggregate of previous payments made by the Owner; and~~
- ~~**.4** Subtract the costs and damages incurred, or to be incurred, by the Owner under Article 14 of AIA Document A232–2019.~~

~~**§ 7.2.1.2.2** When the Contract Sum is based on the Cost of the Work with a Guaranteed Maximum Price, if the Owner terminates the Contract for cause as provided in Article 14 of AIA Document A232-2019, the amount, if any, to be paid to the Contractor under Article 14 of AIA Document A232-2019 shall not cause the Guaranteed Maximum Price to be exceeded, nor shall it exceed the amount calculated in Section 7.2.1.2.1.~~

~~**§ 7.2.1.2.3** The Owner shall also pay the Contractor fair compensation, either by purchase or rental at the election of the Owner, for any equipment owned by the Contractor that the Owner elects to retain and that is not otherwise included in the Cost of the Work under Section 7.2.1.2.1.1. To the extent that the Owner elects to take legal assignment of subcontracts and purchase orders (including rental agreements), the Contractor shall, as a condition of receiving the payments referred to in this Article 7, execute and deliver all such papers and take all such steps, including the legal assignment of such subcontracts and other contractual rights of the Contractor, as the Owner may require for the purpose of fully vesting in the Owner the rights and benefits of the Contractor under such subcontracts or purchase orders. All Subcontracts, purchase orders and rental agreements entered into by the Contractor will contain provisions allowing for assignment to the Owner as described above.~~

~~**§ 7.2.1.3 Termination by the Owner for Convenience**~~

~~If the Owner terminates the Contract for convenience in accordance with Article 14 of AIA Document A232–2019, then the Owner shall pay the Contractor a termination fee as follows:~~

~~*(Insert the amount of or method for determining the fee, if any, payable to the Contractor following a termination for the Owner's convenience.)*~~

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~~§ 7.3 Suspension~~

~~The Work may be suspended by the Owner as provided in Article 14 of AIA Document A232–2019; in such case, the Contract Sum and Contract Time shall be increased as provided in Article 14 of AIA Document A232–2019, except that the term "profit" shall be understood to mean the Contractor's Fee as described in Section 4.3.2 or 4.4.2, as applicable, of this Agreement.~~

...

Curtis Hartog, PE, Executive Director
Minneapolis Public Schools, SSD#1
Capital Planning, Construction & Maintenance
1250 West Broadway Avenue, Minneapolis, MN 55411
PAGE 8

Lynn Bishop
President
NAC Mechanical and Electrical Services
1001 Labore Industrial Court, Suite B
Vadnais Heights, MN 55110

...

§ 8.5 Record Keeping—Availability and Retention

Pursuant to Minnesota Statutes, Section 16C.05, subd. 5, Contractor agrees that the books, records, documents and accounting procedures and practices of Contractor, that are relevant to the Contract or transaction, are subject to examination by the Owner, the Owner's auditor, and the state auditor for a minimum of six (6) years. Contractor shall maintain such records for a minimum of six (6) years after final payment.

§ 8.6 Data Practices

Pursuant to Minnesota Statutes, Section 13.05, subd. 11, all of the data created, collected, received, stored, used, maintained, or disseminated by Contractor in performing this contract is subject to the requirements of the Minnesota Government Data Practices Act ("MGDPA"), Minnesota Statutes Chapter 13, and Contractor must comply with those requirements as if it were a government entity. The remedies in Minnesota Statutes, Section 13.08 apply to Contractor. Contractor does not have a duty to provide access to public data to the public if the public data are available from the Owner, except as required by the terms of this contract.

§ 8.7 Non-Discrimination

Pursuant to Minnesota Statutes, Section 181.59, the Contractor will take affirmative action to ensure that applicants are selected, and that employees are treated during employment, without regard to their race, color, creed, religion, national origin, sex, sexual orientation, marital status, status with regard to public assistance, membership or activity in a local civil rights commission, disability or age. The Contractor agrees to be bound by the provisions of Minnesota Statutes, Section 181.59, that prohibits certain discriminatory practices and the terms of said section are incorporated into this contract.

§ 8.8 Prompt Payment to Subcontractors

In accordance with the Prompt Payment Act, each Prime Contractor must pay any subcontractor within ten (10) days of the Prime Contractor's receipt of payment from the municipality for undisputed services provided by the subcontractor. The Subcontract must require the Prime Contractor to pay interest of 1-1/2 percent per month or any part of a month to the subcontractor on any undisputed amount not paid on time to the subcontractor. The minimum monthly interest penalty payment for an unpaid balance of $100 or more is $10. For an unpaid balance of less than $100, the Prime Contractor shall pay the actual penalty due to the subcontractor. A subcontractor who prevails in a civil action to collect interest penalties from a Prime Contractor must be awarded its costs and disbursements, including attorney's fees, incurred in bringing the action.

§ 8.9 Prevailing Wage

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Contractor agrees that all laborers or mechanics working on the Project shall receive at least the prevailing wage rate in accordance with Minnesota Statutes Section 177.42, *et seq*. Contractor agrees further that it will incorporate any and all necessary contract language in its agreements with any subcontractors to allow Contractor to monitor and enforce the prevailing wage requirement for subcontractors of any tier.

§ 8.5.1 The Owner and the Contractor shall purchase and maintain insurance as set forth ~~in AIA Document A132™–2019, Standard Form of Agreement Between Owner and Contractor, Construction Manager as Adviser Edition, Exhibit A, Insurance and Bonds, and elsewhere in the Contract Documents.~~EXH-C Owner Insurance.

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§ 8.6 Notice in electronic format, pursuant to Article 1 of AIA Document A232–2019, may be given in accordance with ~~a building information modeling exhibit,~~ AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, if completed, or as otherwise set forth below:
(If other than in accordance with ~~a building information modeling exhibit,~~ AIA Document E203–2013, insert requirements for delivering notice in electronic format such as name, title, and email address of the recipient and whether and how the system will be required to generate a read receipt for the transmission.)

email to Owner's representative identified in Section 8.2

...

Owner prohibits Contractor from using the Work in any marketing material or business development practice. Contractor is prohibited from communication with any news outlet or public without Owner's written approval.

Floor plans, designs, wiring, safety and security measures shall be kept confidential by the Contractor, the Subcontractors, the Sub-Subcontractors (of any tier) during and after completion of the Work.

...

.4 ~~Building Information Modeling Exhibit, if completed:~~AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, dated as indicated below:
(Insert the date of the E203-2013 incorporated into this Agreement.)

Not Applicable

...

139		North High School Renovations & CTE Center Vol 1 of 2	November 13, 2024
209		North High School Renovations & CTE Center Vol 2 of 2	November 13, 2024

...

	All Specifications	North High School Renovations and CTE Center Bid Package 4	November 13, 2024	1414

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1	December 2, 2024	70
2	December 9, 2024	165

...

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EXH-B Project Charter
EXH-C Owner Insurance
EXH-D Project Schedule
(Check all boxes that apply and include appropriate information identifying the exhibit where required.)

~~*[ ] AIA Document A132™ 2019, Exhibit B, Determination of the Cost of the Work*~~

[ ] ~~AIA Document E235™ 2019, Sustainable Projects Exhibit, Construction Manager as Adviser Edition, dated as indicated below:~~
~~*(Insert the date of the E235-2019 incorporated into this Agreement.)*~~

~~[ ] The Sustainability Plan:~~

~~Title~~	~~Date~~	~~Pages~~

...

Contractors Bid Documents

...

Tom Parent, Sr Operations Officer

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Certification of Document's Authenticity

AIA® Document D401™ – 2003

I, , hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with its associated Additions and Deletions Report and this certification at 15:57:50 CT on 02/03/2025 under Order No. 4104251278 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document A132™ – 2019, Standard Form of Agreement Between Owner and Contractor, Construction Manager as Adviser Edition, other than those additions and deletions shown in the associated Additions and Deletions Report.



(Signed)

Curtis Hartog, Executive Director

(Title)

2/3/2025

(Dated)

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AIA® Document A132® – 2019 Exhibit A

Insurance and Bonds

This Insurance and Bonds Exhibit is part of the Agreement, between the Owner and the Contractor, dated the _first_ day of _February____ in the year _2025
(In words, indicate day, month, and year.)

for the following **PROJECT**:
(Name and location or address)

North High School Phase 4 Work Scope 26-A Electrical
1500 James Avenue, Minneapolis, MN 55411

THE OWNER:
(Name, legal status, and address)

Minneapolis Public Schools Special School District #1
1250 West Broadway Avenue
Minneapolis, MN 55411

THE CONTRACTOR:
(Name, legal status, and address)
NAC Mechanical and Electrical Services
1001 Labore Industrial Court Suite B
Vadnais Heights, MN 55110

TABLE OF ARTICLES

A.1 GENERAL

A.2 OWNER'S INSURANCE

A.3 CONTRACTOR'S INSURANCE AND BONDS

A.4 SPECIAL TERMS AND CONDITIONS

ARTICLE A.1 GENERAL

The Owner and Contractor shall purchase and maintain insurance, and provide bonds, as set forth in this Exhibit. As used in this Exhibit, the term General Conditions refers to AIA Document A232™–2019, General Conditions of the Contract for Construction.

ARTICLE A.2 OWNER'S INSURANCE

§ A.2.1 General

Prior to commencement of the Work, the Owner shall secure the insurance, and provide evidence of the coverage, required under this Article A.2 and, upon the Contractor's request, provide a copy of the property insurance policy or policies required by Section A.2.3. The copy of the policy or policies provided shall contain all applicable conditions, definitions, exclusions, and endorsements.

§ A.2.2 Liability Insurance

The Owner shall be responsible for purchasing and maintaining the Owner's usual general liability insurance.

ADDITIONS AND DELETIONS:
The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

This document is intended to be used in conjunction with AIA Document A232™–2019, General Conditions of the Contract for Construction. Article 11 of A232™–2019 contains additional insurance provisions

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§ A.2.3 Required Property Insurance

§ A.2.3.1 Unless this obligation is placed on the Contractor pursuant to Section A.3.3.2.1, the Owner shall purchase and maintain, from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located, property insurance policy form and sufficient to cover the total value of the entire Project on a replacement cost basis. The Owner's property insurance coverage shall be no less than the amount of the initial Contract Sum, plus the value of subsequent Modifications and labor performed and materials or equipment supplied by others. The property insurance shall be maintained until Substantial Completion and thereafter as provided in Section A.2.3.1.3, unless otherwise provided in the Contract Documents or otherwise agreed in writing by the parties to this Agreement. This insurance shall include the interests of the Owner, Contractor, Subcontractors, and Sub-subcontractors in the Project as insureds. This insurance shall include the interests of mortgagees as loss payees.

§ A.2.3.1.1 Causes of Loss. The insurance required by this Section A.2.3.1 shall provide coverage for direct physical loss or damage, and shall not exclude the risks of fire, explosion, theft, vandalism, malicious mischief, collapse, earthquake, flood, or windstorm. The insurance shall also provide coverage for ensuing loss or resulting damage from error, omission, or deficiency in construction methods, design, specifications, workmanship, or materials. Sub-limits, if any, are as follows:
(Indicate below the cause of loss and any applicable sub-limit.)

Causes of Loss	Sub-Limit

§ A.2.3.1.2 Specific Required Coverages. The insurance required by this Section A.2.3.1 shall provide coverage for loss or damage to false work and other temporary structures, and to building systems from testing and startup. The insurance shall also cover debris removal, including demolition occasioned by enforcement of any applicable legal requirements, and reasonable compensation for the Architect's, Construction Manager's, and Contractor's services and expenses required as a result of such insured loss, including claim preparation expenses. Sub-limits, if any, are as follows:
(Indicate below type of coverage and any applicable sub-limit for specific required coverages.)

Coverage	Sub-Limit

§ A.2.3.1.3 Unless the parties agree otherwise, upon Substantial Completion, the Owner shall continue the insurance required by Section A.2.3.1 or, if necessary, replace the insurance policy required under Section A.2.3.1 with property insurance written for the total value of the Project that shall remain in effect until expiration of the period for correction of the Work set forth in Section 12.2.2 of the General Conditions.

§ A.2.3.1.4 Deductibles and Self-Insured Retentions. If the insurance required by this Section A.2.3 is subject to deductibles or self-insured retentions, the Owner shall be responsible for all loss not covered because of such deductibles or retentions.

§ A.2.3.2 Occupancy or Use Prior to Substantial Completion. The Owner's occupancy or use of any completed or partially completed portion of the Work prior to Substantial Completion shall not commence until the insurance company or companies providing the insurance under Section A.2.3.1 have consented in writing to the continuance of coverage. The Owner and the Contractor shall take no action with respect to partial occupancy or use that would cause cancellation, lapse, or reduction of insurance, unless they agree otherwise in writing.

§ A.2.3.3 Insurance for Existing Structures

If the Work involves remodeling an existing structure or constructing an addition to an existing structure, the Owner shall purchase and maintain, until the expiration of the period for correction of Work as set forth in Section 12.2.2 of the General Conditions, "all-risks" property insurance, on a replacement cost basis, protecting the existing structure against direct physical loss or damage from the causes of loss identified in Section A.2.3.1, notwithstanding the undertaking of the Work. The Owner shall be responsible for all co-insurance penalties.

§ A.2.4 Optional Extended Property Insurance.

The Owner shall purchase and maintain the insurance selected and described below.

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(Select the types of insurance the Owner is required to purchase and maintain by placing an X in the box(es) next to the description(s) of selected insurance. For each type of insurance selected, indicate applicable limits of coverage or other conditions in the fill point below the selected item.)

[ ] **§ A.2.4.1 Loss of Use, Business Interruption, and Delay in Completion Insurance**, to reimburse the Owner for loss of use of the Owner's property, or the inability to conduct normal operations due to a covered cause of loss.

[ ] **§ A.2.4.2 Ordinance or Law Insurance**, for the reasonable and necessary costs to satisfy the minimum requirements of the enforcement of any law or ordinance regulating the demolition, construction, repair, replacement or use of the Project.

[ ] **§ A.2.4.3 Expediting Cost Insurance**, for the reasonable and necessary costs for the temporary repair of damage to insured property, and to expedite the permanent repair or replacement of the damaged property.

[ ] **§ A.2.4.4 Extra Expense Insurance**, to provide reimbursement of the reasonable and necessary excess costs incurred during the period of restoration or repair of the damaged property that are over and above the total costs that would normally have been incurred during the same period of time had no loss or damage occurred.

[ ] **§ A.2.4.5 Civil Authority Insurance**, for losses or costs arising from an order of a civil authority prohibiting access to the Project, provided such order is the direct result of physical damage covered under the required property insurance.

[ ] **§ A.2.4.6 Ingress/Egress Insurance**, for loss due to the necessary interruption of the insured's business due to physical prevention of ingress to, or egress from, the Project as a direct result of physical damage.

[ ] **§ A.2.4.7 Soft Costs Insurance**, to reimburse the Owner for costs due to the delay of completion of the Work, arising out of physical loss or damage covered by the required property insurance: including construction loan fees; leasing and marketing expenses; additional fees, including those of architects, engineers, consultants, attorneys and accountants, needed for the completion of the construction, repairs, or reconstruction; and carrying costs such as property taxes, building permits, additional interest on loans, realty taxes, and insurance premiums over and above normal expenses.

§ A.2.5 Other Optional Insurance.

The Owner shall purchase and maintain the insurance selected below.

(Select the types of insurance the Owner is required to purchase and maintain by placing an X in the box(es) next to the description(s) of selected insurance.)

[ ] **§ A.2.5.1 Cyber Security Insurance** for loss to the Owner due to data security and privacy breach, including costs of investigating a potential or actual breach of confidential or private information.

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(Indicate applicable limits of coverage or other conditions in the fill point below.)

[ ] **§ A.2.5.2 Other Insurance**
(List below any other insurance coverage to be provided by the Owner and any applicable limits.)

Coverage	Limits

ARTICLE A.3 CONTRACTOR'S INSURANCE AND BONDS

§ A.3.1 General

§ A.3.1.1 Certificates of Insurance. The Contractor shall provide certificates of insurance acceptable to the Owner evidencing compliance with the requirements in this Article A.3 at the following times: (1) prior to commencement of the Work; (2) upon renewal or replacement of each required policy of insurance; and (3) upon the Owner's written request. An additional certificate evidencing continuation of commercial liability coverage, including coverage for completed operations, shall be submitted with the final Application for Payment and thereafter upon renewal or replacement of such coverage until the expiration of the periods required by Section A.3.2.1 and Section A.3.3.1. The certificates will show the Owner as an additional insured on the Contractor's Commercial General Liability and excess or umbrella liability policy or policies.

§ A.3.1.2 Deductibles and Self-Insured Retentions. The Contractor shall disclose to the Owner any deductible or self-insured retentions applicable to any insurance required to be provided by the Contractor.

§ A.3.1.3 Additional Insured Obligations. To the fullest extent permitted by law, the Contractor shall cause the commercial general liability coverage to include (1) the Owner, the Architect and the Architect's consultants, and the Construction Manager and the Construction Manager's consultants, as additional insureds for claims caused in whole or in part by the Contractor's negligent acts or omissions during the Contractor's operations; and (2) the Owner as an additional insured for claims caused in whole or in part by the Contractor's negligent acts or omissions for which loss occurs during completed operations. The additional insured coverage shall be primary and non-contributory to any of the Owner's general liability insurance policies and shall apply to both ongoing and completed operations. To the extent commercially available, the additional insured coverage shall be no less than that provided by Insurance Services Office, Inc. (ISO) forms CG 20 10 07 04, CG 20 37 07 04, and, with respect to the Architect and the Architect's consultants, and the Construction Manager and the Construction Manager's consultants, CG 20 32 07 04.

§ A.3.2 Contractor's Required Insurance Coverage

§ A.3.2.1 The Contractor shall purchase and maintain the types and limits of insurance as defined in EXH-C Owner Insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The Contractor shall maintain the required insurance until the expiration of the period for correction of Work as set forth in Section 12.2.2 of the General Conditions, unless a different duration is stated below:
(If the Contractor is required to maintain insurance for a duration other than the expiration of the period for correction of Work, state the duration.)

§ A.3.2.2 Commercial General Liability

§ A.3.2.2.1 Commercial General Liability insurance for the Project written on an occurrence form with policy limits as defined in EXH-C Owner Insurance providing coverage for claims including

.1 damages because of bodily injury, sickness or disease, including occupational sickness or disease, and death of any person;
.2 personal injury and advertising injury;
.3 damages because of physical damage to or destruction of tangible property, including the loss of use of such property;
.4 bodily injury or property damage arising out of completed operations; and
.5 the Contractor's indemnity obligations under Section 3.18 of the General Conditions.

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§ A.3.2.2.2 The Contractor's Commercial General Liability policy under this Section A.3.2.2 shall not contain an exclusion or restriction of coverage for the following:

.1 Claims by one insured against another insured, if the exclusion or restriction is based solely on the fact that the claimant is an insured, and there would otherwise be coverage for the claim.

.2 Claims for property damage to the Contractor's Work arising out of the products-completed operations hazard where the damaged Work or the Work out of which the damage arises was performed by a Subcontractor.

.3 Claims for bodily injury other than to employees of the insured.

.4 Claims for indemnity under Section 3.18 of the General Conditions arising out of injury to employees of the insured.

.5 Claims or loss excluded under a prior work endorsement or other similar exclusionary language.

.6 Claims or loss due to physical damage under a prior injury endorsement or similar exclusionary language.

.7 Claims related to residential, multi-family, or other habitational projects, if the Work is to be performed on such a project.

.8 Claims related to roofing, if the Work involves roofing.

.9 Claims related to exterior insulation finish systems (EIFS), synthetic stucco or similar exterior coatings or surfaces, if the Work involves such coatings or surfaces.

.10 Claims related to earth subsidence or movement, where the Work involves such hazards.

.11 Claims related to explosion, collapse and underground hazards, where the Work involves such hazards.

§ A.3.2.3 Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Contractor, with policy limits as defined in EXH-C Owner Insurance.

§ A.3.2.4 The Contractor may achieve the required limits and coverage for Commercial General Liability and Automobile Liability through a combination of primary and excess or umbrella liability insurance, provided such primary and excess or umbrella insurance policies result in the same or greater coverage as the coverages required under Section A.3.2.2 and A.3.2.3, and in no event shall any excess or umbrella liability insurance provide narrower coverage than the primary policy. The excess policy shall not require the exhaustion of the underlying limits only through the actual payment by the underlying insurers. Umbrella coverage as defined in EXH-C Owner Insurance.

§ A.3.2.5 Workers' Compensation at statutory limits for Coverage A as defined in EXH-C Owner Insurance.

§ A.3.2.6 Employers' Liability Coverage B as defined in EXH-C Owner Insurance.

§ A.3.2.7 If the Contractor is required to furnish professional services as part of the Work, the Contractor shall procure Professional Liability insurance covering performance of the professional services, with policy limits as defined in EXH-C Owner Insurance.

§ A.3.2.8 Insurance for the use or operation of manned or unmanned aircraft, if the Work requires such activities, with policy limits as defined in EXH-C Owner Insurance.

(Paragraphs deleted)

§ A.3.3 Contractor's Other Insurance Coverage

§ A.3.3.1 Insurance selected and described in this Section A.3.3 shall be purchased from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The Contractor shall maintain the required insurance until the expiration of the period for correction of Work as set forth in Section 12.2.2 of the General Conditions, unless a different duration is stated below:
(If the Contractor is required to maintain any of the types of insurance selected below for a duration other than the expiration of the period for correction of Work, state the duration.)

If Professional Liability insurance is required as part of the Contract, the Contractor shall maintain coverage for one year beyond the date of Substantial Completion.

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§ A.3.3.2 The Contractor shall purchase and maintain the types and limits of insurance as defined in EXH-C Owner Insurance.

(Paragraphs deleted)

§ A.3.4 Performance Bond and Payment Bond

The Contractor shall provide surety bonds, from a company or companies lawfully authorized to issue surety bonds in the jurisdiction where the Project is located, as follows:
(Specify type and penal sum of bonds.)

Type	Penal Sum ($0.00)
Payment Bond	$3,037,000
Performance Bond	$3,037,000

Payment and Performance Bonds shall be AIA Document A312™, Payment Bond and Performance Bond, or contain provisions identical to AIA Document A312™, current as of the date of this Agreement.

ARTICLE A.4 SPECIAL TERMS AND CONDITIONS

Special terms and conditions that modify this Insurance and Bonds Exhibit, if any, are as follows:

None

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Additions and Deletions Report for

AIA® Document A132® – 2019 Exhibit A

This Additions and Deletions Report, as defined on page 1 of the associated document, reproduces below all text the author has added to the standard form AIA document in order to complete it, as well as any text the author may have added to or deleted from the original AIA text. Added text is shown underlined. Deleted text is indicated with a horizontal line through the original AIA text.

Note: This Additions and Deletions Report is provided for information purposes only and is not incorporated into or constitute any part of the associated AIA document. This Additions and Deletions Report and its associated document were generated simultaneously by AIA software at 15:58:47 CT on 02/03/2025.

PAGE 1

This Insurance and Bonds Exhibit is part of the Agreement, between the Owner and the Contractor, dated the _first_ day of _February_____in the year _2025

...

North High School Phase 4 Work Scope 26-A Electrical
1500 James Avenue, Minneapolis, MN 55411

...

Minneapolis Public Schools Special School District #1
1250 West Broadway Avenue
Minneapolis, MN 55411

...

NAC Mechanical and Electrical Services
1001 Labore Industrial Court Suite B
Vadnais Heights, MN 55110

PAGE 2

§ A.2.3.1 Unless this obligation is placed on the Contractor pursuant to Section A.3.3.2.1, the Owner shall purchase and maintain, from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located, property insurance ~~written on a builder's risk "all-risks" completed value or equivalent~~ policy form and sufficient to cover the total value of the entire Project on a replacement cost basis. The Owner's property insurance coverage shall be no less than the amount of the initial Contract Sum, plus the value of subsequent Modifications and labor performed and materials or equipment supplied by others. The property insurance shall be maintained until Substantial Completion and thereafter as provided in Section A.2.3.1.3, unless otherwise provided in the Contract Documents or otherwise agreed in writing by the parties to this Agreement. This insurance shall include the interests of the Owner, Contractor, Subcontractors, and Sub-subcontractors in the Project as insureds. This insurance shall include the interests of mortgagees as loss payees.

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§ A.3.2.1 The Contractor shall purchase and maintain the ~~following~~ types and limits of insurance as defined in EXH-C Owner Insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The Contractor shall maintain the required insurance until the expiration of the period for correction of Work as set forth in Section 12.2.2 of the General Conditions, unless a different duration is stated below:

...

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§ A.3.2.2.1 Commercial General Liability insurance for the Project written on an occurrence form with policy limits ~~of not less than ($) each occurrence, ($) general aggregate, and ($) aggregate for products-completed operations hazard,~~ as defined in EXH-C Owner Insurance providing coverage for claims including

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§ A.3.2.3 Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Contractor, with policy limits ~~of not less than ($) per accident, for bodily injury, death of any person, and property damage arising out of the ownership, maintenance and use of those motor vehicles along with any other statutorily required automobile coverage.~~as defined in EXH-C Owner Insurance.

§ A.3.2.4 The Contractor may achieve the required limits and coverage for Commercial General Liability and Automobile Liability through a combination of primary and excess or umbrella liability insurance, provided such primary and excess or umbrella insurance policies result in the same or greater coverage as the coverages required under Section A.3.2.2 and A.3.2.3, and in no event shall any excess or umbrella liability insurance provide narrower coverage than the primary policy. The excess policy shall not require the exhaustion of the underlying limits only through the actual payment by the underlying insurers. Umbrella coverage as defined in EXH-C Owner Insurance.

§ A.3.2.5 Workers' Compensation at statutory ~~limits.~~limits for Coverage A as defined in EXH-C Owner Insurance.

§ A.3.2.6 Employers' Liability ~~with policy limits not less than ($) each accident, ($) each employee, and ($) policy limit.~~Coverage B as defined in EXH-C Owner Insurance.

§ A.3.2.7 ~~Jones Act, and the Longshore & Harbor Workers' Compensation Act, as required, if the Work involves hazards arising from work on or near navigable waterways, including vessels and docks~~ If the Contractor is required to furnish professional services as part of the Work, the Contractor shall procure Professional Liability insurance covering performance of the professional services, with policy limits as defined in EXH-C Owner Insurance.

§ A.3.2.8 ~~If the Contractor is required to furnish professional services as part of the Work, the Contractor shall procure Professional Liability insurance covering performance of the professional services, with policy limits of not less than ($) per claim and ($) in the aggregate.~~Insurance for the use or operation of manned or unmanned aircraft, if the Work requires such activities, with policy limits as defined in EXH-C Owner Insurance.

~~**§ A.3.2.9** If the Work involves the transport, dissemination, use, or release of pollutants, the Contractor shall procure Pollution Liability insurance, with policy limits of not less than ($) per claim and ($) in the aggregate.~~

~~**§ A.3.2.10** Coverage under Sections A.3.2.8 and A.3.2.9 may be procured through a Combined Professional Liability and Pollution Liability insurance policy, with combined policy limits of not less than ($) per claim and ($) in the aggregate.~~

~~**§ A.3.2.11** Insurance for maritime liability risks associated with the operation of a vessel, if the Work requires such activities, with policy limits of not less than ($) per claim and ($) in the aggregate.~~

~~**§ A.3.2.12** Insurance for the use or operation of manned or unmanned aircraft, if the Work requires such activities, with policy limits of not less than ($) per claim and ($) in the aggregate.~~

...

If Professional Liability insurance is required as part of the Contract, the Contractor shall maintain coverage for one year beyond the date of Substantial Completion.

§ A.3.3.2 The Contractor shall purchase and maintain the ~~following~~ types and limits of insurance ~~in accordance with Section A.3.3.1.~~as defined in EXH-C Owner Insurance.

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(Select the types of insurance the Contractor is required to purchase and maintain by placing an X in the box(es) next to the description(s) of selected insurance. Where policy limits are provided, include the policy limit in the appropriate fill point.)

[–] **§ A.3.3.2.1** If there is only one Contractor performing the Work on the Project, property insurance of the same type and scope satisfying the requirements identified in Section A.2.3, which, if selected in this section A.3.3.2.1, relieves the Owner of the responsibility to purchase and maintain such insurance except insurance required by Section A.2.3.1.3 and Section A.2.3.3. The Contractor shall comply with all obligations of the Owner under Section A.2.3 except to the extent provided below. The Contractor shall disclose to the Owner the amount of any deductible, and the Owner shall be responsible for losses within the deductible. Upon request, the Contractor shall provide the Owner with a copy of the property insurance policy or policies required. The Owner shall adjust and settle the loss with the insurer and be the trustee of the proceeds of the property insurance in accordance with Article 11 of the General Conditions unless otherwise set forth below:
(Where the Contractor's obligation to provide property insurance differs from the Owner's obligations as described under Section A.2.3, indicate such differences in the space below. Additionally, if a party other than the Owner will be responsible for adjusting and settling a loss with the insurer and acting as the trustee of the proceeds of property insurance in accordance with Article 11 of the General Conditions, indicate the responsible party below.)

[–] **§ A.3.3.2.2 Railroad Protective Liability Insurance**, with policy limits of not less than ($) per claim and ($) in the aggregate, for Work within fifty (50) feet of railroad property.

[–] **§ A.3.3.2.3 Asbestos Abatement Liability Insurance**, with policy limits of not less than ($) per claim and ($) in the aggregate, for liability arising from the encapsulation, removal, handling, storage, transportation, and disposal of asbestos-containing materials.

[–] **§ A.3.3.2.4** Insurance for physical damage to property while it is in storage and in transit to the construction site on an "all-risks" completed value form.

[–] **§ A.3.3.2.5** Property insurance on an "all-risks" completed value form, covering property owned by the Contractor and used on the Project, including scaffolding and other equipment.

[–] **§ A.3.3.2.6 Other Insurance**
(List below any other insurance coverage to be provided by the Contractor and any applicable limits.)

Coverage	**Limits**

§ A.3.4 Performance Bond and Payment Bond
PAGE 6

Payment Bond	$3,037,000
Performance Bond	$3,037,000

...

None

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AIA® Document A232® – 2019

General Conditions of the Contract for Construction, *Construction Manager as Adviser Edition*

for the following PROJECT:
(Name, and location or address)

North High School Phase 4 Work Scope 26-A Electrical
1500 James Avenue, Minneapolis, MN 55411

THE CONSTRUCTION MANAGER:
(Name, legal status, and address)

Kraus-Anderson Construction Company
501 South 8th Street, Minneapolis, MN 55404

THE OWNER:
(Name, legal status, and address)

Minneapolis Public Schools Special School District #1
1250 West Broadway Avenue
Minneapolis, MN 55411

THE ARCHITECT:
(Name, legal status, and address)

LSE Architects 1401 Glenwood Avenue
Minneapolis, MN 55405

ADDITIONS AND DELETIONS:
The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

This document is intended to be used in conjunction with AIA Documents A132™–2019, Standard Form of Agreement Between Owner and Contractor, Construction Manager as Adviser Edition; B132™–2019, Standard Form of Agreement Between Owner and Architect, Construction Manager as Adviser Edition; and C132™–2019, Standard Form of Agreement Between Owner and Construction Manager as Adviser.

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ARTICLE 1 GENERAL PROVISIONS

§ 1.1 Basic Definitions

§ 1.1.1 The Contract Documents. The Contract Documents are enumerated in the Agreement between the Owner and Contractor (hereinafter the Agreement) and consist of the Agreement, Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, Addenda issued prior to execution of the Contract, other documents listed in the Agreement, and Modifications issued after execution of the Contract. A Modification is (1) a written amendment to the Contract signed by both parties, (2) a Change Order, (3) a Construction Change Directive, or (4) a written order for a minor change in the Work issued by the Architect. Unless specifically enumerated in the Agreement, the Contract Documents do not include the advertisement or invitation to bid, Instructions to Bidders, sample forms, other information furnished by the Owner in anticipation of receiving bids or proposals, the Contractor's bid or proposal, or portions of addenda relating to bidding or proposal requirements.

§ 1.1.1.1 Notwithstanding the foregoing, it is understood and agreed that the Owner is an intended third-party beneficiary of all contracts between the Contractor and Subcontractors or suppliers who provide labor and/or materials for the Work.

§ 1.1.2 The Contract. The Contract Documents form the Contract for Construction. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations, or agreements, either written or oral. The Contract may be amended or modified only by a Modification. The Contract Documents shall not be construed to create a contractual relationship of any kind (1) between the Contractor and the Architect or the Architect's consultants, (2) between the Owner and the Construction Manager or the Construction Manager's consultants, (3) between the Owner and the Architect or the Architect's consultants, (4) between the Contractor and the Construction Manager or the Construction Manager's consultants, (5) between the Owner and a Subcontractor or Sub-subcontractor (6) between the Construction Manager and the Architect, or (7) between any persons or entities other than the Owner and Contractor. The Construction Manager and Architect shall, however, be entitled to performance and enforcement of obligations under the Contract intended to facilitate performance of their duties.

§ 1.1.3 The Work. The term "Work" means the construction and services required by the Contract Documents, whether completed or partially completed, and includes all other labor, materials, equipment, and services provided or to be provided by the Contractor to fulfill the Contractor's obligations. The Work may constitute the whole or a part of the Project.

§ 1.1.4 The Project. The Project is the total construction of which the Work performed under the Contract Documents may be the whole or a part and which may include construction by other Contractors, and by the Owner's own forces and Separate Contractors.

§ 1.1.5 Contractors. Contractors are persons or entities, other than the Contractor or Separate Contractors, who perform Work under contracts with the Owner that are administered by the Architect and Construction Manager.

§ 1.1.6 Separate Contractors. Separate Contractors are persons or entities who perform construction under separate contracts with the Owner not administered by the Architect and Construction Manager.

§ 1.1.7 The Drawings. The Drawings are the graphic and pictorial portions of the Contract Documents showing the design, location and dimensions of the Work, generally including plans, elevations, sections, details, schedules, and diagrams.

§ 1.1.8 The Specifications. The Specifications are that portion of the Contract Documents consisting of the written requirements for materials, equipment, systems, standards and workmanship for the Work, and performance of related services.

§ 1.1.9 Instruments of Service. Instruments of Service are representations, in any medium of expression now known or later developed, of the tangible and intangible creative work performed by the Architect and the Architect's consultants under their respective professional services agreements. Instruments of Service may include, without limitation, studies, surveys, models, sketches, drawings, specifications, and other similar materials.

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§ 1.1.10 Initial Decision Maker. The Initial Decision Maker is the person identified in the Agreement to render initial decisions on Claims in accordance with Section 15.2. The Architect will serve as the Initial Decision Maker pursuant to Section 15.2 of AIA Document A232–2019.

§ 1.2 Correlation and Intent of the Contract Documents

§ 1.2.1 The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work by the Contractor. The Contract Documents are complementary, and what is required by one shall be as binding as if required by all; performance by the Contractor shall be required only to the extent consistent with the Contract Documents and reasonably inferable from them as being necessary to produce the intended results.

§ 1.2.1.1 The invalidity of any provision of the Contract Documents shall not invalidate the Contract or its remaining provisions. In such case the Contract Documents shall be construed, to the fullest extent permitted by law, to give effect to the parties' intentions and purposes in executing the Contract.

§ 1.2.2 Organization of the Specifications into divisions, sections and articles, and arrangement of Drawings shall not control the Contractor in dividing the Work among Subcontractors or in establishing the extent of Work to be performed by any trade.

§ 1.2.3 Unless otherwise stated in the Contract Documents, words that have well-known technical or construction industry meanings are used in the Contract Documents in accordance with such recognized meanings.

§ 1.3 Capitalization

Terms capitalized in these General Conditions include those that are (1) specifically defined, (2) the titles of numbered articles, or (3) the titles of other documents published by the American Institute of Architects.

§ 1.4 Interpretation

In the interest of brevity the Contract Documents frequently omit modifying words such as "all" and "any" and articles such as "the" and "an," but the fact that a modifier or an article is absent from one statement and appears in another is not intended to affect the interpretation of either statement.

§ 1.4.1 In the case of inconsistency between Drawings and Specifications or within Contract Documents not clarified by Addenda, the better quality or greater quantity of Work shall be provided in accordance with the Architect's interpretation.

§ 1.5 Ownership and Use of Drawings, Specifications, and Other Instruments of Service

§ 1.5.1 The Architect and the Architect's consultants shall be deemed the authors and owners of their respective Instruments of Service, including the Drawings and Specifications, and retain all common law, statutory, and other reserved rights in their Instruments of Service, including copyrights. The Contractor, Subcontractors, sub-subcontractors, and suppliers shall not own or claim a copyright in the Instruments of Service. Submittal or distribution to meet official regulatory requirements or for other purposes in connection with the Project is not to be construed as publication in derogation of the Architect's or Architect's consultants' reserved rights. The Owner retains rights to the Instruments of Service pursuant to Article 7 of AIA Document B101-2017.

§ 1.5.2 The Contractor, Subcontractors, Sub-subcontractors, and suppliers are authorized to use and reproduce the Instruments of Service provided to them, subject to any protocols established pursuant to Sections 1.7 and 1.8, solely and exclusively for execution of the Work. All copies made under this authorization shall bear the copyright notice, if any, shown on the Instruments of Service. The Contractor, Subcontractors, Sub-subcontractors, and suppliers may not use the Instruments of Service on other projects or for additions to the Project outside the scope of the Work without the specific written consent of the Owner, Architect, and the Architect's consultants.

§ 1.5.3 The Architect shall furnish to the Contractor a version of the Instruments of Service in electronic form for the sole purpose of the construction of the Project for which the Instruments of Service were created.

§ 1.6 Notice

§ 1.6.1 Except as otherwise provided in Section 1.6.2, where the Contract Documents require one party to notify or give notice to the other party, such notice shall be provided in writing to the designated representative of the party to

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whom the notice is addressed and shall be deemed to have been duly served if delivered in person, by mail, by courier, or by electronic transmission if a method for electronic transmission is set forth in the Agreement.

§ 1.6.2 Notice of Claims as provided in Section 15.1.3 shall be provided in writing and shall be deemed to have been duly served only if delivered to the designated representative of the party to whom the notice is addressed by certified or registered mail, or by courier providing proof of delivery.

§ 1.7 Digital Data Use and Transmission

The parties shall agree upon protocols governing the transmission and use of Instruments of Service or any other information or documentation in digital form. The parties may use AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit or other form, to establish the protocols for the development, use, transmission, and exchange of digital data.

§ 1.8 Building Information Models Use and Reliance

Any use of, or reliance on, all or a portion of a building information model without agreement to protocols governing the use of, and reliance on, the information contained in the model and without having those protocols set forth in AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, and the requisite AIA Document G202™–2013, Project Building Information Modeling Protocol Form or other form, shall be at the using or relying party's sole risk and without liability to the other party and its contractors or consultants, the authors of, or contributors to, the building information model, and each of their agents and employees.

ARTICLE 2 OWNER

§ 2.1 General

§ 2.1.1 The Owner is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The Owner shall designate in writing a representative who shall have express authority to bind the Owner with respect to all matters requiring the Owner's approval or authorization in accordance with Owner's Delegation of Authority Policy, a copy of which will be provided at Contractor's request. Except as otherwise provided in Section 4.2.1, the Construction Manager and the Architect do not have such authority. The term "Owner" means the Owner or the Owner's authorized representative.

(Paragraph deleted)

§ 2.2 Evidence of the Owner's Financial Arrangements

§ 2.2.1 Prior to commencement of the Work, and upon written request by the Contractor, the Owner shall furnish to the Contractor reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Contract. The Contractor shall have no obligation to commence the Work until the Owner provides such evidence. If commencement of the Work is delayed under this Section 2.2.1, the Contract Time shall be extended appropriately.

§ 2.2.2 Following commencement of the Work and upon written request by the Contractor, the Owner shall furnish to the Contractor reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Contract only if (1) the Owner fails to make payments to the Contractor as the Contract Documents require; (2) the Contractor identifies in writing a reasonable concern regarding the Owner's ability to make payment when due; or (3) a change in the Work materially changes the Contract Sum. If the Owner fails to provide such evidence, as required, within fourteen days of the Contractor's request, the Contractor may immediately stop the Work and, in that event, shall notify the Owner that the Work has stopped. However, if the request is made because a change in the Work materially changes the Contract Sum under (3) above, the Contractor may immediately stop only that portion of the Work affected by the change until reasonable evidence is provided. If the Work is stopped under this Section 2.2.2, the Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable costs of shutdown, delay and start-up, plus interest as provided in the Contract Documents.

§ 2.2.3 After the Owner furnishes evidence of financial arrangements under this Section 2.2, the Owner shall not materially vary such financial arrangements without prior notice to the Contractor.

§ 2.2.4 Where the Owner has designated information furnished under this Section 2.2 as "confidential," the Contractor shall keep the information confidential and shall not disclose it to any other person. However, the Contractor may disclose "confidential" information, after seven (7) days' notice to the Owner, where disclosure is required by law, including a subpoena or other form of compulsory legal process issued by a court or governmental entity, or by court

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or arbitrator(s) order. The Contractor may also disclose "confidential" information to its employees, consultants, sureties, Subcontractors and their employees, Sub-subcontractors, and others who need to know the content of such information solely and exclusively for the Project and who agree to maintain the confidentiality of such information.

§ 2.3 Information and Services Required of the Owner

§ 2.3.1 Except for permits and fees that are the responsibility of the Contractor under the Contract Documents, including those required under Section 3.7.1, the Owner shall secure and pay for necessary approvals, easements, assessments and charges required for construction, use or occupancy of permanent structures or for permanent changes in existing facilities. Unless otherwise provided under the Contract Documents, the Owner, assisted by the Construction Manager, shall secure and pay for the building permit.

§ 2.3.2 The Owner shall retain an architect lawfully licensed to practice architecture, or an entity lawfully practicing architecture, in the jurisdiction where the Project is located. That person or entity is identified as the Architect in the Agreement and is referred to throughout the Contract Documents as if singular in number.

§ 2.3.3 The Owner shall retain a construction manager adviser lawfully practicing construction management in the jurisdiction where the Project is located. That person or entity is identified as the Construction Manager in the Agreement and is referred to throughout the Contract Documents as if singular in number.

§ 2.3.4 If the employment of the Construction Manager or Architect terminates, the Owner shall employ a successor construction manager or architect to whom the Contractor has no reasonable objection and whose status under the Contract Documents shall be that of the Construction Manager or Architect, respectively.

§ 2.3.5 If requested by the Contractor and reasonably required for the Project, the Owner shall furnish surveys describing physical characteristics, legal limitations and utility locations for the site of the Project, and a written legal description of the site. The Contractor shall exercise proper precautions relating to the safe performance of the Work.

§ 2.3.6 The Owner shall furnish information or services required of the Owner by the Contract Documents with reasonable promptness. The Owner shall also furnish any other information or services under the Owner's control and relevant to the Contractor's performance of the Work with reasonable promptness after receiving the Contractor's written request for such information or services. The Contractor is responsible for the timeliness of, or interference caused by, Subcontractors, Sub-subcontractors (of any tier), and others directly or indirectly under contract to the Contractor.

§ 2.3.7 Unless otherwise provided in the Contract Documents, the Owner shall furnish to the Contractor one copy of the Contract Documents for purposes of making reproductions pursuant to Section 1.5.2.

§ 2.3.8 The Owner shall forward all communications to the Contractor through the Construction Manager. Other communication shall be made as set forth in Section 4.2.6.

§ 2.4 Owner's Right to Stop the Work

If the Contractor fails to correct Work that is not in accordance with the requirements of the Contract Documents as required by Section 12.2 or repeatedly fails to carry out Work in accordance with the Contract Documents, the Owner may issue a written order to the Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, the right of the Owner to stop the Work shall not give rise to a duty on the part of the Owner to exercise this right for the benefit of the Contractor or any other person or entity, except to the extent required by Section 6.1.3.

§ 2.5 Owner's Right to Carry Out the Work

If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within a three-business-day (3) period after receipt of notice from the Owner to commence and continue correction of such default or neglect with diligence and promptness, the Owner may, without prejudice to other remedies the Owner may have, correct such default or neglect. Such action by the Owner and amounts charged to the Contractor are both subject to review by the Construction Manager and prior approval of the Architect, and the Construction Manager or Architect may, pursuant to Section 9.5.1, withhold or nullify a Certificate for Payment in whole or in part, to the extent reasonably necessary to reimburse the Owner for the reasonable cost of correcting such deficiencies, including Owner's expenses and compensation for the Construction Manager's and Architect's and their respective consultants'

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additional services and expenses made necessary by such default, neglect, or failure. If current and future payments are not sufficient to cover such amounts, the Contractor shall pay the difference to the Owner within ten (10) days following written request for payment delivered by the Owner to the Contractor. If the Contractor disagrees with the actions of the Owner or the Architect, or the amounts claimed as costs to the Owner, the Contractor may file a Claim pursuant to Article 15.

ARTICLE 3 CONTRACTOR

§ 3.1 General

§ 3.1.1 The Contractor is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The Contractor shall be lawfully licensed, if required in the jurisdiction where the Project is located. The Contractor shall designate in writing a representative who shall have express authority to bind the Contractor with respect to all matters under this Contract. The term "Contractor" means the Contractor or the Contractor's authorized representative.

§ 3.1.2 The Contractor shall perform the Work in accordance with the Contract Documents.

§ 3.1.3 The Contractor shall hire a professional utilities locator to investigate and verify all private utility locations prior to excavation and cutting into of existing Work. The Contractor is responsible for locating, terminating, and reinstallation of all private utilities. Private site utilities may not be in the Drawings and Project Manual and as such, verification of private utilities is the sole responsibility of the Contractor. Costs associated with moving and repairing of unknown and undocumented utilities will be by appropriate Change Order. The Contractor shall comply with Gopher State One Call, or other public utility service locator to locate all public utilities prior to any work on the site. This shall not relieve Contractor from obligations under Article 3.

§ 3.1.4 The Contractor shall not be relieved of its obligations to perform the Work in accordance with the Contract Documents either by activities or duties of the Construction Manager or Architect in their administration of the Contract, or by tests, inspections or approvals required or performed by persons or entities other than the Contractor.

§ 3.2 Review of Contract Documents and Field Conditions by Contractor

§ 3.2.1 The Contractor shall carefully study and compare the Contract Documents with each other and with information furnished by the Owner pursuant to Section 2.2.3, and shall immediately report to the Architect and Construction Manager errors, inconsistencies, or omissions discovered. The Contractor shall not be liable to the Owner or Architect for damage resulting from errors, inconsistencies, or omissions in the Contract Document unless the Contractor recognized such error, inconsistency, or omission and knowingly failed to report it to the Architect. If the Contractor performs any construction activity knowing or believing it involves a recognized error, inconsistency, or omission in the Contract Documents without such notice to the Architect, the Contractor shall assume full responsibility for such performance and shall bear the attributable costs for correction and shall bear responsibility for any additional costs, delays, and damages resulting from such failure to immediately report any such errors, inconsistencies, or omissions which the Contractor may discover. By executing the Contract, the Contractor represents that the Contractor has reviewed and understands the Contract Documents, has visited the Site and is familiar with local conditions under which the Work is to be performed, has correlated personal observations with the requirements of the Contract Documents, and has notified the Architect of and obtained clarification of any discrepancies which have become apparent during the bidding or proposal period.

§ 3.2.1.1 The Contractor shall take field measurements and verify field conditions and shall carefully compare such field measurements and conditions and other information known to the Contractor with the Contract Documents before commencing activities. Errors, inconsistencies, or omissions discovered shall be reported to the Architect immediately in writing.

§ 3.2.1.2 The Contractor shall carefully study and compare the Contract Documents with existing conditions at the job site and shall immediately report in writing to the Architect any error, inconsistency, or omission which the Contractor may discover or any materials, systems, procedures, or methods of construction, either shown on the Drawings or specified, which the Contractor has reason to believe are incorrect, inadequate, obsolete, unsuitable for the purpose intended or which the Contractor has reason to believe would constitute or result in a violation of the Contractor's warranty under Section 3.5 or applicable law. The Contractor shall not proceed with any work in such areas until written instructions are received from the Architect.

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§ 3.2.2 The Contractor shall perform the Work in accordance with the Contract Documents and submittals accepted pursuant to Section 3.12.

§ 3.2.3 The Owner shall be entitled to deduct from the Contract Sum amounts paid to the Architect for the Architect to evaluate and respond to the Contractor's requests for interpretation or information where such information was available to the Contractor from a careful study and comparison of the Contract Documents, Filed Conditions, Owner Provided Information, Contractor Prepared Coordination Drawings, or prior Project Correspondence or Documentation.

§ 3.2.4 If the Contractor believes that any portions of the Contract Documents do not comply with applicable laws, statutes, ordinances, building codes, and rules and regulations, or any orders by code enforcement officials or the Owner or its designees acting in the capacity of building code inspectors or Referenced Standards, the Contractor must promptly notify the Owner and the Architect of the non-compliance as provided in Section 3.2.6 and request direction before proceeding with the affected Work.

§ 3.2.5 The Contractor must promptly notify the Owner and the Architect in writing of any apparent errors, inconsistencies, omissions, ambiguities, construction impracticalities or code violations discovered as a result of the Contractor's review of the Contract Documents including any differences between actual and indicated dimensions, locations and descriptions, and must give the Owner and the Architect timely notice in writing of same and of any corrections, clarifications, additional Drawings or Specifications, or other information required to define the Work in greater detail or to permit the proper progress of the Work. The Contractor must provide similar notice with respect to any variance between its review of the Site and physical data and Site conditions observed.

§ 3.2.6 If the Contractor performs any Work involving an apparent error, inconsistency, ambiguity, construction impracticality, omission or code violation in the Contract Documents of which the Contractor is aware, or which could reasonably have been discovered by the review required by Section 3.2, without prompt written notice to the Owner and the Architect and request for correction, clarification or additional information, as appropriate, the Contractor does so at its own risk and expense and all Claims relating thereafter are specifically waived.

§ 3.3 Supervision and Construction Procedures

§ 3.3.1 The Contractor shall supervise and direct the Work, using the Contractor's best skill and attention. The Contractor shall be solely responsible for, and have control over, construction means, methods, techniques, sequences, and procedures, and for coordinating all portions of the Work under the Contract. If the Contract Documents give specific instructions concerning construction means, methods, techniques, sequences, or procedures, the Contractor shall evaluate the jobsite safety thereof and shall be solely responsible for the jobsite safety of such means, methods, techniques, sequences, or procedures. If the Contractor determines that such means, methods, techniques, sequences or procedures may not be safe, the Contractor shall give timely notice to the Owner, the Construction Manager, and the Architect, and shall propose alternative means, methods, techniques, sequences, or procedures. The Architect shall evaluate the proposed alternative solely for conformance with the design intent for the completed construction. The Construction Manager shall review the proposed alternative for sequencing, constructability, and coordination impacts on the other Contractors. Unless the Architect or the Construction Manager objects to the Contractor's proposed alternative, the Contractor shall perform the Work using its alternative means, methods, techniques, sequences, or procedures.

§ 3.3.2 The Contractor shall be responsible to the Owner for acts and omissions of the Contractor's employees, Subcontractors and their agents and employees, and other persons or entities performing portions of the Work for, or on behalf of, the Contractor or any of its Subcontractors.

§ 3.3.3 The Contractor shall be responsible for inspection of portions of the Project already performed to determine that such portions are in proper condition to receive subsequent Work.

§ 3.3.4 The Contractor shall at all times staff the Project adequately to allow the Project to be managed and completed in a timely and professional manner. The Contractor shall have competent supervision on the job during work hours and readily available at all times upon call.

§ 3.3.5 The Contractor shall at all times make reasonable provisions to protect any Work performed by any separate contractors, adjacent property, and the existing building (if any) from damage due to the Work or due to the weather.

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§ 3.3.6 The Owner or its approved representative (heretofore referred to as Owner's Representative) shall have access to the Work site and all Work. No supervision or inspection by the Owner or the Owner's Representative, nor the authority to act, nor any other actions taken by the Owner's Representative shall relieve the Contractor of any of its obligations under the Contract Documents or give rise to any duty on the part of the Owner.

§ 3.3.7 The Contract shall take appropriate precautions to ensure that the Work does not materially disrupt any ongoing operation by the Owner at the Project (if any) except to the extent any such disruption is a necessary result of performing a particular portion of the Work, in which case the Contractor shall provide the Owner with reasonable advanced written notice and shall take all commercially reasonable measures to minimize the impact on the Owner and the Owner's operations.

§ 3.4 Labor and Materials

§ 3.4.1 Unless otherwise provided in the Contract Documents, the Contractor shall provide and pay for labor, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation, and other facilities and services necessary for proper execution and completion of the Work, whether temporary or permanent and whether or not incorporated or to be incorporated in the Work. Should the Contract Documents require Work to be performed after regular working hours or should the Contractor elect to perform Work after regular working hours, the additional cost of such Work shall be borne by the Contractor.

§ 3.4.2 Except in the case of minor changes in the Work approved by the Architect in accordance with Section 3.12.8 or ordered by the Architect in accordance with Section 7.4, the Contractor may make substitutions only with the consent of the Owner, after evaluation by the Architect, in consultation with the Construction Manager, and in accordance with a Change Order or Construction Change Directive.

§ 3.4.3 The Contractor shall enforce strict discipline and good order among the Contractor's employees and other persons carrying out the Work. The Contractor shall not permit employment of unfit persons or persons not properly skilled in tasks assigned to them.

§ 3.4.4 The Contractor shall be responsible for all additional costs incurred to incorporate into the Project substitute materials, products, or equipment approved by Owner during the bidding period.

§ 3.4.5 In the event of a Change related to substitute or additional materials, and which shall comply with Article 7, the Contractor shall exercise reasonable efforts, consistent with the provisions of the Contract Documents to obtain the maximum available case discounts on all materials, provided that, in doing so, the Contractor shall not accept or use materials for incorporation into the Project which are of a type or quality not reasonably contemplated under the terms of the Contract Documents.

§ 3.4.6 After award of the Contract, a request for substitution of a material, product, or piece of equipment at no change in the Contract Sum will not be approved by the Owner or the Architect, unless the specified item is no longer manufactured, the specified item is unavailable as a result of an act of government such as a declaration of a national emergency, or delivery of the specified items is substantially delayed as a result of labor disputes affecting the manufacturer, unusual delay in transportation, or any other cause beyond control of the Contractor or a Subcontractor or material supplier which the Architect determines justified the delay. Requests will not be approved where the delay in delivery results from failure to promptly place subcontracts and material orders. Requests for substitution shall be submitted in writing to the Architect and shall clearly describe the proposed substitution, state the reason for the unavailability of a specified item and be accompanied by such additional data and information as may be necessary in the discretion of the Owner and the Architect to establish the acceptability of the proposed substitute.

§ 3.4.7 The Owner shall be entitled to deduct from the Contract Sum amounts paid to the Architect to evaluate the Contractor's proposed Substitutions and for changes made to the Contract Documents as a result of Owner's acceptance of such Substitutions.

§ 3.5 Warranty

§ 3.5.1 The Contractor warrants to the Owner, Construction Manager, and Architect that materials and equipment furnished under the Contract will be of good quality and new unless the Contract Documents require or permit otherwise. The Contractor further warrants that the Work will conform to the requirements of the Contract Documents

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and will be free from defects, except for those inherent in the quality of the Work the Contract Documents require or permit. Work, materials, or equipment not conforming to these requirements may be considered defective. The Contractor's warranty excludes remedy for damage or defect caused by abuse, alterations to the Work not executed by the Contractor, improper or insufficient maintenance, improper operation, or normal wear and tear and normal usage. If required by the Construction Manager or Architect, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment.

§ 3.5.2 All material, equipment, or other special warranties required by the Contract Documents shall be issued in the name of the Owner, or shall be transferable to the Owner, and shall commence in accordance with Section 9.8.4. The Contractor shall arrange for the Owner to have the benefit of and right to enforce all warranties by Subcontractors, Sub-subcontractors, suppliers, and manufacturers.

§ 3.5.3 Manufacturers' warranties and warranties by other shall not relieve the Contractor of any of its responsibilities.

§ 3.5.4 The Contractor's general warranty and any additional or special warranties are not limited by the Contractor's obligations to specifically correct defective or nonconforming Work as provided in Article 12, nor are they limited by any other remedies provided in the Contract Documents. The Contractor shall also be liable for any damage to property or persons (including death) including consequential and direct damages relating to any breach of the Contractor's general warranty or any additional or special warranties required by the Contract Documents.

§ 3.5.5 The Contractor must furnish all special warranties required by the Contract Documents to the Owner no later than Substantial Completion. The Owner may require additional special warranties in connection with the approval of "Or-Equals" or Substitutions, Allowance items, Work that is defective or nonconforming, or the acceptance of nonconforming Work pursuant to Article 12.

§ 3.6 Taxes

The Contractor shall pay sales, consumer, use and similar taxes for the Work or portions thereof provided by the Contractor that are legally enacted when bids are received or negotiations concluded, whether or not yet effective or merely scheduled to go into effect.

§ 3.7 Permits, Fees, Notices, and Compliance with Laws

§ 3.7.1 Unless otherwise provided in the Contract Documents, the Owner, assisted by the Construction Manager, shall secure and pay for the building permit. The Contractor shall secure and pay for other permits, fees, licenses, and inspections by government agencies necessary for proper execution and completion of the Work that are customarily secured after execution of the Contract and legally required at the time bids are received or negotiations concluded. The Contractor shall be responsible for the Sewer Access (SAC) and Water Access (WAC) fees for the Project. The Contractor shall pay the SAC/WAC costs to the authorities having jurisdiction from the Allowance in the Base Bid for such charges as defined in the Construction Documents.

§ 3.7.2 The Contractor shall comply with and give notices required by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities applicable to performance of the Work.

§ 3.7.3 If the Contractor performs Work knowing or believing it to be contrary to applicable laws, statutes, ordinances, building codes, rules and regulations, or lawful orders of public authorities, without such notice to the Architect and Owner, the Contractor shall assume full responsibility for such Work and shall bear the attributable costs, delays, and damages resulting from such failure to immediately notify the Architect and Owner of any such violation..

§ 3.7.4 Concealed or Unknown Conditions. If the Contractor encounters conditions at the site that are (1) subsurface or otherwise concealed physical conditions that differ materially from those indicated in the Contract Documents or (2) unknown physical conditions of an unusual nature that differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents, the Contractor shall promptly provide notice to the Owner, Construction Manager, and the Architect before conditions are disturbed and in no event later than ten (10) days after first observance of the conditions. The Architect and Construction Manager will promptly investigate such conditions and, if the Architect, in consultation with the Construction Manager, determines that they differ materially and cause an increase or decrease in the Contractor's cost of, or time required for, performance of any part of the Work, will recommend that an equitable adjustment be made in the Contract Sum or Contract Time, or both. If the Architect, in consultation with the Construction Manager,

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determines that the conditions at the site are not materially different from those indicated in the Contract Documents and that no change in the terms of the Contract is justified, the Architect shall promptly notify the Owner, Construction Manager, and Contractor, stating the reasons. If the Owner or Contractor disputes the Architect's determination or recommendation, either party may submit a Claim as provided in Article 15.

§ 3.7.5 If, in the course of the Work, the Contractor encounters human remains or recognizes the existence of burial markers, archaeological sites or wetlands not indicated in the Contract Documents, the Contractor shall immediately suspend any operations that would affect them and shall notify the Owner, Construction Manager, and Architect. Upon receipt of such notice, the Owner shall promptly take any action necessary to obtain governmental authorization required to resume the operations. The Contractor shall continue to suspend such operations until otherwise instructed by the Owner but shall continue with all other operations that do not affect those remains or features. Requests for adjustments in the Contract Sum and Contract Time arising from the existence of such remains or features may be made as provided in Article 15.

§ 3.8 Allowances

§ 3.8.1 The Contractor shall include in the Contract Sum all allowances stated in the Contract Documents. Items covered by allowances shall be supplied for such amounts and by such persons or entities as the Owner may direct, but the Contractor shall not be required to employ persons or entities to whom the Contractor has reasonable objection.

§ 3.8.2 Unless otherwise provided in the Contract Documents:

- **.1** allowances shall cover the cost to the Contractor of materials and equipment delivered at the site and all required taxes, less applicable trade discounts;
- **.2** Contractor's costs for unloading and handling at the site, labor, installation costs, overhead, profit, and other expenses contemplated for stated allowance amounts shall be included in the Contract Sum but not in the allowances; and
- **.3** whenever costs are more than or less than allowances, the Contract Sum shall be adjusted accordingly by Change Order. The amount of the Change Order shall reflect (1) the difference between actual costs and the allowances under Section 3.8.2.1 and (2) changes in Contractor's costs under Section 3.8.2.2.

§ 3.8.3 Materials and equipment under an allowance shall be selected by the Owner with reasonable promptness.

§ 3.9 Superintendent

§ 3.9.1 The Contractor shall employ a competent superintendent and necessary assistants who shall be in attendance at the Project site during performance of the Work, including that performed by all Subcontractors. The superintendent shall represent the Contractor, and communications given to the superintendent shall be as binding as if given to the Contractor. Important communications including and not limited to communications regarding design changes, alterations, substitutions, clarifications, cost changes, etc. shall be confirmed in writing by the Contractor. Other communications shall be similarly confirmed on written request in each case.

§ 3.9.2 The Contractor, as soon as practicable after award of the Contract, shall notify the Owner and Architect, through the Construction Manager, of the name and qualifications of a proposed superintendent. Within 14 days of receipt of the information, the Construction Manager may notify the Contractor, stating whether the Owner, the Construction Manager, or the Architect (1) has reasonable objection to the proposed superintendent or (2) require additional time for review. Failure of the Construction Manager to provide notice within the 14-day period shall constitute notice of no reasonable objection.

§ 3.9.3 The Contractor shall not employ a proposed superintendent or any other management personnel to whom the Owner, Construction Manager, or Architect has made reasonable and timely objection. The Contractor shall not change the superintendent without the Owner's consent, which shall not unreasonably be withheld or delayed.

§ 3.9.4 If requested by the Owner, the Contractor shall replace the superintendent at no additional cost to the Owner. No other change in this position shall be made without notice to and written consent of the Owner.

§ 3.10 Contractor's Construction and Submittal Schedules

§ 3.10.1 The Contractor, promptly after being awarded the Contract, shall submit for the Owner's and Architect's information, and the Construction Manager's use in developing the Project schedule, a Contractor's construction schedule for the Work. The schedule shall contain detail appropriate for the Project, including (1) the date of

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commencement of the Work, interim schedule milestone dates, critical path schedule milestones, major construction milestones, including and not limited to Civil, Demolition, Structural, Mechanical, Electrical, and Plumbing, and the date of Substantial Completion; (2) an apportionment of the Work by construction activity; and (3) the time required for completion of each portion of the Work. The schedule shall provide for the orderly progression of the Work to completion and shall not exceed time limits current under the Contract Documents. The schedule shall be revised at appropriate intervals as required by the conditions of the Work and Project. The Contractor shall cooperate with the Construction Manager in scheduling and performing the Contractor's Work to avoid conflict with, and as to cause no delay in, the work or activities of other Contractors, or the construction or operations of the Owner's own forces or Separate Contractors.

§ 3.10.2 The Contractor, promptly after being awarded the Contract and thereafter as necessary to maintain a current submittal schedule, shall submit a submittal schedule for the Construction Manager's and Architect's approval. The Architect and Construction Manager's approval shall not be unreasonably delayed or withheld. The submittal schedule shall (1) be coordinated with the Contractor's construction schedule, and (2) allow the Construction Manager and Architect reasonable time to review submittals. If the Contractor fails to submit a submittal schedule, or fails to provide submittals in accordance with the approved submittal schedule, the Contractor shall not be entitled to any increase in Contract Sum or extension of Contract Time based on the time required for review of submittals.

§ 3.10.3 The Contractor shall participate with other Contractors, the Construction Manager, and the Owner in reviewing and coordinating all schedules for incorporation into the Project schedule that is prepared by the Construction Manager. The Contractor shall make revisions to the construction schedule and submittal schedule as deemed necessary by the Construction Manager to conform to the Project schedule.

§ 3.10.4 The Contractor shall perform the Work in general accordance with the most recent schedules submitted to and accepted in writing by the Owner, Construction Manager, and Architect, and incorporated into the approved Project schedule.

§ 3.11 Documents and Samples at the Site

§ 3.11.1 The Contractor shall make available, at the Project site, one record copy of the Contract Documents, including Change Orders, Construction Change Directives, and other Modifications, in good order and updated daily to indicate field changes and selections made during construction, and in addition accepted and approved Shop Drawings, Product Data, Samples, and similar required submittals. These shall be in electronic form or paper copy, available to the Construction Manager, Architect, and Owner as required to complete routine inspections by Architect, Construction Manager and Owner prior to any approval of payments to the Contractor, and delivered to the Construction Manager for submittal to the Owner upon completion of the Work. The Architect and Contractor must verify that all "as-built" Drawings, Specifications, Addenda, Change Orders, and other Modifications are up-to-date before Contractor's Application for Payment is acceptable and before the Owner incurs any duty to pay Contractor in accordance with the Contract. The record documents shall be a separate set of documents labeled "Record Documents" and used only for record purposes and kept clean and undamaged.

§ 3.11.2 No review or receipt of such records by the Architect or Owner shall be considered a waiver of any deviation from the Contract Documents or approved shop drawings, or any way relieve the Contractor from its responsibility to perform the Work in accordance with the Contract Documents.

§ 3.12 Shop Drawings, Product Data, and Samples

§ 3.12.1 Shop Drawings are drawings, diagrams, schedules, and other data specially prepared for the Work by the Contractor or a Subcontractor, Sub-subcontractor, manufacturer, supplier, or distributor to illustrate some portion of the Work.

§ 3.12.2 Product Data are illustrations, standard schedules, performance charts, instructions, brochures, diagrams, and other information furnished by the Contractor to illustrate materials or equipment for some portion of the Work.

§ 3.12.3 Samples are physical examples that illustrate materials, equipment, or workmanship, and establish standards by which the Work will be judged.

§ 3.12.4 Shop Drawings, Product Data, Samples, and similar submittals are not Contract Documents. Their purpose is to demonstrate how the Contractor proposes to conform to the information given and the design concept expressed in the Contract Documents for those portions of the Work for which the Contract Documents require submittals. Review

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by the Architect and Construction Manager is subject to the limitations of Sections 4.2.10 through 4.2.12. Informational submittals upon which the Construction Manager and Architect are not expected to take responsive action may be so identified in the Contract Documents. Submittals that are not required by the Contract Documents may be returned by the Construction Manager or Architect without action.

§ 3.12.5 The Contractor shall review for compliance with the Contract Documents, approve, and submit to the Construction Manager, Shop Drawings, Product Data, Samples, and similar submittals required by the Contract Documents, in accordance with the Project submittal schedule approved by the Construction Manager and Architect or, in the absence of an approved Project submittal schedule, with reasonable promptness and in such sequence as to cause no delay in the Work or in the activities of other Contractors, Separate Contractors, or the Owner's own forces. The Contractor shall cooperate with the Construction Manager in the coordination of the Contractor's Shop Drawings, Product Data, Samples, and similar submittals with related documents submitted by other Contractors. The Contractor must provide the Owner and the Architect with copies of all submittals made to regulatory agencies.

§ 3.12.6 By submitting Shop Drawings, Product Data, Samples, and similar submittals, the Contractor represents to the Owner, Construction Manager, and Architect, that the Contractor has (1) reviewed and approved them, (2) determined and verified materials, field measurements and field construction criteria related thereto, or will do so, and (3) checked and coordinated the information contained within such submittals with the requirements of the Work and of the Contract Documents.

§ 3.12.7 The Contractor shall perform no portion of the Work for which the Contract Documents require submittal and review of Shop Drawings, Product Data, Samples, or similar submittals, until the respective submittal has been reviewed and accepted by the Architect. The Contractor must correct at its cost, and without any adjustment in Contract Time, any Work the correction of which is required due to the Contractor's failure to obtain approval of a submittal required to have been obtained prior to proceeding with the Work, including, but not limited to, correction of any conflicts in the Work resulting from such failure.

§ 3.12.8 The Work shall be in accordance with accepted submittals except that the Contractor shall not be relieved of responsibility for deviations from the requirements of the Contract Documents by the Architect's acceptance of Shop Drawings, Product Data, Samples, or similar submittals, unless the Contractor has specifically notified the Construction Manager and Architect of such deviation at the time of submittal and (1) the Architect has given written acceptance to the specific deviation as a minor change in the Work, or (2) a Change Order or Construction Change Directive has been issued authorizing the deviation. The Contractor shall not be relieved of responsibility for errors or omissions in Shop Drawings, Product Data, Samples, or similar submittals, by the Architect's acceptance thereof.

§ 3.12.9 The Contractor shall direct specific attention, in writing or on resubmitted Shop Drawings, Product Data, Samples, or similar submittals, to revisions other than those requested by the Construction Manager and Architect on previous submittals. In the absence of such notice, the Architect's acceptance of a resubmission shall not apply to such revisions.

§ 3.12.10 The Contractor shall not be required to provide professional services that constitute the practice of architecture or engineering unless such services are specifically required by the Contract Documents for a portion of the Work or unless the Contractor needs to provide such services in order to carry out the Contractor's responsibilities for construction means, methods, techniques, sequences, and procedures. The Contractor shall not be required to provide professional services in violation of applicable law.

§ 3.12.10.1 If professional design services or certifications by a design professional related to systems, materials, or equipment are specifically required of the Contractor by the Contract Documents, the Owner and the Architect will specify all performance and design criteria that such services must satisfy. The Contractor shall be entitled to rely upon the adequacy and accuracy of the performance and design criteria provided in the Contract Documents. The Contractor shall cause such services or certifications to be provided by an appropriately licensed design professional, whose signature and seal shall appear on all drawings, calculations, specifications, certifications, Shop Drawings, and other submittals prepared by such professional. Shop Drawings, and other submittals related to the Work, designed or certified by such professional, if prepared by others, shall bear such professional's written approval when submitted to the Architect. The Owner, the Architect, and the Construction Manager shall be entitled to rely upon the adequacy and accuracy of the services, certifications, and approvals performed or provided by such design professionals, provided the Owner and Architect have specified to the Contractor the performance and design criteria that such services must

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satisfy. Pursuant to this Section 3.12.10, the Architect will review and approve or take other appropriate action on submittals only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Construction Manager shall review submittals for sequencing, constructability, and coordination impacts on other Contractors.

§ 3.12.10.2 If the Contract Documents require the Contractor's design professional to certify that the Work has been performed in accordance with the design criteria, the Contractor shall furnish such certifications to the Construction Manager and Architect at the time and in the form specified by the Architect.

§ 3.13 Use of Site

§ 3.13.1 The Contractor shall confine operations at the site to areas permitted by applicable laws, statutes, ordinances, codes, rules and regulations, lawful orders of public authorities, and the Contract Documents and shall not unreasonably encumber the site with materials or equipment.

§ 3.13.2 The Contractor shall coordinate the Contractor's operations with, and secure the approval of, the Construction Manager before using any portion of the site.

§ 3.13.3 Except as may be specifically provided in the Contract Documents, the Contractor shall provide all necessary temporary facilities, including power, water, sanitation, scaffolding, storage, and security. If Owner makes any such facilities available to Contractor, it is without representation or warranty as to their adequacy for Contractor's use, and Contractor shall indemnify, defend, and hold Owner harmless from and against any claims arising out of Contractor's use of such facilities.

§ 3.14 Cutting and Patching

§ 3.14.1 The Contractor shall be responsible for cutting, fitting, or patching required to complete the Work or to make its parts fit together properly. All areas requiring cutting, fitting, or patching shall be restored to the condition existing prior to the cutting, fitting, or patching, unless otherwise required by the Contract Documents.

§ 3.14.2 The Contractor shall not damage or endanger a portion of the Work or fully or partially completed construction of the Owner, Separate Contractors, or of other Contractors by cutting, patching, or otherwise altering such construction, or by excavation. The Contractor shall not cut or otherwise alter construction by the Owner, Separate Contractors, or by other Contractors except with written consent of the Construction Manager, Owner, and such other Contractors or Separate Contractors. Consent shall not be unreasonably withheld. The Contractor shall hire a professional utilities locator to verify locations of all public and private utilities prior to initiating any cutting work. The Contractor shall not unreasonably withhold, from the Separate Contractors, other Contractors, or the Owner, its consent to cutting or otherwise altering the Work.

§ 3.15 Cleaning Up

§ 3.15.1 The Contractor shall keep the premises and surrounding area continuously free from accumulation of waste materials and rubbish caused by operations under the Contract. At completion of the Work, the Contractor shall remove from and about the Project waste materials, rubbish, Contractor-generated waste materials, the Contractor's generated hazardous waste materials, the Contractor's tools, construction equipment, machinery, and surplus materials from and about the Project.

§ 3.15.2 If the Contractor fails to clean up as provided in the Contract Documents, the Owner, or Construction Manager with the Owner's approval, may do so and the Owner shall be entitled to reimbursement from the Contractor.

§ 3.16 Access to Work

The Contractor shall provide the Owner, Construction Manager, and Architect with access to the Work in preparation and progress wherever located.

§ 3.17 Royalties, Patents and Copyrights

The Contractor shall pay all royalties and license fees. The Contractor shall defend suits or claims for infringement of copyrights and patent rights and shall hold the Owner, Construction Manager, and Architect harmless from loss on account thereof, but shall not be responsible for defense or loss when a particular design, process, or product of a particular manufacturer or manufacturers is required by the Contract Documents, or where the copyright violations are contained in Drawings, Specifications, or other documents prepared by the Owner, Architect, or Construction

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Manager. However, if an infringement of a copyright or patent is discovered by, or made known to, the Contractor, the Contractor shall be responsible for the loss unless the information is promptly furnished to the Architect through the Construction Manager.

§ 3.18 Indemnification

§ 3.18.1 To the fullest extent permitted by law, the Contractor shall indemnify, defend and hold harmless the Owner, Construction Manager, Architect, Construction Manager's and Architect's consultants, and agents and employees of any of them from and against claims, damages, losses, and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), but only to the extent caused by the negligent acts or omissions of the Contractor, a Subcontractor, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss, or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity which would otherwise exist as to a party or person described in this Section 3.18. The Contractor, furthermore, agrees to obtain, maintain, and pay for such general liability coverage and endorsements (including product and completed operations coverage) as will ensure the provisions of this Section 3.18.1. The Contractor agrees to reimburse the Owner, its agents and employees for all costs and disbursements, including attorneys' fees, paid or incurred to enforce the provisions of this Section 3.18.1.

§ 3.18.2 In claims against any person or entity indemnified under this Section 3.18 by an employee of the Contractor, a Subcontractor, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, the indemnification obligation under Section 3.18.1 shall not be limited by a limitation on amount or type of damages, compensation, or benefits payable by or for the Contractor or a Subcontractor under workers' compensation acts, disability benefit acts, or other employee benefit acts.

§ 3.18.3 To the fullest extent permitted by law and without limiting any other indemnification obligations of the Contractor, except to the extent caused by the uncured failure of the Owner to make payment when due and owing, the Contractor shall indemnify and defend the Owner, its officers, directors, assigns, lenders, agents, and employees from any liens, charges (including attorneys' fees) or encumbrances (including but not limited to mechanic's and materialmen's liens or bond claims) arising out of or in connection with the performance of the Work by Contractor, its Subcontractors, or its material suppliers. Upon request of the Owner, the Contractor shall within sixty (60) days remove any liens filed against the Owner or its property. If the Contractor fails to do so, the Owner is authorized by the Contractor to remove or satisfy any such liens, and the Contractor shall pay to the Owner all costs and damages incurred by the Owner to do so, including attorneys' fees.

ARTICLE 4 ARCHITECT AND CONSTRUCTION MANAGER

§ 4.1 General

§ 4.1.1 The Architect is the person or entity retained by the Owner pursuant to Section 2.3.2 and identified as such in the Agreement.

§ 4.1.2 The Construction Manager is the person or entity retained by the Owner pursuant to Section 2.3.3 and identified as such in the Agreement.

§ 4.1.3 Duties, responsibilities, and limitations of authority of the Construction Manager and Architect as set forth in the Contract Documents shall not be restricted, modified, or extended without written consent of the Owner, Construction Manager, Architect, and Contractor. Consent shall not be unreasonably withheld.

§ 4.2 Administration of the Contract

§ 4.2.1 The Construction Manager and Architect will provide administration of the Contract as described in the Contract Documents and will be the Owner's consultants (1) during construction; (2) until final payment is due; and (3) with the Owner's concurrence, from time to time during the correction period described in Section 12.2. The Architect and Construction Manager will advise and consult with the Owner. The Construction Manager and Architect will have authority to act on behalf of the Owner only to the extent provided in the Contract Documents, unless otherwise modified in writing in accordance with other provisions of the Contract.

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§ 4.2.2 The Architect will visit the site at intervals appropriate to the stage of construction, or as otherwise agreed with the Owner, to become generally familiar with the progress and quality of the Work completed, to endeavor to guard the Owner against defects and deficiencies in the Work, and to determine in general if the Work is being performed in a manner indicating that the Work, when completed, will be in accordance with the Contract Documents. However, the Architect will not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. On the basis of the site visits, the Architect will keep the Owner and the Construction Manager reasonably informed about the progress and quality of the portion of the Work completed, and promptly report to the Owner and Construction Manager known deviations from the Contract Documents and defects and deficiencies observed in the Work.

§ 4.2.2.2 The Contractor shall reimburse the Owner for compensation paid to the Architect for additional site visits made necessary by fault, neglect, or request of the Contractor.

§ 4.2.3 The Construction Manager shall provide one or more representatives who shall be in attendance at the Project site whenever the Work is being performed. The Construction Manager will determine in general if the Work observed is being performed in accordance with the Contract Documents, will keep the Owner and Architect reasonably informed of the progress of the Work, and will promptly report to the Owner and Architect known deviations from the Contract Documents and the most recent Project schedule, and defects and deficiencies observed in the Work.

§ 4.2.4 The Construction Manager will schedule and coordinate the activities of the Contractor and other Contractors in accordance with the latest approved Project schedule.

§ 4.2.5 The Construction Manager, except to the extent required by Section 4.2.4, and Architect will not have control over, charge of, or responsibility for, the construction means, methods, techniques, sequences or procedures, or for the safety precautions and programs in connection with the Work, since these are solely the Contractor's rights and responsibilities under the Contract Documents, and neither will be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. Neither the Construction Manager nor the Architect will have control over or charge of, or be responsible for acts or omissions of, the Contractor, Subcontractors, or their agents or employees, or of any other persons or entities performing portions of the Work.

§ 4.2.6 Communications. The Owner shall communicate with the Contractor and the Construction Manager's consultants through the Construction Manager about matters arising out of or relating to the Contract Documents. The Owner and Construction Manager shall include the Architect in all communications that relate to or affect the Architect's services or professional responsibilities. The Owner shall promptly notify the Architect of the substance of any direct communications between the Owner and the Construction Manager otherwise relating to the Project. Communications by and with the Architect's consultants shall be through the Architect. Communications by and with Subcontractors and suppliers shall be through the Contractor. Communications by and with other Contractors shall be through the Construction Manager. Communications by and with the Owner's own forces and Separate Contractors shall be through the Owner unless otherwise provided. The Contract Documents may specify other communication protocols. The Owner may require the Architect, Construction Manager and the Contractor to comply with Owner requirements in regards to public communications and site signage.

§ 4.2.7 The Construction Manager and Architect will review and certify all Applications for Payment by the Contractor, in accordance with the provisions of Article 9.

§ 4.2.8 The Architect and Construction Manager have authority to reject Work that does not conform to the Contract Documents, and will notify each other about the rejection. Whenever the Construction Manager considers it necessary or advisable for implementation of the intent of the Contract Documents, the Construction Manager will have authority to require additional inspection or testing of the Work in accordance with Sections 13.4.2 and 13.4.3, upon written authorization of the Owner, whether or not the Work is fabricated, installed or completed. The foregoing authority of the Construction Manager will be subject to the provisions of Sections 4.2.18 through 4.2.20 inclusive, with respect to interpretations and decisions of the Architect. However, neither the Architect's nor the Construction Manager's authority to act under this Section 4.2.8 nor a decision made by either of them in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect or the Construction Manager to the Contractor, Subcontractors, suppliers, their agents or employees, or other persons performing any of the Work.

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§ 4.2.9 Utilizing the submittal schedule provided by the Contractor, the Construction Manager shall prepare, and revise as necessary, a Project submittal schedule incorporating information from other Contractors, the Owner, Owner's consultants, Owner's Separate Contractors and vendors, governmental agencies, and participants in the Project under the management of the Construction Manager. The Project submittal schedule and any revisions shall be submitted to the Architect for approval.

§ 4.2.10 The Construction Manager will receive and promptly review for conformance with the submittal requirements of the Contract Documents, all submittals from the Contractor such as Shop Drawings, Product Data, and Samples. Where there are other Contractors, the Construction Manager will also check and coordinate the information contained within each submittal received from the Contractor and other Contractors, and transmit to the Architect those recommended for approval. By submitting Shop Drawings, Product Data, Samples, and similar submittals, the Construction Manager represents to the Owner and Architect that the Construction Manager has reviewed and recommended them for approval. The Construction Manager's actions will be taken in accordance with the Project submittal schedule approved by the Architect or, in the absence of an approved Project submittal schedule, with reasonable promptness while allowing sufficient time to permit adequate review by the Architect.

§ 4.2.11 The Architect will, and the Owner may, review and approve, or take other appropriate action upon, the Contractor's submittals such as Shop Drawings, Product Data, and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Architect's or Owner's action will be taken with such reasonable promptness as to cause no delay in the Work or in the activities of the Owner, Contractor or separate contractors, while allowing sufficient time in the Architect's professional judgment to permit adequate review. Upon the Architect's or the Owner's completed review, the Architect shall transmit its submittal review to the Construction Manager.

§ 4.2.12 Review of the Contractor's submittals by the Construction Manager and Architect is not conducted for the purpose of determining the accuracy and completeness of other details such as dimensions and quantities, or for substantiating instructions for installation or performance of equipment or systems, all of which remain the responsibility of the Contractor as required by the Contract Documents. The Construction Manager and Architect's review of the Contractor's submittals shall not relieve the Contractor of the obligations under Sections 3.3, 3.5, and 3.12. The Construction Manager and Architect's review shall not constitute approval of safety precautions or of any construction means, methods, techniques, sequences, or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

§ 4.2.13 The Construction Manager will prepare Change Orders and Construction Change Directives.

§ 4.2.14 The Construction Manager and the Architect will take appropriate action on Change Orders or Construction Change Directives in accordance with Article 7, and the Architect will have authority to order minor changes in the Work as provided in Section 7.4. The Architect, in consultation with the Construction Manager, will investigate and make determinations and recommendations regarding concealed and unknown conditions as provided in Section 3.7.4.

§ 4.2.15 Utilizing the documents provided by the Contractor, the Construction Manager will maintain at the site for the Owner one copy of all Contract Documents, approved Shop Drawings, Product Data, Samples, and similar required submittals, in good order and marked currently to record all changes and selections made during construction. These will be available to the Architect and the Contractor, and will be delivered to the Owner upon completion of the Project.

§ 4.2.16 The Construction Manager will assist the Architect in conducting inspections to determine the date or dates of Substantial Completion and the date of final completion; issue Certificates of Substantial Completion in conjunction with the Architect pursuant to Section 9.8; and receive and forward to the Owner written warranties and related documents required by the Contract and assembled by the Contractor pursuant to Section 9.10. The Construction Manager will forward to the Architect a final Application and Certificate for Payment or final Project Application and Project Certificate for Payment upon the Contractor's compliance with the requirements of the Contract Documents.

§ 4.2.17 If the Owner and Architect agree, the Architect will provide one or more Project representatives to assist in carrying out the Architect's responsibilities at the site. The Owner shall notify the Construction Manager of any change in the duties, responsibilities and limitations of authority of the Project representatives.

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§ 4.2.18 The Architect will interpret and decide matters concerning performance under the requirements of, the Contract Documents on written request of the Construction Manager, Owner, or Contractor through the Construction Manager. The Architect's response to such requests will be made with reasonable promptness and within any time limits agreed upon. If no agreement is made concerning the time within which interpretations required of the Architect shall be furnished in compliance with this Section 4.2.18, then delay shall not be recognized on account of failure by the Architect to furnish such interpretations until fifteen (15) days after written request is made to them.

§ 4.2.19 Architect's decisions on matters relating to aesthetic effect will be final if consistent with the intent expressed in the Contract Documents.

§ 4.2.20 Architect will review and respond to requests for information about the Contract Documents. The Architect's response to such requests will be made in writing within any time limits agreed upon or otherwise with reasonable promptness. If appropriate, the Architect will prepare and issue supplemental Drawings and Specifications in response to the requests for information.

(Paragraph deleted)

ARTICLE 5 SUBCONTRACTORS

§ 5.1 Definitions

§ 5.1.1 A Subcontractor is a person or entity who has a direct contract with the Contractor to perform a portion of the Work at the site. The term "Subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Subcontractor or an authorized representative of the Subcontractor. The term "Subcontractor" does not include other Contractors or Separate Contractors or the subcontractors of other Contractors or Separate Contractors.

§ 5.1.2 A Sub-subcontractor is a person or entity who has a direct or indirect contract with a Subcontractor to perform a portion of the Work at the site. The term "Sub-subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Sub-subcontractor or an authorized representative of the Sub-subcontractor.

§ 5.2 Award of Subcontracts and Other Contracts for Portions of the Work

§ 5.2.1 Unless otherwise stated in the Contract Documents, the Contractor, as soon as practicable after award of the Contract, shall notify in writing the Construction Manager, for review by the Owner, Construction Manager and Architect, of the persons or entities proposed for each principal portion of the Work, including those who are to furnish materials or equipment fabricated to a special design. Within 14 days of receipt of the information, the Construction Manager may notify the Contractor whether the Owner, the Construction Manager or the Architect (1) has reasonable objection to any such proposed person or entity or, (2) requires additional time for review. Failure of the Construction Manager to provide notice within the 14-day period shall constitute notice of no reasonable objection. The Contractor shall not employ any Subcontractor or use any material to which the Architect, Construction Manager or Owner may object. Prior to the employment of any Subcontractor, the Contractor must obtain the Owner's approval of such Subcontractor for the designated portion of the Work.

§ 5.2.2 The Contractor shall not contract with a proposed person or entity to whom the Owner, Construction Manager or Architect has made reasonable and timely objection. The Contractor shall not be required to contract with anyone to whom the Contractor has made reasonable objection.

§ 5.2.3 If the Owner, Construction Manager or Architect has reasonable objection to a person or entity proposed by the Contractor, the Contractor shall propose another to whom the Owner, Construction Manager or Architect has no reasonable objection. The Contract Sum shall be increased or decreased by the difference in cost occasioned by such change, and an appropriate Change Order shall be issued. However, no increase in the Contract Sum or Contract Time shall be allowed for such change unless the Contractor has acted promptly and responsively in submitting names as required. Notwithstanding the foregoing, the Contractor shall have a continuing duty to the Owner, Construction Manager and Architect to find and propose such persons or entities as shall not result in material increase in the Contract Sum, or a material decrease in the quality of Work contemplated under the Contract Documents.

§ 5.2.4 The Contractor shall not substitute a Subcontractor, person, or entity for one previously selected if the Owner, Construction Manager or Architect makes reasonable objection to such substitution. Any proposed substitution of a Subcontractor, person, or entity for one previously selected shall be made in a separate writing to the Owner, Construction Manager and Architect. No substitution shall be deemed approved/accepted without written

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confirmation from the Owner, Construction Manager and Architect. Neither acceptance of, nor objection to a Subcontractor or Sub-subcontractor, material supplier, or other person or organization by the Owner, Construction Manager and Architect shall limit the responsibility of the Contractor to furnish materials, products, equipment, and services in conformance with the requirements of the Contract Documents.

§ 5.3 Subcontractual Relations

§ 5.3.1 By appropriate written agreement, the Contractor shall require each Subcontractor, to the extent of the Work to be performed by the Subcontractor, to be bound to the Contractor by terms of the Contract Documents, and to assume toward the Contractor all the obligations and responsibilities, including the responsibility for safety of the Subcontractor's Work, that the Contractor, by these Contract Documents, assumes toward the Owner, Construction Manager and Architect. Each subcontract agreement shall preserve and protect the rights of the Owner, Construction Manager and Architect under the Contract Documents with respect to the Work to be performed by the Subcontractor so that subcontracting thereof will not prejudice such rights, and shall allow to the Subcontractor, unless specifically provided otherwise in the subcontract agreement, the benefit of all rights, remedies, and redress against the Contractor that the Contractor, by the Contract Documents, has against the Owner. Where appropriate, the Contractor shall require each Subcontractor to enter into similar agreements with Sub-subcontractors. The Contractor shall make available to each proposed Subcontractor, prior to the execution of the subcontract agreement, copies of the Contract Documents to which the Subcontractor will be bound, and, upon written request of the Subcontractor, identify to the Subcontractor terms and conditions of the proposed subcontract agreement that may be at variance with the Contract Documents. Subcontractors shall similarly make copies of applicable portions of such documents available to their respective proposed Sub-subcontractors.

§ 5.3.2 The Contractor is responsible for the performance of, the actions of, the timeliness of, or interference caused by, Subcontractors, Sub-subcontractors (of any tier), and others directly or indirectly under contract to the Contractor.

§ 5.4 Contingent Assignment of Subcontracts

§ 5.4.1 Each subcontract agreement for a portion of the Work is assigned by the Contractor to the Owner, provided that

.1 assignment is effective only after termination of the Contract by the Owner for cause pursuant to Section 14.2 and only for those subcontract agreements that the Owner accepts by notifying the Subcontractor and Contractor; and

.2 assignment is subject to the prior rights of the surety, if any, obligated under bond relating to the Contract.

When the Owner accepts the assignment of a subcontract agreement, the Owner assumes the Contractor's rights and obligations under the subcontract.

§ 5.4.2 Upon such assignment, if the Work has been suspended for more than 30 days, the Subcontractor's compensation shall be equitably adjusted for increases in cost resulting from the suspension.

§ 5.4.3 Upon assignment to the Owner under this Section 5.4, the Owner may further assign the subcontract to a successor Contractor or other entity. If the Owner assigns the subcontract to a successor Contractor or other entity, the Owner shall nevertheless remain legally responsible for all of the successor Contractor's obligations under the subcontract.

ARTICLE 6 CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTORS

§ 6.1 Owner's Right to Perform Construction with Own Forces and to Award Other Contracts

§ 6.1.1 The Owner reserves the right to perform construction or operations related to the Project with the Owner's own forces, and with Separate Contractors retained under Conditions of the Contract substantially similar to those of this Contract, including those provisions of the Conditions of the Contract related to insurance and waiver of subrogation.

§ 6.1.2 When the Owner performs construction or operations with the Owner's own forces or Separate Contractors, the Owner shall provide for coordination of such forces and Separate Contractors with the Work of the Contractor, who shall cooperate with them.

§ 6.1.3 Unless otherwise provided in the Contract Documents, when the Owner performs construction or operations related to the Project with the Owner's own forces or with Separate Contractors, the Owner or its Separate Contractors

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shall have the same obligations and rights that the Contractor has under the Conditions of the Contract, including, without excluding others, those stated in Article 3, this Article 6, and Articles 10, 11, and 12.

§ 6.2 Mutual Responsibility

§ 6.2.1 The Contractor shall afford the Owner's own forces, Separate Contractors, Construction Manager and other Contractors reasonable opportunity for introduction and storage of their materials and equipment and performance of their activities, and shall connect and coordinate the Contractor's construction and operations with theirs as required by the Contract Documents.

§ 6.2.2 If part of the Contractor's Work depends for proper execution or results upon construction or operations by the Owner's own forces, Separate Contractors or other Contractors, the Contractor shall, prior to proceeding with that portion of the Work, promptly notify the Construction Manager and Architect of apparent discrepancies or defects in the construction or operations by the Owner or Separate Contractor or other Contractors that would render it unsuitable for proper execution and results of the Contractor's Work. Failure of the Contractor to notify the Construction Manager and the Architect of apparent discrepancies or defects prior to proceeding with the Work shall constitute an acknowledgment that the Owner's or Separate Contractor's or other Contractors' completed or partially completed construction is fit and proper to receive the Contractor's Work. The Contractor shall not be responsible for discrepancies or defects in the construction or operations by the Owner or Separate Contractors or other Contractors that are not reasonably discoverable.

§ 6.2.3 Costs caused by delays or by improperly timed activities or defective construction shall be borne by the party responsible therefor.

§ 6.2.4 The Contractor shall promptly remedy damage that the Contractor wrongfully causes to completed or partially completed construction, or to property of the Owner, Separate Contractors, or other Contractors as provided in Section 10.2.5.

§ 6.2.5 Claims and other disputes and matters in question between the Contractor and a separate contractor shall be subject to the provisions of Article 15 provided the separate contractor has reciprocal obligations.

§ 6.2.6 The Owner, Separate Contractors, and other Contractors shall have the same responsibilities for cutting and patching as are described for the Contractor in Section 3.14.

§ 6.3 Owner's Right to Clean Up

If a dispute arises among the Contractor, Separate Contractors, other Contractors, and the Owner as to the responsibility under their respective contracts for maintaining the premises and surrounding area free from waste materials and rubbish as described in Section 3.15, the Owner may clean up allocate the cost among those responsible as the Architect determines to be just..

ARTICLE 7 CHANGES IN THE WORK

§ 7.1 General

§ 7.1.1 Changes in the Work may be accomplished after execution of the Contract, and without invalidating the Contract, by Change Order, Construction Change Directive or order for a minor change in the Work, subject to the limitations stated in this Article 7 and elsewhere in the Contract Documents.

§ 7.1.2 A Change Order shall be based upon agreement among the Owner, Construction Manager, Architect and Contractor. A Construction Change Directive requires agreement by the Owner, Construction Manager and Architect and may or may not be agreed to by the Contractor.

§ 7.1.3 Changes in the Work shall be performed under applicable provisions of the Contract Documents. The Contractor shall proceed promptly with changes in the Work, unless otherwise provided in the Change Order, Construction Change Directive, or order for a minor change in the Work.

§ 7.1.4 The amount of credit to be allowed by the Contractor to the Owner for any deletion or change which results in a net decrease in the Contract Sum will be the amount of the actual net cost as confirmed by the Architect after consultation with the Owner and Construction Manager. When both additions and credits covering related Work or

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substitutions are involved in any one change, the allowance for both overhead and profit shall be figured on the basis of the net increase or decrease, if any, with respect to that change.

§ 7.1.5 In Section 7.3.6, the allowance for the combined overhead and profit included in the total cost to the Owner shall be based on the following schedule:

.1 For the Contractor, for Work performed by the Contractor's own forces, ten percent (10%) of the cost;

.2 For the Contractor, for Work performed by the Contractor's Subcontractor, five percent (5%) of the amount due the Subcontractor;

.3 For each Subcontractor or Sub-subcontractor involved for Work performed by the Subcontractor's or Sub-subcontractor's own forces, ten percent (10%) of the cost;

.4 For each Subcontractor for Work performed by the Subcontractor's Sub-subcontractor, five percent (5%) of the amount due the Subcontractor;

.5 Costs to which overhead and profit is to be applied shall be determined in accordance with Section 7.3.6;

.6 In order to facilitate checking of quotations for extras or credits, all proposals, expect those so minor that their propriety can be seen by inspection, shall be accompanied by a complete itemization of costs, including labor, materials and subcontracts. Labor and materials shall be itemized in the manner prescribed above. Where major cost items are subcontracts, they shall be itemized also. In no case will a change involving over $500 be approved without such itemization.

§ 7.2 Change Orders and Change Proposals

§ 7.2.1 A Change Order is a written instrument prepared by the Construction Manager and signed by the Owner, Construction Manager, Architect, and Contractor, stating their agreement upon all of the following:

.1 The change in the Work;

.2 The amount of the adjustment, if any, in the Contract Sum; and

.3 The extent of the adjustment, if any, in the Contract Time.

§ 7.2.2 Change Order shall be prepared on AIA Document G731.

§ 7.2.3 The Contractor must submit Change Proposals covering a contemplated Change Order within ten (10) days after request of the Owner, or the Architect or within ten (10) days of the event, or Contractor's discovery of a condition, whichever is earlier, giving rise to the Contractor's claim for a change in the Contract Sum or Contract Time. No increase in the Contract Sum or extension of the Contract Time will be allowed the Contractor for the cost or time involved in making Change Proposals. Change Proposals will define or confirm in detail the Work which is proposed to be added, deleted, or changed and must include any adjustment which the Contractor believes to be necessary in (i) the Contract Sum, or (ii) the Contract Time. Any proposed adjustment must include detailed documentation including, but not limited to: cost, properly itemized and supported by sufficient substantiating data to permit evaluation including cost of labor, materials, supplies and equipment, rental cost of machinery and equipment, additional bond cost, plus a fixed fee for profit and overhead (which includes office overhead and Site-specific overhead and general conditions) of ten percent (10%) if the Work is performed by the Contractor, or five percent (5%) if the Work is performed by a Subcontractor or Sub-subcontractor. The Subcontractor's or Sub-subcontractor's overhead and profit in turn must not exceed a total aggregate of ten percent (10%). Change Proposals will be binding upon the Contractor and may be accepted or rejected by the Owner in its discretion. The Owner may, at its option, instruct the Contractor through a Construction Change Directive to proceed with the Work involved in the Change Proposal in accordance with Section 7.3 without accepting the Change Proposal in its entirety.

§ 7.2.4 If the Owner determines that a Change Proposal is appropriate, the Architect will prepare and submit a request for a Change Order or Contract Amendment providing for an appropriate adjustment in the Contract Sum or Contract Time, or both, for further action by the Owner. No such change is effective until the Owner and Architect sign the Change Order.

§ 7.3 Construction Change Directives

§ 7.3.1 A Construction Change Directive is a written order prepared by the Construction Manager and signed by the Owner, Construction Manager and Architect, directing a change in the Work prior to agreement on adjustment, if any, in the Contract Sum or Contract Time, or both. The Owner may by Construction Change Directive, without

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invalidating the Contract, order changes in the Work within the general scope of the Contract consisting of additions, deletions, or other revisions, the Contract Sum and Contract Time being adjusted accordingly.

§ 7.3.2 A Construction Change Directive shall be used in the absence of total agreement on the terms of a Change Order.

§ 7.3.3 If the Construction Change Directive provides for an adjustment to the Contract Sum, the adjustment shall be based on one of the following methods:

.1 Mutual acceptance of a lump sum properly itemized and supported by sufficient substantiating data to permit evaluation;

.2 Unit prices stated in the Contract Documents or subsequently agreed upon;

.3 Cost to be determined in a manner agreed upon by the parties and a mutually acceptable fixed or percentage fee; or

.4 As provided in Section 7.3.4.

§ 7.3.4 If the Contractor does not respond promptly or disagrees with the method for adjustment in the Contract Sum, the Owner and the Construction Manager shall determine the adjustment on the basis of reasonable expenditures and savings of those performing the Work attributable to the change, including, in case of an increase in the Contract Sum, an amount for overhead and profit as set forth in the Agreement, or if no such amount is set forth in the Agreement, a reasonable amount. In such case, and also under Section 7.3.3.3, the Contractor shall keep and present, in such form as the Construction Manager may prescribe, an itemized accounting together with appropriate supporting data. Unless otherwise provided in the Contract Documents, costs for the purposes of this Section 7.3.4 shall be limited to the following:

.1 Costs of labor, including applicable payroll taxes, fringe benefits required by agreement or custom, workers' compensation insurance, and other employee costs approved by the Construction Manager and Architect;

.2 Costs of materials, supplies, and equipment, including cost of transportation, whether incorporated or consumed;

.3 Rental costs of machinery and equipment, exclusive of hand tools, whether rented from the Contractor or others (at rates approved by the Owner);

.4 Costs of premiums for all bonds and insurance, permit fees, and sales, use, or similar taxes, directly related to the change; and

.5 Costs of supervision and field office personnel directly attributable to the change.

§ 7.3.5 If the Contractor disagrees with the adjustment in the Contract Time, the Contractor may make a Claim in accordance with applicable provisions of Article 15.

§ 7.3.6 Upon receipt of a Construction Change Directive, the Contractor shall promptly proceed with the change in the Work involved and advise the Construction Manager of the Contractor's agreement or disagreement with the method, if any, provided in the Construction Change Directive for determining the proposed adjustment in the Contract Sum or Contract Time.

§ 7.3.7 A Construction Change Directive signed by the Contractor indicates the Contractor's agreement therewith, including adjustment in Contract Sum and Contract Time or the method for determining them. Such agreement shall be effective immediately.

§ 7.3.8 The amount of credit to be allowed by the Contractor to the Owner for a deletion or change that results in a net decrease in the Contract Sum shall be actual net cost as confirmed by the Construction Manager and Architect. When both additions and credits covering related Work or substitutions are involved in a change, the allowance for overhead and profit shall be figured on the basis of net increase, if any, with respect to that change.

§ 7.3.9 Pending final determination of the total cost of a Construction Change Directive to the Owner, the Contractor may request payment for Work completed under the Construction Change Directive in Applications for Payment up to and not exceeding $25,000. The Construction Manager and Architect will make an interim determination for purposes of monthly certification for payment for those costs and certify for payment the amount that the Construction Manager and Architect determine to be reasonably justified. The interim determination of cost shall adjust the Contract Sum on

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the same basis as a Change Order, subject to the right of either party to disagree and assert a Claim in accordance with Article 15.

§ 7.3.10 When the Owner and Contractor agree with a determination made by the Construction Manager and Architect concerning the adjustments in the Contract Sum and Contract Time, or otherwise reach agreement upon the adjustments, such agreement shall be effective immediately and the Construction Manager shall prepare a Change Order. Change Orders may be issued for all or any part of a Construction Change Directive.

§ 7.4 Minor Changes in the Work

The Architect may order minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. The Architect's order for minor changes shall be in writing and approved by the Owner. If the Contractor believes that the proposed minor change in the Work will affect the Contract Sum or Contract Time, the Contractor shall notify the Construction Manager and shall not proceed to implement the change in the Work. If the Contractor performs the Work set forth in the Architect's order for a minor change without prior notice to the Construction Manager that such change will affect the Contract Sum or Contract Time, the Contractor waives any adjustment to the Contract Sum or extension of the Contract Time.

ARTICLE 8 TIME

§ 8.1 Definitions

§ 8.1.1 Unless otherwise provided, Contract Time is the period of time, including authorized adjustments, allotted in the Contract Documents for Substantial Completion of the Work.

§ 8.1.2 The date of commencement of the Work is the date established in the Agreement. The date shall not be postponed by the failure to act of the Contractor or of persons or entities for whom the Contractor is responsible.

§ 8.1.3 The date of Substantial Completion is the date certified by the Architect in accordance with Section 9.8.

§ 8.1.4 The term "day" shall mean calendar day of 24 hours beginning at 12:00 midnight. Calendar days as stated in the Contract Documents, shall include all days of a seven (7) day week including Saturdays, Sundays, and holidays. The term "Milestone Date" is, in each instance, the date established in the Contract Documents for the Substantial completion of all or a designated portion of the Work.

§ 8.2 Progress and Completion

§ 8.2.1 Time limits stated in the Contract Documents are of the essence of the Contract. By executing the Agreement, the Contractor confirms that the Contract Time is a reasonable period for performing the Work.

§ 8.2.2 The Contractor shall not knowingly, except by agreement or instruction of the Owner in writing, commence the Work prior to the effective date of insurance required to be furnished by the Contractor and Owner.

§ 8.2.3 The Contractor shall proceed expeditiously with adequate forces and shall achieve Substantial Completion within the Contract Time and shall achieve specific contractual Milestone Dates (if any), Substantial Completion and final Completion within the time stated in the Contract Documents.

§ 8.2.4 Contractor understands and agrees that all Work must be performed in an orderly and closely coordinated sequence so that the dates for Substantial Completion, Final Completion, and Milestone Dates (if any) may be met by the Contractor.

§ 8.2.5 Timely final completion of the Project is of critical importance to the Owner. The Contractor agrees that it shall substantially complete all Work under the Contract documents within the time established herein and that it shall finally complete the Work in the detail required and in the time required by the Contract Documents.

§ 8.2.6 To the extent that the Contract Documents contain or provide for specific contractual Milestone Dates in addition to Final and Substantial Completion dates, such dates shall be adhered to and shall be the last acceptable dates for those milestones and completions, unless modified by the Owner.

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§ 8.2.7 Notwithstanding anything to the contrary contained in the Contract Documents, in the event that any Contractor fails, or appears likely, in the reasonable opinion of the Owner and Construction Manager, to fail to complete a critical portion of their Work on time or to complete any dates for Substantial Completion, Final Completion, or Milestone Dates as evidenced by the latest update of the CPM Schedule Report, the Owner shall have the right to select and require Contractor's performance under any or all of the following operations:

.1 Require the Contractor to substantiate their capability to get back on schedule within two (2) days;

.2 Require the Contractor, at no additional cost to the Owner, to increase their work force, work overtime and/or extra shifts and do whatever else is required by the Owner until the Contractor gets back on schedule as established by the CPM Schedule Report (including any updates thereto);

.3 Withhold progress payments or portions thereof until such time as the contractor returns to schedule, but only related to Substantial Completion or Final Completion;

.4 Contact or visit the factory, plant, or distribution center whose production or delivery schedule may be critical to the scheduled completion of a portion of the contract work and expedite such production delivery at Contractor's expense; or

.5 Require the Contractor to complete, in detail, and submit weekly a Short Interval Schedule (SIS) showing: (1) planning for the next two weeks; (2) work completed for the previous week; (3) sufficient detail to evaluate daily milestone (if any) and manpower/equipment loading, and shall identify/tie into the monthly updated CPM Schedule Report.

Any costs incurred by the Contractor in fulfilling the option(s) selected by the Owner shall be at the Contractor's expense.

§ 8.3 Delays and Extensions of Time

§ 8.3.1 If the Contractor is delayed at any time in the progress of the Work by (1) an act or neglect of the Owner, Architect, Construction Manager, or an employee of any of them, or of the Owner's own forces, Separate Contractors, or other Contractors; (2) by changes ordered in the Work; (3) by labor disputes, fire, unusual delay in deliveries, unavoidable casualties, adverse weather conditions documented in accordance with Section 15.1.6.2, or other causes beyond the Contractor's control; or (4) by other causes that the Contractor asserts and the Architect, based on the recommendation of the Construction Manager, determines justify delay, then subject to the conditions hereinafter set forth, the Contract Time shall be extended by Change Order for such reasonable time as the Architect may determine. Requests for extensions of time for causes enumerated above will be considered by the Architect subject to the following:

.1 Only those conditions enumerated above over which the Contractor has no control will be considered. The burden of proof to substantiate the claim for an extension shall rest with the Contractor, including evidence that the cause was beyond their control. It shall be deemed the Contractor has control over the supply of labor, materials, equipment, methods, techniques, and over their Subcontractors and suppliers;

.2 In the event of Changes in the Work, any consideration for a time extension will be made only at the time of authorizing the changes, and no later than when the Change Order is prepared, and only if the Change Order significantly affects the time and progress of the entire Work. For changes which do not affect the entire Work, time extension may be granted only for the area, phase, unit, or element affected by the change, if due to a valid reason for a time extension;

.3 Any unusual delay in deliveries will not be considered unless it is solely due to transportation issues wholly outside of Contractor's, Subcontractor's, Sub-subcontractor's or Supplier's control. An extension of time will not be granted for delays in deliveries where said delivery was not properly scheduled or when orders were not promptly and properly placed;

.4 With respect to a claim for an extension of time as a result of climatic conditions, the Contractor shall recognize the location of the site and the existence, as normal, or variations from "average" conditions. Foul weather in itself will not be a valid reason for a time extension. Requests for time extensions because of delay resulting from weather extremes will not be considered unless a substantial variation from usual weather conditions occurs for a significant period of time, during phases of the Work when operation necessarily were suspended to a significant degree when they would otherwise have been in progress. In considering the time extension, the weather conditions both before and after the period in which the delay is claimed will be evaluated with credit given to Owner for unseasonably favorable weather;

.5 Delays resulting from a labor dispute will not result in a time extension of a longer period than the dispute, plus a reasonable time for mobilization if justified and necessary as approved by the

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Architect, and may be less depending on the impact of the dispute, including what operations were suspended or curtailed;

.6 No time extension will be granted as a result of improper scheduling or for failure to have shop drawings or samples submitted in ample time for review under a reasonable and agreed upon schedule; or

.7 Delays by Subcontractors or suppliers will not be considered justification for a time extension, except for the same valid reasons and conditions enumerated under Section 8.3.1.

§ 8.3.2 Claims relating to time shall be made in accordance with applicable provisions of Article 15.

§ 8.3.3 This Section 8.3 does not preclude recovery of damages for delay by either party under other provisions of the Contract Documents.

§ 8.3.4 The Contractor shall be responsible for all Owner incurred costs associated with a Contractor related to delay in completion of the Project. These costs may include, but are not limited to, Owner staff overtime, Consultant additional fees, additional testing, and/or additional rental or storage costs. A Change Order or Construction Change Directive will be issued to cover these costs. If a Change Order is not agreed to by the Contractor, the Owner, after presenting documentation to the Contractor, may deduct these amounts without a Change Order from the Contract Sum.

ARTICLE 9 PAYMENTS AND COMPLETION

§ 9.1 Contract Sum

§ 9.1.1 The Contract Sum is stated in the Agreement and, including authorized adjustments, is the total amount payable by the Owner to the Contractor for performance of the Work under the Contract Documents.

§ 9.1.2 If unit prices are stated in the Contract Documents or subsequently agreed upon, and if quantities originally contemplated are materially changed so that application of such unit prices to the actual quantities causes substantial inequity to the Owner or Contractor, the applicable unit prices shall be equitably adjusted.

§ 9.2 Schedule of Values

Before the first Application for Payment, the Contractor shall submit to the Architect and Construction Manager a schedule of values allocated to various portions of the Work, prepared in the form, and supported by the data to substantiate its accuracy, required by the Construction Manager and the Architect. The schedule, unless objected to by the Construction Manager or Architect, shall be used as a basis for reviewing the Contractor's Applications for Payment. The Construction Manager shall forward to the Architect the Contractor's schedule of values. Any changes to the schedule of values shall be submitted to the Construction Manager and supported by such data to substantiate its accuracy as the Construction Manager and the Architect may require, and unless objected to by the Construction Manager or the Architect, shall be used as a basis for reviewing the Contractor's subsequent Applications for Payment. The Contractor, after receipt of Notice to Proceed, shall meet with the Owner, Construction Manager and the Architect for the purpose of reviewing the Project CPM Schedule and the Contract Schedule of Values. The Contractor shall develop a CPM Schedule for completing their portion of the Work, in conjunction with all other Contractors or Bid Packages, at the Pre-Construction Meeting(s). The Schedule of Values is to be broken down into specification sections and by labor and materials.

§ 9.3 Applications for Payment

§ 9.3.1 At least fifteen days before the date established for each progress payment, the Contractor shall submit to the Construction Manager an itemized Application for Payment for operations completed in accordance with the Schedule of Values. Such application shall be notarized and supported by all data substantiating the Contractor's right to payment that the Owner, Construction Manager or Architect require, such as copies of requisitions, and releases of waivers of lien from Subcontractors and material suppliers, and reflecting retainage if provided for elsewhere in the Contract Documents. The form of Application for Payment shall be a notarized AIA Document G732–2019, Application and Certificate for Payment, supported by AIA Document G703–1992, Continuation Sheet.

§ 9.3.1.1 As provided in Section 7.3.9, such applications may include requests for payment on account of changes in the Work that have been properly authorized by Construction Change Directives, or by interim determinations of the Construction Manager and Architect, but not yet included in Change Orders.

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§ 9.3.1.2 Such applications shall not include requests for payment of amounts the Contractor does not intend to pay a Subcontractor or supplier because of a dispute or other reason, unless such Work has been performed by others whom the Contractor intends to pay.

§ 9.3.1.3 Following certification of the Application for Payment by the Architect and Construction Manager, the Owner shall pay ninety-five percent (95%) of its value, retaining five percent (5%) until Final Completion.

§ 9.3.1.4 Contractor shall provide lien waivers for itself for the current payment application and for Subcontractors, Sub-subcontractors, and suppliers for the previous payment application before the Contractor has earned or has the right to receive payment for the specific items of work or materials covered by the lien waivers. All lien waivers shall be provided in the form required by the Owner. This Section 9.3.1.4 shall not limit other obligations of the Contractor contained elsewhere to provide lien waivers.

§ 9.3.2 Unless otherwise provided in the Contract Documents, payments shall be made on account of materials and equipment delivered and suitably stored at the site for subsequent incorporation in the Work. If approved in advance by the Owner, payment may similarly be made for materials and equipment suitably stored off the site at a location agreed upon in writing. Payment for materials and equipment stored on or off the site shall be conditioned upon compliance by the Contractor with procedures satisfactory to the Owner to establish the Owner's title to such materials and equipment or otherwise protect the Owner's interest, and shall include the costs of applicable insurance, storage, and transportation to the site, for such materials and equipment stored off the site.

§ 9.3.3 The Contractor warrants that title to all Work covered by an Application for Payment will pass to the Owner no later than the time of payment. The Contractor further warrants that upon submittal of an Application for Payment all Work for which Certificates for Payment have been previously issued and payments received from the Owner shall, to the best of the Contractor's knowledge, information, and belief, be free and clear of liens, claims, security interests, or encumbrances, in favor of the Contractor, Subcontractors, suppliers, or other persons or entities that provided labor, materials and equipment relating to the Work.

§ 9.3.4 In each Application for Payment, the Contractor shall certify as follows:

> "That there are no known mechanics' or materialmen's liens or stop notice claims outstanding by the application or any of its subcontractors of any tier, or any of the applicant's or subcontractor's material suppliers, or laborers at the date of this application, that all due and payable bills with respect to the Work have been paid or are included in the amount requested in current application, and that, except for such bills, not paid by Owner, but so included, there is no known basis for the filing of any mechanics' or materialmen's liens or stop notice claims on the Work, and that waivers from Contractor, its subcontractors of any tier, or any of the applicant's or subcontractor's material suppliers and laborers have been obtained in such form as to constitute an effective waiver of liens or stop notice claims, under the laws of the State of Minnesota to the extent of payments made by Owner to Contractor."

Notwithstanding the foregoing Section 9.3.4, Contractor acknowledges its obligation to provide a Payment Bond in accordance with the Contract Documents, and that Contractor's failure to pay any of its Subcontractors, Sub-subcontractors, suppliers, or laborers will be resolved through a claim under the Payment Bond.

§ 9.4 Certificates for Payment

§ 9.4.1 Where there is only one Contractor, the Construction Manager will, within seven days after the Construction Manager's receipt of the Contractor's Application for Payment, review the Application, certify the amount the Construction Manager determines is due the Contractor, and forward the Contractor's Application and Certificate for Payment to the Architect. Within seven days after the Architect receives the Contractor's Application for Payment from the Construction Manager, the Architect will either (1) issue to the Owner a Certificate for Payment, in the full amount of the Application for Payment, with a copy to the Construction Manager; or (2) issue to the Owner a Certificate for Payment for such amount as the Architect determines is properly due, and notify the Construction Manager and Owner of the Architect's reasons for withholding certification in part as provided in Section 9.5.1; or (3) withhold certification of the entire Application for Payment, and notify the Construction Manager and Owner of the Architect's reason for withholding certification in whole as provided in Section 9.5.1. The Construction Manager will promptly forward to the Contractor the Architect's notice of withholding certification.

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§ 9.4.2 Where there is more than one Contractor performing portions of the Project, the Construction Manager will, within seven days after the Construction Manager receives all of the Contractors' Applications for Payment: (1) review the Applications and certify the amount the Construction Manager determines is due each of the Contractors; (2) prepare a Summary of Contractors' Applications for Payment by combining information from each Contractor's application with information from similar applications for progress payments from the other Contractors; (3) prepare a Project Application and Certificate for Payment; (4) certify the amount the Construction Manager determines is due all Contractors; and (5) forward the Summary of Contractors' Applications for Payment and Project Application and Certificate for Payment to the Architect.

§ 9.4.2.1 Within seven days after the Architect receives the Project Application and Project Certificate for Payment and the Summary of Contractors' Applications for Payment from the Construction Manager, the Architect will either (1) issue to the Owner a Project Certificate for Payment, with a copy to the Construction Manager; or (2) issue to the Owner a Project Certificate for Payment for such amount as the Architect determines is properly due, and notify the Construction Manager and Owner of the Architect's reasons for withholding certification in part as provided in Section 9.5.1; or (3) withhold certification of the entire Project Application for Payment, and notify the Construction Manager and Owner of the Architect's reason for withholding certification in whole as provided in Section 9.5.1. The Construction Manager will promptly forward the Architect's notice of withholding certification to the Contractors.

§ 9.4.3 The Construction Manager's certification of an Application for Payment or, in the case of more than one Contractor, a Project Application and Certificate for Payment, shall be based upon the Construction Manager's evaluation of the Work and the data in the Application or Applications for Payment. The Construction Manager's certification will constitute a representation that, to the best of the Construction Manager's knowledge, information, and belief, the Work has progressed to the point indicated, the quality of the Work is in accordance with the Contract Documents, and that the Contractor is, or Contractors are, entitled to payment in the amount certified.

§ 9.4.4 The Architect's issuance of a Certificate for Payment or, in the case of more than one Contractor, Project Application and Certificate for Payment, shall be based upon the Architect's evaluation of the Work, the recommendation of the Construction Manager, and data in the Application for Payment or Project Application for Payment. The Architect's certification will constitute a representation that, to the best of the Architect's knowledge, information, and belief, the Work has progressed to the point indicated, the quality of the Work is in accordance with the Contract Documents, and that the Contractor is, or Contractors are, entitled to payment in the amount certified.

§ 9.4.5 The representations made pursuant to Sections 9.4.3 and 9.4.4 are subject to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, to results of subsequent tests and inspections, to correction of minor deviations from the Contract Documents prior to completion, and to specific qualifications expressed by the Construction Manager or Architect.

§ 9.4.6 The issuance of a Certificate for Payment or a Project Certificate for Payment will not be a representation that the Construction Manager or Architect has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work; (2) reviewed construction means, methods, techniques, sequences, or procedures; (3) reviewed copies of requisitions received from Subcontractors and suppliers and other data requested by the Owner to substantiate the Contractor's right to payment; or (4) made examination to ascertain how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

§ 9.5 Decisions to Withhold Certification

§ 9.5.1 The Construction Manager or Architect may withhold a Certificate for Payment or Project Certificate for Payment in whole or in part, to the extent reasonably necessary to protect the Owner, if in the Construction Manager's or Architect's opinion the representations to the Owner required by Section 9.4.3 and 9.4.4 cannot be made. If the Construction Manager or Architect is unable to certify payment in the amount of the Application, the Construction Manager will notify the Contractor and Owner as provided in Section 9.4.1 and 9.4.2. If the Contractor, Construction Manager and Architect cannot agree on a revised amount, the Architect will promptly issue a Certificate for Payment or a Project Certificate for Payment for the amount for which the Architect is able to make such representations to the Owner. The Construction Manager or Architect may also withhold a Certificate for Payment or, because of subsequently discovered evidence, may nullify the whole or a part of a Certificate for Payment or Project Certificate for Payment previously issued, to such extent as may be necessary in the Construction Manager's or Architect's opinion to protect the Owner from loss for which the Contractor is responsible, including loss resulting from the acts and omissions described in Section 3.3.2 because of

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.1 defective Work not remedied;
.2 third party claims filed or reasonable evidence indicating probable filing of such claims, unless security acceptable to the Owner is provided by the Contractor;
.3 failure of the Contractor to make payments properly to Subcontractors or suppliers for labor, materials or equipment;
.4 reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Sum;
.5 damage to the Owner or a Separate Contractor or other Contractor;
.6 reasonable evidence that the Work will not be completed within the Contract Time, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay; or
.7 repeated failure to carry out the Work in accordance with the Contract Documents.

§ 9.5.2 When either party disputes the Architect's decision regarding a Certificate for Payment under Section 9.5.1, in whole or in part, that party may submit a Claim in accordance with Article 15.

§ 9.5.3 When the reasons for withholding certification are removed, certification will be made for amounts previously withheld.

§ 9.5.4 If the Architect or Construction Manager withholds certification for payment under Section 9.5.1, the Owner may, at its sole option, issue joint checks to the Contractor and to any Subcontractor or supplier to whom the Contractor failed to make payment for Work properly performed or material or equipment suitably delivered. If the Owner makes payments by joint check, the Owner shall notify the Architect and the Construction Manager, and both will reflect such payment on the next Certificate for Payment.

§ 9.6 Progress Payments

§ 9.6.1 After the Architect has issued a Certificate for Payment or Project Certificate for Payment, the Owner shall make payment within thirty (30) days of receipt by Owner of Certificate of Payment in the manner and within the time provided in the Contract Documents, and shall so notify the Construction Manager and Architect.

§ 9.6.2 The Contractor shall pay each Subcontractor, no later than seven days after receipt of payment from the Owner, the amount to which the Subcontractor is entitled, reflecting percentages actually retained from payments to the Contractor on account of the Subcontractor's portion of the Work. The Contractor shall, by appropriate agreement with each Subcontractor, require each Subcontractor to make payments to Sub-subcontractors in a similar manner. Per Minnesota Statutes, Section 471.425, within ten (10) days of Contractor's receipt of payment from Owner, the Contractor must pay any Subcontractor for any undisputed services provided by the Subcontractor. The Contractor shall pay interest of one and one-half percent (1-1/2%) per month, or any part of a month, to the Subcontractor on any undisputed amount not paid on time to the subcontractor. The minimum monthly interest penalty payment for an unpaid balance of $100 or more is $10.00. For an unpaid balance of less than $100, the Contractor shall pay the actual interest penalty due to the Subcontractor. Contractor is advised that by reason of Minnesota Statutes, Section 471.425, subd. 4a, if a Subcontractor prevails in a civil action to collect interest penalties from a prime contractor, the Subcontractor must be awarded its costs and disbursements, including attorneys' fees incurred in bringing the action.

§ 9.6.3 The Construction Manager will, on request, furnish to a Subcontractor, if practicable, information regarding percentages of completion or amounts applied for by the Contractor and action taken thereon by the Owner, Construction Manager and Architect on account of portions of the Work done by such Subcontractor.

§ 9.6.4 The Owner has the right to request written evidence from the Contractor that the Contractor has properly paid Subcontractors and suppliers amounts paid by the Owner to the Contractor for subcontracted Work. If the Contractor fails to furnish such evidence within seven days, the Owner shall have the right to contact Subcontractors and suppliers to ascertain whether they have been properly paid. Neither the Owner, Construction Manager nor Architect shall have an obligation to pay, or to see to the payment of money to, a Subcontractor or supplier, except as may otherwise be required by law.

§ 9.6.5 The Contractor's payments to material and equipment suppliers shall be treated in a manner similar to that provided in Sections 9.6.2, 9.6.3 and 9.6.4.

§ 9.6.6 A Certificate for Payment, a progress payment, or partial or entire use or occupancy of the Project by the Owner shall not constitute acceptance of Work not in accordance with the Contract Documents.

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§ 9.6.7 Unless the Contractor provides the Owner with a payment bond in the full penal sum of the Contract Sum, payments received by the Contractor for Work properly performed by Subcontractors or provided by suppliers shall be held by the Contractor for those Subcontractors or suppliers who performed Work or furnished materials, or both, under contract with the Contractor for which payment was made by the Owner. Nothing contained herein shall require money to be placed in a separate account and not commingled with money of the Contractor, create any fiduciary liability or tort liability on the part of the Contractor for breach of trust, or entitle any person or entity to an award of punitive damages against the Contractor for breach of the requirements of this provision.

§ 9.6.8 Provided the Owner has fulfilled its payment obligations under the Contract Documents, the Contractor shall defend and indemnify the Owner from all loss, liability, damage or expense, including reasonable attorney's fees and litigation expenses, arising out of any lien claim or other claim for payment by any Subcontractor or supplier of any tier. Upon receipt of notice of a lien claim or other claim for payment, the Owner shall notify the Contractor. If approved by the applicable court, when required, the Contractor may substitute a surety bond for the property against which the lien or other claim for payment has been asserted.

§ 9.7 Failure of Payment

If the Construction Manager and Architect do not issue a Certificate for Payment or a Project Certificate for Payment, through no fault of the Contractor, within fourteen days after the Construction Manager's receipt of the Contractor's Application for Payment, or if the Owner does not pay the Contractor within thirty (30) days after the date established in the Contract Documents, the amount certified by the Construction Manager and Architect then the Contractor may, upon ten (10) additional days' notice to the Owner, Construction Manager and Architect, stop the Work until payment of the amount owing has been received. The Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable costs of shutdown, delay and start-up which shall be accomplished as provided in Article 7.

§ 9.8 Substantial Completion

§ 9.8.1 Substantial Completion is the stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Contract Documents so the Owner can occupy or utilize the Work for its intended use and when the Architect issues a Certificate of Substantial Completion.

§ 9.8.2 When the Contractor considers that the Work, or a portion thereof which the Owner agrees to accept separately, is substantially complete, the Contractor shall notify the Construction Manager, and the Contractor and Construction Manager shall jointly prepare and submit to the Architect a comprehensive list of items to be completed or corrected. The Contractor shall proceed promptly to complete and correct items on the list. Failure to include an item on such list does not alter the responsibility of the Contractor to complete all Work in accordance with the Contract Documents. Upon receipt of the Contractor's list, the Architect, assisted by the Construction Manager, will make an inspection to determine whether the Work or designated portion thereof is substantially complete. If the Architect's inspection discloses any item, whether or not included on the Contractor's list, which is not in accordance with the requirements of the Contract documents, the Contractor shall, before issuance of the Certificate of Substantial Completion, complete or correct such item, upon notification by the Architect. The Contractor shall then submit a request for another inspection by the Architect, assisted by the Construction Manager, to determine Substantial Completion. When the Work or designated portion thereof is substantially complete, the Architect will prepare a Certificate of Substantial Completion which shall establish the date of Substantial Completion, shall establish responsibilities of the Owner and Contractor for security, maintenance, heat, utilities, damage to the Work and insurance, and shall fix the time within which the Contractor shall finish all items on the list accompanying the Certificate. Warranties required by the Contract Document shall commence on the date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion.

§ 9.8.3 Upon receipt of the list, the Architect, assisted by the Construction Manager, will make an inspection to determine whether the Work or designated portion thereof is substantially complete. If the Architect's inspection discloses any item, whether or not included on the list, which is not sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work or designated portion thereof for its intended use, the Contractor shall, before issuance of the Certificate of Substantial Completion, complete or correct such item upon notification by the Architect. In such case, the Contractor shall then submit a request for another inspection by the Architect, assisted by the Construction Manager, to determine Substantial Completion.

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§ 9.8.4 When the Architect, assisted by the Construction Manager, determines that the Work of all of the Contractors, or designated portion thereof, is substantially complete, the Construction Manager will prepare, and the Construction Manager and Architect shall execute, a Certificate of Substantial Completion that shall establish the date of Substantial Completion; establish responsibilities of the Owner and Contractor for security, maintenance, heat, utilities, damage to the Work and insurance; and fix the time within which the Contractor shall finish all items on the list accompanying the Certificate. Warranties required by the Contract Documents shall commence on the date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion.

§ 9.8.5 The Certificate of Substantial Completion shall be submitted to the Owner and Contractor for their written acceptance of responsibilities assigned to them in the Certificate. Upon such acceptance, and consent of surety if any, the Owner shall make payment of retainage applying to the Work or designated portion thereof. Such payment shall be adjusted for Work that is incomplete or not in accordance with the requirements of the Contract Documents.

§ 9.8.6 Upon Substantial completion of the Work or designated portion thereof and upon application by the Contractor and certification by the Architect, the Owner shall make payment, reflecting adjustment in retainage, pursuant to Minnesota Statutes, Section 15.72, for such Work or portion thereof as provided in the Contract Documents.

§ 9.8.7 The Architect, assisted by the Construction Manager, shall make one (1) inspection for Substantial Completion and Final Completion in accordance with the AIA Document B101–2017 Owner Architect Agreement. If additional inspections are required due to the Contractor's failure to complete previously listed corrective or uncompleted work, the Architect's expense for conducting such re-inspections and related time in processing, reviewing, and revision of requirements shall be charged to the Contractor and such payment shall be accomplished by a deductive Change Order to the Contractor.

§ 9.9 Partial Occupancy or Use

§ 9.9.1 The Owner may occupy or use any completed or partially completed portion of the Work at any stage when such portion is designated by separate agreement with the Contractor, provided such occupancy or use is consented to by the insurer and authorized by public authorities having jurisdiction over the Project. Such partial occupancy or use may commence whether or not the portion is substantially complete, provided the Owner and Contractor have accepted in writing the responsibilities assigned to each of them for payments, retainage if any, security, maintenance, heat, utilities, damage to the Work and insurance, and have agreed in writing concerning the period for correction of the Work and commencement of warranties required by the Contract Documents. When the Contractor considers a portion substantially complete, the Contractor and Construction Manager shall jointly prepare and submit a list to the Architect as provided under Section 9.8.2. Consent of the Contractor to partial occupancy or use shall not be unreasonably withheld. The stage of the progress of the Work shall be determined by written agreement between the Owner and Contractor or, if no agreement is reached, by decision of the Architect after consultation with the Construction Manager.

§ 9.9.2 Immediately prior to such partial occupancy or use, the Owner, Construction Manager, Contractor, and Architect shall jointly inspect the area to be occupied or portion of the Work to be used in order to determine and record the condition of the Work.

§ 9.9.3 Unless otherwise agreed upon, partial occupancy or use of a portion or portions of the Work shall not constitute acceptance of Work not complying with the requirements of the Contract Documents.

§ 9.10 Final Completion and Final Payment

§ 9.10.1 Upon completion of the Work, the Contractor shall forward to the Construction Manager a notice that the Work is ready for final inspection and acceptance, and shall also forward to the Construction Manager a final Contractor's Application for Payment. Upon receipt, the Construction Manager shall perform an inspection to confirm the completion of Work of the Contractor. The Construction Manager shall make recommendations to the Architect when the Work of all of the Contractors is ready for final inspection, and shall then forward the Contractors' notices and Application for Payment or Project Application for Payment, to the Architect, who will promptly make such inspection. When the Architect finds the Work acceptable under the Contract Documents and the Contract fully performed, the Construction Manager and Architect will promptly issue a final Certificate for Payment or Project Certificate for Payment stating that to the best of their knowledge, information and belief, and on the basis of their observations, on-site visits and inspections, the Work has been completed in accordance with the Contract Documents

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and that the entire balance found to be due the Contractor and noted in the final Certificate is due and payable. The Construction Manager's and Architect's final Certificate for Payment or Project Certificate for Payment will constitute a further representation that conditions listed in Section 9.10.2 as precedent to the Contractor's being entitled to final payment have been fulfilled.

§ 9.10.2 Neither final payment nor any remaining retained percentage shall become due until the Contractor submits to the Architect through the Construction Manager (1) an affidavit that payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which the Owner or the Owner's property might be responsible or encumbered (less amounts withheld by Owner) have been paid or otherwise satisfied, (2) a certificate evidencing that insurance required by the Contract Documents to remain in force after final payment is currently in effect and will not be cancelled or allowed to expire until at least (60) days' prior written notice has been given to the Owner, (3) a written statement that the Contractor knows of no reason that the insurance will not be renewable to cover the period required by the Contract Documents, (4) consent of surety, if any, to final payment (5) documentation of any special warranties, such as manufacturers' warranties or specific Subcontractor warranties, including a summary listing all applicable warranties both standard and extended, itemized by specification section and included at the front of the Operation and Maintenance manuals, and (6) other data establishing payment or satisfaction of obligations, such as receipts and releases and waivers of liens, claims, security interests, or encumbrances arising out of the Contract, to the extent and in such form as may be designated by the Owner. If a Subcontractor refuses to furnish a release or waiver required by the Owner, the Contractor may furnish a bond satisfactory to the Owner to indemnify the Owner against such lien, claim, security interest, or encumbrance. If a lien, claim, security interest, or encumbrance remains unsatisfied after payments are made, the Contractor shall refund to the Owner all money that the Owner may be compelled to pay in discharging the lien, claim, security interest, or encumbrance, including all costs and reasonable attorneys' fees.

§ 9.10.3 If, after Substantial Completion of the Work, final completion thereof is materially delayed through no fault of the Contractor or by issuance of Change Orders affecting final completion, and the Construction Manager and Architect so confirm, the Owner shall, upon application by the Contractor and certification by the Construction Manager and Architect, and without terminating the Contract, make payment of the balance due for that portion of the Work fully completed, corrected, and accepted. If the remaining balance for Work not fully completed or corrected is less than retainage stipulated in the Contract Documents, and if bonds have been furnished, the written consent of the surety to payment of the balance due for that portion of the Work fully completed and accepted shall be submitted by the Contractor to the Architect through the Construction Manager prior to certification of such payment. Such payment shall be made under terms and conditions governing final payment, except that it shall not constitute a waiver of Claims.

§ 9.10.4 The making of final payment shall constitute a waiver of Claims by the Owner except those arising from

- **.1** liens, Claims, security interests, or encumbrances arising out of the Contract and unsettled;
- **.2** failure of the Work to comply with the requirements of the Contract Documents;
- **.3** terms of special warranties required by the Contract Documents; or
- **.4** audits performed by the Owner, if permitted by the Contract Documents, after final payment.

§ 9.10.5 Acceptance of final payment by the Contractor, a Subcontractor, or a supplier, shall constitute a waiver of claims by that payee except those previously made in writing and identified by that payee as unsettled at the time of final Application for Payment.

§ 9.11 Damages for Delay

§ 9.11.1 The Contractor shall be responsible for damages incurred by the Owner and any other separate contractors for delay resulting from the Contractor's failure to complete the Work within the contract Time or resulting from the progress of the Work failing to substantially conform to the Project Construction Schedule. These damages are not included in liquidated damages and represent additional direct costs incurred by the Owner for the delay. These damages may include Owner incurred costs for temporary classrooms, temporary facilities, moving of programs, etc.

ARTICLE 10 PROTECTION OF PERSONS AND PROPERTY

§ 10.1 Safety Precautions and Programs

§ 10.1.1 The Contractor shall be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the performance of the Contract. The Contractor shall submit the Contractor's safety program to the Construction Manager for review and coordination with the safety programs of other Contractors. The Construction Manager's responsibilities for review and coordination of safety programs shall not extend to direct control over or charge of the acts or omissions of the Contractors, Subcontractors, agents or employees of the

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Contractors or Subcontractors, or any other persons performing portions of the Work and not directly employed by the Construction Manager.

§ 10.1.2 The Contractor shall comply with all applicable laws and regulations. Notwithstanding any language to the contrary, the Owner shall not have any responsibility for job site inspections or safety recommendations. Any inspections or observations by the Owner, Construction Manager or the Architect are solely for the benefit of the Owner and shall not create any duties or obligations to anyone else.

§ 10.2 Safety of Persons and Property

§ 10.2.1 The Contractor shall take reasonable precautions for safety of, and shall provide reasonable protection to prevent damage, injury, or loss to

- **.1** employees on the Work and other persons who may be affected thereby;
- **.2** the Work and materials and equipment to be incorporated therein, whether in storage on or off the site, under care, custody, or control of the Contractor, a Subcontractor, or a Sub-subcontractor;
- **.3** other property at the site or adjacent thereto, such as trees, shrubs, lawns, walks, pavements, roadways, structures, and utilities not designated for removal, relocation, or replacement in the course of construction; and
- **.4** construction or operations by the Owner, Separate Contractors, or other Contractors.

§ 10.2.2 The Contractor shall comply with, and give notices required by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities, bearing on safety of persons or property or their protection from damage, injury, or loss.

§ 10.2.3 The Contractor shall implement, erect, and maintain, as required by existing conditions and performance of the Contract, reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards; promulgating safety regulations; and notifying the owners and users of adjacent sites and utilities of the safeguards.

§ 10.2.4 When use or storage of explosives or other hazardous materials or equipment or unusual methods are necessary for execution of the Work, the Contractor shall exercise utmost care and carry on such activities under supervision of properly qualified personnel.

§ 10.2.5 The Contractor shall promptly remedy damage and loss (other than damage or loss insured under property insurance required by the Contract Documents) to property referred to in Sections 10.2.1.2, 10.2.1.3 and 10.2.1.4 caused in whole or in part by the Contractor, a Subcontractor, a Sub-subcontractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable and for which the Contractor is responsible under Sections 10.2.1.2, 10.2.1.3 and 10.2.1.4. The Contractor may make a Claim for the cost to remedy the damage or loss to the extent such damage or loss is attributable to acts or omissions of the Owner, Construction Manager or Architect or anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable, and not attributable to the fault or negligence of the Contractor. The foregoing obligations of the Contractor are in addition to the Contractor's obligations under Section 3.18.

§ 10.2.6 The Contractor shall designate a responsible member of the Contractor's organization at the site whose duty shall be the prevention of accidents. This person shall be the Contractor's superintendent unless otherwise designated by the Contractor in writing to the Owner, Construction Manager and Architect.

§ 10.2.7 The Contractor shall not permit any part of the construction or site to be loaded so as to cause damage or create an unsafe condition.

§ 10.2.8 Injury or Damage to Person or Property

If either party suffers injury or damages to person or property because of an act or omission of the other party, of any of the other party's employees or agents, or of others for whose acts such party is legally responsible, notice of the injury or damage, whether or not insured, shall be given to the other party within a reasonable time not exceeding ten (10) days after first observance. The notice shall provide sufficient detail to enable the other party to investigate the matter. If a Claim for additional cost or time related to this Claim is to be asserted, it shall be filed as provided in Sections 15.1.4 and 15.1.5.

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§ 10.3 Hazardous Materials

§ 10.3.1 In the event the Contractor encounters on the site material reasonably believed to be asbestos or polychlorinated biphenyl (PCB) which has not been rendered harmless, the Contractor shall immediately stop Work in the area affected and report the condition to the Owner, Construction Manager and Architect in writing. The Work in the affected area shall not thereafter be resumed except by written agreement of the Owner and Contractor if in fact the material is asbestos or polychlorinated biphenyl (PCB) and has not been rendered harmless. The Work in the affected area shall be resumed in the absence of asbestos or polychlorinated biphenyl (PCB), or when it has been rendered harmless, by written agreement of the Owner and Contractor.

.1 Except where otherwise stated in the Contract Documents, no hazardous material work of any nature shall be performed by the Contractor pursuant to this Contract.

.2 The term "hazardous materials" includes, but is not limited to, asbestos, toxic chemicals, acids, alkalis, irritants, contaminants, or other pollutants, together with any other waste, material, substance, pollutants, or contaminant, all or a portion of which is or would be designated as hazardous waste or substance under applicable local, state, or federal laws, ordinances, codes, rules, or regulations.

§ 10.3.2 To the fullest extent permitted by law, the Owner shall indemnify and hold harmless the Contractor, Construction Manager, Architect, their consultants, and agents and employees of any of them from and against claims, damages, losses, and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work on Owner's property if in fact the material is asbestos or polychlorinated biphenyl (PCB) and has not been rendered harmless, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), including loss of use resulting therefrom, but only to the extent caused in whole or in part by negligent acts or omissions of the Owner, anyone directly or indirectly employed by the Owner, or anyone for whose acts the Owner may be liable, regardless of whether or not such claim, damage, loss, or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity which would otherwise exist as to a party or person described in this Subparagraph 10.3.2.

§ 10.3.3 If reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a material or substance encountered on the site by the contractor, the Contractor shall, upon recognizing the condition, immediately stop Work on Owner's property and report the condition to the Owner, Construction Manager and Architect in writing. The Owner, Construction Manager, Contractor, and Architect shall then proceed in the same manner described in Subparagraph 10.3.1.

(Paragraph deleted)

§ 10.3.5 The Contractor shall reimburse the Owner for the cost and expense the Owner incurs (1) for remediation of hazardous materials or substances the Contractor brings to the site and negligently handles, or (2) where the Contractor fails to perform its obligations under Section 10.3.1, except to the extent that the cost and expense are due to the Owner's fault or negligence. Owner shall be responsible for obtaining the services of a licensed laboratory to verify a presence or absence of the material or substance reported by the Contractor and, in the event such material or substance is found to be present, to verify that it has been rendered harmless.

§ 10.3.6 Regulations concerning the availability of information and employee training in the use and handling of "hazardous substances" and "harmful physical agents", as set forth in the Employee Right-to-Know Act of 1983, Minnesota Statutes, Sections 182.65 to 182.676 are incorporated herein by reference as if fully set forth herein.

§ 10.3.7 The Contractor shall furnish three Material Safety Data Sheets to the Owner for each material used in the Work that is classified by the Employee Right-to-Know Act of 1983 as a "hazardous substance" or a "harmful physical agent."

§ 10.3.8 The Contractor shall label, in generally accepted and/or standardized fashion, all containers on the work site containing "hazardous substances" or as "harmful physical agents." This shall include factory containers and all subsequent containers used in the Work.

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§ 10.4 Emergencies

In an emergency affecting safety of persons or property, the Contractor shall act to prevent threatened damage, injury, or loss. Additional compensation or extension of time claimed by the Contractor on account of an emergency shall be determined as provided in Article 15 and Article 7.

ARTICLE 11 INSURANCE AND BONDS

§ 11.1 Contractor's Insurance and Bonds

§ 11.1.1 The Contractor shall purchase and maintain insurance of the types and limits of liability, containing the endorsements, and subject to the terms and conditions, as described in the Agreement, in EXH-C Owner Insurance or elsewhere in the Contract Documents. The Contractor shall purchase and maintain the required insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located and which carry a Best's rating of A- or higher or are otherwise acceptable to the Owner. The Owner, Construction Manager and Construction Manager's consultants, and the Architect and Architect's consultants, shall be named as additional insureds under the Contractor's commercial general liability policy or as otherwise described in the Contract Documents.

§ 11.1.2 The Contractor shall provide surety bonds of the types, for such penal sums, and subject to such terms and conditions as required by the Contract Documents. The Contractor shall purchase and maintain the required bonds from a company or companies lawfully authorized to issue surety bonds in the jurisdiction where the Project is located.

§ 11.1.3 Upon the request of any person or entity appearing to be a potential beneficiary of bonds covering payment of obligations arising under the Contract, the Contractor shall promptly furnish a copy of the bonds or shall authorize a copy to be furnished. The Contractor shall furnish Certificates of Insurance acceptable to the Owner which shall specifically set forth evidence of all coverage required by Article 11 and EXH-C Owner Insurance and shall be filed with the Owner and Construction Manager prior to commencement of the Work and thereafter upon renewal or replacement of each required policy of insurance.

The Contractor shall not allow insurance required by this Agreement to lapse, be canceled, reduced in limits or coverage, non-renewed, or materially changed or have restrictive modifications added during the life of this Agreement, including the periods of required coverage. The Contractor shall furnish to the Owner and Construction Manager copies of any endorsements that are subsequently issued amending coverage and limits.

If any of the foregoing insurance coverages are required to remain in force after final payment and are reasonably available, all additional certificates evidencing continuation of such coverage shall be submitted with the final Application for Payment. Information concerning reduction of coverage shall be furnished by the Contractor with reasonable promptness in accordance with the Contractor's information and belief.

§ 11.1.3.1 Acceptable insurance certificates are AIA Document G705, CICC of Minnesota Form 701, and/or ACORD form of the American Insurance Institute.

Failure of the Owner to collect certificates does not void the requirements to obtain insurance.

The acceptance of any certificate of insurance by the Owner shall not relieve or decrease the liability of the Contractor hereunder. It is to be understood the Owner, Construction Manager and Architect do not in any way represent that the insurance specified in these articles are sufficient or adequate to protect the Contractor's interest or liabilities, but are merely minimum requirements.

The Contractor shall furnish to the Owner copies of any endorsements that are subsequently issued amending coverage and limits.

§ 11.1.4 In the event the Contractor fails to procure or maintain any insurance coverage required under this Agreement, the Owner may purchase such coverage and deduct the cost thereof from any monies due to the Contractor, or terminate this Agreement under Paragraph 14.2. The Contractor shall be liable to the Owner for providing all coverage, defense, and payments that would have been provided by any insurance that the Contractor failed to procure and maintain as required by the Contract Documents.

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§ 11.1.5 Compliance by the Contractor with the foregoing insurance requirements shall not relieve it from liability for amounts in excess of the limits of insurance.

§ 11.1.6 The Contractor and any of its Subcontractors, Sub-subcontractors, agents and employees, and any separate contractors described in Article 6, if any, and any of their subcontractors, sub-subcontractors, agents and employees shall waive any of their subrogation rights on their Workers Compensation Policy in favor of the Owner, Construction Manager and Architect. The policies shall provide such waivers of subrogation by endorsement or otherwise. A waiver of subrogation shall be effective as to a person or entity even though that person or entity would otherwise have a duty of indemnification, contractual, or otherwise, did not pay the insurance premium directly or indirectly, and whether or not the person or entity had an insurable interest.

§ 11.2 Owner's Insurance

§ 11.2.1 The Owner shall purchase and maintain insurance of the types and limits of liability, containing the endorsements, and subject to the terms and conditions, as described in the Agreement or elsewhere in the Contract Documents. The Owner shall purchase and maintain the required insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The Owner may self-insure and maintain the Owner's usual liability insurance. Optionally, the Owner may purchase and maintain other insurance for self-protection against claims which may arise from operations under the Contract. The Contractor shall not be responsible for purchasing and maintaining this optional Owner's liability insurance unless specifically required by the Contract Documents.

§ 11.2.2 Failure to Purchase Required Property Insurance. If the Owner fails to purchase and maintain the required property insurance, with all of the coverages and in the amounts described in the Agreement or elsewhere in the Contract Documents, the Owner shall inform both the Contractor and the Construction Manager, separately and in writing, prior to commencement of the Work. Upon receipt of notice from the Owner, the Contractor may delay commencement of the Work and may obtain insurance that will protect the interests of the Contractor, Subcontractors, and Sub-Subcontractors in the Work. When the failure to provide coverage has been cured or resolved, the Contract Sum and Contract Time shall be equitably adjusted. In the event the Owner fails to procure coverage, the Owner waives all rights against the Contractor, Subcontractors, and Sub-subcontractors to the extent the loss to the Owner would have been covered by the insurance to have been procured by the Owner. The cost of the insurance shall be charged to the Owner by a Change Order. If the Owner does not provide written notice, and the Contractor is damaged by the failure or neglect of the Owner to purchase or maintain the required insurance, the Owner shall reimburse the Contractor for all reasonable costs and damages attributable thereto.

§ 11.2.3 Notice of Cancellation or Expiration of Owner's Required Property Insurance. Within three (3) business days of the date the Owner becomes aware of an impending or actual cancellation or expiration of any property insurance required by the Contract Documents, the Owner shall provide notice directly to the Contractor, and separately to the Construction Manager, of such impending or actual cancellation or expiration. Unless the lapse in coverage arises from an act or omission of the Contractor: (1) the Contractor, upon receipt of notice from the Owner, shall have the right to stop the Work until the lapse in coverage has been cured by the procurement of replacement coverage by either the Owner or the Contractor; (2) the Contract Time and Contract Sum shall be equitably adjusted; and (3) the Owner waives all rights against the Contractor, Subcontractors, and Sub-subcontractors to the extent any loss to the Owner would have been covered by the insurance had it not expired or been cancelled. If the Contractor purchases replacement coverage, the cost of the insurance shall be charged to the Owner by an appropriate Change Order. The furnishing of notice by the Owner shall not relieve the Owner of any contractual obligation to provide required insurance.

§ 11.3 Waivers of Subrogation

§ 11.3.1 The Owner and Contractor waive all rights against (1) each other and any of their subcontractors, sub-subcontractors, agents, and employees, each of the other; (2) the Construction Manager and Construction Manager's consultants; (3) the Architect and Architect's consultants; (4) other Contractors and any of their subcontractors, sub-subcontractors, agents, and employees; and (5) Separate Contractors, if any, and any of their subcontractors, sub-subcontractors, agents, and employees, for damages caused by fire, or other causes of loss, to the extent those losses are covered by property insurance required by the Agreement or other property insurance applicable to the Project, except such rights as they have to proceeds of such insurance. The Owner or Contractor, as appropriate, shall require similar written waivers in favor of the individuals and entities identified above from the Construction Manager, Construction Manager's consultants, Architect, Architect's consultants, other Contractors,

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Separate Contractors, subcontractors, and sub-subcontractors. The policies of insurance purchased and maintained by each person or entity agreeing to waive claims pursuant to this Section 11.3.1 shall not prohibit this waiver of subrogation. This waiver of subrogation shall be effective as to a person or entity (1) even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, (2) even though that person or entity did not pay the insurance premium directly or indirectly, or (3) whether or not the person or entity had an insurable interest in the damaged property.

(Paragraph deleted)

§ 11.4 Loss of Use, Business Interruption, and Delay in Completion Insurance

The Owner, at the Owner's option, may purchase and maintain insurance that will protect the Owner against loss of use of the Owner's property, or the inability to conduct normal operations, due to fire or other causes of loss. The Owner waives all rights of action against the Contractor, Architect, and Construction Manager for loss of use of the Owner's property, due to fire or other hazards however caused.

§ 11.5 Adjustment and Settlement of Insured Loss

§ 11.5.1 A loss insured under the property insurance required by the Agreement shall be adjusted by the Owner as fiduciary and made payable to the Owner as fiduciary for the insureds, as their interests may appear, subject to requirements of any applicable mortgagee clause and of Section 11.5.2. The Owner shall pay the Construction Manager, Architect and Contractor their just shares of insurance proceeds received by the Owner, and by appropriate agreements the Construction Manager, Architect and Contractor shall make payments to their consultants and Subcontractors in similar manner.

§ 11.5.2 Prior to settlement of an insured loss, the Owner shall notify the Contractor of the terms of the proposed settlement as well as the proposed allocation of the insurance proceeds. The Contractor shall have 14 days from receipt of notice to object to the proposed settlement or allocation of the proceeds. If the Contractor does not object, the Owner shall settle the loss and the Contractor shall be bound by the settlement and allocation. Upon receipt, the Owner shall make the appropriate distributions. Thereafter, if no other agreement is made or the Owner does not terminate the Contract for convenience, the Owner and Contractor shall execute a Change Order for reconstruction of the damaged or destroyed Work in the amount allocated for that purpose. If the Contractor timely objects to either the terms of the proposed settlement or the allocation of the proceeds, the Owner may proceed to settle the insured loss, and any dispute between the Owner and Contractor arising out of the settlement or allocation of the proceeds shall be resolved pursuant to Article 15. Pending resolution of any dispute, the Owner may issue a Construction Change Directive for the reconstruction of the damaged or destroyed Work.

§ 11.6 Bonds

§ 11.6.1 Contractor shall furnish a Performance Bond and a Payment Bond to the Owner in the amount of one hundred percent (100%) of the Contract Sum and issued by a Surety Company authorized to do business in the State of Minnesota, rated "A" or better, and approved by the Owner. The Performance Bond shall be in accordance with Minnesota Statutory requirements, and shall be in the form included in the Project Manual. The Bonds shall allow for any additions or deductions to the Contract Sum.

§ 11.6.2 In order to be acceptable as a surety, Contractor's bonding company bust hold a "Certificate of Authority acceptable to the U.S. Treasury Department and be listed in the Department's current publication of "Bond Qualifiers" with underwriting limitations not less than ten percent (10%) above the Contract Sum.

§ 11.6.3 The surety of the Bonds shall be by a corporate surety company authorized to do business in the state in which Work is being performed under this Contract and acceptable to the Owner. The conditions of the bonds shall meet requirements of the statutes of the state where Work is being performed and all other applicable provisions of state law.

§ 11.6.4 The Contractor shall furnish two (2) originals of the Bonds to the Owner, with copies to the Architect and Construction Manager, within ten (10) days after notification of award and before execution of the Contract. Failure to do so shall constitute a violation of terms of the proposal and provide grounds for forfeiture of bid security.

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ARTICLE 12 UNCOVERING AND CORRECTION OF WORK

§ 12.1 Uncovering of Work

§ 12.1.1 If a portion of the Work is covered contrary to the Construction Manager's or Architect's request or to requirements specifically expressed in the Contract Documents, it must, if requested in writing by either, be uncovered for their examination and be replaced at the Contractor's expense without change in the Contract Time.

§ 12.1.2 If a portion of the Work has been covered that the Construction Manager or Architect has not specifically requested to examine prior to its being covered, the Construction Manager or Architect may request to see such Work and it shall be uncovered by the Contractor. If such Work is in accordance with the Contract Documents, the Contractor shall be entitled to an equitable adjustment to the Contract Sum and Contract Time as may be appropriate. If such Work is not in accordance with the Contract Documents, the costs of uncovering the Work, and the cost of correction, shall be at the Contractor's expense.

§ 12.2 Correction of Work

§ 12.2.1 Before Substantial Completion

The Contractor shall promptly correct Work rejected by the Construction Manager or Architect or failing to conform to the requirements of the Contract Documents, discovered before Substantial Completion, and whether or not fabricated, installed or completed. The Contractor shall bear costs of correcting such rejected Work, including additional testing and inspections, the cost of uncovering and replacement, and compensation for the Construction Manager's and Architect's services and expenses made necessary thereby.

§ 12.2.2 After Substantial Completion

(Paragraphs deleted)

§ 12.2.2.1 If within one year after the date of Substantial Completion of the Work or designated portion thereof, or after the date for commencement of warranties established under Section 9.9.1, or by terms of any applicable special warranty required by the Contract Documents, any of the Work is found to be not in accordance with the requirements of the Contract Documents, the Contractor shall correct it promptly (and any other property damaged or removed in effecting the correction) after receipt of notice from the Owner, Construction Manager or Architect to do so, unless the Owner has previously given the Contractor a written acceptance of such condition. The Owner, Construction Manager or Architect shall give such notice promptly after discovery of the condition. This period of one year shall be extended with respect to portions of Work first performed after Substantial completion by the period of time between Substantial completion and the actual performance of the Work. This obligation under this Subparagraph 12.2.2.1 shall survive acceptance of the Work under the contract and termination of the Contract. The Owner, Construction Manager or Architect shall give such notice promptly after discovery of the condition. The expiration of the above one year or any other specified time period, or any other period prescribed by the law, shall not relieve the Contractor of the obligation form the expense to correct any latent defect in the work or deficiencies which are not readily ascertained, including but not limited to, defective materials and quality of work performed, defects attributable to material substitutions for special materials, substandard performance or otherwise not in compliance with the Contract Documents. Such latent defects or deficiencies shall be corrected as provided in this Paragraph 12.2. Following the correction or replacement of any of the Work, as above specified, the Contractor shall correct any defects or deficiencies in the corrected or replaced materials and workmanship which is found within one year after the date of correction or replacement.

§ 12.2.3 The Contractor shall remove from the site portions of the Work that are not in accordance with the requirements of the Contract Documents and are neither corrected by the Contractor nor accepted by the Owner.

§ 12.2.4 If the Contractor fails to correct nonconforming Work within a reasonable time, the Owner may correct it in accordance with Paragraph 2.4. If the Contractor does not proceed with correction of such nonconforming Work within a reasonable time fixed by written notice from the Architect or Construction Manager, the Owner may correct or remove it and store the salvageable materials or equipment all at the Contractor's expense. If the Contractor does not pay costs of such removal and storage within ten (10) days after written notice, the Owner may upon ten (10) additional days' written notice sell such materials and equipment at auction or at private sale and shall account for the proceeds thereof, after deducting costs and damages that should have been borne by the Contractor, the Contract Sum shall be reduced by the deficiency. If payments then or thereafter due the Contractor are not sufficient to cover such amount, the Contractor shall pay the difference to the Owner.

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§ 12.2.5 The Contractor shall bear the cost of correcting destroyed or damaged construction whether completed or partially completed, of the Owner or separate contractors caused by the Contractor's correction or removal of Work which is not in accordance with the requirements of the Contract Documents.

§ 12.2.6 Nothing contained in this Section 12.2 shall be construed to establish a period of limitation with respect to other obligations the Contractor has under the Contract Documents. Establishment of the one-year period for correction of Work as described in Section 12.2.2 relates only to the specific obligation of the Contractor to correct the Work, and has no relationship to the time within which the obligation to comply with the Contract Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Contractor's liability with respect to the Contractor's obligations other than specifically to correct the Work.

§ 12.3 Acceptance of Nonconforming Work

If the Owner prefers to accept Work that is not in accordance with the requirements of the Contract Documents, the Owner may do so instead of requiring its removal and correction, in which case the Contract Sum will be reduced as appropriate and equitable. Such adjustment shall be effected whether or not final payment has been made.

ARTICLE 13 MISCELLANEOUS PROVISIONS

§ 13.1 Governing Law

The Contract shall be governed by the law of the place where the Project is located excluding that jurisdiction's choice of law rules. If the parties have selected arbitration as the method of binding dispute resolution, the Federal Arbitration Act shall govern Section 15.4.

§ 13.2 Successors and Assigns

§ 13.2.1 The Owner and Contractor respectively bind themselves, their partners, successors, assigns, and legal representatives to covenants, agreements, and obligations contained in the Contract Documents. Except as provided in Section 13.2.2, neither party to the Contract shall assign the Contract as a whole without written consent of the other. If either party attempts to make an assignment without such consent, that party shall nevertheless remain legally responsible for all obligations under the Contract.

§ 13.2.2 The Owner may, without consent of the Contractor, assign the Contract to a lender providing construction financing for the Project, if the lender assumes the Owner's rights and obligations under the Contract Documents. The Contractor shall execute all consents reasonably required to facilitate the assignment.

§ 13.3 Rights and Remedies

§ 13.3.1 Duties and obligations imposed by the Contract Documents and rights and remedies available thereunder shall be in addition to and not a limitation of duties, obligations, rights, and remedies otherwise imposed or available by law.

§ 13.3.2 No action or failure to act by the Owner, Construction Manager, Architect, or Contractor shall constitute a waiver of a right or duty afforded them under the Contract, nor shall such action or failure to act constitute approval of or acquiescence in a breach thereunder, except as may be specifically agreed upon in writing.

§ 13.4 Tests and Inspections

§ 13.4.1 Tests, inspections, and approvals of portions of the Work shall be made as required by the Contract Documents and by applicable laws, statutes, ordinances, codes, rules, and regulations or lawful orders of public authorities. The Owner, Construction Manager or Architect shall make arrangements for such tests, inspections, and approvals with an independent testing laboratory or entity acceptable to the Owner, or with the appropriate public authority. Timely notice shall be given to the Construction Manager and Architect of when and where tests and inspections are to be made so that the Construction Manager and Architect may observe such procedures. The Owner shall bear costs of tests, inspections, or approvals that do not become requirements until after bids are received or negotiations concluded. The Owner shall directly arrange and pay for tests, inspections, or approvals where building codes or applicable laws or regulations so require.

§ 13.4.2 If the Construction Manager, Architect, Owner, or public authorities having jurisdiction determine that portions of the Work require additional testing, inspection, or approval not included under Section 13.4.1, the Construction Manager and Architect will, upon written authorization from the Owner, instruct the Contractor to make arrangements for such additional testing, inspection, or approval, by an entity acceptable to the Owner, and the

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Contractor shall give a minimum of two (2) working days' notice to the Construction Manager and Architect of when and where tests and inspections are to be made so that the Construction Manager and Architect may observe procedures. The Owner shall bear such costs, except as provided in Section 13.4.3.

§ 13.4.3 If procedures for testing, inspection, or approval under Sections 13.4.1 and 13.4.2 reveal failure of the portions of the Work to comply with requirements established by the Contract Documents, all costs made necessary by such failure, including those of repeated procedures and compensation for the Construction Manager's and Architect's services and expenses, shall be at the Contractor's expense.

§ 13.4.4 Required certificates of testing, inspection, or approval shall, unless otherwise required by the Contract Documents, be secured by the Contractor and promptly delivered to the Construction Manager for transmittal to the Architect.

§ 13.4.5 If the Construction Manager or Architect is to observe tests, inspections, or approvals required by the Contract Documents, the Construction Manager or Architect will do so promptly and, where practicable, at the normal place of testing.

§ 13.4.6 Tests or inspections conducted pursuant to the Contract Documents shall be made promptly to avoid unreasonable delay in the Work.

§ 13.5 Interest

All payments to the Contractor shall be governed by the Prompt Payment of Local Government Bills, Minnesota Statutes, Section 471.125 ("Prompt Payment Act") and Article 5 of the A132–2019 Agreement on this Project.

§ 13.6 Non-Discrimination

§ 13.6.1 All contracts between the Owner and companies providing goods and services under the Contract Documents shall contain the following equal opportunity and civil right clause:

> "During the performance of this Agreement, the provider agrees to the following: No contractor, material supplier, vendor, or other person shall on the basis of sex, race, creed, color, religion, national origin, age, marital status, sexual orientation, or disability be excluded from full employment rights in, participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program, service, or activity under the provisions of any and all applicable Federal and State laws against discrimination, including the Minnesota Human Rights Act and the Civil Rights Act of 1964."

Upon request, the Contractor shall furnish all information and reports required by the Owner, or by the rules and regulations of investigation to ascertain compliance with all applicable rules and regulations. The Contractor shall also comply with any applicable licensing requirements of the Minnesota Department of Human Services in employment of personnel.

The Contractor acknowledges that the violation of the above-stated paragraph is a misdemeanor pursuant to Minnesota Statutes, Section 181.59.

This Agreement may be cancelled or terminated by the Owner or any other person authorized to grant the contracts for employment under this Agreement, and all money due, or to become due under this Agreement may be forfeited for a second or any subsequent violation of the non-discriminatory terms stated above.

§ 13.6.2 During the completion of the work and all other services required by the Contract Documents, the Contractor agrees that no contractor, material supplier, vendor, or other person shall, on the basis of sex, race, creed, color, religion, national origin, age, marital status, sexual orientation, or disability be excluded from full employment rights in participation in, be denied the benefits of, or be otherwise subjected to discrimination under the provisions of any and all applicable Federal and State laws against discrimination, including the Minnesota Human Rights Act and the Civil Rights Act of 1964. Upon request, the Architect, Construction Manager and Contractor shall furnish all information and reports required by the Owner, or by the rules and regulations of investigation to ascertain compliance with all applicable rules and regulations. The Contractor shall also comply with any applicable licensing requirements of the Minnesota Department of Human Services in employment of personnel.

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Contractor acknowledges that the violation of the above-states paragraph is a misdemeanor pursuant to Minnesota Statutes Section 181.59.

The Contract Documents may be cancelled or terminated by the Owner or any other person authorized to grant the contracts for employment under this Agreement, and all money due, or to become due under the Agreement may be forfeited for a second or any subsequent violation of the non-discriminatory terms stated above.

§ 13.7 No action or failure to act by the Owner shall constitute a waiver of a right or duty afforded the Owner under the Contract Documents, nor shall such action or failure to act constitute approval of or acquiescence of the Owner in a breach of the Contract Documents, except as may be specifically agreed in writing. None of the approval of any Application for Payment, the making of any payment, the giving of any approval or consent, the use or occupancy of the Work, or any part thereof, the making of final payment, or any other action or inaction on the part of the Owner, Construction Manager or Architect shall constitute a waiver of claims by or rights of the Owner or an acceptance of any Work that is not in accordance with the Contract Documents. The Contractor shall not be relieved from its obligations to perform the Work in accordance with the Contract Documents either by the activities or duties of the representations of the Owner, Construction Manager or Architect, or by inspections, tests, or approvals required or performed by the Owner, Construction Manager or Architect or anyone else.

ARTICLE 14 TERMINATION OR SUSPENSION OF THE CONTRACT

§ 14.1 Termination by the Contractor

§ 14.1.1 The Contractor may terminate the Contract if the Work is stopped for a period of 30 consecutive days through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, their agents or employees, or any other persons or entities performing portions of the Work, for any of the following reasons:

.1 Issuance of an order of a court or other public authority having jurisdiction that requires all Work to be stopped;

.2 An act of government, such as a declaration of national emergency, that requires all Work to be stopped;

.3 Because the Construction Manager has not certified or the Architect has not issued a Certificate for Payment and has not notified the Contractor of the reason for withholding certification as provided in Section 9.4, or because the Owner has not made payment on a Certificate for Payment within the time stated in the Contract Documents; or

.4 The Owner has failed to furnish to the Contractor reasonable evidence as required by Section 2.2.

§ 14.1.2 The Contractor may terminate the Contract if, through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, their agents or employees, or any other persons or entities performing portions of the Work, repeated suspensions, delays, or interruptions of the entire Work by the Owner as described in Section 14.3, constitute in the aggregate more than 100 percent of the total number of days scheduled for completion, or 120 days in any 365-day period, whichever is less.

§ 14.1.3 If one of the reasons described in Section 14.1.1 or 14.1.2 exists, the Contractor may, upon seven days' notice to the Owner, Construction Manager and Architect, terminate the Contract and recover from the Owner payment for Work executed, as well as reasonable overhead and profit on Work not executed, and costs incurred by reason of such termination.

§ 14.1.4 If the Work is stopped for a period of 60 consecutive days through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, or their agents or employees, or any other persons performing portions of the Work because the Owner has repeatedly failed to fulfill the Owner's obligations under the Contract Documents with respect to matters important to the progress of the Work, the Contractor may, upon seven additional days' notice to the Owner, Construction Manager and Architect, terminate the Contract and recover from the Owner as provided in Section 14.1.3.

§ 14.1.5 No Right to Stop Work for Non-Payment

The Contractor has no right to stop Work as a consequence of non-payment. In the event of any disagreement between the Contractor and Owner involving the Contractor's entitlement to payment, the Contractor's only remedy is to file a Claim in accordance with Article 15. The Contractor must diligently proceed with the Work pending resolution of the Claim. If, however, an Application for Payment has been approved for payment by the Owner, and the Owner fails to make payment within sixty (60) days of the approval for payment by the Owner, the Contractor may upon ten (10)

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days written notice to the Owner, stop work if payment is not made by the Owner within ten (10) days following the notice.

§ 14.2 Termination by the Owner for Cause

§ 14.2.1 The Owner may terminate the Contract if the Contractor

.1 repeatedly refuses or fails to supply enough properly skilled workers or proper materials;

.2 fails to make payment to Subcontractors or suppliers in accordance with the respective agreements between the Contractor and the Subcontractors or suppliers;

.3 repeatedly disregards applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of a public authority; or

.4 otherwise is guilty of substantial breach of a provision of the Contract Documents.

§ 14.2.2 When any of the reasons described in Section 14.2.1 exist, after consultation with the Construction Manager, and upon certification by the Architect that sufficient cause exists to justify such action, the Owner may, without prejudice to any other rights or remedies of the Owner and after giving the Contractor and the Contractor's surety, if any, seven days' notice, terminate employment of the Contractor and may, subject to any prior rights of the surety:

.1 Exclude the Contractor from the site and take possession of all materials, equipment, tools, and construction equipment and machinery thereon owned by the Contractor;

.2 Accept assignment of subcontracts pursuant to Section 5.4; and

.3 Finish the Work by whatever reasonable method the Owner may deem expedient. Upon written request of the Contractor, the Owner shall furnish to the Contractor a detailed accounting of the costs incurred by the Owner in finishing the Work.

§ 14.2.3 When the Owner terminates the Contract for one of the reasons stated in Section 14.2.1, the Contractor shall not be entitled to receive further payment until the Work is finished.

§ 14.2.4 If the unpaid balance of the Contract Sum exceeds costs of finishing the Work, including compensation for the Construction Manager's and Architect's services and expenses made necessary thereby, and other damages incurred by the Owner and not expressly waived, such excess shall be paid to the Contractor. If such costs and damages exceed the unpaid balance, the Contractor shall pay the difference to the Owner. The amount to be paid to the Contractor or Owner, as the case may be, shall, upon application, be certified by the Initial Decision Maker after consultation with the Construction Manager, and this obligation for payment shall survive termination of the Contract.

§ 14.3 Suspension by the Owner for Convenience

§ 14.3.1 The Owner may, without cause, order the Contractor in writing to suspend, delay or interrupt the Work, in whole or in part for such period of time as the Owner may determine.

§ 14.3.2 The Contract Sum and the Contract Time shall be adjusted for increases or decreases in the cost and time caused by suspension, delay, or interruption under Section 14.3.1. Adjustment of the Contract Sum shall include reasonable profit. No adjustment shall be made to the extent:

.1 that performance is, was, or would have been, so suspended, delayed, or interrupted, by another cause for which the Contractor is responsible; or

.2 that an equitable adjustment is made or denied under another provision of this Contract.

§ 14.4 Termination by the Owner for Convenience

§ 14.4.1 The Owner may, at any time, terminate the Contract for the Owner's convenience and without cause.

§ 14.4.2 Upon receipt of notice from the Owner of such termination for the Owner's convenience, the Contractor shall

.1 cease operations as directed by the Owner in the notice;

.2 take actions necessary, or that the Owner may direct, for the protection and preservation of the Work; and

.3 except for Work directed to be performed prior to the effective date of termination stated in the notice, terminate all existing subcontracts and purchase orders and enter into no further subcontracts and purchase orders.

(Paragraph deleted)

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ARTICLE 15 CLAIMS AND DISPUTES

§ 15.1 Claims

§ 15.1.1 Definition. A Claim is a demand or assertion by the Contractor seeking, as a matter of right, payment of money, a change in the Contract Time, or other relief with respect to the terms of the Contract. The responsibility to substantiate Claims shall rest with the Contractor. Nothing in this paragraph 15.1.1 is intended to apply to or in any way limit the Owner's right to make Claims related to or arising out of the Contract. This Section 15.1.1 does not require the Owner to file a Claim in order to impose liquidated damages in accordance with the Contract Documents.

§ 15.1.2 Time Limits on Claims

The Owner and Contractor shall commence all Claims and causes of action against the other and arising out of or related to the Contract, whether in contract, tort, breach of warranty or otherwise, in accordance with the requirements of the binding dispute resolution method selected in the Agreement and within the period specified by applicable law, but in any case not more than 10 years after the date of Substantial Completion of the Work. The Owner and Contractor waive all Claims and causes of action not commenced in accordance with this Section 15.1.2.

§ 15.1.3 Notice of Claims

§ 15.1.3.1 Claims by Contractor, where the condition giving rise to the Claim is first discovered prior to expiration of the period for correction of the Work set forth in Section 12.2.2, shall be initiated by written notice to the Owner and to the Initial Decision Maker with a copy sent to the Construction Manager and Architect, if the Architect is not serving as the Initial Decision Maker. Claims by the Contractor under this Section 15.1.3.1 shall be initiated within ten (10) days after occurrence of the event giving rise to such Claim or within ten (10) days after the Contractor first recognizes the condition giving rise to the Claim, whichever is later. Any additional Claim made after and relating to the initial Claim has been implemented by Change Order will not be considered unless submitted in a timely manner. As a condition to making a claim for additional costs, the Contractor shall maintain and produce accurate records to substantiate all additional costs actually incurred. If a Claim for actual costs is approved, the Owner shall pay the Contractor actual costs incurred, plus either (a) ten percent (10%) for overhead and profit for work performed by the Contractor, or (b) five percent (5%) overhead and profit for work performed by a Subcontractor, as applicable.

§ 15.1.3.2 Claims by either the Owner or Contractor, where the condition giving rise to the Claim is first discovered after expiration of the period for correction of the Work set forth in Section 12.2.2, shall be initiated by written notice to the other party. In such event, no decision by the Initial Decision Maker is required.

§ 15.1.4 Continuing Contract Performance

§ 15.1.4.1 Pending final resolution of a Claim, except as otherwise agreed in writing or as provided in Section 9.7 and Article 14, the Contractor shall proceed diligently with performance of the Contract and the Owner shall continue to make payments in accordance with the Contract Documents. Subject to Paragraph 15.1.5, no such continuing performance by the Contractor, nor payment by the Owner shall be deemed a waiver of, or to otherwise impair any such Claim.

§ 15.1.4.2 The Contract Sum and Contract Time shall be adjusted in accordance with the Initial Decision Maker's decision, subject to the right of either party to proceed in accordance with this Article 15. The Architect will issue Certificates for Payment in accordance with the decision of the Initial Decision Maker.

§ 15.1.5 Claims for Additional Cost. If the Contractor wishes to make a Claim for an increase in the Contract Sum, notice as provided in Section 15.1.3 shall be given before proceeding to execute the portion of the Work that is the subject of the Claim. Prior notice is not required for Claims relating to an emergency endangering life or property arising under Section 10.4.

§ 15.1.6 Claims for Additional Time

§ 15.1.6.1 If the Contractor wishes to make a Claim for any increase in the Contract Time, notice as provided in Section 15.1.3 shall be given. The Contractor's Claim shall include an estimate of cost and of probable effect of delay on progress of the Work. In the case of a continuing delay only one Claim is necessary.

§ 15.1.6.2 If adverse weather conditions are the basis for a Claim for additional time, such Claim shall be documented by data substantiating that weather conditions were abnormal for the period of time, could not have been reasonably anticipated and had an adverse effect on the scheduled construction.

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(Paragraphs deleted)

§ 15.2 Initial Decision

§ 15.2.1 Claims, excluding those where the condition giving rise to the Claim is first discovered after expiration of the period for correction of the Work set forth in Section 12.2.2 or arising under Sections 10.3, 10.4, and 11.5, shall be referred to the Initial Decision Maker for initial decision. The Architect will serve as the Initial Decision Maker, unless otherwise indicated in the Agreement. Except for those Claims excluded by this Section 15.2.1, an initial decision shall be required as a condition precedent to mediation of any Claim. If an initial decision has not been rendered within 30 days after the Claim has been referred to the Initial Decision Maker, the party asserting the Claim may demand mediation and binding dispute resolution without a decision having been rendered. Unless the Initial Decision Maker and all affected parties agree, the Initial Decision Maker will not decide disputes between the Contractor and persons or entities other than the Owner.

§ 15.2.2 The Initial Decision Maker will review Claims and within ten days of the receipt of a Claim take one or more of the following actions: (1) request additional supporting data from the claimant or a response with supporting data from the other party, (2) reject the Claim in whole or in part, (3) approve the Claim, (4) suggest a compromise, or (5) advise the parties that the Initial Decision Maker is unable to resolve the Claim if the Initial Decision Maker lacks sufficient information to evaluate the merits of the Claim or if the Initial Decision Maker concludes that, in the Initial Decision Maker's sole discretion, it would be inappropriate for the Initial Decision Maker to resolve the Claim.

§ 15.2.3 In evaluating Claims, the Initial Decision Maker may, but shall not be obligated to, consult with or seek information from either party or from persons with special knowledge or expertise who may assist the Initial Decision Maker in rendering a decision. The Initial Decision Maker may request the Owner to authorize retention of such persons at the Owner's expense.

§ 15.2.4 If the Initial Decision Maker requests a party to provide a response to a Claim or to furnish additional supporting data, such party shall respond, within ten days after receipt of the request, and shall either (1) provide a response on the requested supporting data, (2) advise the Initial Decision Maker when the response or supporting data will be furnished, or (3) advise the Initial Decision Maker that no supporting data will be furnished. Upon receipt of the response or supporting data, if any, the Initial Decision Maker will either reject or approve the Claim in whole or in part.

§ 15.2.5 The Initial Decision Maker will render an initial decision approving or rejecting the Claim, or indicating that the Initial Decision Maker is unable to resolve the Claim. This initial decision shall (1) be in writing; (2) state the reasons therefor; and (3) notify the parties, the Construction Manager, and the Architect, if the Architect is not serving as the Initial Decision Maker, of any change in the Contract Sum or Contract Time or both. The initial decision shall be final and binding on the parties but subject to mediation and, if the parties fail to resolve their dispute through mediation, to binding dispute resolution.

§ 15.2.6 In the event of a Claim against the Contractor, the Owner may, but is not obligated to notify the surety, if any, of the nature and amount of the Claim. If the Claim relates to a possibility of a Contractor's default, the Owner may, but is not obligated to notify the surety and initiate a Claim on the performance bond.

(Paragraphs deleted)

§ 15.3 Mediation

§ 15.3.1 Any claim, dispute or other matter in question or arising out of or related to the Contract shall be subject to mediation. Mediation is not a condition precedent to commencing litigation, but if litigation is commenced before mediation is held, the Parties agree to mediate before any dispositive motions or trial.

§ 15.3.2 The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located unless another location is mutually agreed upon. Agreements reached in mediation and ratified by the Owner's Council shall be enforceable as settlement agreements in any court having jurisdiction thereof.

(Paragraphs deleted)

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AIA® Document A232® – 2019

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PAGE 1

North High School Phase 4 Work Scope 26-A Electrical
1500 James Avenue, Minneapolis, MN 55411

...

Kraus-Anderson Construction Company
501 South 8th Street, Minneapolis, MN 55404

...

Minneapolis Public Schools Special School District #1
1250 West Broadway Avenue
Minneapolis, MN 55411

...

LSE Architects 1401 Glenwood Avenue
Minneapolis, MN 55405

PAGE 3

§ 1.1.1.1 Notwithstanding the foregoing, it is understood and agreed that the Owner is an intended third-party beneficiary of all contracts between the Contractor and Subcontractors or suppliers who provide labor and/or materials for the Work.

PAGE 4

§ 1.1.10 Initial Decision Maker. The Initial Decision Maker is the person identified in the Agreement to render initial decisions on Claims in accordance with Section 15.2. The ~~Initial Decision Maker shall not show partiality to the Owner or Contractor and shall not be liable for results of interpretations or decisions rendered in good faith.~~Architect will serve as the Initial Decision Maker pursuant to Section 15.2 of AIA Document A232–2019.

...

§ 1.2.1 The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work by the Contractor. The Contract Documents are complementary, and what is required by one shall be as binding as if required by all; performance by the Contractor shall be required only to the extent consistent with the Contract Documents and reasonably inferable from them as being necessary to produce the ~~indicated~~ intended results.

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§ 1.2.1.1 The invalidity of any provision of the Contract Documents shall not invalidate the Contract or its remaining provisions. ~~If it is determined that any provision of the Contract Documents violates any law, or is otherwise invalid or unenforceable, then that provision shall be revised to the extent necessary to make that provision legal and enforceable.~~ In such case the Contract Documents shall be construed, to the fullest extent permitted by law, to give effect to the parties' intentions and purposes in executing the Contract.

...

§ 1.4.1 In the case of inconsistency between Drawings and Specifications or within Contract Documents not clarified by Addenda, the better quality or greater quantity of Work shall be provided in accordance with the Architect's interpretation.

§ 1.5.1 The Architect and the Architect's consultants shall be deemed the authors and owners of their respective Instruments of Service, including the Drawings and Specifications, and retain all common law, statutory, and other reserved rights in their Instruments of Service, including copyrights. The Contractor, Subcontractors, sub-subcontractors, and suppliers shall not own or claim a copyright in the Instruments of Service. Submittal or distribution to meet official regulatory requirements or for other purposes in connection with the Project is not to be construed as publication in derogation of the Architect's or Architect's consultants' reserved rights. The Owner retains rights to the Instruments of Service pursuant to Article 7 of AIA Document B101-2017.

...

§ 1.5.3 The Architect shall furnish to the Contractor a version of the Instruments of Service in electronic form for the sole purpose of the construction of the Project for which the Instruments of Service were created.

PAGE 5

The parties shall agree upon ~~written~~ protocols governing the transmission and use ~~of, and reliance on,~~ of Instruments of Service or any other information or documentation in digital form. The parties may use AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit or other form, to establish the protocols for the development, use, transmission, and exchange of digital data.

...

Any use of, or reliance on, all or a portion of a building information model without agreement to ~~written~~ protocols governing the use of, and reliance on, the information contained in the model and without having those protocols set forth in AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, and the requisite AIA Document G202™–2013, Project Building Information Modeling Protocol Form or other form, shall be at the using or relying party's sole risk and without liability to the other party and its contractors or consultants, the authors of, or contributors to, the building information model, and each of their agents and employees.

...

§ 2.1.1 The Owner is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The Owner shall designate in writing a representative who shall have express authority to bind the Owner with respect to all matters requiring the Owner's approval or ~~authorization.~~ authorization in accordance with Owner's Delegation of Authority Policy, a copy of which will be provided at Contractor's request. Except as otherwise provided in Section 4.2.1, the Construction Manager and the Architect do not have such authority. The term "Owner" means the Owner or the Owner's authorized representative.

~~**§ 2.1.2** The Owner shall furnish to the Contractor, within fifteen days after receipt of a written request, information necessary and relevant for the Contractor to evaluate, give notice of, or enforce mechanic's lien rights. Such information shall include a correct statement of the record legal title to the property on which the Project is located, usually referred to as the site, and the Owner's interest therein.~~

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§ 2.3.5 ~~The~~ If requested by the Contractor and reasonably required for the Project, the Owner shall furnish surveys describing physical characteristics, legal limitations and utility locations for the site of the Project, and a written legal description of the site. The Contractor ~~shall be entitled to rely on the accuracy of information furnished by the Owner but~~ shall exercise proper precautions relating to the safe performance of the Work.

§ 2.3.6 The Owner shall furnish information or services required of the Owner by the Contract Documents with reasonable promptness. The Owner shall also furnish any other information or services under the Owner's control and relevant to the Contractor's performance of the Work with reasonable promptness after receiving the Contractor's written request for such information or services. The Contractor is responsible for the timeliness of, or interference caused by, Subcontractors, Sub-subcontractors (of any tier), and others directly or indirectly under contract to the Contractor.

...

If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within a ~~ten-day~~ three-business-day (3) period after receipt of notice from the Owner to commence and continue correction of such default or neglect with diligence and promptness, the Owner may, without prejudice to other remedies the Owner may have, correct such default or neglect. Such action by the Owner and amounts charged to the Contractor are both subject to review by the Construction Manager and prior approval of the Architect, and the Construction Manager or Architect may, pursuant to Section 9.5.1, withhold or nullify a Certificate for Payment in whole or in part, to the extent reasonably necessary to reimburse the Owner for the reasonable cost of correcting such deficiencies, including Owner's expenses and compensation for the Construction Manager's and Architect's and their respective consultants' additional services and expenses made necessary by such default, neglect, or failure. If current and future payments are not sufficient to cover such amounts, the Contractor shall pay the difference to the ~~Owner.~~ Owner within ten (10) days following written request for payment delivered by the Owner to the Contractor. If the Contractor disagrees with the actions of the Owner or the Architect, or the amounts claimed as costs to the Owner, the Contractor may file a Claim pursuant to Article 15.

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§ 3.1.3 The Contractor shall ~~not be relieved of its obligations to perform the Work in accordance with the Contract Documents either by activities or duties of the Construction Manager or Architect in their administration of the Contract, or by tests, inspections or approvals required or performed by persons or entities other than the Contractor.~~hire a professional utilities locator to investigate and verify all private utility locations prior to excavation and cutting into of existing Work. The Contractor is responsible for locating, terminating, and reinstallation of all private utilities. Private site utilities may not be in the Drawings and Project Manual and as such, verification of private utilities is the sole responsibility of the Contractor. Costs associated with moving and repairing of unknown and undocumented utilities will be by appropriate Change Order. The Contractor shall comply with Gopher State One Call, or other public utility service locator to locate all public utilities prior to any work on the site. This shall not relieve Contractor from obligations under Article 3.

§ 3.1.4 The Contractor shall not be relieved of its obligations to perform the Work in accordance with the Contract Documents either by activities or duties of the Construction Manager or Architect in their administration of the Contract, or by tests, inspections or approvals required or performed by persons or entities other than the Contractor.

...

§ 3.2.1 ~~Execution of the Contract by the Contractor is a representation that the Contractor has visited the site, become generally~~ The Contractor shall carefully study and compare the Contract Documents with each other and with information furnished by the Owner pursuant to Section 2.2.3, and shall immediately report to the Architect and Construction Manager errors, inconsistencies, or omissions discovered. The Contractor shall not be liable to the Owner or Architect for damage resulting from errors, inconsistencies, or omissions in the Contract Document unless the Contractor recognized such error, inconsistency, or omission and knowingly failed to report it to the Architect. If the Contractor performs any construction activity knowing or believing it involves a recognized error, inconsistency, or omission in the Contract Documents without such notice to the Architect, the Contractor shall assume full responsibility for such performance and shall bear the attributable costs for correction and shall bear responsibility for any additional costs, delays, and damages resulting from such failure to immediately report any such errors,

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inconsistencies, or omissions which the Contractor may discover. By executing the Contract, the Contractor represents that the Contractor has reviewed and understands the Contract Documents, has visited the Site and is familiar with local conditions under which the Work is to be performed, ~~and correlated personal observations with requirements of the Contract Documents.~~has correlated personal observations with the requirements of the Contract Documents, and has notified the Architect of and obtained clarification of any discrepancies which have become apparent during the bidding or proposal period.

§ 3.2.1.1 The Contractor shall take field measurements and verify field conditions and shall carefully compare such field measurements and conditions and other information known to the Contractor with the Contract Documents before commencing activities. Errors, inconsistencies, or omissions discovered shall be reported to the Architect immediately in writing.

§ 3.2.1.2 The Contractor shall carefully study and compare the Contract Documents with existing conditions at the job site and shall immediately report in writing to the Architect any error, inconsistency, or omission which the Contractor may discover or any materials, systems, procedures, or methods of construction, either shown on the Drawings or specified, which the Contractor has reason to believe are incorrect, inadequate, obsolete, unsuitable for the purpose intended or which the Contractor has reason to believe would constitute or result in a violation of the Contractor's warranty under Section 3.5 or applicable law. The Contractor shall not proceed with any work in such areas until written instructions are received from the Architect.

§ 3.2.2 ~~Because the Contract Documents are complementary, the Contractor shall, before starting each portion of the Work, carefully study and compare the various Contract Documents relative to that portion of the Work, as well as the information furnished by the Owner pursuant to Section 2.3.5, shall take field measurements of any existing conditions related to that portion of the Work, and shall observe any conditions at the site affecting it. These obligations are for the purpose of facilitating coordination and construction by the Contractor and are not for the purpose of discovering errors, omissions, or inconsistencies in the Contract Documents; however, the Contractor shall promptly report to the Construction Manager and Architect any errors, inconsistencies or omissions discovered by or made known to the Contractor as a request for information submitted to the Construction Manager in such form as the Construction Manager and Architect may require. It is recognized that the Contractor's review is made in the Contractor's capacity as a contractor and not as a licensed design professional, unless otherwise specifically provided in the Contract Documents.~~The Contractor shall perform the Work in accordance with the Contract Documents and submittals accepted pursuant to Section 3.12.

§ 3.2.3 The ~~Contractor is not required to ascertain that the Contract Documents are in accordance with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, but the Contractor shall promptly report to the Construction Manager and Architect any nonconformity discovered by or made known to the Contractor as a request for information submitted to Construction Manager in such form as the Construction Manager and Architect may require.~~Owner shall be entitled to deduct from the Contract Sum amounts paid to the Architect for the Architect to evaluate and respond to the Contractor's requests for interpretation or information where such information was available to the Contractor from a careful study and comparison of the Contract Documents, Filed Conditions, Owner Provided Information, Contractor Prepared Coordination Drawings, or prior Project Correspondence or Documentation.

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§ 3.2.4 If the Contractor believes that ~~additional cost or time is involved because of clarifications or instructions the Architect issues in response to the Contractor's notices or requests for information pursuant to Sections 3.2.2 or 3.2.3, the Contractor shall submit Claims as provided in Article 15. If the Contractor fails to perform the obligations of Sections 3.2.2 or 3.2.3, the Contractor shall pay such costs and damages to the Owner, subject to section 15.1.7, as would have been avoided if the Contractor had performed such obligations. If the Contractor performs those obligations, the Contractor shall not be liable to the Owner or Architect for damages resulting from errors, inconsistencies or omissions in the Contract Documents, for differences between field measurements or conditions and the Contract Documents, or for nonconformities of the Contract Documents to applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities.~~any portions of the Contract Documents do not comply with applicable laws, statutes, ordinances, building codes, and rules and regulations, or any orders by code enforcement officials or the Owner or its designees acting in the capacity of building code inspectors or Referenced Standards, the Contractor must promptly notify the Owner and the Architect of the non-compliance as provided in Section 3.2.6 and request direction before proceeding with the affected Work.

§ 3.2.5 The Contractor must promptly notify the Owner and the Architect in writing of any apparent errors, inconsistencies, omissions, ambiguities, construction impracticalities or code violations discovered as a result of the Contractor's review of the Contract Documents including any differences between actual and indicated dimensions, locations and descriptions, and must give the Owner and the Architect timely notice in writing of same and of any corrections, clarifications, additional Drawings or Specifications, or other information required to define the Work in greater detail or to permit the proper progress of the Work. The Contractor must provide similar notice with respect to any variance between its review of the Site and physical data and Site conditions observed.

§ 3.2.6 If the Contractor performs any Work involving an apparent error, inconsistency, ambiguity, construction impracticality, omission or code violation in the Contract Documents of which the Contractor is aware, or which could reasonably have been discovered by the review required by Section 3.2, without prompt written notice to the Owner and the Architect and request for correction, clarification or additional information, as appropriate, the Contractor does so at its own risk and expense and all Claims relating thereafter are specifically waived.

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§ 3.3.4 The Contractor shall at all times staff the Project adequately to allow the Project to be managed and completed in a timely and professional manner. The Contractor shall have competent supervision on the job during work hours and readily available at all times upon call.

§ 3.3.5 The Contractor shall at all times make reasonable provisions to protect any Work performed by any separate contractors, adjacent property, and the existing building (if any) from damage due to the Work or due to the weather.

§ 3.3.6 The Owner or its approved representative (heretofore referred to as Owner's Representative) shall have access to the Work site and all Work. No supervision or inspection by the Owner or the Owner's Representative, nor the authority to act, nor any other actions taken by the Owner's Representative shall relieve the Contractor of any of its obligations under the Contract Documents or give rise to any duty on the part of the Owner.

§ 3.3.7 The Contract shall take appropriate precautions to ensure that the Work does not materially disrupt any ongoing operation by the Owner at the Project (if any) except to the extent any such disruption is a necessary result of performing a particular portion of the Work, in which case the Contractor shall provide the Owner with reasonable advanced written notice and shall take all commercially reasonable measures to minimize the impact on the Owner and the Owner's operations.

§ 3.4.1 Unless otherwise provided in the Contract Documents, the Contractor shall provide and pay for labor, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation, and other facilities and services necessary for proper execution and completion of the Work, whether temporary or permanent and whether or not incorporated or to be incorporated in the Work. Should the Contract Documents require Work to be performed after regular working hours or should the Contractor elect to perform Work after regular working hours, the additional cost of such Work shall be borne by the Contractor.

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§ 3.4.4 The Contractor shall be responsible for all additional costs incurred to incorporate into the Project substitute materials, products, or equipment approved by Owner during the bidding period.

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§ 3.4.5 In the event of a Change related to substitute or additional materials, and which shall comply with Article 7, the Contractor shall exercise reasonable efforts, consistent with the provisions of the Contract Documents to obtain the maximum available case discounts on all materials, provided that, in doing so, the Contractor shall not accept or use materials for incorporation into the Project which are of a type or quality not reasonably contemplated under the terms of the Contract Documents.

§ 3.4.6 After award of the Contract, a request for substitution of a material, product, or piece of equipment at no change in the Contract Sum will not be approved by the Owner or the Architect, unless the specified item is no longer manufactured, the specified item is unavailable as a result of an act of government such as a declaration of a national emergency, or delivery of the specified items is substantially delayed as a result of labor disputes affecting the manufacturer, unusual delay in transportation, or any other cause beyond control of the Contractor or a Subcontractor or material supplier which the Architect determines justified the delay. Requests will not be approved where the delay in delivery results from failure to promptly place subcontracts and material orders. Requests for substitution shall be submitted in writing to the Architect and shall clearly describe the proposed substitution, state the reason for the unavailability of a specified item and be accompanied by such additional data and information as may be necessary in the discretion of the Owner and the Architect to establish the acceptability of the proposed substitute.

§ 3.4.7 The Owner shall be entitled to deduct from the Contract Sum amounts paid to the Architect to evaluate the Contractor's proposed Substitutions and for changes made to the Contract Documents as a result of Owner's acceptance of such Substitutions.

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§ 3.5.2 All material, equipment, or other special warranties required by the Contract Documents shall be issued in the name of the Owner, or shall be transferable to the Owner, and shall commence in accordance with Section 9.8.4. The Contractor shall arrange for the Owner to have the benefit of and right to enforce all warranties by Subcontractors, Sub-subcontractors, suppliers, and manufacturers.

§ 3.5.3 Manufacturers' warranties and warranties by other shall not relieve the Contractor of any of its responsibilities.

§ 3.5.4 The Contractor's general warranty and any additional or special warranties are not limited by the Contractor's obligations to specifically correct defective or nonconforming Work as provided in Article 12, nor are they limited by any other remedies provided in the Contract Documents. The Contractor shall also be liable for any damage to property or persons (including death) including consequential and direct damages relating to any breach of the Contractor's general warranty or any additional or special warranties required by the Contract Documents.

§ 3.5.5 The Contractor must furnish all special warranties required by the Contract Documents to the Owner no later than Substantial Completion. The Owner may require additional special warranties in connection with the approval of "Or-Equals" or Substitutions, Allowance items, Work that is defective or nonconforming, or the acceptance of nonconforming Work pursuant to Article 12.

...

§ 3.7.1 Unless otherwise provided in the Contract Documents, the Owner, assisted by the Construction Manager, shall secure and pay for the building permit. The Contractor shall secure and pay for other permits, fees, licenses, and inspections by government agencies necessary for proper execution and completion of the Work that are customarily secured after execution of the Contract and legally required at the time bids are received or negotiations concluded. The Contractor shall be responsible for the Sewer Access (SAC) and Water Access (WAC) fees for the Project. The Contractor shall pay the SAC/WAC costs to the authorities having jurisdiction from the Allowance in the Base Bid for such charges as defined in the Construction Documents.

...

§ 3.7.3 If the Contractor performs Work knowing or believing it to be contrary to applicable laws, statutes, ordinances, building codes, rules and regulations, or lawful orders of public authorities, without such notice to the Architect and Owner, the Contractor shall assume ~~appropriate~~ full responsibility for such Work and shall bear the ~~costs attributable~~

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~~to correction.~~attributable costs, delays, and damages resulting from such failure to immediately notify the Architect and Owner of any such violation..

§ 3.7.4 Concealed or Unknown Conditions. If the Contractor encounters conditions at the site that are (1) subsurface or otherwise concealed physical conditions that differ materially from those indicated in the Contract Documents or (2) unknown physical conditions of an unusual nature that differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents, the Contractor shall promptly provide notice to the Owner, Construction Manager, and the Architect before conditions are disturbed and in no event later than ~~14~~ ten (10) days after first observance of the conditions. The Architect and Construction Manager will promptly investigate such conditions and, if the Architect, in consultation with the Construction Manager, determines that they differ materially and cause an increase or decrease in the Contractor's cost of, or time required for, performance of any part of the Work, will recommend that an equitable adjustment be made in the Contract Sum or Contract Time, or both. If the Architect, in consultation with the Construction Manager, determines that the conditions at the site are not materially different from those indicated in the Contract Documents and that no change in the terms of the Contract is justified, the Architect shall promptly notify the Owner, Construction Manager, and Contractor, stating the reasons. If the Owner or Contractor disputes the Architect's determination or recommendation, either party may submit a Claim as provided in Article 15.

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§ 3.9.1 The Contractor shall employ a competent superintendent and necessary assistants who shall be in attendance at the Project site during performance of the ~~Work.~~ Work, including that performed by all Subcontractors. The superintendent shall represent the Contractor, and communications given to the superintendent shall be as binding as if given to the Contractor. Important communications including and not limited to communications regarding design changes, alterations, substitutions, clarifications, cost changes, etc. shall be confirmed in writing by the Contractor. Other communications shall be similarly confirmed on written request in each case.

...

§ 3.9.3 The Contractor shall not employ a proposed superintendent or any other management personnel to whom the Owner, Construction Manager, or Architect has made reasonable and timely objection. The Contractor shall not change the superintendent without the Owner's consent, which shall not unreasonably be withheld or delayed.

§ 3.9.4 If requested by the Owner, the Contractor shall replace the superintendent at no additional cost to the Owner. No other change in this position shall be made without notice to and written consent of the Owner.

...

§ 3.10.1 The Contractor, promptly after being awarded the Contract, shall submit for the Owner's and Architect's information, and the Construction Manager's use in developing the Project schedule, a Contractor's construction schedule for the Work. The schedule shall contain detail appropriate for the Project, including (1) the date of commencement of the Work, interim schedule milestone dates, critical path schedule milestones, major construction milestones, including and not limited to Civil, Demolition, Structural, Mechanical, Electrical, and Plumbing, and the date of Substantial Completion; (2) an apportionment of the Work by construction activity; and (3) the time required for completion of each portion of the Work. The schedule shall provide for the orderly progression of the Work to completion and shall not exceed time limits current under the Contract Documents. The schedule shall be revised at appropriate intervals as required by the conditions of the Work and Project. The Contractor shall cooperate with the Construction Manager in scheduling and performing the Contractor's Work to avoid conflict with, and as to cause no delay in, the work or activities of other Contractors, or the construction or operations of the Owner's own forces or Separate Contractors.

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§ 3.10.4 The Contractor shall perform the Work in general accordance with the most recent schedules submitted to and accepted in writing by the Owner, Construction Manager, and Architect, and incorporated into the approved Project schedule.

...

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~~The Contractor shall make available, at the Project site, the Contract Documents, including Change Orders, Construction Change Directives, and other Modifications, in good order and marked currently to indicate field changes and selections made during construction, and the approved Shop Drawings, Product Data, Samples, and similar required submittals. These shall be in electronic form or paper copy, available to the Construction Manager, Architect, and Owner, and delivered to the Construction Manager for submittal to the Owner upon completion of the Work as a record of the Work as constructed.~~**§ 3.11.1** The Contractor shall make available, at the Project site, one record copy of the Contract Documents, including Change Orders, Construction Change Directives, and other Modifications, in good order and updated daily to indicate field changes and selections made during construction, and in addition accepted and approved Shop Drawings, Product Data, Samples, and similar required submittals. These shall be in electronic form or paper copy, available to the Construction Manager, Architect, and Owner as required to complete routine inspections by Architect, Construction Manager and Owner prior to any approval of payments to the Contractor, and delivered to the Construction Manager for submittal to the Owner upon completion of the Work. The Architect and Contractor must verify that all "as-built" Drawings, Specifications, Addenda, Change Orders, and other Modifications are up-to-date before Contractor's Application for Payment is acceptable and before the Owner incurs any duty to pay Contractor in accordance with the Contract. The record documents shall be a separate set of documents labeled "Record Documents" and used only for record purposes and kept clean and undamaged.
§ 3.11.2 No review or receipt of such records by the Architect or Owner shall be considered a waiver of any deviation from the Contract Documents or approved shop drawings, or any way relieve the Contractor from its responsibility to perform the Work in accordance with the Contract Documents.
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§ 3.12.5 The Contractor shall review for compliance with the Contract Documents, approve, and submit to the Construction Manager, Shop Drawings, Product Data, Samples, and similar submittals required by the Contract Documents, in accordance with the Project submittal schedule approved by the Construction Manager and Architect or, in the absence of an approved Project submittal schedule, with reasonable promptness and in such sequence as to cause no delay in the Work or in the activities of other Contractors, Separate Contractors, or the Owner's own forces. The Contractor shall cooperate with the Construction Manager in the coordination of the Contractor's Shop Drawings, Product Data, Samples, and similar submittals with related documents submitted by other Contractors. The Contractor must provide the Owner and the Architect with copies of all submittals made to regulatory agencies.

...

§ 3.12.7 The Contractor shall perform no portion of the Work for which the Contract Documents require submittal and review of Shop Drawings, Product Data, Samples, or similar submittals, until the respective submittal has been reviewed and ~~approved by the Architect.~~accepted by the Architect. The Contractor must correct at its cost, and without any adjustment in Contract Time, any Work the correction of which is required due to the Contractor's failure to obtain approval of a submittal required to have been obtained prior to proceeding with the Work, including, but not limited to, correction of any conflicts in the Work resulting from such failure.

§ 3.12.8 The Work shall be in accordance with ~~approved~~ accepted submittals except that the Contractor shall not be relieved of responsibility for deviations from the requirements of the Contract Documents by the Architect's ~~approval~~ acceptance of Shop Drawings, Product Data, Samples, or similar submittals, unless the Contractor has specifically notified the Construction Manager and Architect of such deviation at the time of submittal and (1) the Architect has given written ~~approval~~ acceptance to the specific deviation as a minor change in the Work, or (2) a Change Order or Construction Change Directive has been issued authorizing the deviation. The Contractor shall not be relieved of responsibility for errors or omissions in Shop Drawings, Product Data, Samples, or similar submittals, by the Architect's ~~approval~~ acceptance thereof.

§ 3.12.9 The Contractor shall direct specific attention, in writing or on resubmitted Shop Drawings, Product Data, Samples, or similar submittals, to revisions other than those requested by the Construction Manager and Architect on previous submittals. In the absence of such notice, the Architect's ~~approval~~ acceptance of a resubmission shall not apply to such revisions.
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§ 3.13.3 Except as may be specifically provided in the Contract Documents, the Contractor shall provide all necessary temporary facilities, including power, water, sanitation, scaffolding, storage, and security. If Owner makes any such

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facilities available to Contractor, it is without representation or warranty as to their adequacy for Contractor's use, and Contractor shall indemnify, defend, and hold Owner harmless from and against any claims arising out of Contractor's use of such facilities.

...

§ 3.14.2 The Contractor shall not damage or endanger a portion of the Work or fully or partially completed construction of the Owner, Separate Contractors, or of other Contractors by cutting, patching, or otherwise altering such construction, or by excavation. The Contractor shall not cut or otherwise alter construction by the Owner, Separate Contractors, or by other Contractors except with written consent of the Construction Manager, Owner, and such other Contractors or Separate Contractors. Consent shall not be unreasonably withheld. The Contractor shall hire a professional utilities locator to verify locations of all public and private utilities prior to initiating any cutting work. The Contractor shall not unreasonably withhold, from the Separate Contractors, other Contractors, or the Owner, its consent to cutting or otherwise altering the Work.

...

§ 3.15.1 The Contractor shall keep the premises and surrounding area continuously free from accumulation of waste materials and rubbish caused by operations under the Contract. At completion of the Work, the Contractor shall remove from and about the Project waste materials, rubbish, Contractor-generated waste materials, the Contractor's generated hazardous waste materials, the Contractor's tools, construction equipment, machinery, and surplus materials from and about the Project.

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§ 3.18.1 To the fullest extent permitted by law, the Contractor shall ~~indemnify~~ indemnify, defend and hold harmless the Owner, Construction Manager, Architect, Construction Manager's and Architect's consultants, and agents and employees of any of them from and against claims, damages, losses, and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), but only to the extent caused by the negligent acts or omissions of the Contractor, a Subcontractor, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss, or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity ~~that~~ which would otherwise exist as to a party or person described in this Section 3.18. The Contractor, furthermore, agrees to obtain, maintain, and pay for such general liability coverage and endorsements (including product and completed operations coverage) as will ensure the provisions of this Section 3.18.1. The Contractor agrees to reimburse the Owner, its agents and employees for all costs and disbursements, including attorneys' fees, paid or incurred to enforce the provisions of this Section 3.18.1.

...

§ 3.18.3 To the fullest extent permitted by law and without limiting any other indemnification obligations of the Contractor, except to the extent caused by the uncured failure of the Owner to make payment when due and owing, the Contractor shall indemnify and defend the Owner, its officers, directors, assigns, lenders, agents, and employees from any liens, charges (including attorneys' fees) or encumbrances (including but not limited to mechanic's and materialmen's liens or bond claims) arising out of or in connection with the performance of the Work by Contractor, its Subcontractors, or its material suppliers. Upon request of the Owner, the Contractor shall within sixty (60) days remove any liens filed against the Owner or its property. If the Contractor fails to do so, the Owner is authorized by the Contractor to remove or satisfy any such liens, and the Contractor shall pay to the Owner all costs and damages incurred by the Owner to do so, including attorneys' fees.

...

§ 4.2.1 The Construction Manager and Architect will provide administration of the Contract as described in the Contract Documents and will be the Owner's ~~representatives during construction until the date the Architect issues the final Certificate for Payment.~~ consultants (1) during construction; (2) until final payment is due; and (3) with the

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Owner's concurrence, from time to time during the correction period described in Section 12.2. The Architect and Construction Manager will advise and consult with the Owner. The Construction Manager and Architect will have authority to act on behalf of the Owner only to the extent provided in the Contract ~~Documents.~~Documents, unless otherwise modified in writing in accordance with other provisions of the Contract.

§ 4.2.2 The Architect will visit the site at intervals appropriate to the stage of construction, or as otherwise agreed with the Owner, to become generally familiar with the progress and quality of the ~~portion of the Work completed,~~ Work completed, to endeavor to guard the Owner against defects and deficiencies in the Work, and to determine in general if the Work ~~observed~~ is being performed in a manner indicating that the Work, when ~~fully~~ completed, will be in accordance with the Contract Documents. However, the Architect will not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. On the basis of the site visits, the Architect will keep the Owner and the Construction Manager reasonably informed about the progress and quality of the portion of the Work completed, and promptly report to the Owner and Construction Manager known deviations from the Contract Documents and defects and deficiencies observed in the Work.

§ 4.2.2.2 The Contractor shall reimburse the Owner for compensation paid to the Architect for additional site visits made necessary by fault, neglect, or request of the Contractor.
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§ 4.2.6 Communications. The Owner shall communicate with the Contractor and the Construction Manager's consultants through the Construction Manager about matters arising out of or relating to the Contract Documents. The Owner and Construction Manager shall include the Architect in all communications that relate to or affect the Architect's services or professional responsibilities. The Owner shall promptly notify the Architect of the substance of any direct communications between the Owner and the Construction Manager otherwise relating to the Project. Communications by and with the Architect's consultants shall be through the Architect. Communications by and with Subcontractors and suppliers shall be through the Contractor. Communications by and with other Contractors shall be through the Construction Manager. Communications by and with the Owner's own forces and Separate Contractors shall be through the ~~Owner.~~ Owner unless otherwise provided. The Contract Documents may specify other communication protocols. The Owner may require the Architect, Construction Manager and the Contractor to comply with Owner requirements in regards to public communications and site signage.

...

§ 4.2.8 The Architect and Construction Manager have authority to reject Work that does not conform to the Contract Documents, and will notify each other about the rejection. Whenever the Construction Manager considers it necessary or ~~advisable,~~ advisable for implementation of the intent of the Contract Documents, the Construction Manager will have authority to require additional inspection or testing of the Work in accordance with Sections 13.4.2 and 13.4.3, upon written authorization of the Owner, whether or not the Work is fabricated, installed or completed. The foregoing authority of the Construction Manager will be subject to the provisions of Sections 4.2.18 through 4.2.20 inclusive, with respect to interpretations and decisions of the Architect. However, neither the Architect's nor the Construction Manager's authority to act under this Section 4.2.8 nor a decision made by either of them in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect or the Construction Manager to the Contractor, Subcontractors, suppliers, their agents or employees, or other persons performing any of the Work.
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§ 4.2.11 The Architect ~~will~~ will, and the Owner may, review and approve, or take other appropriate action upon, the Contractor's submittals such as Shop Drawings, Product Data, and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Architect's ~~action will be taken in accordance with the submittal schedule approved by the Architect or, in the absence of an approved submittal schedule, with reasonable promptness~~ or Owner's action will be taken with such reasonable promptness as to cause no delay in the Work or in the activities of the Owner, Contractor or separate contractors, while allowing sufficient time in the Architect's professional judgment to permit adequate review. Upon the Architect's or the Owner's completed review, the Architect shall transmit its submittal review to the Construction Manager.
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§ 4.2.18 The Architect will interpret and decide matters concerning performance ~~under, and~~ under the requirements of, the Contract Documents on written request of the Construction Manager, Owner, or Contractor through the Construction Manager. The Architect's response to such requests will be made ~~in writing within any time limits agreed upon or otherwise with reasonable promptness.~~ with reasonable promptness and within any time limits agreed upon. If no agreement is made concerning the time within which interpretations required of the Architect shall be furnished in compliance with this Section 4.2.18, then delay shall not be recognized on account of failure by the Architect to furnish such interpretations until fifteen (15) days after written request is made to them.

§ 4.2.19 ~~Interpretations and decisions of the Architect will be consistent with the intent of, and reasonably inferable from, the Contract Documents and will be in writing or in the form of drawings. When making such interpretations and decisions, the Architect will endeavor to secure faithful performance by both Owner and Contractor, will not show partiality to either, and will not be liable for results of interpretations or decisions so rendered in good faith.~~Architect's decisions on matters relating to aesthetic effect will be final if consistent with the intent expressed in the Contract Documents.

§ 4.2.20 ~~The Architect's decisions on matters relating to aesthetic effect will be final if consistent with the intent expressed in the Contract Documents.~~Architect will review and respond to requests for information about the Contract Documents. The Architect's response to such requests will be made in writing within any time limits agreed upon or otherwise with reasonable promptness. If appropriate, the Architect will prepare and issue supplemental Drawings and Specifications in response to the requests for information.

~~**§ 4.2.21** The Construction Manager will receive and review requests for information from the Contractor, and forward each request for information to the Architect, with the Construction Manager's recommendation. The Architect will review and respond in writing, through the Construction Manager, to requests for information about the Contract Documents. The Construction Manager's recommendation and the Architect's response to each request will be made in writing within any time limits agreed upon or otherwise with reasonable promptness. If appropriate, the Architect will prepare and issue supplemental Drawings and Specifications in response to the requests for information.~~

...

§ 5.2.1 Unless otherwise stated in the Contract Documents, the Contractor, as soon as practicable after award of the Contract, shall notify in writing the Construction Manager, for review by the Owner, Construction Manager and Architect, of the persons or entities proposed for each principal portion of the Work, including those who are to furnish materials or equipment fabricated to a special design. Within 14 days of receipt of the information, the Construction Manager may notify the Contractor whether the Owner, the Construction Manager or the Architect (1) has reasonable objection to any such proposed person or entity or, (2) requires additional time for review. Failure of the Construction Manager to provide notice within the 14-day period shall constitute notice of no reasonable objection. The Contractor shall not employ any Subcontractor or use any material to which the Architect, Construction Manager or Owner may object. Prior to the employment of any Subcontractor, the Contractor must obtain the Owner's approval of such Subcontractor for the designated portion of the Work.

...

§ 5.2.3 If the Owner, Construction Manager or Architect has reasonable objection to a person or entity proposed by the Contractor, the Contractor shall propose another to whom the Owner, Construction Manager or Architect has no reasonable objection. ~~If the proposed but rejected Subcontractor was reasonably capable of performing the Work, the Contract Sum and Contract Time~~ The Contract Sum shall be increased or decreased by the ~~difference, if any,~~ difference in cost occasioned by such change, and an appropriate Change Order shall be ~~issued before commencement of the substitute Subcontractor's Work.~~ issued. However, no increase in the Contract Sum or Contract Time shall be allowed for such change unless the Contractor has acted promptly and responsively in submitting names as required. Notwithstanding the foregoing, the Contractor shall have a continuing duty to the Owner, Construction Manager and Architect to find and propose such persons or entities as shall not result in material increase in the Contract Sum, or a material decrease in the quality of Work contemplated under the Contract Documents.

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§ 5.2.4 The Contractor shall not substitute a Subcontractor, person, or entity for one previously selected if the Owner, Construction Manager or Architect makes reasonable objection to such substitution. Any proposed substitution of a Subcontractor, person, or entity for one previously selected shall be made in a separate writing to the Owner, Construction Manager and Architect. No substitution shall be deemed approved/accepted without written confirmation from the Owner, Construction Manager and Architect. Neither acceptance of, nor objection to a Subcontractor or Sub-subcontractor, material supplier, or other person or organization by the Owner, Construction Manager and Architect shall limit the responsibility of the Contractor to furnish materials, products, equipment, and services in conformance with the requirements of the Contract Documents.

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~~By appropriate written agreement, the Contractor shall require each Subcontractor, to the extent of the Work to be performed by the Subcontractor, to be bound to the Contractor by terms of the Contract Documents, and to assume toward the Contractor all the obligations and responsibilities, including the responsibility for safety of the Subcontractor's Work, that the Contractor, by these Contract Documents, assumes toward the Owner, Construction Manager and Architect. Each subcontract agreement shall preserve and protect the rights of the Owner, Construction Manager and Architect under the Contract Documents with respect to the Work to be performed by the Subcontractor so that subcontracting thereof will not prejudice such rights, and shall allow to the Subcontractor, unless specifically provided otherwise in the subcontract agreement, the benefit of all rights, remedies, and redress against the Contractor that the Contractor, by the Contract Documents, has against the Owner. Where appropriate, the Contractor shall require each Subcontractor to enter into similar agreements with Sub-subcontractors. The Contractor shall make available to each proposed Subcontractor, prior to the execution of the subcontract agreement, copies of the Contract Documents to which the Subcontractor will be bound, and, upon written request of the Subcontractor, identify to the Subcontractor terms and conditions of the proposed subcontract agreement that may be at variance with the Contract Documents. Subcontractors will similarly make copies of applicable portions of such documents available to their respective proposed Sub-subcontractors.~~**§ 5.3.1** By appropriate written agreement, the Contractor shall require each Subcontractor, to the extent of the Work to be performed by the Subcontractor, to be bound to the Contractor by terms of the Contract Documents, and to assume toward the Contractor all the obligations and responsibilities, including the responsibility for safety of the Subcontractor's Work, that the Contractor, by these Contract Documents, assumes toward the Owner, Construction Manager and Architect. Each subcontract agreement shall preserve and protect the rights of the Owner, Construction Manager and Architect under the Contract Documents with respect to the Work to be performed by the Subcontractor so that subcontracting thereof will not prejudice such rights, and shall allow to the Subcontractor, unless specifically provided otherwise in the subcontract agreement, the benefit of all rights, remedies, and redress against the Contractor that the Contractor, by the Contract Documents, has against the Owner. Where appropriate, the Contractor shall require each Subcontractor to enter into similar agreements with Sub-subcontractors. The Contractor shall make available to each proposed Subcontractor, prior to the execution of the subcontract agreement, copies of the Contract Documents to which the Subcontractor will be bound, and, upon written request of the Subcontractor, identify to the Subcontractor terms and conditions of the proposed subcontract agreement that may be at variance with the Contract Documents. Subcontractors shall similarly make copies of applicable portions of such documents available to their respective proposed Sub-subcontractors.

§ 5.3.2 The Contractor is responsible for the performance of, the actions of, the timeliness of, or interference caused by, Subcontractors, Sub-subcontractors (of any tier), and others directly or indirectly under contract to the Contractor.

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§ 6.2.2 If part of the Contractor's Work depends for proper execution or results upon construction or operations by the Owner's own forces, Separate Contractors or other Contractors, the Contractor shall, prior to proceeding with that portion of the Work, promptly notify the Construction Manager and Architect of apparent discrepancies or defects in the construction or operations by the Owner or Separate Contractor or other Contractors that would render it unsuitable for proper execution and results of the Contractor's Work. Failure of the Contractor to notify the Construction Manager and the Architect of apparent discrepancies or defects prior to proceeding with the Work shall constitute an acknowledgment that the Owner's or Separate Contractor's or other Contractors' completed or partially completed construction is fit and proper to receive the Contractor's Work. The Contractor shall not be responsible for discrepancies or defects in the construction or operations by the Owner or Separate Contractors or other Contractors that are not ~~apparent.~~reasonably discoverable.

§ 6.2.3 ~~The Contractor shall reimburse the Owner for costs the Owner incurs, including costs that are payable to a Separate Contractors or to other Contractors, because of the Contractor's delays, improperly timed activities or~~

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~~defective construction. The Owner shall be responsible to the Contractor for costs the Contractor incurs because of delays, improperly timed activities, damage to the Work or defective construction by the Owner's own forces, Separate Contractors, or other Contractors.~~Costs caused by delays or by improperly timed activities or defective construction shall be borne by the party responsible therefor.

...

§ 6.2.5 ~~The Owner, Separate Contractors, and other Contractors shall have the same responsibilities for cutting and patching as are described for the Contractor in Section 3.14.~~Claims and other disputes and matters in question between the Contractor and a separate contractor shall be subject to the provisions of Article 15 provided the separate contractor has reciprocal obligations.

§ 6.2.6 The Owner, Separate Contractors, and other Contractors shall have the same responsibilities for cutting and patching as are described for the Contractor in Section 3.14.

...

If a dispute arises among the Contractor, Separate Contractors, other Contractors, and the Owner as to the responsibility under their respective contracts for maintaining the premises and surrounding area free from waste materials and ~~rubbish, the Owner may clean up and the Construction Manager, with notice to the Architect, will allocate the cost among those responsible.~~rubbish as described in Section 3.15, the Owner may clean up allocate the cost among those responsible as the Architect determines to be just..

...

§ 7.1.2 A Change Order shall be based upon agreement among the Owner, Construction Manager, Architect and Contractor. A Construction Change Directive requires agreement by the Owner, Construction Manager and Architect and may or may not be agreed to by the Contractor. ~~An order for a minor change in the Work may be issued by the Architect alone.~~

...

§ 7.1.4 The amount of credit to be allowed by the Contractor to the Owner for any deletion or change which results in a net decrease in the Contract Sum will be the amount of the actual net cost as confirmed by the Architect after consultation with the Owner and Construction Manager. When both additions and credits covering related Work or substitutions are involved in any one change, the allowance for both overhead and profit shall be figured on the basis of the net increase or decrease, if any, with respect to that change.

§ 7.1.5 In Section 7.3.6, the allowance for the combined overhead and profit included in the total cost to the Owner shall be based on the following schedule:

.1 For the Contractor, for Work performed by the Contractor's own forces, ten percent (10%) of the cost;

.2 For the Contractor, for Work performed by the Contractor's Subcontractor, five percent (5%) of the amount due the Subcontractor;

.3 For each Subcontractor or Sub-subcontractor involved for Work performed by the Subcontractor's or Sub-subcontractor's own forces, ten percent (10%) of the cost;

.4 For each Subcontractor for Work performed by the Subcontractor's Sub-subcontractor, five percent (5%) of the amount due the Subcontractor;

.5 Costs to which overhead and profit is to be applied shall be determined in accordance with Section 7.3.6;

.6 In order to facilitate checking of quotations for extras or credits, all proposals, expect those so minor that their propriety can be seen by inspection, shall be accompanied by a complete itemization of costs, including labor, materials and subcontracts. Labor and materials shall be itemized in the manner prescribed above. Where major cost items are subcontracts, they shall be itemized also. In no case will a change involving over $500 be approved without such itemization.

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§ 7.2 Change Orders and Change Proposals

~~A Change Order is a written instrument prepared by the Construction Manager and signed by the Owner, Construction Manager, Architect, and Contractor, stating their agreement upon all of the following:~~**§ 7.2.1** A Change Order is a written instrument prepared by the Construction Manager and signed by the Owner, Construction Manager, Architect, and Contractor, stating their agreement upon all of the following:

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.3 The extent of the adjustment, if any, in the Contract Time.

§ 7.2.2 Change Order shall be prepared on AIA Document G731.

§ 7.2.3 The Contractor must submit Change Proposals covering a contemplated Change Order within ten (10) days after request of the Owner, or the Architect or within ten (10) days of the event, or Contractor's discovery of a condition, whichever is earlier, giving rise to the Contractor's claim for a change in the Contract Sum or Contract Time. No increase in the Contract Sum or extension of the Contract Time will be allowed the Contractor for the cost or time involved in making Change Proposals. Change Proposals will define or confirm in detail the Work which is proposed to be added, deleted, or changed and must include any adjustment which the Contractor believes to be necessary in (i) the Contract Sum, or (ii) the Contract Time. Any proposed adjustment must include detailed documentation including, but not limited to: cost, properly itemized and supported by sufficient substantiating data to permit evaluation including cost of labor, materials, supplies and equipment, rental cost of machinery and equipment, additional bond cost, plus a fixed fee for profit and overhead (which includes office overhead and Site-specific overhead and general conditions) of ten percent (10%) if the Work is performed by the Contractor, or five percent (5%) if the Work is performed by a Subcontractor or Sub-subcontractor. The Subcontractor's or Sub-subcontractor's overhead and profit in turn must not exceed a total aggregate of ten percent (10%). Change Proposals will be binding upon the Contractor and may be accepted or rejected by the Owner in its discretion. The Owner may, at its option, instruct the Contractor through a Construction Change Directive to proceed with the Work involved in the Change Proposal in accordance with Section 7.3 without accepting the Change Proposal in its entirety.

§ 7.2.4 If the Owner determines that a Change Proposal is appropriate, the Architect will prepare and submit a request for a Change Order or Contract Amendment providing for an appropriate adjustment in the Contract Sum or Contract Time, or both, for further action by the Owner. No such change is effective until the Owner and Architect sign the Change Order.

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§ 7.3.4 If the Contractor does not respond promptly or disagrees with the method for adjustment in the Contract Sum, the Owner and the Construction Manager shall determine the adjustment on the basis of reasonable expenditures and savings of those performing the Work attributable to the change, including, in case of an increase in the Contract Sum, an amount for overhead and profit as set forth in the Agreement, or if no such amount is set forth in the Agreement, a reasonable amount. In such case, and also under Section 7.3.3.3, the Contractor shall keep and present, in such form as the Construction Manager may prescribe, an itemized accounting together with appropriate supporting data. Unless otherwise provided in the Contract Documents, costs for the purposes of this Section 7.3.4 shall be limited to the following:

...

.3 Rental costs of machinery and equipment, exclusive of hand tools, whether rented from the Contractor or ~~others;~~others (at rates approved by the Owner);

...

§ 7.3.7 A Construction Change Directive signed by the Contractor indicates the Contractor's agreement therewith, including adjustment in Contract Sum and Contract Time or the method for determining them. Such agreement shall be effective ~~immediately and shall be recorded as a Change Order.~~immediately.

...

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§ 7.3.9 Pending final determination of the total cost of a Construction Change Directive to the Owner, the Contractor may request payment for Work completed under the Construction Change Directive in Applications for ~~Payment.~~ Payment up to and not exceeding $25,000. The Construction Manager and Architect will make an interim determination for purposes of monthly certification for payment for those costs and certify for payment the amount that the Construction Manager and Architect determine to be reasonably justified. The interim determination of cost shall adjust the Contract Sum on the same basis as a Change Order, subject to the right of either party to disagree and assert a Claim in accordance with Article 15.

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The Architect may order minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. The Architect's order for minor changes shall be in ~~writing.~~ writing and approved by the Owner. If the Contractor believes that the proposed minor change in the Work will affect the Contract Sum or Contract Time, the Contractor shall notify the Construction Manager and shall not proceed to implement the change in the Work. If the Contractor performs the Work set forth in the Architect's order for a minor change without prior notice to the Construction Manager that such change will affect the Contract Sum or Contract Time, the Contractor waives any adjustment to the Contract Sum or extension of the Contract Time.

...

§ 8.1.2 The date of commencement of the Work is the date established in the Agreement. The date shall not be postponed by the failure to act of the Contractor or of persons or entities for whom the Contractor is responsible.

...

§ 8.1.4 The term "day" ~~as used in the Contract Documents shall mean calendar day unless otherwise specifically defined.~~shall mean calendar day of 24 hours beginning at 12:00 midnight. Calendar days as stated in the Contract Documents, shall include all days of a seven (7) day week including Saturdays, Sundays, and holidays. The term "Milestone Date" is, in each instance, the date established in the Contract Documents for the Substantial completion of all or a designated portion of the Work.

...

§ 8.2.3 The Contractor shall proceed expeditiously with adequate forces and shall achieve Substantial Completion within the Contract ~~Time.~~Time and shall achieve specific contractual Milestone Dates (if any), Substantial Completion and final Completion within the time stated in the Contract Documents.

§ 8.2.4 Contractor understands and agrees that all Work must be performed in an orderly and closely coordinated sequence so that the dates for Substantial Completion, Final Completion, and Milestone Dates (if any) may be met by the Contractor.

§ 8.2.5 Timely final completion of the Project is of critical importance to the Owner. The Contractor agrees that it shall substantially complete all Work under the Contract documents within the time established herein and that it shall finally complete the Work in the detail required and in the time required by the Contract Documents.

§ 8.2.6 To the extent that the Contract Documents contain or provide for specific contractual Milestone Dates in addition to Final and Substantial Completion dates, such dates shall be adhered to and shall be the last acceptable dates for those milestones and completions, unless modified by the Owner.

§ 8.2.7 Notwithstanding anything to the contrary contained in the Contract Documents, in the event that any Contractor fails, or appears likely, in the reasonable opinion of the Owner and Construction Manager, to fail to complete a critical portion of their Work on time or to complete any dates for Substantial Completion, Final Completion, or Milestone Dates as evidenced by the latest update of the CPM Schedule Report, the Owner shall have the right to select and require Contractor's performance under any or all of the following operations:

.1 Require the Contractor to substantiate their capability to get back on schedule within two (2) days;

.2 Require the Contractor, at no additional cost to the Owner, to increase their work force, work overtime and/or extra shifts and do whatever else is required by the Owner until the Contractor gets

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back on schedule as established by the CPM Schedule Report (including any updates thereto);

.3 Withhold progress payments or portions thereof until such time as the contractor returns to schedule, but only related to Substantial Completion or Final Completion;

.4 Contact or visit the factory, plant, or distribution center whose production or delivery schedule may be critical to the scheduled completion of a portion of the contract work and expedite such production delivery at Contractor's expense; or

.5 Require the Contractor to complete, in detail, and submit weekly a Short Interval Schedule (SIS) showing: (1) planning for the next two weeks; (2) work completed for the previous week; (3) sufficient detail to evaluate daily milestone (if any) and manpower/equipment loading, and shall identify/tie into the monthly updated CPM Schedule Report.

Any costs incurred by the Contractor in fulfilling the option(s) selected by the Owner shall be at the Contractor's expense.

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§ 8.3.1 If the Contractor is delayed at any time in the ~~commencement or~~ progress of the Work by (1) an act or neglect of the Owner, Architect, Construction Manager, or an employee of any of them, or of the Owner's own forces, Separate Contractors, or other Contractors; (2) by changes ordered in the Work; (3) by labor disputes, fire, unusual delay in deliveries, unavoidable casualties, adverse weather conditions documented in accordance with Section 15.1.6.2, or other causes beyond the Contractor's control; ~~(4) by delay authorized by the Owner pending mediation and binding dispute resolution; or (5)~~ or (4) by other causes that the Contractor asserts and the Architect, based on the recommendation of the Construction Manager, determines justify delay, then subject to the conditions hereinafter set forth, the Contract Time shall be extended by Change Order for such reasonable time as the Architect may determine. Requests for extensions of time for causes enumerated above will be considered by the Architect subject to the following:

.1 Only those conditions enumerated above over which the Contractor has no control will be considered. The burden of proof to substantiate the claim for an extension shall rest with the Contractor, including evidence that the cause was beyond their control. It shall be deemed the Contractor has control over the supply of labor, materials, equipment, methods, techniques, and over their Subcontractors and suppliers;

.2 In the event of Changes in the Work, any consideration for a time extension will be made only at the time of authorizing the changes, and no later than when the Change Order is prepared, and only if the Change Order significantly affects the time and progress of the entire Work. For changes which do not affect the entire Work, time extension may be granted only for the area, phase, unit, or element affected by the change, if due to a valid reason for a time extension;

.3 Any unusual delay in deliveries will not be considered unless it is solely due to transportation issues wholly outside of Contractor's, Subcontractor's, Sub-subcontractor's or Supplier's control. An extension of time will not be granted for delays in deliveries where said delivery was not properly scheduled or when orders were not promptly and properly placed;

.4 With respect to a claim for an extension of time as a result of climatic conditions, the Contractor shall recognize the location of the site and the existence, as normal, or variations from "average" conditions. Foul weather in itself will not be a valid reason for a time extension. Requests for time extensions because of delay resulting from weather extremes will not be considered unless a substantial variation from usual weather conditions occurs for a significant period of time, during phases of the Work when operation necessarily were suspended to a significant degree when they would otherwise have been in progress. In considering the time extension, the weather conditions both before and after the period in which the delay is claimed will be evaluated with credit given to Owner for unseasonably favorable weather;

.5 Delays resulting from a labor dispute will not result in a time extension of a longer period than the dispute, plus a reasonable time for mobilization if justified and necessary as approved by the Architect, and may be less depending on the impact of the dispute, including what operations were suspended or curtailed;

.6 No time extension will be granted as a result of improper scheduling or for failure to have shop drawings or samples submitted in ample time for review under a reasonable and agreed upon schedule; or

.7 Delays by Subcontractors or suppliers will not be considered justification for a time extension, except for the same valid reasons and conditions enumerated under Section 8.3.1.

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§ 8.3.4 The Contractor shall be responsible for all Owner incurred costs associated with a Contractor related to delay in completion of the Project. These costs may include, but are not limited to, Owner staff overtime, Consultant additional fees, additional testing, and/or additional rental or storage costs. A Change Order or Construction Change Directive will be issued to cover these costs. If a Change Order is not agreed to by the Contractor, the Owner, after presenting documentation to the Contractor, may deduct these amounts without a Change Order from the Contract Sum.

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~~Where the Contract is based on a stipulated sum or Guaranteed Maximum Price, the Contractor shall submit a schedule of values to the Construction Manager, before the first Application for Payment, allocating the entire Contract Sum to the various portions of the Work. The schedule of values shall be~~ Before the first Application for Payment, the Contractor shall submit to the Architect and Construction Manager a schedule of values allocated to various portions of the Work, prepared in the form, and supported by the data to substantiate its accuracy, required by the Construction Manager and the Architect. ~~This~~ The schedule, unless objected to by the Construction Manager or Architect, shall be used as a basis for reviewing the Contractor's Applications for Payment. The Construction Manager shall forward to the Architect the Contractor's schedule of values. Any changes to the schedule of values shall be submitted to the Construction Manager and supported by such data to substantiate its accuracy as the Construction Manager and the Architect may require, and unless objected to by the Construction Manager or the Architect, shall be used as a basis for reviewing the Contractor's subsequent Applications for Payment. The Contractor, after receipt of Notice to Proceed, shall meet with the Owner, Construction Manager and the Architect for the purpose of reviewing the Project CPM Schedule and the Contract Schedule of Values. The Contractor shall develop a CPM Schedule for completing their portion of the Work, in conjunction with all other Contractors or Bid Packages, at the Pre-Construction Meeting(s). The Schedule of Values is to be broken down into specification sections and by labor and materials.

...

§ 9.3.1 At least fifteen days before the date established for each progress payment, the Contractor shall submit to the Construction Manager an itemized Application for Payment ~~prepared in accordance with the schedule of values, if required under Section 9.2, for completed portions of the Work. The application shall be notarized, if required,~~ for operations completed in accordance with the Schedule of Values. Such application shall be notarized and supported by all data substantiating the Contractor's right to payment that the Owner, Construction Manager or Architect require, such as copies of requisitions, and releases of waivers of lien from Subcontractors and ~~suppliers, and shall reflect retainage if provided for in the Contract Documents.~~material suppliers, and reflecting retainage if provided for elsewhere in the Contract Documents. The form of Application for Payment shall be a notarized AIA Document G732–2019, Application and Certificate for Payment, supported by AIA Document G703–1992, Continuation Sheet.

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§ 9.3.1.2 ~~Applications for Payment~~ Such applications shall not include requests for payment ~~for portions of the Work for which the~~ of amounts the Contractor does not intend to pay a Subcontractor ~~or supplier,~~ or supplier because of a dispute or other reason, unless such Work has been performed by others whom the Contractor intends to pay.

§ 9.3.1.3 Following certification of the Application for Payment by the Architect and Construction Manager, the Owner shall pay ninety-five percent (95%) of its value, retaining five percent (5%) until Final Completion.

§ 9.3.1.4 Contractor shall provide lien waivers for itself for the current payment application and for Subcontractors, Sub-subcontractors, and suppliers for the previous payment application before the Contractor has earned or has the right to receive payment for the specific items of work or materials covered by the lien waivers. All lien waivers shall be provided in the form required by the Owner. This Section 9.3.1.4 shall not limit other obligations of the Contractor contained elsewhere to provide lien waivers.

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§ 9.3.4 In each Application for Payment, the Contractor shall certify as follows:

"That there are no known mechanics' or materialmen's liens or stop notice claims outstanding by the application or any of its subcontractors of any tier, or any of the applicant's or subcontractor's material suppliers, or laborers at the date of this application, that all due and payable bills with respect to the Work have been paid or are included in the amount requested in current application, and that, except for such bills, not paid by Owner, but so included, there is no known basis for the filing of any mechanics' or materialmen's liens or stop notice claims on the Work, and that waivers from Contractor, its subcontractors of any tier, or any of the applicant's or subcontractor's material suppliers and laborers have been obtained in such form as to constitute an effective waiver of liens or stop notice claims, under the laws of the State of Minnesota to the extent of payments made by Owner to Contractor."

Notwithstanding the foregoing Section 9.3.4, Contractor acknowledges its obligation to provide a Payment Bond in accordance with the Contract Documents, and that Contractor's failure to pay any of its Subcontractors, Sub-subcontractors, suppliers, or laborers will be resolved through a claim under the Payment Bond.

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§ 9.6.1 After the Architect has issued a Certificate for Payment or Project Certificate for Payment, the Owner shall make payment within thirty (30) days of receipt by Owner of Certificate of Payment in the manner and within the time provided in the Contract Documents, and shall so notify the Construction Manager and Architect.

§ 9.6.2 The Contractor shall pay each Subcontractor, no later than seven days after receipt of payment from the Owner, the amount to which the Subcontractor is entitled, reflecting percentages actually retained from payments to the Contractor on account of the Subcontractor's portion of the Work. The Contractor shall, by appropriate agreement with each Subcontractor, require each Subcontractor to make payments to Sub-subcontractors in a similar manner. Per Minnesota Statutes, Section 471.425, within ten (10) days of Contractor's receipt of payment from Owner, the Contractor must pay any Subcontractor for any undisputed services provided by the Subcontractor. The Contractor shall pay interest of one and one-half percent (1-1/2%) per month, or any part of a month, to the Subcontractor on any undisputed amount not paid on time to the subcontractor. The minimum monthly interest penalty payment for an unpaid balance of $100 or more is $10.00. For an unpaid balance of less than $100, the Contractor shall pay the actual interest penalty due to the Subcontractor. Contractor is advised that by reason of Minnesota Statutes, Section 471.425, subd. 4a, if a Subcontractor prevails in a civil action to collect interest penalties from a prime contractor, the Subcontractor must be awarded its costs and disbursements, including attorneys' fees incurred in bringing the action.

...

§ 9.6.5 The Contractor's payments to material and equipment suppliers shall be treated in a manner similar to that provided in Sections 9.6.2, 9.6.3 and 9.6.4.

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If the Construction Manager and Architect do not issue a Certificate for Payment or a Project Certificate for Payment, through no fault of the Contractor, within fourteen days after the Construction Manager's receipt of the Contractor's Application for Payment, or if the Owner does not pay the Contractor within ~~seven~~ thirty (30) days after the date established in the Contract Documents, the amount certified by the Construction Manager and Architect ~~or awarded by binding dispute resolution,~~ then the Contractor may, upon ~~seven~~ ten (10) additional days' notice to the Owner, Construction Manager and Architect, stop the Work until payment of the amount owing has been received. The Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable costs of shutdown, delay and ~~start-up, plus interest as provided for in the Contract Documents.~~start-up which shall be accomplished as provided in Article 7.

...

§ 9.8.1 Substantial Completion is the stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Contract Documents so the Owner can occupy or utilize the Work for its intended ~~use.~~use and when the Architect issues a Certificate of Substantial Completion.

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§ 9.8.2 When the Contractor considers that the Work, or a portion thereof which the Owner agrees to accept separately, is substantially complete, the Contractor shall notify the Construction Manager, and the Contractor and Construction Manager shall jointly prepare and submit to the Architect a comprehensive list of items to be completed or ~~corrected prior to final payment.~~ corrected. The Contractor shall proceed promptly to complete and correct items on the list. Failure to include an item on such list does not alter the responsibility of the Contractor to complete all Work in accordance with the Contract Documents. Upon receipt of the Contractor's list, the Architect, assisted by the Construction Manager, will make an inspection to determine whether the Work or designated portion thereof is substantially complete. If the Architect's inspection discloses any item, whether or not included on the Contractor's list, which is not in accordance with the requirements of the Contract documents, the Contractor shall, before issuance of the Certificate of Substantial Completion, complete or correct such item, upon notification by the Architect. The Contractor shall then submit a request for another inspection by the Architect, assisted by the Construction Manager, to determine Substantial Completion. When the Work or designated portion thereof is substantially complete, the Architect will prepare a Certificate of Substantial Completion which shall establish the date of Substantial Completion, shall establish responsibilities of the Owner and Contractor for security, maintenance, heat, utilities, damage to the Work and insurance, and shall fix the time within which the Contractor shall finish all items on the list accompanying the Certificate. Warranties required by the Contract Document shall commence on the date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion.

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§ 9.8.6 Upon Substantial completion of the Work or designated portion thereof and upon application by the Contractor and certification by the Architect, the Owner shall make payment, reflecting adjustment in retainage, pursuant to Minnesota Statutes, Section 15.72, for such Work or portion thereof as provided in the Contract Documents.

§ 9.8.7 The Architect, assisted by the Construction Manager, shall make one (1) inspection for Substantial Completion and Final Completion in accordance with the AIA Document B101–2017 Owner Architect Agreement. If additional inspections are required due to the Contractor's failure to complete previously listed corrective or uncompleted work, the Architect's expense for conducting such re-inspections and related time in processing, reviewing, and revision of requirements shall be charged to the Contractor and such payment shall be accomplished by a deductive Change Order to the Contractor.

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§ 9.10.1 Upon completion of the Work, the Contractor shall forward to the Construction Manager a notice that the Work is ready for final inspection and acceptance, and shall also forward to the Construction Manager a final Contractor's Application for Payment. Upon receipt, the Construction Manager shall perform an inspection to confirm the completion of Work of the Contractor. The Construction Manager shall make recommendations to the Architect when the Work of all of the Contractors is ready for final inspection, and shall then forward the Contractors' notices and Application for Payment or Project Application for Payment, to the Architect, who will promptly make such inspection. When the Architect finds the Work acceptable under the Contract Documents and the Contract fully performed, the Construction Manager and Architect will promptly issue a final Certificate for Payment or Project Certificate for Payment stating that to the best of their knowledge, information and belief, and on the basis of their observations, on-site visits and inspections, the Work has been completed in accordance with the Contract Documents and that the entire balance found to be due the Contractor and noted in the final Certificate is due and payable. The Construction Manager's and Architect's final Certificate for Payment or Project Certificate for Payment will constitute a further representation that conditions listed in Section 9.10.2 as precedent to the Contractor's being entitled to final payment have been fulfilled.

§ 9.10.2 Neither final payment nor any remaining retained percentage shall become due until the Contractor submits to the Architect through the Construction Manager (1) an affidavit that payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which the Owner or the Owner's property might be responsible or encumbered (less amounts withheld by Owner) have been paid or otherwise satisfied, (2) a certificate evidencing that insurance required by the Contract Documents to remain in force after final payment is currently in ~~effect,~~ effect and will not be cancelled or allowed to expire until at least (60) days' prior written notice has been given to the Owner, (3) a written statement that the Contractor knows of no reason that the insurance will not be renewable to cover the period required by the Contract Documents, (4) consent of surety, if any, to final payment (5) documentation of any special

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warranties, such as manufacturers' warranties or specific Subcontractor warranties, ~~and (6), if required by the Owner,~~ including a summary listing all applicable warranties both standard and extended, itemized by specification section and included at the front of the Operation and Maintenance manuals, and (6) other data establishing payment or satisfaction of obligations, such as receipts and releases and waivers of liens, claims, security interests, or encumbrances arising out of the Contract, to the extent and in such form as may be designated by the Owner. If a Subcontractor refuses to furnish a release or waiver required by the Owner, the Contractor may furnish a bond satisfactory to the Owner to indemnify the Owner against such lien, claim, security interest, or encumbrance. If a lien, claim, security interest, or encumbrance remains unsatisfied after payments are made, the Contractor shall refund to the Owner all money that the Owner may be compelled to pay in discharging the lien, claim, security interest, or encumbrance, including all costs and reasonable attorneys' fees.

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§ 9.11 Damages for Delay

§ 9.11.1 The Contractor shall be responsible for damages incurred by the Owner and any other separate contractors for delay resulting from the Contractor's failure to complete the Work within the contract Time or resulting from the progress of the Work failing to substantially conform to the Project Construction Schedule. These damages are not included in liquidated damages and represent additional direct costs incurred by the Owner for the delay. These damages may include Owner incurred costs for temporary classrooms, temporary facilities, moving of programs, etc.

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~~The Contractor shall be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the performance of the Contract. The Contractor shall submit the Contractor's safety program to the Construction Manager for review and coordination with the safety programs of other Contractors. The Construction Manager's responsibilities for review and coordination of safety programs shall not extend to direct control over or charge of the acts or omissions of the Contractors, Subcontractors, agents or employees of the Contractors or Subcontractors, or any other persons performing portions of the Work and not directly employed by the Construction Manager.~~**§ 10.1.1** The Contractor shall be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the performance of the Contract. The Contractor shall submit the Contractor's safety program to the Construction Manager for review and coordination with the safety programs of other Contractors. The Construction Manager's responsibilities for review and coordination of safety programs shall not extend to direct control over or charge of the acts or omissions of the Contractors, Subcontractors, agents or employees of the Contractors or Subcontractors, or any other persons performing portions of the Work and not directly employed by the Construction Manager.

§ 10.1.2 The Contractor shall comply with all applicable laws and regulations. Notwithstanding any language to the contrary, the Owner shall not have any responsibility for job site inspections or safety recommendations. Any inspections or observations by the Owner, Construction Manager or the Architect are solely for the benefit of the Owner and shall not create any duties or obligations to anyone else.

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If either party suffers injury or ~~damage~~ damages to person or property because of an act or omission of the other party, of any of the other party's employees or agents, or of others for whose acts such party is legally responsible, notice of the injury or damage, whether or not insured, shall be given to the other party within a reasonable time not exceeding ~~21~~ ten (10) days after ~~discovery.~~ first observance. The notice shall provide sufficient detail to enable the other party to investigate the matter. If a Claim for additional cost or time related to this Claim is to be asserted, it shall be filed as provided in Sections 15.1.4 and 15.1.5.

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§ 10.3.1 ~~The Contractor is responsible for compliance with any requirements included in the Contract Documents regarding hazardous materials or substances. If the Contractor encounters a hazardous material or substance not addressed in the Contract Documents and if reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a material or substance, including but not limited to asbestos or polychlorinated biphenyl (PCB), encountered on the site by the Contractor, the Contractor shall, upon recognizing the condition, immediately stop Work in the affected area and notify~~ In the event the Contractor encounters on the site material reasonably believed to be asbestos or polychlorinated biphenyl (PCB) which has not been rendered harmless,

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the Contractor shall immediately stop Work in the area affected and report the condition to the Owner, Construction Manager and Architect ~~of the condition.~~in writing. The Work in the affected area shall not thereafter be resumed except by written agreement of the Owner and Contractor if in fact the material is asbestos or polychlorinated biphenyl (PCB) and has not been rendered harmless. The Work in the affected area shall be resumed in the absence of asbestos or polychlorinated biphenyl (PCB), or when it has been rendered harmless, by written agreement of the Owner and Contractor.

.1 Except where otherwise stated in the Contract Documents, no hazardous material work of any nature shall be performed by the Contractor pursuant to this Contract.

.2 The term "hazardous materials" includes, but is not limited to, asbestos, toxic chemicals, acids, alkalis, irritants, contaminants, or other pollutants, together with any other waste, material, substance, pollutants, or contaminant, all or a portion of which is or would be designated as hazardous waste or substance under applicable local, state, or federal laws, ordinances, codes, rules, or regulations.

§ 10.3.2 ~~Upon receipt of the Contractor's notice, the Owner shall obtain the services of a licensed laboratory to verify the presence or absence of the material or substance reported by the Contractor and, in the event such material or substance is found to be present, to cause it to be rendered harmless. Unless otherwise required by the Contract Documents, the Owner shall furnish in writing to the Contractor, Construction Manager and Architect the names and qualifications of persons or entities who are to perform tests verifying the presence or absence of the material or substance or who are to perform the task of removal or safe containment of the material or substance. The Contractor, the Construction Manager and the Architect will promptly reply to the Owner in writing stating whether or not any of them has reasonable objection to the persons or entities proposed by the Owner. If the Contractor, Construction Manager or Architect has an objection to a person or entity proposed by the Owner, the Owner shall propose another to whom the Contractor, the Construction Manager and the Architect have no reasonable objection. When the material or substance has been rendered harmless, Work in the affected area shall resume upon written agreement of the Owner and Contractor. By Change Order, the Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable additional costs of shutdown, delay, and start-up.~~To the fullest extent permitted by law, the Owner shall indemnify and hold harmless the Contractor, Construction Manager, Architect, their consultants, and agents and employees of any of them from and against claims, damages, losses, and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work on Owner's property if in fact the material is asbestos or polychlorinated biphenyl (PCB) and has not been rendered harmless, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), including loss of use resulting therefrom, but only to the extent caused in whole or in part by negligent acts or omissions of the Owner, anyone directly or indirectly employed by the Owner, or anyone for whose acts the Owner may be liable, regardless of whether or not such claim, damage, loss, or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity which would otherwise exist as to a party or person described in this Subparagraph 10.3.2.

§ 10.3.3 ~~To the fullest extent permitted by law, the Owner shall indemnify and hold harmless the Contractor, Subcontractors, Construction Manager, Architect, their consultants, and agents and employees of any of them from and against claims, damages, losses, and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work in the affected area if in fact the material or substance presents the risk of bodily injury or death as described in Section 10.3.1 and has not been rendered harmless, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), except to the extent that such damage, loss, or expense is due to the fault or negligence of the party seeking indemnity.~~If reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a material or substance encountered on the site by the contractor, the Contractor shall, upon recognizing the condition, immediately stop Work on Owner's property and report the condition to the Owner, Construction Manager and Architect in writing. The Owner, Construction Manager, Contractor, and Architect shall then proceed in the same manner described in Subparagraph 10.3.1.

§ 10.3.4 ~~The Owner shall not be responsible under this Section 10.3 for hazardous materials or substances the Contractor brings to the site unless such materials or substances are required by the Contract Documents. The Owner shall be responsible for hazardous materials or substances required by the Contract Documents, except to the extent of the Contractor's fault or negligence in the use and handling of such materials or substances.~~

§ 10.3.5 The Contractor shall reimburse the Owner for the cost and expense the Owner incurs (1) for remediation of hazardous materials or substances the Contractor brings to the site and negligently handles, or (2) where the

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Contractor fails to perform its obligations under Section 10.3.1, except to the extent that the cost and expense are due to the Owner's fault or negligence. Owner shall be responsible for obtaining the services of a licensed laboratory to verify a presence or absence of the material or substance reported by the Contractor and, in the event such material or substance is found to be present, to verify that it has been rendered harmless.

§ 10.3.6 ~~If, without negligence on the part of the Contractor, the Contractor is held liable by a government agency for the cost of remediation of a hazardous material or substance solely by reason of performing Work as required by the Contract Documents, the Owner shall reimburse the Contractor for all cost and expense thereby incurred.~~Regulations concerning the availability of information and employee training in the use and handling of "hazardous substances" and "harmful physical agents", as set forth in the Employee Right-to-Know Act of 1983, Minnesota Statutes, Sections 182.65 to 182.676 are incorporated herein by reference as if fully set forth herein.

§ 10.3.7 The Contractor shall furnish three Material Safety Data Sheets to the Owner for each material used in the Work that is classified by the Employee Right-to-Know Act of 1983 as a "hazardous substance" or a "harmful physical agent."

§ 10.3.8 The Contractor shall label, in generally accepted and/or standardized fashion, all containers on the work site containing "hazardous substances" or as "harmful physical agents." This shall include factory containers and all subsequent containers used in the Work.

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In an emergency affecting safety of persons or property, the Contractor shall ~~act, at the Contractor's discretion,~~ act to prevent threatened damage, injury, or loss. Additional compensation or extension of time claimed by the Contractor on account of an emergency shall be determined as provided in Article 15 and Article 7.

...

§ 11.1.1 The Contractor shall purchase and maintain insurance of the types and limits of liability, containing the endorsements, and subject to the terms and conditions, as described in the ~~Agreement~~ Agreement, in EXH-C Owner Insurance or elsewhere in the Contract Documents. The Contractor shall purchase and maintain the required insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is ~~located.~~ located and which carry a Best's rating of A- or higher or are otherwise acceptable to the Owner. The Owner, Construction Manager and Construction Manager's consultants, and the Architect and Architect's consultants, shall be named as additional insureds under the Contractor's commercial general liability policy or as otherwise described in the Contract Documents.

...

§ 11.1.3 Upon the request of any person or entity appearing to be a potential beneficiary of bonds covering payment of obligations arising under the Contract, the Contractor shall promptly furnish a copy of the bonds or shall authorize a copy to be furnished. The Contractor shall furnish Certificates of Insurance acceptable to the Owner which shall specifically set forth evidence of all coverage required by Article 11 and EXH-C Owner Insurance and shall be filed with the Owner and Construction Manager prior to commencement of the Work and thereafter upon renewal or replacement of each required policy of insurance.

The Contractor shall not allow insurance required by this Agreement to lapse, be canceled, reduced in limits or coverage, non-renewed, or materially changed or have restrictive modifications added during the life of this Agreement, including the periods of required coverage. The Contractor shall furnish to the Owner and Construction Manager copies of any endorsements that are subsequently issued amending coverage and limits.

If any of the foregoing insurance coverages are required to remain in force after final payment and are reasonably available, all additional certificates evidencing continuation of such coverage shall be submitted with the final Application for Payment. Information concerning reduction of coverage shall be furnished by the Contractor with reasonable promptness in accordance with the Contractor's information and belief.

§ 11.1.3.1 Acceptable insurance certificates are AIA Document G705, CICC of Minnesota Form 701, and/or ACORD form of the American Insurance Institute.

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Failure of the Owner to collect certificates does not void the requirements to obtain insurance.

The acceptance of any certificate of insurance by the Owner shall not relieve or decrease the liability of the Contractor hereunder. It is to be understood the Owner, Construction Manager and Architect do not in any way represent that the insurance specified in these articles are sufficient or adequate to protect the Contractor's interest or liabilities, but are merely minimum requirements.

The Contractor shall furnish to the Owner copies of any endorsements that are subsequently issued amending coverage and limits.

§ 11.1.4 ~~Notice of Cancellation or Expiration of Contractor's Required Insurance.~~ ~~Within three (3) business days of the date the Contractor becomes aware of an impending or actual cancellation or expiration of any insurance required by the Contract Documents, the Contractor shall provide notice directly to the Owner, and separately to the Construction Manager, of such impending or actual cancellation or expiration. Upon receipt of notice from the Contractor, the Owner shall, unless the lapse in coverage arises from an act or omission of the Owner, have the right to stop the Work until the lapse in coverage has been cured by the procurement of replacement coverage by the Contractor. The furnishing of notice by the Contractor shall not relieve the Contractor of any contractual obligation to provide any required coverage.~~In the event the Contractor fails to procure or maintain any insurance coverage required under this Agreement, the Owner may purchase such coverage and deduct the cost thereof from any monies due to the Contractor, or terminate this Agreement under Paragraph 14.2. The Contractor shall be liable to the Owner for providing all coverage, defense, and payments that would have been provided by any insurance that the Contractor failed to procure and maintain as required by the Contract Documents.

§ 11.1.5 Compliance by the Contractor with the foregoing insurance requirements shall not relieve it from liability for amounts in excess of the limits of insurance.

§ 11.1.6 The Contractor and any of its Subcontractors, Sub-subcontractors, agents and employees, and any separate contractors described in Article 6, if any, and any of their subcontractors, sub-subcontractors, agents and employees shall waive any of their subrogation rights on their Workers Compensation Policy in favor of the Owner, Construction Manager and Architect. The policies shall provide such waivers of subrogation by endorsement or otherwise. A waiver of subrogation shall be effective as to a person or entity even though that person or entity would otherwise have a duty of indemnification, contractual, or otherwise, did not pay the insurance premium directly or indirectly, and whether or not the person or entity had an insurable interest.
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§ 11.2.1 The Owner shall purchase and maintain insurance of the types and limits of liability, containing the endorsements, and subject to the terms and conditions, as described in the Agreement or elsewhere in the Contract Documents. The Owner shall purchase and maintain the required insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The Owner may self-insure and maintain the Owner's usual liability insurance. Optionally, the Owner may purchase and maintain other insurance for self-protection against claims which may arise from operations under the Contract. The Contractor shall not be responsible for purchasing and maintaining this optional Owner's liability insurance unless specifically required by the Contract Documents.
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~~§ 11.3.2~~ ~~If during the Project construction period the Owner insures properties, real or personal or both, at or adjacent to the site by property insurance under policies separate from those insuring the Project, or if after final payment property insurance is to be provided on the completed Project through a policy or policies other than those insuring the Project during the construction period, to the extent permissible by such policies, the Owner waives all rights in accordance with the terms of Section 11.3.1 for damages caused by fire or other causes of loss covered by this separate property insurance.~~

...

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§ 11.5.2 Prior to settlement of an insured loss, the Owner shall notify the Contractor of the terms of the proposed settlement as well as the proposed allocation of the insurance proceeds. The Contractor shall have 14 days from receipt of notice to object to the proposed settlement or allocation of the proceeds. If the Contractor does not object, the Owner shall settle the loss and the Contractor shall be bound by the settlement and allocation. Upon receipt, the Owner shall ~~deposit the insurance proceeds in a separate account and~~ make the appropriate distributions. Thereafter, if no other agreement is made or the Owner does not terminate the Contract for convenience, the Owner and Contractor shall execute a Change Order for reconstruction of the damaged or destroyed Work in the amount allocated for that purpose. If the Contractor timely objects to either the terms of the proposed settlement or the allocation of the proceeds, the Owner may proceed to settle the insured loss, and any dispute between the Owner and Contractor arising out of the settlement or allocation of the proceeds shall be resolved pursuant to Article 15. Pending resolution of any dispute, the Owner may issue a Construction Change Directive for the reconstruction of the damaged or destroyed Work.

§ 11.6 Bonds

§ 11.6.1 Contractor shall furnish a Performance Bond and a Payment Bond to the Owner in the amount of one hundred percent (100%) of the Contract Sum and issued by a Surety Company authorized to do business in the State of Minnesota, rated "A" or better, and approved by the Owner. The Performance Bond shall be in accordance with Minnesota Statutory requirements, and shall be in the form included in the Project Manual. The Bonds shall allow for any additions or deductions to the Contract Sum.

§ 11.6.2 In order to be acceptable as a surety, Contractor's bonding company bust hold a "Certificate of Authority acceptable to the U.S. Treasury Department and be listed in the Department's current publication of "Bond Qualifiers" with underwriting limitations not less than ten percent (10%) above the Contract Sum.

§ 11.6.3 The surety of the Bonds shall be by a corporate surety company authorized to do business in the state in which Work is being performed under this Contract and acceptable to the Owner. The conditions of the bonds shall meet requirements of the statutes of the state where Work is being performed and all other applicable provisions of state law.

§ 11.6.4 The Contractor shall furnish two (2) originals of the Bonds to the Owner, with copies to the Architect and Construction Manager, within ten (10) days after notification of award and before execution of the Contract. Failure to do so shall constitute a violation of terms of the proposal and provide grounds for forfeiture of bid security.

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The Contractor shall promptly correct Work rejected by the Construction Manager or Architect or failing to conform to the requirements of the Contract Documents, discovered before Substantial Completion, and whether or not fabricated, installed or completed. ~~Costs~~ The Contractor shall bear costs of correcting such rejected Work, including additional testing and inspections, the cost of uncovering and replacement, and compensation for the Construction Manager's and Architect's services and expenses made necessary ~~thereby, shall be at the Contractor's expense.~~thereby.

...

~~**§ 12.2.2.1** In addition to the Contractor's obligations under Section 3.5, if, within one year after the date of Substantial Completion of the Work or designated portion thereof, or after the date for commencement of warranties established under Section 9.9.1, or by terms of any applicable special warranty required by the Contract Documents, any of the Work is found to be not in accordance with the requirements of the Contract Documents, the Contractor shall correct it promptly after receipt of notice from the Owner to do so, unless the Owner has previously given the Contractor a written acceptance of such condition. The Owner shall give such notice promptly after discovery of the condition. During the one-year period for correction of Work, if the Owner fails to notify the Contractor and give the Contractor an opportunity to make the correction, the Owner waives the rights to require correction by the Contractor and to make a claim for breach of warranty. If the Contractor fails to correct nonconforming Work within a reasonable time during that period after receipt of notice from the Owner, Construction Manager or Architect, the Owner may correct it in accordance with Section 2.5.~~

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~~**§ 12.2.2.2** The one-year period for correction of Work shall be extended with respect to portions of Work first performed after Substantial Completion by the period of time between Substantial Completion and the actual completion of that portion of the Work.~~

~~**§ 12.2.2.3** The one-year period for correction of Work shall not be extended by corrective Work performed by the Contractor pursuant to this Section 12.2.~~

§ 12.2.2.1 If within one year after the date of Substantial Completion of the Work or designated portion thereof, or after the date for commencement of warranties established under Section 9.9.1, or by terms of any applicable special warranty required by the Contract Documents, any of the Work is found to be not in accordance with the requirements of the Contract Documents, the Contractor shall correct it promptly (and any other property damaged or removed in effecting the correction) after receipt of notice from the Owner, Construction Manager or Architect to do so, unless the Owner has previously given the Contractor a written acceptance of such condition. The Owner, Construction Manager or Architect shall give such notice promptly after discovery of the condition. This period of one year shall be extended with respect to portions of Work first performed after Substantial completion by the period of time between Substantial completion and the actual performance of the Work. This obligation under this Subparagraph 12.2.2.1 shall survive acceptance of the Work under the contract and termination of the Contract. The Owner, Construction Manager or Architect shall give such notice promptly after discovery of the condition. The expiration of the above one year or any other specified time period, or any other period prescribed by the law, shall not relieve the Contractor of the obligation form the expense to correct any latent defect in the work or deficiencies which are not readily ascertained, including but not limited to, defective materials and quality of work performed, defects attributable to material substitutions for special materials, substandard performance or otherwise not in compliance with the Contract Documents. Such latent defects or deficiencies shall be corrected as provided in this Paragraph 12.2. Following the correction or replacement of any of the Work, as above specified, the Contractor shall correct any defects or deficiencies in the corrected or replaced materials and workmanship which is found within one year after the date of correction or replacement.

§ 12.2.4 ~~The Contractor shall bear the cost of correcting destroyed or damaged construction of the Owner, Separate Contractors, or other Contractors, whether completed or partially completed, caused by the Contractor's correction or removal of Work that is not in accordance with the requirements of the Contract Documents.~~ If the Contractor fails to correct nonconforming Work within a reasonable time, the Owner may correct it in accordance with Paragraph 2.4. If the Contractor does not proceed with correction of such nonconforming Work within a reasonable time fixed by written notice from the Architect or Construction Manager, the Owner may correct or remove it and store the salvageable materials or equipment all at the Contractor's expense. If the Contractor does not pay costs of such removal and storage within ten (10) days after written notice, the Owner may upon ten (10) additional days' written notice sell such materials and equipment at auction or at private sale and shall account for the proceeds thereof, after deducting costs and damages that should have been borne by the Contractor, the Contract Sum shall be reduced by the deficiency. If payments then or thereafter due the Contractor are not sufficient to cover such amount, the Contractor shall pay the difference to the Owner.

§ 12.2.5 ~~Nothing contained in this Section 12.2 shall be construed to establish a period of limitation with respect to other obligations the Contractor has under the Contract Documents. Establishment of the one-year period for correction of Work as described in Section 12.2.2 relates only to the specific obligation of the Contractor to correct the Work, and has no relationship to the time within which the obligation to comply with the Contract Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Contractor's liability with respect to the Contractor's obligations other than specifically to correct the Work.~~ The Contractor shall bear the cost of correcting destroyed or damaged construction whether completed or partially completed, of the Owner or separate contractors caused by the Contractor's correction or removal of Work which is not in accordance with the requirements of the Contract Documents.

§ 12.2.6 Nothing contained in this Section 12.2 shall be construed to establish a period of limitation with respect to other obligations the Contractor has under the Contract Documents. Establishment of the one-year period for correction of Work as described in Section 12.2.2 relates only to the specific obligation of the Contractor to correct the Work, and has no relationship to the time within which the obligation to comply with the Contract Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Contractor's liability with respect to the Contractor's obligations other than specifically to correct the Work.

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§ 13.4.1 Tests, inspections, and approvals of portions of the Work shall be made as required by the Contract Documents and by applicable laws, statutes, ordinances, codes, rules, and regulations or lawful orders of public authorities. ~~Unless otherwise provided, the Contractor~~ The Owner, Construction Manager or Architect shall make arrangements for such tests, inspections, and approvals with an independent testing laboratory or entity acceptable to the Owner, or with the appropriate public ~~authority, and shall bear all related costs of tests, inspections, and approvals. The Contractor shall give the Construction Manager and Architect timely notice~~ authority. Timely notice shall be given to the Construction Manager and Architect of when and where tests and inspections are to be made so that the Construction Manager and Architect may ~~be present for~~ observe such procedures. The Owner shall bear costs of tests, inspections, or approvals that do not become requirements until after bids are received or negotiations concluded. The Owner shall directly arrange and pay for tests, inspections, or approvals where building codes or applicable laws or regulations so require.

§ 13.4.2 If the Construction Manager, Architect, Owner, or public authorities having jurisdiction determine that portions of the Work require additional testing, inspection, or approval not included under Section 13.4.1, the Construction Manager and Architect will, upon written authorization from the Owner, instruct the Contractor to make arrangements for such additional testing, inspection, or approval, by an entity acceptable to the Owner, and the Contractor shall give ~~timely~~ a minimum of two (2) working days' notice to the Construction Manager and Architect of when and where tests and inspections are to be made so that the Construction Manager and Architect may ~~be present for such procedures. Such~~ observe procedures. The Owner shall bear such costs, except as provided in Section ~~13.4.3, shall be at the Owner's expense.~~13.4.3.

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~~Payments due and unpaid under the Contract Documents shall bear interest from the date payment is due at the rate the parties agree upon in writing or, in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located.~~All payments to the Contractor shall be governed by the Prompt Payment of Local Government Bills, Minnesota Statutes, Section 471.125 ("Prompt Payment Act") and Article 5 of the A132–2019 Agreement on this Project.

§ 13.6 Non-Discrimination

§ 13.6.1 All contracts between the Owner and companies providing goods and services under the Contract Documents shall contain the following equal opportunity and civil right clause:

> "During the performance of this Agreement, the provider agrees to the following: No contractor, material supplier, vendor, or other person shall on the basis of sex, race, creed, color, religion, national origin, age, marital status, sexual orientation, or disability be excluded from full employment rights in, participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program, service, or activity under the provisions of any and all applicable Federal and State laws against discrimination, including the Minnesota Human Rights Act and the Civil Rights Act of 1964."

Upon request, the Contractor shall furnish all information and reports required by the Owner, or by the rules and regulations of investigation to ascertain compliance with all applicable rules and regulations. The Contractor shall also comply with any applicable licensing requirements of the Minnesota Department of Human Services in employment of personnel.

The Contractor acknowledges that the violation of the above-stated paragraph is a misdemeanor pursuant to Minnesota Statutes, Section 181.59.

This Agreement may be cancelled or terminated by the Owner or any other person authorized to grant the contracts for employment under this Agreement, and all money due, or to become due under this Agreement may be forfeited for a second or any subsequent violation of the non-discriminatory terms stated above.

§ 13.6.2 During the completion of the work and all other services required by the Contract Documents, the Contractor agrees that no contractor, material supplier, vendor, or other person shall, on the basis of sex, race, creed, color, religion, national origin, age, marital status, sexual orientation, or disability be excluded from full employment rights in participation in, be denied the benefits of, or be otherwise subjected to discrimination under the provisions of any and all applicable Federal and State laws against discrimination, including the Minnesota Human Rights Act and the

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Civil Rights Act of 1964. Upon request, the Architect, Construction Manager and Contractor shall furnish all information and reports required by the Owner, or by the rules and regulations of investigation to ascertain compliance with all applicable rules and regulations. The Contractor shall also comply with any applicable licensing requirements of the Minnesota Department of Human Services in employment of personnel.

Contractor acknowledges that the violation of the above-states paragraph is a misdemeanor pursuant to Minnesota Statutes Section 181.59.

The Contract Documents may be cancelled or terminated by the Owner or any other person authorized to grant the contracts for employment under this Agreement, and all money due, or to become due under the Agreement may be forfeited for a second or any subsequent violation of the non-discriminatory terms stated above.

§ 13.7 No action or failure to act by the Owner shall constitute a waiver of a right or duty afforded the Owner under the Contract Documents, nor shall such action or failure to act constitute approval of or acquiescence of the Owner in a breach of the Contract Documents, except as may be specifically agreed in writing. None of the approval of any Application for Payment, the making of any payment, the giving of any approval or consent, the use or occupancy of the Work, or any part thereof, the making of final payment, or any other action or inaction on the part of the Owner, Construction Manager or Architect shall constitute a waiver of claims by or rights of the Owner or an acceptance of any Work that is not in accordance with the Contract Documents. The Contractor shall not be relieved from its obligations to perform the Work in accordance with the Contract Documents either by the activities or duties of the representations of the Owner, Construction Manager or Architect, or by inspections, tests, or approvals required or performed by the Owner, Construction Manager or Architect or anyone else.

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§ 14.1.5 No Right to Stop Work for Non-Payment

The Contractor has no right to stop Work as a consequence of non-payment. In the event of any disagreement between the Contractor and Owner involving the Contractor's entitlement to payment, the Contractor's only remedy is to file a Claim in accordance with Article 15. The Contractor must diligently proceed with the Work pending resolution of the Claim. If, however, an Application for Payment has been approved for payment by the Owner, and the Owner fails to make payment within sixty (60) days of the approval for payment by the Owner, the Contractor may upon ten (10) days written notice to the Owner, stop work if payment is not made by the Owner within ten (10) days following the notice.

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§ 14.3.2 The Contract Sum and the Contract Time shall be adjusted for increases or decreases in the cost and time caused by suspension, delay, or interruption under Section 14.3.1. Adjustment of the Contract Sum shall include reasonable profit. No adjustment shall be made to the extent:

...

~~**§ 14.4.3** In case of such termination for the Owner's convenience, the Owner shall pay the Contractor for Work properly executed; costs incurred by reason of the termination, including costs attributable to termination of Subcontracts; and the termination fee, if any, set forth in the Agreement.~~

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§ 15.1.1 Definition. A Claim is a demand or assertion by ~~one of the parties~~ the Contractor seeking, as a matter of right, payment of money, a change in the Contract Time, or other relief with respect to the terms ~~of the Contract. The term "Claim" also includes other disputes and matters in question between the Owner and Contractor arising out~~ of ~~or relating to~~ the Contract. The responsibility to substantiate Claims shall rest with ~~the party making the Claim.~~ the Contractor. Nothing in this paragraph 15.1.1 is intended to apply to or in any way limit the Owner's right to make Claims related to or arising out of the Contract. This Section 15.1.1 does not require the Owner to file a Claim in order to impose liquidated damages in accordance with the Contract Documents.

...

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§ 15.1.3.1 Claims by ~~either the Owner or~~ Contractor, where the condition giving rise to the Claim is first discovered prior to expiration of the period for correction of the Work set forth in Section 12.2.2, shall be initiated by written notice to the ~~other party~~ Owner and to the Initial Decision Maker with a copy sent to the Construction Manager and Architect, if the Architect is not serving as the Initial Decision Maker. Claims by ~~either party~~ the Contractor under this Section 15.1.3.1 shall be initiated within ~~21~~ ten (10) days after occurrence of the event giving rise to such Claim or within ~~21~~ ten (10) days after the ~~claimant~~ Contractor first recognizes the condition giving rise to the Claim, whichever is later. Any additional Claim made after and relating to the initial Claim has been implemented by Change Order will not be considered unless submitted in a timely manner. As a condition to making a claim for additional costs, the Contractor shall maintain and produce accurate records to substantiate all additional costs actually incurred. If a Claim for actual costs is approved, the Owner shall pay the Contractor actual costs incurred, plus either (a) ten percent (10%) for overhead and profit for work performed by the Contractor, or (b) five percent (5%) overhead and profit for work performed by a Subcontractor, as applicable.

§ 15.1.3.2 Claims by either the Owner or Contractor, where the condition giving rise to the Claim is first discovered after expiration of the period for correction of the Work set forth in Section 12.2.2, shall be initiated by written notice to the other party. In such event, no decision by the Initial Decision Maker is required.

...

§ 15.1.4.1 Pending final resolution of a Claim, except as otherwise agreed in writing or as provided in Section 9.7 and Article 14, the Contractor shall proceed diligently with performance of the Contract and the Owner shall continue to make payments in accordance with the Contract Documents. Subject to Paragraph 15.1.5, no such continuing performance by the Contractor, nor payment by the Owner shall be deemed a waiver of, or to otherwise impair any such Claim.

...

§ 15.1.6.1 If the Contractor wishes to make a Claim for ~~an~~ any increase in the Contract Time, notice as provided in Section 15.1.3 shall be given. The Contractor's Claim shall include an estimate of cost and of probable effect of delay on progress of the Work. In the case of a continuing delay only one Claim is necessary.
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~~**§ 15.1.7 Waiver of Claims for Consequential Damages.** The Contractor and Owner waive Claims against each other for consequential damages arising out of or relating to this Contract. This mutual waiver includes~~

- ~~.1 damages incurred by the Owner for rental expenses, for losses of use, income, profit, financing, business and reputation, and for loss of management or employee productivity or of the services of such persons; and~~
- ~~.2 damages incurred by the Contractor for principal office expenses including the compensation of personnel stationed there, for losses of financing, business and reputation, and for loss of profit except anticipated profit arising directly from the Work.~~

~~This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination in accordance with Article 14. Nothing contained in this Section 15.1.7 shall be deemed to preclude assessment of liquidated damages, when applicable, in accordance with the requirements of the Contract Documents.~~

...

§ 15.2.6 ~~Either party may file for mediation of an initial decision at any time, subject to the terms of Section 15.2.6.1.~~In the event of a Claim against the Contractor, the Owner may, but is not obligated to notify the surety, if any, of the nature and amount of the Claim. If the Claim relates to a possibility of a Contractor's default, the Owner may, but is not obligated to notify the surety and initiate a Claim on the performance bond.

~~**§ 15.2.6.1** Either party may, within 30 days from the date of receipt of an initial decision, demand in writing that the other party file for mediation. If such a demand is made and the party receiving the demand fails to file for mediation~~

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~~within 30 days of receipt thereof, then both parties waive their rights to mediate or pursue binding dispute resolution proceedings with respect to the initial decision.~~

~~**§ 15.2.7** In the event of a Claim against the Contractor, the Owner may, but is not obligated to, notify the surety, if any, of the nature and amount of the Claim. If the Claim relates to a possibility of a Contractor's default, the Owner may, but is not obligated to, notify the surety and request the surety's assistance in resolving the controversy.~~

~~**§ 15.2.8** If a Claim relates to or is the subject of a mechanic's lien, the party asserting such Claim may proceed in accordance with applicable law to comply with the lien notice or filing deadlines.~~

§ 15.3.1 ~~Claims, disputes, or other matters in controversy~~ Any claim, dispute or other matter in question or arising out of or related to the ~~Contract, except those waived as provided for in Sections 9.10.4, 9.10.5, and 15.1.7, shall be subject to mediation as a condition precedent to binding dispute resolution.~~Contract shall be subject to mediation. Mediation is not a condition precedent to commencing litigation, but if litigation is commenced before mediation is held, the Parties agree to mediate before any dispositive motions or trial.

§ 15.3.2 The parties shall ~~endeavor to resolve their Claims by mediation which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Mediation Procedures in effect on the date of the Agreement. A request for mediation shall be made in writing, delivered to the other party to the Contract, and filed with the person or entity administering the mediation. The request may be made concurrently with the filing of binding dispute resolution proceedings but, in such event, mediation shall proceed in advance of binding dispute resolution proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order. If an arbitration is stayed pursuant to this Section 15.3.2, the parties may nonetheless proceed to the selection of the arbitrator(s) and agree upon a schedule for later proceedings.~~share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located unless another location is mutually agreed upon. Agreements reached in mediation and ratified by the Owner's Council shall be enforceable as settlement agreements in any court having jurisdiction thereof.

~~**§ 15.3.3** Either party may, within 30 days from the date that mediation has been concluded without resolution of the dispute or 60 days after mediation has been demanded without resolution of the dispute, demand in writing that the other party file for binding dispute resolution. If such a demand is made and the party receiving the demand fails to file for binding dispute resolution within 60 days after receipt thereof, then both parties waive their rights to binding dispute resolution proceedings with respect to the initial decision.~~

~~**§ 15.3.4** The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.~~

~~**§ 15.4 Arbitration**~~

~~**§ 15.4.1** If the parties have selected arbitration as the method for binding dispute resolution in the Agreement, any Claim subject to, but not resolved by, mediation shall be subject to arbitration which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Arbitration Rules in effect on the date of the Agreement. The Arbitration shall be conducted in the place where the Project is located, unless another location is mutually agreed upon. A demand for arbitration shall be made in writing, delivered to the other party to the Contract, and filed with the person or entity administering the arbitration. The party filing a notice of demand for arbitration must assert in the demand all Claims then known to that party on which arbitration is permitted to be demanded.~~

~~**§ 15.4.1.1** A demand for arbitration shall be made no earlier than concurrently with the filing of a request for mediation, but in no event shall it be made after the date when the institution of legal or equitable proceedings based on the Claim would be barred by the applicable statute of limitations. For statute of limitations purposes, receipt of a written demand for arbitration by the person or entity administering the arbitration shall constitute the institution of legal or equitable proceedings based on the Claim.~~

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~~**§ 15.4.2** The award rendered by the arbitrator or arbitrators shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.~~

~~**§ 15.4.3** The foregoing agreement to arbitrate and other agreements to arbitrate with an additional person or entity duly consented to by parties to the Agreement, shall be specifically enforceable under applicable law in any court having jurisdiction thereof.~~

~~**§ 15.4.4 Consolidation or Joinder**~~

~~**§ 15.4.4.1** Subject to the rules of the American Arbitration Association or other applicable arbitration rules, either party may consolidate an arbitration conducted under this Agreement with any other arbitration to which it is a party provided that (1) the arbitration agreement governing the other arbitration permits consolidation, (2) the arbitrations to be consolidated substantially involve common questions of law or fact, and (3) the arbitrations employ materially similar procedural rules and methods for selecting arbitrator(s).~~

~~**§ 15.4.4.2** Subject to the rules of the American Arbitration Association or other applicable arbitration rules, either party may include by joinder persons or entities substantially involved in a common question of law or fact whose presence is required if complete relief is to be accorded in arbitration, provided that the party sought to be joined consents in writing to such joinder. Consent to arbitration involving an additional person or entity shall not constitute consent to arbitration of any claim, dispute or other matter in question not described in the written consent.~~

~~**§ 15.4.4.3** The Owner and Contractor grant to any person or entity made a party to an arbitration conducted under this Section 15.4, whether by joinder or consolidation, the same rights of joinder and consolidation as those of the Owner and Contractor under this Agreement.~~

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Certification of Document's Authenticity

AIA® Document D401™ – 2003

I, , hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with its associated Additions and Deletions Report and this certification at 15:59:30 CT on 02/03/2025 under Order No. 4104251278 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document A232™ – 2019, General Conditions of the Contract for Construction, Construction Manager as Adviser Edition, other than those additions and deletions shown in the associated Additions and Deletions Report.



(Signed)

Curtis Hartog, Executive Director

(Title)

2/3/2025

(Dated)

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Exhibit B – Project Charter

FY21 North High School Renovations-Bid Pack 4

Work Scope 26-A Electrical

Description

Perform electrical in accordance with Work Scope 26-A for the North High School Phase 4 renovations

Contract Sum

The Contract Sum shall be $3,037,000

Alternates

Item	Price	Status
Alt #1: Health Office	$182,000	rejected
Alt #2: Athletic and Counseling Offices	$141,000	rejected
Alt #3: Electrical panel replacements	$372,000	accepted
Alt #4: AHU-41 replacement	$15,000	accepted
Alt #5: Direct digital controls	$0	accepted

EXHIBIT C Owner Insurance

Insurance Requirements

1. CONSULTANT'S INSURANCE – to be used with AIA B101-2017, AIA C103-2015, or similar non-contractor consultants:
   The Consultant shall at its own expense maintain in effect at all times during the performance of the Work under the Agreement at least the following coverage and limits of insurance:

   a. Worker's Compensation and Employer's Liability Insurance

      i. Coverage A is statutory.

      ii. Coverage B
      $500,000 Each Accident
      $500,000 Each Employee
      $500,000 Policy Limit (Disease)

   b. Comprehensive General Liability Insurance *

General Aggregate	$1,000,000
Products/Completed Operations Aggregate	$1,000,000
Per Occurrence	$1,000,000
Medical Payments	$10,000

   * The Owner should be named as an additional insured for Comprehensive General Liability Insurance.

   c. Automobile Insurance

Per Occurrence	$1,000,000
PIP	Basic
Underinsured Motorist	$1,000,000
Uninsured Motorist	$1,000,000

   d. Professional Liability Insurance

      i. Per Claim $2,000,000

ii. For projects with an estimated construction Contract Sum of over $10,000,000 or major structural work an aggregate is required as follows:
Aggregate $4,000,000

e. Umbrella Liability Insurance

i. Per Occurrence $2,000,000

ii. For projects with an estimated construction Contract Sum of over $10,000,000 or major structural work an aggregate is required as follows:
Aggregate $2,000,000

f. Manned or Unmanned Aircraft Coverage (if used)

i. Per Claim $1,000,000

ii. Aggregate $1,000,000

For specialty consultants used for commissioning activities, studies, asbestos surveys and security, items A, B, C and F shall apply.

Special Asbestos Abatement Liability Insurance is required for Asbestos Abatement Contractors. The limits are $1,500,000 per claim, for liability arising from the encapsulation, removal, handling, storage, transportation, and disposal of asbestos-containing materials.

2. CONSULTANT'S OBLIGATIONS

Consultant shall not violate or knowingly permit any violation of any conditions or terms of the policies of insurance required to be carried under the terms hereof and shall endeavor to satisfy the requirements of the insurance companies issuing them. In the event Consultant neglects, refuses or fails to provide or maintain any of the insurance required to be carried under the Agreement, or if such insurance is canceled for any reason, the Owner or the Owner's lender(s) shall have the right, but not the duty, to procure or maintain the same.

In the event the Owner or the Owner's lender(s) do procure or maintain such insurance, the Owner or the Owner's lender(s) shall have, in additional to any and all other available remedies, the right to recover from the Consultant (including the right of set-off against sums otherwise due the Consultant) all of the costs associated with procuring or maintaining such insurance.

3. PROFESSIONAL LIABILITY INSURANCE

   a. Professional Liability Coverage of $2,000,000 shall be maintained for one (1) year from the date of Substantial Completion. If the Consultant discontinues its business and if directed by Owner in writing, Consultant shall purchase such insurance in such amount for an extended discovery period beyond the one (1) year after the date of Substantial Completion, with the premium cost to be a reimbursable expense paid by the Owner. The limit of liability for such policy may not be reduced below $2,000,000 without the Owner giving its prior, written consent. All policies of insurance that Consultant is required under the terms of this Exhibit C Owner's Insurance to secure and maintain shall bear the endorsement "Not to be canceled until sixty (60) calendar days after Owner has received a written notice from insurer as evidence by a return receipt of registered or certified mail."

   b. The Owner shall not be responsible for obtaining or paying premiums or other expenses in connection with insurance required to be carried under the Agreement or normally carried by the Consultant's consultants, and the obligation to obtain such insurance and to pay such premiums and other expenses shall be solely that of the Consultant.

   c. The Consultant shall bear all the costs of any and all deductible amounts under any insurance policies required to be carried under the Agreement and shall remain solely and fully liable for the full amount of any claim or item not compensated by insurance (to the extent that any amount resulted from damages that arose out of the Consultant's sole negligence.)

4. COVERAGE
   The coverage's referred to above are set forth in full in the respective policy forms, and the foregoing descriptions of such policies are not intended to be complete.

5. GENERALLY

   a. The Consultant thereby represents and warrants to the Owner that, as of the date of the execution of the Agreement, the Consultant is not aware of any claims or potential claims which have been made, filed or threatened against any of the insurance or for damages covered by any of the insurance required to be carried under the Agreement that would affect the Consultant's ability to provide the insurance coverage required by this agreement.

b. It is understood that the provisions in the Agreement requiring the Consultant to carry insurance shall not be construed as in any manner waiving or restricting the liability of the Consultant as to any obligations imposed under the Agreement, including, but not limited to, obligations imposed under the provisions of Article 11 of the AIA A201-2017 General Conditions.

Insurance requirements for Contractors

1. CONTRACTOR'S INSURANCE – to be used with AIA A101-2017
   The Contractor shall at its own expense maintain in effect at all times during the performance of the Work under the Agreement at least the following coverage and limits of insurance:

   a. Commercial General Liability

      i. General Aggregate $1,500,000

      ii. Products/Completed Operations Aggregate $1,500,000

      iii. Per Occurrence $1,500,000

      The Owner shall be named as additional insured for Commercial General Liability Insurance

   b. Automobile Insurance

      i. Per Occurrence $1,000,000

      ii. PIP Basic

      iii. Underinsured Motorist $1,000,000

      iv. Uninsured Motorist $1,000,000

   c. Workers Compensation

      i. Coverage A is statutory.

      ii. Coverage B $500,000 Each Accident

      iii. $500,000 Each Employee

d. Professional Liability (if the Contractor is hiring professionals)

   i. Per Claim $2,000,000

   For Projects with an estimated construction cost of over $10,000,000 or major structural work, additional Aggregate coverage of $4,000,000 is required.

e. Manned or Unmanned Aircraft Coverage (if used)

   i. Per Claim $1,000,000

   ii. Aggregate $1,000,000

f. Property Insurance

   i. Per Claim $1,000,000

   ii. Aggregate $1,000,000

   This insurance is only required for materials stored offsite and not incorporated into the project at delivery. For material stored on site, no additional insurance is required.

g. Builders “all risk” Insurance

   i. Per Claim $2,000,000

   ii. Aggregate $4,000,000

   This insurance is only required for additions exceeding $10,000,000. Renovations to existing schools are not required to have builders all risk insurance.

h. Umbrella Liability

   i. Aggregate limit $5,000,000

   This insurance is required only for projects larger than $10,000,000 in total construction costs.

Exhibit D – Project Schedule

FY21 North High School Renovations-Bid Pack 4 Work Scope 26-A Electrical

OP#:25-2512

Description

Perform electrical in accordance with Work Scope 26-A for the North High School Phase 4 renovations.

Schedule

Start Construction: On or about March 2025 but within 5 days of notice to proceed as directed by the Construction Manager. Please refer to schedule provided in Specifications.

To be completed in 2025-June 2025 to August 2025

Base Bid Level 1 Area E

Base Bid Level 2 Area F, Area G, Area E

Area D Bathrooms March 2025 – May 2025 and September 2025 to December 2025.

Base Bid Level 2 Area E classrooms March 2025-May 2025

Base Bid Area Level 1 Area C – June 2026-August 2026

Base Bid Level 2 Area G – June 2026-August 2026

Bae Bid Level2 Area D – January 2026-August 2026

Alternate #3 – March 2025 through August 2026

Alternate #4 – June 2025-August 2025

Alternate #5 – June 2025-August 2026

Substantial Completion: August 21, 2026.

Major School Days

Recordkeeping Day – March 28, 2025

Spring Break – March 31 – April 4, 2025

Memorial Day – May 26, 2025

Last Day of School – June 6, 2025

Juneteenth – June 19, 2025

Independence Day – July 4, 2025

Last day for Staff – June 30, 2025

Labor Day – September 1, 2025

First Day of School – September 2, 2025

Rosh Hashanah – September 23, 2025
Yom Kippur – October 2, 2025
MEA – October 16-17, 2025
Recordkeeping Day – November 4, 2025
Thanksgiving – November 26-28, 2025
Winter Break – December 22, 2025 to January 2, 2026
Martin Luther King Day – January 19, 2026
Recordkeeping Day – January 23, 2026
Presidents Day – February 16, 2026
Professional Development – February 17, 2026
Eid al-Fitr – March 20, 2026
Recordkeeping Day – March 27, 2026
Memorial Day – May 25, 2026
Professional Development – May 26, 2026
Eid al Adha – May 27, 2026
Juneteenth – June 19, 2026
Independence Day – July 4, 2026
Labor Day – September 7, 2026
First day of School – September 8, 2026

Substantial Completion

The Work will be substantially complete on or before August 21, 2026

FY21 North High School Renovations-Bid Pack 4 Work Scope 21-A Fire Suppression

Contract Sum: $219,600

Contractor: Nasseff Mechanical Contractors, Inc.

Project Name and Number

North High School
1500 James Avenue N
Minneapolis, MN 55411
Minneapolis Public Schools Project Number
OP25-2512

Description

Perform fire suppression in accordance with Work Scope 21-A for the North High School Phase 4 renovations

Contract Sum details

Item	Price	Status
Base Bid	$212,000	accepted
Alt #1: Health Office	$21,800	rejected
Alt #2: Athletic and Counseling Offices	$11,100	rejected
Alt #3: Electrical panel replacements	$0	accepted
Alt #4: AHU-41 replacement	$400	accepted
Alt #5: Direct digital controls	$7,200	accepted

Contract Documents

AIA Document A132-2019
AIA Document A132 Exhibit A-2019
Exhibit B – Project Charter
Exhibit C – Owner Insurance
Exhibit D – Project Schedule
AIA Document A232-2019

AIA® Document A132® – 2019

Standard Form of Agreement Between Owner and Contractor, Construction Manager as Adviser Edition

AGREEMENT made as of the first__ day of _February_____ in the year 2025_
(In words, indicate day, month, and year.)

BETWEEN the Owner:
(Name, legal status, address, and other information)

Minneapolis Public Schools Special School District #1
1250 West Broadway Avenue
Minneapolis, MN 55411

and the Contractor:
(Name, legal status, address, and other information)

Nasseff Mechanical Contractors, Inc
122 S Wabasha St
St Paul, MN 55107

for the following Project:
(Name, location, and detailed description)

North High School Phase 4 Work Scope 21-A Fire Suppression
1500 James Avenue
Minneapolis, MN 55411

The Construction Manager:
(Name, legal status, address, and other information)

Kraus-Anderson Construction Company
501 South 8th Street
Minneapolis, MN 55405

The Architect:
(Name, legal status, address, and other information)

LSE Architects
1401 Glenwood Avenue
Minneapolis, MN 55405

The Owner and Contractor agree as follows.

ADDITIONS AND DELETIONS:
The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

This document is intended to be used in conjunction with AIA Documents A232™–2019, General Conditions of the Contract for Construction, Construction Manager as Adviser Edition; B132™–2019, Standard Form of Agreement Between Owner and Architect, Construction Manager as Adviser Edition; and C132™–2019, Standard Form of Agreement Between Owner and Construction Manager as Adviser. AIA Document A232™–2019 is adopted in this document by reference. Do not use with other general conditions unless this document is modified.

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TABLE OF ARTICLES

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2 THE WORK OF THIS CONTRACT

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9 ENUMERATION OF CONTRACT DOCUMENTS

EXHIBIT A INSURANCE AND BONDS
EXHIBIT B DETERMINATION OF THE COST OF THE WORK

ARTICLE 1 THE CONTRACT DOCUMENTS

The Contract Documents consist of this Agreement, Conditions of the Contract (General, Supplementary, and other Conditions), Drawings, Specifications, Addenda issued prior to execution of this Agreement, other documents ("Contract" or "Contract Documents") listed in this Agreement, and Modifications issued after execution of this Agreement, all of which form the Contract, and are as fully a part of the Contract as if attached to this Agreement or repeated herein. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations, or agreements, either written or oral. An enumeration of the Contract Documents, other than Modifications, appears in Article 9.

§ 1.2 In the event that there are inconsistencies between any of the Project Contract Documents, all Contract Documents shall be construed together and shall be read with a purpose and intent to provide that the Contractor shall commit to fully complete its Project Work and services with the greater degree of commitment as referenced in the Contract Documents, including the plans and specifications, to work diligently to ensure completion of the Project in a timely and workmanlike manner and at the earliest stated times provided for in Project schedules, as they may be revised, and to ensure that Contractor, and all of its Subcontractors and suppliers complete the Project on schedule and within Project Contract Price, subject to approved change orders.

§ 1.3 Contractor acknowledges that it has had full, fair, and adequate opportunity to review all of the Project bidding and Contract Documents, that it has fully satisfied itself as to the scope and requirements of the Project, that it has fully and fairly investigated all Project site conditions and circumstances and Contract Documents, including any potential difficulties or interferences present in the same, that it has had the opportunity to ask questions during the bidding phase and that it has received adequate answers to any such questions, that it has had the opportunity to attend and fairly participate in all pre-bid conferences and pre-construction conferences, and that it has required the same of all of its Subcontractors.

ARTICLE 2 THE WORK OF THIS CONTRACT

The Contractor shall fully execute the Work described in the Contract Documents, except as specifically indicated in the Contract Documents to be the responsibility of others.

ARTICLE 3 DATE OF COMMENCEMENT AND DATES OF SUBSTANTIAL COMPLETION

§ 3.1 The date of commencement of the Work shall be:
(Check one of the following boxes.)

[ ] The date of this Agreement.

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[X] A date set forth in a notice to proceed issued by the Owner.

[ ] Established as follows:
(Insert a date or a means to determine the date of commencement of the Work.)

If a date of commencement of the Work is not selected, then the date of commencement shall be the date of this Agreement.

§ 3.2 The Contract Time shall be measured from the date of commencement of the Work.

§ 3.3 Substantial Completion of the Project or Portions Thereof
§ 3.3.1 Subject to adjustments of the Contract Time as provided in the Contract Documents, the date of Substantial Completion of the Work of all of the Contractors for the Project will be:
(Insert the date of Substantial Completion of the Work of all Contractors for the Project.)

Defined in EXH-D Project Schedule

§ 3.3.2 Subject to adjustments of the Contract Time as provided in the Contract Documents, if portions of the Work of all of the Contractors for the Project are to be completed prior to Substantial Completion of the entire Work of all of the Contractors for the Project, the Contractors shall achieve Substantial Completion of such portions by the following dates defined in EXH-D Project Schedule. Such portions of the Work not completed as defined in EXH-D Project Schedule shall be subject to liquidated damages as set forth in Article 4.5.

(Table deleted)
(Table deleted)
(Paragraphs deleted)
§ 3.4.3 If the Contractor fails to substantially complete the Work of this Contract, or portions thereof, as provided in this Section 3.4, liquidated damages, if any, shall be assessed as set forth in Section 4.5.

ARTICLE 4 CONTRACT SUM
§ 4.1 The Owner shall pay the Contractor the Contract Sum in current funds for the Contractor's performance of the
(Paragraphs deleted)
Contract as defined in EXH-B Project Charter, subject to additions and deductions as provided in the Contract Documents.
§ 4.2 Stipulated Sum
§ 4.2.1 The Contract Sum shall be two hundred nineteen thousand, six hundred dollars ($ 219,600), subject to additions and deductions as provided in the Contract Documents.

§ 4.2.2 Alternates
§ 4.2.2.1 Alternates, if any, included in the Contract Sum are defined in EXH-B Project Charter.
(Table deleted)
§ 4.2.2.2 Subject to the conditions noted in EXH-B Project Charter, alternates may be accepted by the Owner following execution of this Agreement. Upon acceptance, the Owner shall issue a Modification to this Agreement.
(Paragraphs deleted)
(Table deleted)
§ 4.2.3 Allowances, if any, included in the Contract Sum are defined in EXH-B Project Charter.
(Identify each allowance.)

Item	Price

§ 4.2.4 Unit prices, if any are defined in EXH-B Project Charter.

(Table deleted)

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§ 4.3 Allowances, if any, included in the Contract Sum are defined in EXH-B Project Charter.

(Paragraph deleted)
(Table deleted)
(Paragraphs deleted)
§ 4.4 Unit prices, if any, are defined in EXH-B Project Charter.

(Paragraphs deleted)
(Table deleted)
(Paragraphs deleted)
(Table deleted)
(Paragraphs deleted)
(Table deleted)
(Paragraphs deleted)
(Table deleted)
(Paragraphs deleted)
§ 4.5 Liquidated damages, if any:
(Insert terms and conditions for liquidated damages, if any, to be assessed in accordance with Section 3.4.)

Contractor and Owner recognize that time is of the essence for the Project and the Owner will suffer financial loss if the Work is not completed in the time specified in the Contract Documents. The parties also recognize the delays, expenses, and difficulties involved in proving in a legal proceeding the actual loss suffered by the Owner if the Work is not completed on time. Accordingly, instead of requiring such proof, the Owner and Contractor agree that as liquidated damages for delay (but not as penalty), Contractor shall pay Owner One Thousand Dollars ($1,000.00) per calendar day for each day that expires after the time specified for Substantial Completion in EXH-D Project Schedule until such time the Work is determined to be substantially complete by the Owner.

After Substantial Completion, if Contractor neglects, refuses, or fails to complete the remaining Work within the Contract Time specified in the Contract Documents, the Contractor shall pay the Owner One Thousand Dollars ($1,000.00) per day that expires after the time specified in the Contract Documents for Final Completion and readiness for Final Payment until the Work is completed.

§ 4.6 Other:
(Insert provisions for bonus, cost savings or other incentives, if any, that might result in a change to the Contract Sum.)

None

ARTICLE 5 PAYMENTS

§ 5.1 Progress Payments

§ 5.1.1 Based upon Applications for Payment submitted to the Construction Manager by the Contractor, and Certificates for Payment issued by the Construction Manager and Architect and approval by the Owner's Representative, the Owner shall make progress payments on account of the Contract Sum, to the Contractor, as provided below and elsewhere in the Contract Documents.

§ 5.1.2 The period covered by each Application for Payment shall be one calendar month ending on the last day of the month.

§ 5.1.3 When an Application for Payment is received by the Construction Manager, payment of the amount certified shall be made by the Owner not later than forty-five (45) days after the Construction Manager receives the Application for Payment. Unless expressly otherwise agreed in this Contract, payments and payment disputes shall be governed by the Prompt Payment of Local Government Bills, Minnesota Statutes, Section 471.425 ("Prompt Payment Act").
(Federal, state or local laws may require payment within a certain period of time.)

§ 5.1.4 Progress Payments Where the Contract Sum is Based on a Stipulated Sum

§ 5.1.4.1 Each Application for Payment shall be based on the most recent schedule of values submitted by the Contractor on AIA G702 Application and Certificate for Payment in accordance with the Contract Documents. The schedule of

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values shall allocate the entire Contract Sum among the various portions of the Work. The schedule of values shall be prepared in such form, and supported by such data to substantiate its accuracy, as the Construction Manager and Architect may require. This schedule of values shall be used as a basis for reviewing the Contractor's Applications for Payment.

§ 5.1.4.2 Applications for Payment shall show the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment.

§ 5.1.4.3 In accordance with AIA Document A232™–2019, General Conditions of the Contract for Construction, Construction Manager as Adviser Edition, as modified and subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

§ 5.1.4.3.1 The amount of each progress payment shall first include:

.1 That portion of the Contract Sum properly allocable to completed Work;

.2 That portion of the Contract Sum properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction, or, if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing; and

.3 That portion of Construction Change Directives that the Architect determines, in the Architect's professional judgment, to be reasonably justified.

§ 5.1.4.3.2 The amount of each progress payment shall then be reduced by:

.1 The aggregate of any amounts previously paid by the Owner;

.2 The amount, if any, for Work that remains uncorrected and for which the Architect has previously withheld a Certificate for Payment as provided in Article 9 of AIA Document A232–2019;

.3 Any amount for which the Contractor does not intend to pay a Subcontractor or material supplier, unless the Work has been performed by others the Contractor intends to pay;

.4 For Work performed or defects discovered since the last payment application, any amount for which the Architect may withhold payment, or nullify a Certificate of Payment in whole or in part, as provided in Article 9 of AIA Document A232–2019; and

.5 Retainage withheld pursuant to Section 5.1.7.

(Paragraphs deleted)

§ 5.1.7 Retainage

§ 5.1.7.1 For each progress payment made prior to when the Work of this Contract is substantially complete, the Owner may withhold the following amount, as retainage, from the payment otherwise due:
(Insert a percentage or amount to be withheld as retainage from each Application for Payment. The amount of retainage may be limited by governing law.)

Five Percent (5%)

§ 5.1.7.1.1 The following items are not subject to retainage:
(Insert any items not subject to the withholding of retainage, such as general conditions, insurance, etc.)

For major items installed into the Work, the Contractor may request full payment for the items to ensure prompt delivery and fabrication. Such items shall be recommended by the Architect and approved by the Owner as not requiring retainage. Prompt payment for the items shall be documented by the Contractor to the Owner in the subsequent payment application by submitting a full lien release for the items. Major items may include mechanical units with long lead times, structural systems with long lead times, critical path systems or items, etc. Major items will be discussed and defined by Owner, Architect, Construction Manager and Contractor.

§ 5.1.7.2 Reduction or limitation of retainage, if any, shall be as follows:
(If the retainage established in Section 5.1.7.1 is to be modified prior to when the entire Work of this Contract is substantially complete, including modifications for completion of portions of the Work as provided in Section 3.4.2, insert provisions for such modifications.)

Prior to Substantial Completion and at the discretion of the Owner, retainage may be reduced. If the Work has been fifty percent (50%) completed as determined by the Architect and is satisfactory to the Owner, then ninety percent (90%) of the

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retained amount may be released to the Contractor for completed Work (with ten percent (10%) of the total retained by the Owner).

§ 5.1.7.3 Except as set forth in this Section 5.1.7.3, when the Work of this Contract is substantially complete, the Contractor may submit an Application for Payment that includes the retainage withheld from prior Applications for Payment pursuant to this Section 5.1.7. The Application for Payment submitted when the Work of this Contract is substantially complete shall not include retainage as follows:
(Insert any other conditions for release of retainage when the Work of this Contract is substantially complete, or upon Substantial Completion of the Work of all Contractors on the Project or portions thereof.)

Upon Substantial Completion, additional retainage may be returned to the Contractor as recommended by the Architect and Construction Manager and approved by the Owner to an amount sufficient to satisfactorily complete the Work. Retainage release will comply with Minnesota Statutes, Section 15.72 after Substantial Completion and punch list acceptance by the Owner.

§ 5.2 Final Payment
§ 5.2.1 Final Payment Where the Contract Sum is Based on a Stipulated Sum
§ 5.2.1.1 Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Contractor when

.1 the Contractor has fully performed the Contract except for the Contractor's responsibility to correct Work as provided in Article 12 of AIA Document A232–2019, and to satisfy other requirements, if any, which extend beyond final payment;
.2 a final Certificate for Payment or Project Certificate for Payment has been issued by the Architect; and
.3 all lien waivers and IC134 forms have been delivered to the Owner.

§ 5.2.1.2 The Owner's final payment to the Contractor shall be made no later than forty-five (45) days after the issuance of the Architect's final Certificate for Payment or Project Certificate for Payment, or as follows:

§ 5.2.2 Final Payment Where the Contract Sum is Based on the Cost of the Work with or without a Guaranteed Maximum Price
§ 5.2.2.1 Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Contractor when

.1 the Contractor has fully performed the Contract except for the Contractor's responsibility to correct Work as provided in Article 12 of AIA Document A232–2019, and to satisfy other requirements, if any, which extend beyond final payment;
.2 the Contractor has submitted a final accounting for the Cost of the Work, pursuant to Exhibit B, Determination of the Cost of the Work and a final Application for Payment; and
.3 a final Certificate for Payment or Project Certificate for Payment has been issued by the Architect in accordance with Exhibit B, Determination of the Cost of the Work.

§ 5.2.2.2 The Owner's final payment to the Contractor shall be made no later than 30 days after the issuance of the final Certificate for Payment or Project Certificate for Payment, or as follows:

§ 5.3 Payments due and unpaid under the Contract shall bear interest from the date payment is due at the rate stated below.
(Insert rate of interest agreed upon, if any.)

Zero %

ARTICLE 6 DISPUTE RESOLUTION
§ 6.1 Initial Decision Maker
The Architect will serve as Initial Decision Maker pursuant to Article 15 of AIA Document
(Paragraphs deleted)
A232–2019.

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§ 6.1.1 Mediation

The Owner or the Contractor may request mediation of any Claim submitted to the Initial Decision Maker before the decision becomes final and binding. The mediation shall be governed by the Construction Industry Mediation Rules of the American Arbitration Association in effect at the date of this contract. The request for mediation shall be made in writing by the party requesting mediation and the other party of this contract. The Owner and Contractor shall participate in mediation in good faith. The mediation shall be concluded within 60 days of the request. Mediation is not a condition precedent to commencing litigation. If litigation is commenced, the Owner and Contractor agree to mediate before any dispositive motion or trial.

§ 6.2 Binding Dispute Resolution

For any Claim subject to, but not resolved by, mediation pursuant to Article 15 of AIA Document A232–2019, the method of binding dispute resolution shall be as follows:
(Check the appropriate box.)

[ ] Arbitration pursuant to Article 15 of AIA Document A232–2019.

[X] Litigation in a state or federal court of competent jurisdiction located in Hennepin County, Minnesota.

[ ] Other: *(Specify)*

If the Owner and Contractor do not select a method of binding dispute resolution, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, Claims will be resolved by litigation in a court of competent jurisdiction.

ARTICLE 7 TERMINATION OR SUSPENSION

§ 7.1 Where the Contract Sum is a Stipulated Sum

§ 7.1.1 The Contract may be terminated by the Owner or the Contractor as provided in Article 14 of AIA Document A232–2019.

§ 7.1.1.1 If the Contract is terminated for the Owner's convenience in accordance with Article 14 of AIA Document A232–2019, then the Owner shall pay the Contractor a termination fee as follows:
(Insert the amount of, or method for determining, the fee, if any, payable to the Contractor following a termination for the Owner's convenience.)

Termination fee will be based on the percentage of Work completed and any materials purchased or in production at the time of termination. Said fee and justification shall be provided to the Owner by the Contractor within ten (10) days' notice of the termination.

§ 7.1.2 The Work may be suspended by the Owner as provided in Article 14 of AIA Document A232–2019.

(Paragraphs deleted)

ARTICLE 8 MISCELLANEOUS PROVISIONS

§ 8.1 Where reference is made in this Agreement to a provision of AIA Document A232–2019 or another Contract Document, the reference refers to that provision as amended or supplemented by other provisions of the Contract Documents.

§ 8.2 The Owner's representative:
(Name, address, email address, and other information)

Curtis Hartog, PE, Executive Director
Minneapolis Public Schools, SSD#1
Capital Planning, Construction & Maintenance
1250 West Broadway Avenue, Minneapolis, MN 55411

§ 8.3 The Contractor's representative:

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(Name, address, email address, and other information)

Johnie Sphuler
FP Division Manager
Nasseff Mechanical
122 S Wabasha St
St Paul, MN 55107

§ 8.4 Neither the Owner's nor the Contractor's representative shall be changed without ten days' prior notice to the other party.

§ 8.5 Record Keeping—Availability and Retention
Pursuant to Minnesota Statutes, Section 16C.05, subd. 5, Contractor agrees that the books, records, documents and accounting procedures and practices of Contractor, that are relevant to the Contract or transaction, are subject to examination by the Owner, the Owner's auditor, and the state auditor for a minimum of six (6) years. Contractor shall maintain such records for a minimum of six (6) years after final payment.

§ 8.6 Data Practices
Pursuant to Minnesota Statutes, Section 13.05, subd. 11, all of the data created, collected, received, stored, used, maintained, or disseminated by Contractor in performing this contract is subject to the requirements of the Minnesota Government Data Practices Act ("MGDPA"), Minnesota Statutes Chapter 13, and Contractor must comply with those requirements as if it were a government entity. The remedies in Minnesota Statutes, Section 13.08 apply to Contractor. Contractor does not have a duty to provide access to public data to the public if the public data are available from the Owner, except as required by the terms of this contract.

§ 8.7 Non-Discrimination
Pursuant to Minnesota Statutes, Section 181.59, the Contractor will take affirmative action to ensure that applicants are selected, and that employees are treated during employment, without regard to their race, color, creed, religion, national origin, sex, sexual orientation, marital status, status with regard to public assistance, membership or activity in a local civil rights commission, disability or age. The Contractor agrees to be bound by the provisions of Minnesota Statutes, Section 181.59, that prohibits certain discriminatory practices and the terms of said section are incorporated into this contract.

§ 8.8 Prompt Payment to Subcontractors
In accordance with the Prompt Payment Act, each Prime Contractor must pay any subcontractor within ten (10) days of the Prime Contractor's receipt of payment from the municipality for undisputed services provided by the subcontractor. The Subcontract must require the Prime Contractor to pay interest of 1-1/2 percent per month or any part of a month to the subcontractor on any undisputed amount not paid on time to the subcontractor. The minimum monthly interest penalty payment for an unpaid balance of $100 or more is $10. For an unpaid balance of less than $100, the Prime Contractor shall pay the actual penalty due to the subcontractor. A subcontractor who prevails in a civil action to collect interest penalties from a Prime Contractor must be awarded its costs and disbursements, including attorney's fees, incurred in bringing the action.

§ 8.9 Prevailing Wage
Contractor agrees that all laborers or mechanics working on the Project shall receive at least the prevailing wage rate in accordance with Minnesota Statutes Section 177.42, *et seq*. Contractor agrees further that it will incorporate any and all necessary contract language in its agreements with any subcontractors to allow Contractor to monitor and enforce the prevailing wage requirement for subcontractors of any tier.

§ 8.5 Insurance and Bonds
§ 8.5.1 The Owner and the Contractor shall purchase and maintain insurance as set forth EXH-C Owner Insurance.

§ 8.5.2 The Contractor shall provide bonds as set forth in AIA Document A132™–2019, Exhibit A, and elsewhere in the Contract Documents.

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§ 8.6 Notice in electronic format, pursuant to Article 1 of AIA Document A232–2019, may be given in accordance with AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, if completed, or as otherwise set forth below:
(If other than in accordance with AIA Document E203–2013, insert requirements for delivering notice in electronic format such as name, title, and email address of the recipient and whether and how the system will be required to generate a read receipt for the transmission.)

email to Owner's representative identified in Section 8.2

§ 8.7 Relationship of the Parties
Where the Contract is based on the Cost of the Work plus the Contractor's Fee, with or without a Guaranteed Maximum Price, the Contractor accepts the relationship of trust and confidence established by this Agreement and covenants with the Owner to cooperate with the Architect and exercise the Contractor's skill and judgment in furthering the interests of the Owner; to furnish efficient business administration and supervision; to furnish at all times an adequate supply of workers and materials; and to perform the Work in an expeditious and economical manner consistent with the Owner's interests. The Owner agrees to furnish and approve, in a timely manner, information required by the Contractor and to make payments to the Contractor in accordance with the requirements of the Contract Documents.

§ 8.8 Other provisions:

Owner prohibits Contractor from using the Work in any marketing material or business development practice. Contractor is prohibited from communication with any news outlet or public without Owner's written approval.

Floor plans, designs, wiring, safety and security measures shall be kept confidential by the Contractor, the Subcontractors, the Sub-Subcontractors (of any tier) during and after completion of the Work.

ARTICLE 9 ENUMERATION OF CONTRACT DOCUMENTS

§ 9.1 This Agreement is comprised of the following documents:

.1 AIA Document A132™–2019, Standard Form of Agreement Between Owner and Contractor, Construction Manager as Adviser Edition

.2 AIA Document A132™–2019, Exhibit A, Insurance and Bonds Exhibit

.3 AIA Document A232™–2019, General Conditions of the Contract for Construction, Construction Manager as Adviser Edition

.4 AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, dated as indicated below:
(Insert the date of the E203-2013 incorporated into this Agreement.)

Not Applicable

.5 Drawings

Number	Title	Date
139	North High School Renovations & CTE Center Vol 1 of 2	November 13, 2024
209	North High School Renovations & CTE Center Vol 2 of 2	November 13, 2024

.6 Specifications

Section	Title	Date	Pages
All Specifications	North High School Renovations and CTE Center Bid Package 4	November 13, 2024	1414

.7 Addenda, if any:

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Number	Date	Pages
1	December 2, 2024	70
2	December 9, 2024	165

Portions of Addenda relating to bidding or proposal requirements are not part of the Contract Documents unless the bidding or proposal requirements are also enumerated in this Article 9.

.8 Other Exhibits:

EXH-B Project Charter
EXH-C Owner Insurance
EXH-D Project Schedule
(Check all boxes that apply and include appropriate information identifying the exhibit where required.)

[ ]
(Paragraphs deleted)

[ ] Supplementary and other Conditions of the Contract:

Document	Title	Date	Pages

.9 Other documents, if any, listed below:
(List here any additional documents that are intended to form part of the Contract Documents. AIA Document A232–2019 provides that the advertisement or invitation to bid, Instructions to Bidders, sample forms, the Contractor's bid or proposal, portions of Addenda relating to bidding or proposal requirements, and other information furnished by the Owner in anticipation of receiving bids or proposals, are not part of the Contract Documents unless enumerated in this Agreement. Any such documents should be listed here only if intended to be part of the Contract Documents.)

Contractors Bid Documents

This Agreement is entered into as of the day and year first written above.

OWNER *(Signature)*	**CONTRACTOR** *(Signature)*
Tom Parent, Sr Operations Officer	Steve Treptow, Vice President
(Printed name and title)	*(Printed name and title)*

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Additions and Deletions Report for

AIA® Document A132® – 2019

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PAGE 1

AGREEMENT made as of the first___day of _February_____in the year 2025_

...

Minneapolis Public Schools Special School District #1
1250 West Broadway Avenue
Minneapolis, MN 55411

...

Nasseff Mechanical Contractors, Inc
122 S Wabasha St
St Paul, MN 55107

...

North High School Phase 4 Work Scope 21-A Fire Suppression
1500 James Avenue
Minneapolis, MN 55411

...

Kraus-Anderson Construction Company
501 South 8th Street
Minneapolis, MN 55405

...

LSE Architects
1401 Glenwood Avenue
Minneapolis, MN 55405

PAGE 2

The Contract Documents consist of this Agreement, Conditions of the Contract (General, Supplementary, and other Conditions), Drawings, Specifications, Addenda issued prior to execution of this Agreement, other documents ("Contract" or "Contract Documents") listed in this Agreement, and Modifications issued after execution of this Agreement, all of which form the Contract, and are as fully a part of the Contract as if attached to this Agreement or repeated herein. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations, or agreements, either written or oral. An enumeration of the Contract Documents, other than Modifications, appears in Article 9.

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§ 1.2 In the event that there are inconsistencies between any of the Project Contract Documents, all Contract Documents shall be construed together and shall be read with a purpose and intent to provide that the Contractor shall commit to fully complete its Project Work and services with the greater degree of commitment as referenced in the Contract Documents, including the plans and specifications, to work diligently to ensure completion of the Project in a timely and workmanlike manner and at the earliest stated times provided for in Project schedules, as they may be revised, and to ensure that Contractor, and all of its Subcontractors and suppliers complete the Project on schedule and within Project Contract Price, subject to approved change orders.

§ 1.3 Contractor acknowledges that it has had full, fair, and adequate opportunity to review all of the Project bidding and Contract Documents, that it has fully satisfied itself as to the scope and requirements of the Project, that it has fully and fairly investigated all Project site conditions and circumstances and Contract Documents, including any potential difficulties or interferences present in the same, that it has had the opportunity to ask questions during the bidding phase and that it has received adequate answers to any such questions, that it has had the opportunity to attend and fairly participate in all pre-bid conferences and pre-construction conferences, and that it has required the same of all of its Subcontractors.

PAGE 3

[**X**] A date set forth in a notice to proceed issued by the Owner.

...

Defined in EXH-D Project Schedule

§ 3.3.2 Subject to adjustments of the Contract Time as provided in the Contract Documents, if portions of the Work of all of the Contractors for the Project are to be completed prior to Substantial Completion of the entire Work of all of the Contractors for the Project, the Contractors shall achieve Substantial Completion of such portions by the following ~~dates:~~dates defined in EXH-D Project Schedule. Such portions of the Work not completed as defined in EXH-D Project Schedule shall be subject to liquidated damages as set forth in Article 4.5.

~~**Portion of Work** **Substantial Completion Date**~~

~~**§ 3.4 When the Work of this Contract, or any Portion Thereof, is Substantially Complete**~~
~~**§ 3.4.1** Subject to adjustments of the Contract Time as provided in the Contract Documents, the Contractor shall substantially complete the entire Work of this Contract:~~
~~*(Check one of the following boxes and complete the necessary information.)*~~

~~[–] Not later than (–) calendar days from the date of commencement of the Work.~~

~~[–] By the following date:~~

~~**§ 3.4.2** Subject to adjustments of the Contract Time as provided in the Contract Documents, if portions of the Work of this Contract are to be substantially complete prior to when the entire Work of this Contract shall be substantially complete, the Contractor shall substantially complete such portions by the following dates:~~

~~**Portion of Work** **Date to be substantially complete**~~

...

§ 4.1 The Owner shall pay the Contractor the Contract Sum in current funds for the Contractor's performance of the ~~Contract. The Contract Sum shall be one of the following:~~
~~*(Check the appropriate box.)*~~

~~[–] Stipulated Sum, in accordance with Section 4.2 below~~

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[–] Cost of the Work plus the Contractor's Fee, in accordance with Section 4.3 below

[–] Cost of the Work plus the Contractor's Fee with a Guaranteed Maximum Price, in accordance with Section 4.4 below

(Based on the selection above, complete Section 4.2, 4.3 or 4.4 below.)
Contract as defined in EXH-B Project Charter, subject to additions and deductions as provided in the Contract Documents.

...

§ 4.2.1 The Contract Sum shall be two hundred nineteen thousand, six hundred dollars ($ 219,600), subject to additions and deductions as provided in the Contract Documents.

...

§ 4.2.2.1 Alternates, if any, included in the Contract Sum:
Sum are defined in EXH-B Project Charter.

Item	Price

§ 4.2.2.2 Subject to the conditions noted below, the following in EXH-B Project Charter, alternates may be accepted by the Owner following execution of this Agreement. Upon acceptance, the Owner shall issue a Modification to this Agreement.
(Insert below each alternate and the conditions that must be met for the Owner to accept the alternate.)

Item	Price	Conditions for Acceptance

§ 4.2.3 Allowances, if any, included in the Contract Sum:Sum are defined in EXH-B Project Charter.

...

§ 4.2.4 Unit prices, if any:
(Identify the item and state the unit price, and quantity limitations, if any, to which the unit price will be applicable.)any are defined in EXH-B Project Charter.

Item	Units and Limitations	Price per Unit ($0.00)

§ 4.3 Cost of the Work Plus Contractor's Fee without a Guaranteed Maximum PriceAllowances, if any, included in the Contract Sum are defined in EXH-B Project Charter.
§ 4.3.1 The Cost of the Work is as defined in Exhibit B, Determination of the Cost of the Work.

§ 4.3.2 The Contractor's Fee:
(State a lump sum, percentage of Cost of the Work or other provision for determining the Contractor's Fee.)

§ 4.3.3 The method of adjustment of the Contractor's Fee for changes in the Work:

§ 4.3.4 Limitations, if any, on a Subcontractor's overhead and profit for increases in the cost of its portion of the Work:

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~~§ 4.3.5 Rental rates for Contractor-owned equipment shall not exceed ( ) percent (%) of the standard rental rate paid at the place of the Project.~~

~~§ 4.3.6 Unit prices, if any:~~
~~*(Identify the item and state the unit price and quantity limitations, if any, to which the unit price will be applicable.)*~~

~~Item~~	~~Units and Limitations~~	~~Price per Unit ($0.00)~~

~~§ 4.3.7 The Contractor shall prepare and submit to the Construction Manager, within 14 days of executing this Agreement, a written Control Estimate for the Owner's review and approval. The Control Estimate shall include the items in Section B.1 of Exhibit B, Determination of the Cost of the Work.~~

~~§ 4.4 Cost of the Work Plus Contractor's Fee with a Guaranteed Maximum Price~~Unit prices, if any, are defined in EXH-B Project Charter.
~~§ 4.4.1 The Cost of the Work is as defined in Exhibit B, Determination of the Cost of the Work.~~

~~§ 4.4.2 The Contractor's Fee:~~
~~*(State a lump sum, percentage of Cost of the Work or other provision for determining the Contractor's Fee.)*~~

~~§ 4.4.3 The method of adjustment of the Contractor's Fee for changes in the Work:~~

~~§ 4.4.4 Limitations, if any, on a Subcontractor's overhead and profit for increases in the cost of its portion of the Work:~~

~~§ 4.4.5 Rental rates for Contractor-owned equipment shall not exceed ( ) percent (%) of the standard rental rate paid at the place of the Project.~~

~~§ 4.4.6 Unit Prices, if any:~~
~~*(Identify the item and state the unit price and quantity limitations, if any, to which the unit price will be applicable.)*~~

~~Item~~	~~Units and Limitations~~	~~Price per Unit ($0.00)~~

~~§ 4.4.7 Guaranteed Maximum Price~~
~~§ 4.4.7.1 The Contract Sum is guaranteed by the Contractor not to exceed ($), subject to additions and deductions by Change Order as provided in the Contract Documents. This maximum sum is referred to in the Contract Documents as the Guaranteed Maximum Price. Costs which would cause the Guaranteed Maximum Price to be exceeded shall be paid by the Contractor without reimbursement by the Owner.~~

~~§ 4.4.7.2 Alternates~~
~~§ 4.4.7.2.1 Alternates, if any, included in the Guaranteed Maximum Price:~~

~~Item~~	~~Price~~

~~§ 4.4.7.2.2 Subject to the conditions noted below, the following alternates may be accepted by the Owner following execution of this Agreement. Upon acceptance, the Owner shall issue a Modification to this Agreement.~~
~~*(Insert below each alternate and the conditions that must be met for the Owner to accept the alternate.)*~~

~~Item~~	~~Price~~	~~Conditions for Acceptance~~

~~§ 4.4.7.3 Allowances, if any, included in the Guaranteed Maximum Price:~~
~~*(Identify each allowance.)*~~

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~~Item~~ ~~Price~~

~~§ 4.4.7.4 Assumptions, if any, upon which the Guaranteed Maximum Price is based:~~
~~*(Identify each assumption.)*~~

~~§ 4.4.8 To the extent that the Contract Documents are anticipated to require further development, the Guaranteed Maximum Price includes the costs attributable to such further development consistent with the Contract Documents and reasonably inferable therefrom. Such further development does not include changes in scope, systems, kinds and quality of materials, finishes, or equipment, all of which, if required, shall be incorporated by Change Order.~~

~~§ 4.4.9 The Owner shall authorize preparation of revisions to the Contract Documents that incorporate the agreed-upon assumptions contained in Section 4.4.7.4. The Owner shall promptly furnish such revised Contract Documents to the Contractor. The Contractor shall notify the Owner and Architect of any inconsistencies between the agreed-upon assumptions contained in Section 4.4.7.4 and the revised Contract Documents.~~

PAGE 4

Contractor and Owner recognize that time is of the essence for the Project and the Owner will suffer financial loss if the Work is not completed in the time specified in the Contract Documents. The parties also recognize the delays, expenses, and difficulties involved in proving in a legal proceeding the actual loss suffered by the Owner if the Work is not completed on time. Accordingly, instead of requiring such proof, the Owner and Contractor agree that as liquidated damages for delay (but not as penalty), Contractor shall pay Owner One Thousand Dollars ($1,000.00) per calendar day for each day that expires after the time specified for Substantial Completion in EXH-D Project Schedule until such time the Work is determined to be substantially complete by the Owner.

After Substantial Completion, if Contractor neglects, refuses, or fails to complete the remaining Work within the Contract Time specified in the Contract Documents, the Contractor shall pay the Owner One Thousand Dollars ($1,000.00) per day that expires after the time specified in the Contract Documents for Final Completion and readiness for Final Payment until the Work is completed.

...

None

...

§ 5.1.1 Based upon Applications for Payment submitted to the Construction Manager by the Contractor, and Certificates for Payment issued by the Construction Manager and ~~Architect,~~ Architect and approval by the Owner's Representative, the Owner shall make progress payments on account of the Contract Sum, to the Contractor, as provided below and elsewhere in the Contract Documents.

§ 5.1.2 The period covered by each Application for Payment shall be one calendar month ending on the last day of the ~~month, or as follows:~~
month.

§ 5.1.3 ~~Provided that~~ When an Application for Payment is received by the Construction ~~Manager not later than the day of a month, the Owner shall make payment of the amount certified to the Contractor not later than the day of the month. If an Application for Payment is received by the Construction Manager after the application date fixed above, payment of the amount certified~~ Manager, payment of the amount certified shall be made by the Owner not later than forty-five (45) days after the Construction Manager receives the Application for Payment. Unless expressly otherwise agreed in this Contract, payments and payment disputes shall be governed by the Prompt Payment of Local Government Bills, Minnesota Statutes, Section 471.425 ("Prompt Payment Act").

...

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§ 5.1.4.1 Each Application for Payment shall be based on the most recent schedule of values submitted by the Contractor on AIA G702 Application and Certificate for Payment in accordance with the Contract Documents. The schedule of values shall allocate the entire Contract Sum among the various portions of the Work. The schedule of values shall be prepared in such form, and supported by such data to substantiate its accuracy, as the Construction Manager and Architect may require. This schedule of values shall be used as a basis for reviewing the Contractor's Applications for Payment.
PAGE 5

§ 5.1.4.3 In accordance with AIA Document A232™–2019, General Conditions of the Contract for Construction, Construction Manager as Adviser Edition, as modified and subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

...

~~**§ 5.1.5 Progress Payments Where the Contract Sum is Based on the Cost of the Work without a Guaranteed Maximum Price**~~

~~**§ 5.1.5.1** With each Application for Payment, the Contractor shall submit the cost control information required in Exhibit B, Determination of the Cost of the Work, along with payrolls, petty cash accounts, receipted invoices, or invoices with check vouchers attached, and any other evidence required by the Owner, Construction Manager or Architect to demonstrate that payments already made by the Contractor on account of the Cost of the Work equal or exceed progress payments already received by the Contractor, plus payrolls for the period covered by the present Application for Payment, less that portion of the payments attributable to the Contractor's Fee.~~

~~**§ 5.1.5.2** Applications for Payment shall show the Cost of the Work actually incurred by the Contractor through the end of the period covered by the Application for Payment and for which the Contractor has made or intends to make actual payment prior to the next Application for Payment.~~

~~**§ 5.1.5.3** In accordance with AIA Document A232–2019 and subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:~~

~~**§ 5.1.5.3.1** The amount of each progress payment shall first include:~~

- ~~**.1** The Cost of the Work as described in Exhibit B, Determination of the Cost of the Work;~~
- ~~**.2** That portion of Construction Change Directives that the Architect determines, in the Architect's professional judgment, to be reasonably justified; and~~
- ~~**.3** The Contractor's Fee computed upon the Cost of the Work described in the preceding Section 5.1.5.3.1.1 at the rate stated in Section 4.3.2; or if the Contractor's Fee is stated as a fixed sum in Section 4.3.2 an amount which bears the same ratio to that fixed-sum Fee as the Cost of the Work included in Section 5.1.5.3.1.1 bears to a reasonable estimate of the probable Cost of the Work upon its completion.~~

~~**§ 5.1.5.3.2** The amount of each progress payment shall then be reduced by:~~

- ~~**.1** The aggregate of any amounts previously paid by the Owner;~~
- ~~**.2** The amount, if any, for Work that remains uncorrected and for which the Architect has previously withheld a Certificate for Payment as provided in Article 9 of AIA Document A232–2019;~~
- ~~**.3** Any amount for which the Contractor does not intend to pay a Subcontractor or material supplier, unless the Work has been performed by others the Contractor intends to pay;~~
- ~~**.4** For Work performed or defects discovered since the last payment application, any amount for which the Architect may withhold payment, or nullify a Certificate of Payment in whole or in part, as provided in Article 9 of AIA Document A232–2019;~~
- ~~**.5** The shortfall, if any, indicated by the Contractor in the documentation required by Section 5.1.5.1 to substantiate prior Applications for Payment, or resulting from errors subsequently discovered by the Owner's auditors in such documentation; and~~
- ~~**.6** Retainage withheld pursuant to Section 5.1.7.~~

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§ 5.1.5.4 The Owner, Construction Manager and Contractor shall agree upon a mutually acceptable procedure for review and approval of payments to Subcontractors and the percentage of retainage held on Subcontracts, and the Contractor shall execute subcontracts in accordance with those agreements.

§ 5.1.5.5 In taking action on the Contractor's Applications for Payment, the Construction Manager and Architect shall be entitled to rely on the accuracy and completeness of the information furnished by the Contractor, and such action shall not be deemed to be a representation that (1) the Construction Manager and Architect have made a detailed examination, audit or arithmetic verification of the documentation submitted in accordance with Article 5 or other supporting data; (2) that the Construction Manager and Architect have made exhaustive or continuous on-site inspections; or (3) that the Construction Manager and Architect have made examinations to ascertain how or for what purposes the Contractor has used amounts previously paid on account of the Contract. Such examinations, audits and verifications, if required by the Owner, will be performed by the Owner's auditors acting in the sole interest of the Owner.

§ 5.1.5.6 Except with the Owner's prior approval, the Contractor shall not make advance payments to suppliers for materials or equipment which have not been delivered and stored at the site.

§ 5.1.5.7 If final completion of the Work is materially delayed through no fault of the Contractor, then the Owner shall pay the Contractor any additional amounts in accordance with Article 9 of AIA Document A232–2019.

§ 5.1.6 Progress Payments Where the Contract Sum is Based on the Cost of the Work with a Guaranteed Maximum Price

§ 5.1.6.1 With each Application for Payment, the Contractor shall submit payrolls, petty cash accounts, receipted invoices or invoices with check vouchers attached, and any other evidence required by the Owner, Construction Manager or Architect to demonstrate that payments already made by the Contractor on account of the Cost of the Work equal or exceed progress payments already received by the Contractor plus payrolls for the period covered by the present Application for Payment, less that portion of the progress payments attributable to the Contractor's Fee.

§ 5.1.6.2 Each Application for Payment shall be based on the most recent schedule of values submitted by the Contractor in accordance with the Contract Documents. The schedule of values shall allocate the entire Guaranteed Maximum Price among: (1) the various portions of the Work; (2) any contingency for costs that are included in the Guaranteed Maximum Price but not otherwise allocated to another line item or included in a Change Order; and (3) the Contractor's Fee.

§ 5.1.6.2.1 The schedule of values shall be prepared in such form, and supported by such data to substantiate its accuracy, as the Construction Manager and Architect may require. This schedule of values shall be used as a basis for reviewing the Contractor's Applications for Payment.

§ 5.1.6.2.2 The allocation of the Guaranteed Maximum Price under this Section 5.1.6.2 shall not constitute a separate guaranteed maximum price for the Cost of the Work of each individual line item in the schedule of values.

§ 5.1.6.2.3 When the Contractor allocates costs from a contingency to another line item in the schedule of values, the Contractor shall submit supporting documentation to the Architect and Construction Manager.

§ 5.1.6.3 Applications for Payment shall show the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment. The percentage of completion shall be the lesser of (1) the percentage of that portion of the Work which has actually been completed; or (2) the percentage obtained by dividing (a) the expense that has actually been incurred by the Contractor on account of that portion of the Work and for which the Contractor has made payment or intends to make payment prior to the next Application for Payment by (b) the share of the Guaranteed Maximum Price allocated to that portion of the Work in the schedule of values.

§ 5.1.6.4 In accordance with AIA Document A232–2019, and subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

§ 5.1.6.4.1 The amount of each progress payment shall first include:

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.1 That portion of the Guaranteed Maximum Price properly allocable to completed Work as determined by multiplying the percentage of completion of each portion of the Work by the share of the Guaranteed Maximum Price allocated to that portion of the Work in the most recent schedule of values;

.2 That portion of the Guaranteed Maximum Price properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction or, if approved in writing in advance by the Owner, suitably stored off the site at a location agreed upon in writing;

.3 That portion of Construction Change Directives that the Architect determines, in the Architect's professional judgment, to be reasonably justified; and

.4 The Contractor's Fee, computed upon the Cost of the Work described in the preceding Sections 5.1.6.4.1.1 and 5.1.6.4.1.2 at the rate stated in Section 4.4.2 or, if the Contractor's Fee is stated as a fixed sum in that Section, an amount that bears the same ratio to that fixed-sum fee as the Cost of the Work included in Sections 5.1.6.4.1.1 and 5.1.6.4.1.2 bears to a reasonable estimate of the probable Cost of the Work upon its completion.

§ 5.1.6.4.2 The amount of each progress payment shall then be reduced by:

.1 The aggregate of any amounts previously paid by the Owner;

.2 The amount, if any, for Work that remains uncorrected and for which the Architect has previously withheld a Certificate for Payment as provided in Article 9 of AIA Document A232–2019;

.3 Any amount for which the Contractor does not intend to pay a Subcontractor or material supplier, unless the Work has been performed by others the Contractor intends to pay;

.4 For Work performed or defects discovered since the last payment application, any amount for which the Architect may withhold payment, or nullify a Certificate of Payment in whole or in part, as provided in Article 9 of AIA Document A232–2019;

.5 The shortfall, if any, indicated by the Contractor in the documentation required by Section 5.1.6.1 to substantiate prior Applications for Payment, or resulting from errors subsequently discovered by the Owner's auditors in such documentation; and

.6 Retainage withheld pursuant to Section 5.1.7.

§ 5.1.6.5 The Owner and the Contractor shall agree upon a mutually acceptable procedure for review and approval of payments to Subcontractors and the percentage of retainage held on Subcontracts, and the Contractor shall execute subcontracts in accordance with those agreements.

§ 5.1.6.6 In taking action on the Contractor's Applications for Payment, the Construction Manager and Architect shall be entitled to rely on the accuracy and completeness of the information furnished by the Contractor and such action shall not be deemed to be a representation that (1) the Construction Manager or Architect have made a detailed examination, audit, or arithmetic verification of the documentation submitted in accordance with Section 5.1.6.1 or other supporting data; (2) that the Construction Manager or Architect have made exhaustive or continuous on-site inspections; or (3) that the Construction Manager or Architect have made examinations to ascertain how or for what purposes the Contractor has used amounts previously paid on account of the Contract. Such examinations, audits, and verifications, if required by the Owner, will be performed by the Owner's auditors acting in the sole interest of the Owner.

§ 5.1.6.7 Except with the Owner's prior approval, the Contractor shall not make advance payments to suppliers for materials or equipment which have not been delivered and stored at the site.

§ 5.1.6.8 If final completion of the Work is materially delayed through no fault of the Contractor, then the Owner shall pay the Contractor any additional amounts in accordance with Article 9 of AIA Document A232-2019.

...

Five Percent (5%)

...

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For major items installed into the Work, the Contractor may request full payment for the items to ensure prompt delivery and fabrication. Such items shall be recommended by the Architect and approved by the Owner as not requiring retainage. Prompt payment for the items shall be documented by the Contractor to the Owner in the subsequent payment application by submitting a full lien release for the items. Major items may include mechanical units with long lead times, structural systems with long lead times, critical path systems or items, etc. Major items will be discussed and defined by Owner, Architect, Construction Manager and Contractor.

...

Prior to Substantial Completion and at the discretion of the Owner, retainage may be reduced. If the Work has been fifty percent (50%) completed as determined by the Architect and is satisfactory to the Owner, then ninety percent (90%) of the retained amount may be released to the Contractor for completed Work (with ten percent (10%) of the total retained by the Owner).

PAGE 6

Upon Substantial Completion, additional retainage may be returned to the Contractor as recommended by the Architect and Construction Manager and approved by the Owner to an amount sufficient to satisfactorily complete the Work. Retainage release will comply with Minnesota Statutes, Section 15.72 after Substantial Completion and punch list acceptance by the Owner.

...

.1 the Contractor has fully performed the Contract except for the Contractor's responsibility to correct Work as provided in Article 12 of AIA Document A232–2019, and to satisfy other requirements, if any, which extend beyond final payment; ~~and~~

.2 a final Certificate for Payment or Project Certificate for Payment has been issued by ~~the Architect.~~the Architect; and

.3 all lien waivers and IC134 forms have been delivered to the Owner.

§ 5.2.1.2 The Owner's final payment to the Contractor shall be made no later than ~~30~~ forty-five (45) days after the issuance of the Architect's final Certificate for Payment or Project Certificate for Payment, or as follows:

...

§ 5.3 Payments due and unpaid under the Contract shall bear interest from the date payment is due at the rate stated ~~below, or in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located.~~below.

...

Zero %

...

The Architect will serve as Initial Decision Maker pursuant to Article 15 of AIA Document ~~A232–2019, unless the parties appoint below another individual, not a party to this Agreement, to serve as Initial Decision Maker.~~
~~*(If the parties mutually agree, insert the name, address and other contact information of the Initial Decision Maker, if other than the Architect.)*~~

A232–2019.

§ 6.1.1 Mediation

The Owner or the Contractor may request mediation of any Claim submitted to the Initial Decision Maker before the decision becomes final and binding. The mediation shall be governed by the Construction Industry Mediation Rules of the American Arbitration Association in effect at the date of this contract. The request for mediation shall be made in

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writing by the party requesting mediation and the other party of this contract. The Owner and Contractor shall participate in mediation in good faith. The mediation shall be concluded within 60 days of the request. Mediation is not a condition precedent to commencing litigation. If litigation is commenced, the Owner and Contractor agree to mediate before any dispositive motion or trial.

PAGE 7

[ ] ~~Litigation in a court of competent jurisdiction.~~ [X] Litigation in a state or federal court of competent jurisdiction located in Hennepin County, Minnesota.

...

Termination fee will be based on the percentage of Work completed and any materials purchased or in production at the time of termination. Said fee and justification shall be provided to the Owner by the Contractor within ten (10) days' notice of the termination.

...

~~**§ 7.2 Where the Contract Sum is Based on the Cost of the Work with or without a Guaranteed Maximum Price**~~

~~**§ 7.2.1 Termination**~~

~~**§ 7.2.1.1** The Contract may be terminated by the Owner or the Contractor as provided in Article 14 of AIA Document A232–2019.~~

~~**§ 7.2.1.2 Termination by the Owner for Cause**~~

~~**§ 7.2.1.2.1** If the Owner terminates the Contract for cause as provided in Article 14 of AIA Document A232–2019, the Owner shall then only pay the Contractor an amount as follows:~~

- ~~**.1** Take the Cost of the Work incurred by the Contractor to the date of termination;~~
- ~~**.2** Add the Contractor's Fee, computed upon the Cost of the Work to the date of termination at the rate stated in Section 4.3.2 or 4.4.2, as applicable, or, if the Contractor's Fee is stated as a fixed sum in that Section, an amount that bears the same ratio to that fixed-sum Fee as the Cost of the Work at the time of termination bears to a reasonable estimate of the probable Cost of the Work upon its completion;~~
- ~~**.3** Subtract the aggregate of previous payments made by the Owner; and~~
- ~~**.4** Subtract the costs and damages incurred, or to be incurred, by the Owner under Article 14 of AIA Document A232–2019.~~

~~**§ 7.2.1.2.2** When the Contract Sum is based on the Cost of the Work with a Guaranteed Maximum Price, if the Owner terminates the Contract for cause as provided in Article 14 of AIA Document A232-2019, the amount, if any, to be paid to the Contractor under Article 14 of AIA Document A232-2019 shall not cause the Guaranteed Maximum Price to be exceeded, nor shall it exceed the amount calculated in Section 7.2.1.2.1.~~

~~**§ 7.2.1.2.3** The Owner shall also pay the Contractor fair compensation, either by purchase or rental at the election of the Owner, for any equipment owned by the Contractor that the Owner elects to retain and that is not otherwise included in the Cost of the Work under Section 7.2.1.2.1.1. To the extent that the Owner elects to take legal assignment of subcontracts and purchase orders (including rental agreements), the Contractor shall, as a condition of receiving the payments referred to in this Article 7, execute and deliver all such papers and take all such steps, including the legal assignment of such subcontracts and other contractual rights of the Contractor, as the Owner may require for the purpose of fully vesting in the Owner the rights and benefits of the Contractor under such subcontracts or purchase orders. All Subcontracts, purchase orders and rental agreements entered into by the Contractor will contain provisions allowing for assignment to the Owner as described above.~~

~~**§ 7.2.1.3 Termination by the Owner for Convenience**~~

~~If the Owner terminates the Contract for convenience in accordance with Article 14 of AIA Document A232–2019, then the Owner shall pay the Contractor a termination fee as follows:~~

~~*(Insert the amount of or method for determining the fee, if any, payable to the Contractor following a termination for the Owner's convenience.)*~~

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~~§ 7.3 Suspension~~

~~The Work may be suspended by the Owner as provided in Article 14 of AIA Document A232–2019; in such case, the Contract Sum and Contract Time shall be increased as provided in Article 14 of AIA Document A232–2019, except that the term "profit" shall be understood to mean the Contractor's Fee as described in Section 4.3.2 or 4.4.2, as applicable, of this Agreement.~~

...

Curtis Hartog, PE, Executive Director
Minneapolis Public Schools, SSD#1
Capital Planning, Construction & Maintenance
1250 West Broadway Avenue, Minneapolis, MN 55411
PAGE 8

Johnie Sphuler
FP Division Manager
Nasseff Mechanical
122 S Wabasha St
St Paul, MN 55107

...

§ 8.5 Record Keeping—Availability and Retention

Pursuant to Minnesota Statutes, Section 16C.05, subd. 5, Contractor agrees that the books, records, documents and accounting procedures and practices of Contractor, that are relevant to the Contract or transaction, are subject to examination by the Owner, the Owner's auditor, and the state auditor for a minimum of six (6) years. Contractor shall maintain such records for a minimum of six (6) years after final payment.

§ 8.6 Data Practices

Pursuant to Minnesota Statutes, Section 13.05, subd. 11, all of the data created, collected, received, stored, used, maintained, or disseminated by Contractor in performing this contract is subject to the requirements of the Minnesota Government Data Practices Act ("MGDPA"), Minnesota Statutes Chapter 13, and Contractor must comply with those requirements as if it were a government entity. The remedies in Minnesota Statutes, Section 13.08 apply to Contractor. Contractor does not have a duty to provide access to public data to the public if the public data are available from the Owner, except as required by the terms of this contract.

§ 8.7 Non-Discrimination

Pursuant to Minnesota Statutes, Section 181.59, the Contractor will take affirmative action to ensure that applicants are selected, and that employees are treated during employment, without regard to their race, color, creed, religion, national origin, sex, sexual orientation, marital status, status with regard to public assistance, membership or activity in a local civil rights commission, disability or age. The Contractor agrees to be bound by the provisions of Minnesota Statutes, Section 181.59, that prohibits certain discriminatory practices and the terms of said section are incorporated into this contract.

§ 8.8 Prompt Payment to Subcontractors

In accordance with the Prompt Payment Act, each Prime Contractor must pay any subcontractor within ten (10) days of the Prime Contractor's receipt of payment from the municipality for undisputed services provided by the subcontractor. The Subcontract must require the Prime Contractor to pay interest of 1-1/2 percent per month or any part of a month to the subcontractor on any undisputed amount not paid on time to the subcontractor. The minimum monthly interest penalty payment for an unpaid balance of $100 or more is $10. For an unpaid balance of less than $100, the Prime Contractor shall pay the actual penalty due to the subcontractor. A subcontractor who prevails in a civil action to collect interest penalties from a Prime Contractor must be awarded its costs and disbursements, including attorney's fees, incurred in bringing the action.

§ 8.9 Prevailing Wage

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Contractor agrees that all laborers or mechanics working on the Project shall receive at least the prevailing wage rate in accordance with Minnesota Statutes Section 177.42, *et seq*. Contractor agrees further that it will incorporate any and all necessary contract language in its agreements with any subcontractors to allow Contractor to monitor and enforce the prevailing wage requirement for subcontractors of any tier.

§ 8.5.1 The Owner and the Contractor shall purchase and maintain insurance as set forth ~~in AIA Document A132™–2019, Standard Form of Agreement Between Owner and Contractor, Construction Manager as Adviser Edition, Exhibit A, Insurance and Bonds, and elsewhere in the Contract Documents.~~EXH-C Owner Insurance.

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§ 8.6 Notice in electronic format, pursuant to Article 1 of AIA Document A232–2019, may be given in accordance with ~~a building information modeling exhibit,~~ AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, if completed, or as otherwise set forth below:
(If other than in accordance with ~~a building information modeling exhibit,~~ AIA Document E203–2013, insert requirements for delivering notice in electronic format such as name, title, and email address of the recipient and whether and how the system will be required to generate a read receipt for the transmission.)

email to Owner's representative identified in Section 8.2

...

Owner prohibits Contractor from using the Work in any marketing material or business development practice. Contractor is prohibited from communication with any news outlet or public without Owner's written approval.

Floor plans, designs, wiring, safety and security measures shall be kept confidential by the Contractor, the Subcontractors, the Sub-Subcontractors (of any tier) during and after completion of the Work.

...

.4 ~~Building Information Modeling Exhibit, if completed:~~AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, dated as indicated below:
(Insert the date of the E203-2013 incorporated into this Agreement.)

Not Applicable

...

139	North High School Renovations & CTE Center Vol 1 of 2	November 13, 2024	
209	North High School Renovations & CTE Center Vol 2 of 2	November 13, 2024	

...

All Specifications	North High School Renovations and CTE Center Bid Package 4	November 13, 2024	1414

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1	December 2, 2024	70
2	December 9, 2024	165

...

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EXH-B Project Charter
EXH-C Owner Insurance
EXH-D Project Schedule
(Check all boxes that apply and include appropriate information identifying the exhibit where required.)

~~*[ ] AIA Document A132™ 2019, Exhibit B, Determination of the Cost of the Work*~~

[ ] ~~AIA Document E235™ 2019, Sustainable Projects Exhibit, Construction Manager as Adviser Edition, dated as indicated below:~~
~~*(Insert the date of the E235-2019 incorporated into this Agreement.)*~~

~~[ ] The Sustainability Plan:~~

~~Title~~	~~Date~~	~~Pages~~

...

Contractors Bid Documents

...

Tom Parent, Sr Operations Officer

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I, , hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with its associated Additions and Deletions Report and this certification at 15:13:22 CT on 02/03/2025 under Order No. 4104251278 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document A132™ – 2019, Standard Form of Agreement Between Owner and Contractor, Construction Manager as Adviser Edition, other than those additions and deletions shown in the associated Additions and Deletions Report.



(Signed)

Curtis Hartog, Executive Director

(Title)

2/3/2025

(Dated)

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AIA® Document A132® – 2019 Exhibit A

Insurance and Bonds

This Insurance and Bonds Exhibit is part of the Agreement, between the Owner and the Contractor, dated the _first_ day of _February____ in the year _2025
(In words, indicate day, month, and year.)

for the following **PROJECT**:
(Name and location or address)

North High School Phase 4 Work Scope 21-A Fire Suppression
1500 James Avenue, Minneapolis, MN 55411

THE OWNER:
(Name, legal status, and address)

Minneapolis Public Schools Special School District #1
1250 West Broadway Avenue
Minneapolis, MN 55411

THE CONTRACTOR:
(Name, legal status, and address)
Nasseff Mechanical Contractors, Inc
122 S Wabasha St
St Paul, MN 55107

TABLE OF ARTICLES

A.1 GENERAL

A.2 OWNER'S INSURANCE

A.3 CONTRACTOR'S INSURANCE AND BONDS

A.4 SPECIAL TERMS AND CONDITIONS

ARTICLE A.1 GENERAL

The Owner and Contractor shall purchase and maintain insurance, and provide bonds, as set forth in this Exhibit. As used in this Exhibit, the term General Conditions refers to AIA Document A232™–2019, General Conditions of the Contract for Construction.

ARTICLE A.2 OWNER'S INSURANCE

§ A.2.1 General

Prior to commencement of the Work, the Owner shall secure the insurance, and provide evidence of the coverage, required under this Article A.2 and, upon the Contractor's request, provide a copy of the property insurance policy or policies required by Section A.2.3. The copy of the policy or policies provided shall contain all applicable conditions, definitions, exclusions, and endorsements.

§ A.2.2 Liability Insurance

The Owner shall be responsible for purchasing and maintaining the Owner's usual general liability insurance.

ADDITIONS AND DELETIONS:
The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

This document is intended to be used in conjunction with AIA Document A232™–2019, General Conditions of the Contract for Construction. Article 11 of A232™–2019 contains additional insurance provisions

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§ A.2.3 Required Property Insurance

§ A.2.3.1 Unless this obligation is placed on the Contractor pursuant to Section A.3.3.2.1, the Owner shall purchase and maintain, from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located, property insurance policy form and sufficient to cover the total value of the entire Project on a replacement cost basis. The Owner's property insurance coverage shall be no less than the amount of the initial Contract Sum, plus the value of subsequent Modifications and labor performed and materials or equipment supplied by others. The property insurance shall be maintained until Substantial Completion and thereafter as provided in Section A.2.3.1.3, unless otherwise provided in the Contract Documents or otherwise agreed in writing by the parties to this Agreement. This insurance shall include the interests of the Owner, Contractor, Subcontractors, and Sub-subcontractors in the Project as insureds. This insurance shall include the interests of mortgagees as loss payees.

§ A.2.3.1.1 Causes of Loss. The insurance required by this Section A.2.3.1 shall provide coverage for direct physical loss or damage, and shall not exclude the risks of fire, explosion, theft, vandalism, malicious mischief, collapse, earthquake, flood, or windstorm. The insurance shall also provide coverage for ensuing loss or resulting damage from error, omission, or deficiency in construction methods, design, specifications, workmanship, or materials. Sub-limits, if any, are as follows:
(Indicate below the cause of loss and any applicable sub-limit.)

Causes of Loss	Sub-Limit

§ A.2.3.1.2 Specific Required Coverages. The insurance required by this Section A.2.3.1 shall provide coverage for loss or damage to false work and other temporary structures, and to building systems from testing and startup. The insurance shall also cover debris removal, including demolition occasioned by enforcement of any applicable legal requirements, and reasonable compensation for the Architect's, Construction Manager's, and Contractor's services and expenses required as a result of such insured loss, including claim preparation expenses. Sub-limits, if any, are as follows:
(Indicate below type of coverage and any applicable sub-limit for specific required coverages.)

Coverage	Sub-Limit

§ A.2.3.1.3 Unless the parties agree otherwise, upon Substantial Completion, the Owner shall continue the insurance required by Section A.2.3.1 or, if necessary, replace the insurance policy required under Section A.2.3.1 with property insurance written for the total value of the Project that shall remain in effect until expiration of the period for correction of the Work set forth in Section 12.2.2 of the General Conditions.

§ A.2.3.1.4 Deductibles and Self-Insured Retentions. If the insurance required by this Section A.2.3 is subject to deductibles or self-insured retentions, the Owner shall be responsible for all loss not covered because of such deductibles or retentions.

§ A.2.3.2 Occupancy or Use Prior to Substantial Completion. The Owner's occupancy or use of any completed or partially completed portion of the Work prior to Substantial Completion shall not commence until the insurance company or companies providing the insurance under Section A.2.3.1 have consented in writing to the continuance of coverage. The Owner and the Contractor shall take no action with respect to partial occupancy or use that would cause cancellation, lapse, or reduction of insurance, unless they agree otherwise in writing.

§ A.2.3.3 Insurance for Existing Structures

If the Work involves remodeling an existing structure or constructing an addition to an existing structure, the Owner shall purchase and maintain, until the expiration of the period for correction of Work as set forth in Section 12.2.2 of the General Conditions, "all-risks" property insurance, on a replacement cost basis, protecting the existing structure against direct physical loss or damage from the causes of loss identified in Section A.2.3.1, notwithstanding the undertaking of the Work. The Owner shall be responsible for all co-insurance penalties.

§ A.2.4 Optional Extended Property Insurance.

The Owner shall purchase and maintain the insurance selected and described below.

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(Select the types of insurance the Owner is required to purchase and maintain by placing an X in the box(es) next to the description(s) of selected insurance. For each type of insurance selected, indicate applicable limits of coverage or other conditions in the fill point below the selected item.)

[ ] **§ A.2.4.1 Loss of Use, Business Interruption, and Delay in Completion Insurance**, to reimburse the Owner for loss of use of the Owner's property, or the inability to conduct normal operations due to a covered cause of loss.

[ ] **§ A.2.4.2 Ordinance or Law Insurance**, for the reasonable and necessary costs to satisfy the minimum requirements of the enforcement of any law or ordinance regulating the demolition, construction, repair, replacement or use of the Project.

[ ] **§ A.2.4.3 Expediting Cost Insurance**, for the reasonable and necessary costs for the temporary repair of damage to insured property, and to expedite the permanent repair or replacement of the damaged property.

[ ] **§ A.2.4.4 Extra Expense Insurance**, to provide reimbursement of the reasonable and necessary excess costs incurred during the period of restoration or repair of the damaged property that are over and above the total costs that would normally have been incurred during the same period of time had no loss or damage occurred.

[ ] **§ A.2.4.5 Civil Authority Insurance**, for losses or costs arising from an order of a civil authority prohibiting access to the Project, provided such order is the direct result of physical damage covered under the required property insurance.

[ ] **§ A.2.4.6 Ingress/Egress Insurance**, for loss due to the necessary interruption of the insured's business due to physical prevention of ingress to, or egress from, the Project as a direct result of physical damage.

[ ] **§ A.2.4.7 Soft Costs Insurance**, to reimburse the Owner for costs due to the delay of completion of the Work, arising out of physical loss or damage covered by the required property insurance: including construction loan fees; leasing and marketing expenses; additional fees, including those of architects, engineers, consultants, attorneys and accountants, needed for the completion of the construction, repairs, or reconstruction; and carrying costs such as property taxes, building permits, additional interest on loans, realty taxes, and insurance premiums over and above normal expenses.

§ A.2.5 Other Optional Insurance.

The Owner shall purchase and maintain the insurance selected below.

(Select the types of insurance the Owner is required to purchase and maintain by placing an X in the box(es) next to the description(s) of selected insurance.)

[ ] **§ A.2.5.1 Cyber Security Insurance** for loss to the Owner due to data security and privacy breach, including costs of investigating a potential or actual breach of confidential or private information.

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(Indicate applicable limits of coverage or other conditions in the fill point below.)

[ ] **§ A.2.5.2 Other Insurance**
(List below any other insurance coverage to be provided by the Owner and any applicable limits.)

Coverage	Limits

ARTICLE A.3 CONTRACTOR'S INSURANCE AND BONDS

§ A.3.1 General

§ A.3.1.1 Certificates of Insurance. The Contractor shall provide certificates of insurance acceptable to the Owner evidencing compliance with the requirements in this Article A.3 at the following times: (1) prior to commencement of the Work; (2) upon renewal or replacement of each required policy of insurance; and (3) upon the Owner's written request. An additional certificate evidencing continuation of commercial liability coverage, including coverage for completed operations, shall be submitted with the final Application for Payment and thereafter upon renewal or replacement of such coverage until the expiration of the periods required by Section A.3.2.1 and Section A.3.3.1. The certificates will show the Owner as an additional insured on the Contractor's Commercial General Liability and excess or umbrella liability policy or policies.

§ A.3.1.2 Deductibles and Self-Insured Retentions. The Contractor shall disclose to the Owner any deductible or self-insured retentions applicable to any insurance required to be provided by the Contractor.

§ A.3.1.3 Additional Insured Obligations. To the fullest extent permitted by law, the Contractor shall cause the commercial general liability coverage to include (1) the Owner, the Architect and the Architect's consultants, and the Construction Manager and the Construction Manager's consultants, as additional insureds for claims caused in whole or in part by the Contractor's negligent acts or omissions during the Contractor's operations; and (2) the Owner as an additional insured for claims caused in whole or in part by the Contractor's negligent acts or omissions for which loss occurs during completed operations. The additional insured coverage shall be primary and non-contributory to any of the Owner's general liability insurance policies and shall apply to both ongoing and completed operations. To the extent commercially available, the additional insured coverage shall be no less than that provided by Insurance Services Office, Inc. (ISO) forms CG 20 10 07 04, CG 20 37 07 04, and, with respect to the Architect and the Architect's consultants, and the Construction Manager and the Construction Manager's consultants, CG 20 32 07 04.

§ A.3.2 Contractor's Required Insurance Coverage

§ A.3.2.1 The Contractor shall purchase and maintain the types and limits of insurance as defined in EXH-C Owner Insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The Contractor shall maintain the required insurance until the expiration of the period for correction of Work as set forth in Section 12.2.2 of the General Conditions, unless a different duration is stated below:
(If the Contractor is required to maintain insurance for a duration other than the expiration of the period for correction of Work, state the duration.)

§ A.3.2.2 Commercial General Liability

§ A.3.2.2.1 Commercial General Liability insurance for the Project written on an occurrence form with policy limits as defined in EXH-C Owner Insurance providing coverage for claims including

.1 damages because of bodily injury, sickness or disease, including occupational sickness or disease, and death of any person;
.2 personal injury and advertising injury;
.3 damages because of physical damage to or destruction of tangible property, including the loss of use of such property;
.4 bodily injury or property damage arising out of completed operations; and
.5 the Contractor's indemnity obligations under Section 3.18 of the General Conditions.

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§ A.3.2.2.2 The Contractor's Commercial General Liability policy under this Section A.3.2.2 shall not contain an exclusion or restriction of coverage for the following:

.1 Claims by one insured against another insured, if the exclusion or restriction is based solely on the fact that the claimant is an insured, and there would otherwise be coverage for the claim.

.2 Claims for property damage to the Contractor's Work arising out of the products-completed operations hazard where the damaged Work or the Work out of which the damage arises was performed by a Subcontractor.

.3 Claims for bodily injury other than to employees of the insured.

.4 Claims for indemnity under Section 3.18 of the General Conditions arising out of injury to employees of the insured.

.5 Claims or loss excluded under a prior work endorsement or other similar exclusionary language.

.6 Claims or loss due to physical damage under a prior injury endorsement or similar exclusionary language.

.7 Claims related to residential, multi-family, or other habitational projects, if the Work is to be performed on such a project.

.8 Claims related to roofing, if the Work involves roofing.

.9 Claims related to exterior insulation finish systems (EIFS), synthetic stucco or similar exterior coatings or surfaces, if the Work involves such coatings or surfaces.

.10 Claims related to earth subsidence or movement, where the Work involves such hazards.

.11 Claims related to explosion, collapse and underground hazards, where the Work involves such hazards.

§ A.3.2.3 Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Contractor, with policy limits as defined in EXH-C Owner Insurance.

§ A.3.2.4 The Contractor may achieve the required limits and coverage for Commercial General Liability and Automobile Liability through a combination of primary and excess or umbrella liability insurance, provided such primary and excess or umbrella insurance policies result in the same or greater coverage as the coverages required under Section A.3.2.2 and A.3.2.3, and in no event shall any excess or umbrella liability insurance provide narrower coverage than the primary policy. The excess policy shall not require the exhaustion of the underlying limits only through the actual payment by the underlying insurers. Umbrella coverage as defined in EXH-C Owner Insurance.

§ A.3.2.5 Workers' Compensation at statutory limits for Coverage A as defined in EXH-C Owner Insurance.

§ A.3.2.6 Employers' Liability Coverage B as defined in EXH-C Owner Insurance.

§ A.3.2.7 If the Contractor is required to furnish professional services as part of the Work, the Contractor shall procure Professional Liability insurance covering performance of the professional services, with policy limits as defined in EXH-C Owner Insurance.

§ A.3.2.8 Insurance for the use or operation of manned or unmanned aircraft, if the Work requires such activities, with policy limits as defined in EXH-C Owner Insurance.

(Paragraphs deleted)

§ A.3.3 Contractor's Other Insurance Coverage

§ A.3.3.1 Insurance selected and described in this Section A.3.3 shall be purchased from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The Contractor shall maintain the required insurance until the expiration of the period for correction of Work as set forth in Section 12.2.2 of the General Conditions, unless a different duration is stated below:
(If the Contractor is required to maintain any of the types of insurance selected below for a duration other than the expiration of the period for correction of Work, state the duration.)

If Professional Liability insurance is required as part of the Contract, the Contractor shall maintain coverage for one year beyond the date of Substantial Completion.

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§ A.3.3.2 The Contractor shall purchase and maintain the types and limits of insurance as defined in EXH-C Owner Insurance.

(Paragraphs deleted)

§ A.3.4 Performance Bond and Payment Bond

The Contractor shall provide surety bonds, from a company or companies lawfully authorized to issue surety bonds in the jurisdiction where the Project is located, as follows:
(Specify type and penal sum of bonds.)

Type	Penal Sum ($0.00)
Payment Bond	$219,600
Performance Bond	$219,600

Payment and Performance Bonds shall be AIA Document A312™, Payment Bond and Performance Bond, or contain provisions identical to AIA Document A312™, current as of the date of this Agreement.

ARTICLE A.4 SPECIAL TERMS AND CONDITIONS

Special terms and conditions that modify this Insurance and Bonds Exhibit, if any, are as follows:

None

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Additions and Deletions Report for

AIA® Document A132® – 2019 Exhibit A

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PAGE 1

This Insurance and Bonds Exhibit is part of the Agreement, between the Owner and the Contractor, dated the _first_ day of _February_____in the year _2025

...

North High School Phase 4 Work Scope 21-A Fire Suppression
1500 James Avenue, Minneapolis, MN 55411

...

Minneapolis Public Schools Special School District #1
1250 West Broadway Avenue
Minneapolis, MN 55411

...

Nasseff Mechanical Contractors, Inc
122 S Wabasha St
St Paul, MN 55107

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§ A.2.3.1 Unless this obligation is placed on the Contractor pursuant to Section A.3.3.2.1, the Owner shall purchase and maintain, from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located, property insurance ~~written on a builder's risk "all-risks" completed value or equivalent~~ policy form and sufficient to cover the total value of the entire Project on a replacement cost basis. The Owner's property insurance coverage shall be no less than the amount of the initial Contract Sum, plus the value of subsequent Modifications and labor performed and materials or equipment supplied by others. The property insurance shall be maintained until Substantial Completion and thereafter as provided in Section A.2.3.1.3, unless otherwise provided in the Contract Documents or otherwise agreed in writing by the parties to this Agreement. This insurance shall include the interests of the Owner, Contractor, Subcontractors, and Sub-subcontractors in the Project as insureds. This insurance shall include the interests of mortgagees as loss payees.

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§ A.3.2.1 The Contractor shall purchase and maintain the ~~following~~ types and limits of insurance as defined in EXH-C Owner Insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The Contractor shall maintain the required insurance until the expiration of the period for correction of Work as set forth in Section 12.2.2 of the General Conditions, unless a different duration is stated below:

...

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§ A.3.2.2.1 Commercial General Liability insurance for the Project written on an occurrence form with policy limits ~~of not less than ($) each occurrence, ($) general aggregate, and ($) aggregate for products-completed operations hazard,~~ as defined in EXH-C Owner Insurance providing coverage for claims including

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§ A.3.2.3 Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Contractor, with policy limits ~~of not less than ($) per accident, for bodily injury, death of any person, and property damage arising out of the ownership, maintenance and use of those motor vehicles along with any other statutorily required automobile coverage.~~as defined in EXH-C Owner Insurance.

§ A.3.2.4 The Contractor may achieve the required limits and coverage for Commercial General Liability and Automobile Liability through a combination of primary and excess or umbrella liability insurance, provided such primary and excess or umbrella insurance policies result in the same or greater coverage as the coverages required under Section A.3.2.2 and A.3.2.3, and in no event shall any excess or umbrella liability insurance provide narrower coverage than the primary policy. The excess policy shall not require the exhaustion of the underlying limits only through the actual payment by the underlying insurers. Umbrella coverage as defined in EXH-C Owner Insurance.

§ A.3.2.5 Workers' Compensation at statutory ~~limits.~~limits for Coverage A as defined in EXH-C Owner Insurance.

§ A.3.2.6 Employers' Liability ~~with policy limits not less than ($) each accident, ($) each employee, and ($) policy limit.~~Coverage B as defined in EXH-C Owner Insurance.

§ A.3.2.7 ~~Jones Act, and the Longshore & Harbor Workers' Compensation Act, as required, if the Work involves hazards arising from work on or near navigable waterways, including vessels and docks~~ If the Contractor is required to furnish professional services as part of the Work, the Contractor shall procure Professional Liability insurance covering performance of the professional services, with policy limits as defined in EXH-C Owner Insurance.

§ A.3.2.8 ~~If the Contractor is required to furnish professional services as part of the Work, the Contractor shall procure Professional Liability insurance covering performance of the professional services, with policy limits of not less than ($) per claim and ($) in the aggregate.~~Insurance for the use or operation of manned or unmanned aircraft, if the Work requires such activities, with policy limits as defined in EXH-C Owner Insurance.

~~**§ A.3.2.9** If the Work involves the transport, dissemination, use, or release of pollutants, the Contractor shall procure Pollution Liability insurance, with policy limits of not less than ($) per claim and ($) in the aggregate.~~

~~**§ A.3.2.10** Coverage under Sections A.3.2.8 and A.3.2.9 may be procured through a Combined Professional Liability and Pollution Liability insurance policy, with combined policy limits of not less than ($) per claim and ($) in the aggregate.~~

~~**§ A.3.2.11** Insurance for maritime liability risks associated with the operation of a vessel, if the Work requires such activities, with policy limits of not less than ($) per claim and ($) in the aggregate.~~

~~**§ A.3.2.12** Insurance for the use or operation of manned or unmanned aircraft, if the Work requires such activities, with policy limits of not less than ($) per claim and ($) in the aggregate.~~

...

If Professional Liability insurance is required as part of the Contract, the Contractor shall maintain coverage for one year beyond the date of Substantial Completion.

§ A.3.3.2 The Contractor shall purchase and maintain the ~~following~~ types and limits of insurance ~~in accordance with Section A.3.3.1.~~as defined in EXH-C Owner Insurance.

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(Select the types of insurance the Contractor is required to purchase and maintain by placing an X in the box(es) next to the description(s) of selected insurance. Where policy limits are provided, include the policy limit in the appropriate fill point.)

[–] **§ A.3.3.2.1** If there is only one Contractor performing the Work on the Project, property insurance of the same type and scope satisfying the requirements identified in Section A.2.3, which, if selected in this section A.3.3.2.1, relieves the Owner of the responsibility to purchase and maintain such insurance except insurance required by Section A.2.3.1.3 and Section A.2.3.3. The Contractor shall comply with all obligations of the Owner under Section A.2.3 except to the extent provided below. The Contractor shall disclose to the Owner the amount of any deductible, and the Owner shall be responsible for losses within the deductible. Upon request, the Contractor shall provide the Owner with a copy of the property insurance policy or policies required. The Owner shall adjust and settle the loss with the insurer and be the trustee of the proceeds of the property insurance in accordance with Article 11 of the General Conditions unless otherwise set forth below:
(Where the Contractor's obligation to provide property insurance differs from the Owner's obligations as described under Section A.2.3, indicate such differences in the space below. Additionally, if a party other than the Owner will be responsible for adjusting and settling a loss with the insurer and acting as the trustee of the proceeds of property insurance in accordance with Article 11 of the General Conditions, indicate the responsible party below.)

[–] **§ A.3.3.2.2 Railroad Protective Liability Insurance**, with policy limits of not less than ($) per claim and ($) in the aggregate, for Work within fifty (50) feet of railroad property.

[–] **§ A.3.3.2.3 Asbestos Abatement Liability Insurance**, with policy limits of not less than ($) per claim and ($) in the aggregate, for liability arising from the encapsulation, removal, handling, storage, transportation, and disposal of asbestos-containing materials.

[–] **§ A.3.3.2.4** Insurance for physical damage to property while it is in storage and in transit to the construction site on an "all-risks" completed value form.

[–] **§ A.3.3.2.5** Property insurance on an "all-risks" completed value form, covering property owned by the Contractor and used on the Project, including scaffolding and other equipment.

[–] **§ A.3.3.2.6 Other Insurance**
(List below any other insurance coverage to be provided by the Contractor and any applicable limits.)

Coverage	**Limits**

§ A.3.4 Performance Bond and Payment Bond
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Payment Bond	$219,600
Performance Bond	$219,600

...

None

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AIA® Document A232® – 2019

General Conditions of the Contract for Construction, *Construction Manager as Adviser Edition*

for the following PROJECT:
(Name, and location or address)

North High School Phase 4 Work Scope 21-A Fire Suppression
1500 James Avenue, Minneapolis, MN 55411

THE CONSTRUCTION MANAGER:
(Name, legal status, and address)

Kraus-Anderson Construction Company
501 South 8th Street, Minneapolis, MN 55404

THE OWNER:
(Name, legal status, and address)

Minneapolis Public Schools Special School District #1
1250 West Broadway Avenue
Minneapolis, MN 55411

THE ARCHITECT:
(Name, legal status, and address)

LSE Architects 1401 Glenwood Avenue
Minneapolis, MN 55405

ADDITIONS AND DELETIONS:
The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

This document is intended to be used in conjunction with AIA Documents A132™–2019, Standard Form of Agreement Between Owner and Contractor, Construction Manager as Adviser Edition; B132™–2019, Standard Form of Agreement Between Owner and Architect, Construction Manager as Adviser Edition; and C132™–2019, Standard Form of Agreement Between Owner and Construction Manager as Adviser.

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ARTICLE 1 GENERAL PROVISIONS

§ 1.1 Basic Definitions

§ 1.1.1 The Contract Documents. The Contract Documents are enumerated in the Agreement between the Owner and Contractor (hereinafter the Agreement) and consist of the Agreement, Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, Addenda issued prior to execution of the Contract, other documents listed in the Agreement, and Modifications issued after execution of the Contract. A Modification is (1) a written amendment to the Contract signed by both parties, (2) a Change Order, (3) a Construction Change Directive, or (4) a written order for a minor change in the Work issued by the Architect. Unless specifically enumerated in the Agreement, the Contract Documents do not include the advertisement or invitation to bid, Instructions to Bidders, sample forms, other information furnished by the Owner in anticipation of receiving bids or proposals, the Contractor's bid or proposal, or portions of addenda relating to bidding or proposal requirements.

§ 1.1.1.1 Notwithstanding the foregoing, it is understood and agreed that the Owner is an intended third-party beneficiary of all contracts between the Contractor and Subcontractors or suppliers who provide labor and/or materials for the Work.

§ 1.1.2 The Contract. The Contract Documents form the Contract for Construction. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations, or agreements, either written or oral. The Contract may be amended or modified only by a Modification. The Contract Documents shall not be construed to create a contractual relationship of any kind (1) between the Contractor and the Architect or the Architect's consultants, (2) between the Owner and the Construction Manager or the Construction Manager's consultants, (3) between the Owner and the Architect or the Architect's consultants, (4) between the Contractor and the Construction Manager or the Construction Manager's consultants, (5) between the Owner and a Subcontractor or Sub-subcontractor (6) between the Construction Manager and the Architect, or (7) between any persons or entities other than the Owner and Contractor. The Construction Manager and Architect shall, however, be entitled to performance and enforcement of obligations under the Contract intended to facilitate performance of their duties.

§ 1.1.3 The Work. The term "Work" means the construction and services required by the Contract Documents, whether completed or partially completed, and includes all other labor, materials, equipment, and services provided or to be provided by the Contractor to fulfill the Contractor's obligations. The Work may constitute the whole or a part of the Project.

§ 1.1.4 The Project. The Project is the total construction of which the Work performed under the Contract Documents may be the whole or a part and which may include construction by other Contractors, and by the Owner's own forces and Separate Contractors.

§ 1.1.5 Contractors. Contractors are persons or entities, other than the Contractor or Separate Contractors, who perform Work under contracts with the Owner that are administered by the Architect and Construction Manager.

§ 1.1.6 Separate Contractors. Separate Contractors are persons or entities who perform construction under separate contracts with the Owner not administered by the Architect and Construction Manager.

§ 1.1.7 The Drawings. The Drawings are the graphic and pictorial portions of the Contract Documents showing the design, location and dimensions of the Work, generally including plans, elevations, sections, details, schedules, and diagrams.

§ 1.1.8 The Specifications. The Specifications are that portion of the Contract Documents consisting of the written requirements for materials, equipment, systems, standards and workmanship for the Work, and performance of related services.

§ 1.1.9 Instruments of Service. Instruments of Service are representations, in any medium of expression now known or later developed, of the tangible and intangible creative work performed by the Architect and the Architect's consultants under their respective professional services agreements. Instruments of Service may include, without limitation, studies, surveys, models, sketches, drawings, specifications, and other similar materials.

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§ 1.1.10 Initial Decision Maker. The Initial Decision Maker is the person identified in the Agreement to render initial decisions on Claims in accordance with Section 15.2. The Architect will serve as the Initial Decision Maker pursuant to Section 15.2 of AIA Document A232–2019.

§ 1.2 Correlation and Intent of the Contract Documents

§ 1.2.1 The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work by the Contractor. The Contract Documents are complementary, and what is required by one shall be as binding as if required by all; performance by the Contractor shall be required only to the extent consistent with the Contract Documents and reasonably inferable from them as being necessary to produce the intended results.

§ 1.2.1.1 The invalidity of any provision of the Contract Documents shall not invalidate the Contract or its remaining provisions. In such case the Contract Documents shall be construed, to the fullest extent permitted by law, to give effect to the parties' intentions and purposes in executing the Contract.

§ 1.2.2 Organization of the Specifications into divisions, sections and articles, and arrangement of Drawings shall not control the Contractor in dividing the Work among Subcontractors or in establishing the extent of Work to be performed by any trade.

§ 1.2.3 Unless otherwise stated in the Contract Documents, words that have well-known technical or construction industry meanings are used in the Contract Documents in accordance with such recognized meanings.

§ 1.3 Capitalization

Terms capitalized in these General Conditions include those that are (1) specifically defined, (2) the titles of numbered articles, or (3) the titles of other documents published by the American Institute of Architects.

§ 1.4 Interpretation

In the interest of brevity the Contract Documents frequently omit modifying words such as "all" and "any" and articles such as "the" and "an," but the fact that a modifier or an article is absent from one statement and appears in another is not intended to affect the interpretation of either statement.

§ 1.4.1 In the case of inconsistency between Drawings and Specifications or within Contract Documents not clarified by Addenda, the better quality or greater quantity of Work shall be provided in accordance with the Architect's interpretation.

§ 1.5 Ownership and Use of Drawings, Specifications, and Other Instruments of Service

§ 1.5.1 The Architect and the Architect's consultants shall be deemed the authors and owners of their respective Instruments of Service, including the Drawings and Specifications, and retain all common law, statutory, and other reserved rights in their Instruments of Service, including copyrights. The Contractor, Subcontractors, sub-subcontractors, and suppliers shall not own or claim a copyright in the Instruments of Service. Submittal or distribution to meet official regulatory requirements or for other purposes in connection with the Project is not to be construed as publication in derogation of the Architect's or Architect's consultants' reserved rights. The Owner retains rights to the Instruments of Service pursuant to Article 7 of AIA Document B101-2017.

§ 1.5.2 The Contractor, Subcontractors, Sub-subcontractors, and suppliers are authorized to use and reproduce the Instruments of Service provided to them, subject to any protocols established pursuant to Sections 1.7 and 1.8, solely and exclusively for execution of the Work. All copies made under this authorization shall bear the copyright notice, if any, shown on the Instruments of Service. The Contractor, Subcontractors, Sub-subcontractors, and suppliers may not use the Instruments of Service on other projects or for additions to the Project outside the scope of the Work without the specific written consent of the Owner, Architect, and the Architect's consultants.

§ 1.5.3 The Architect shall furnish to the Contractor a version of the Instruments of Service in electronic form for the sole purpose of the construction of the Project for which the Instruments of Service were created.

§ 1.6 Notice

§ 1.6.1 Except as otherwise provided in Section 1.6.2, where the Contract Documents require one party to notify or give notice to the other party, such notice shall be provided in writing to the designated representative of the party to

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whom the notice is addressed and shall be deemed to have been duly served if delivered in person, by mail, by courier, or by electronic transmission if a method for electronic transmission is set forth in the Agreement.

§ 1.6.2 Notice of Claims as provided in Section 15.1.3 shall be provided in writing and shall be deemed to have been duly served only if delivered to the designated representative of the party to whom the notice is addressed by certified or registered mail, or by courier providing proof of delivery.

§ 1.7 Digital Data Use and Transmission

The parties shall agree upon protocols governing the transmission and use of Instruments of Service or any other information or documentation in digital form. The parties may use AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit or other form, to establish the protocols for the development, use, transmission, and exchange of digital data.

§ 1.8 Building Information Models Use and Reliance

Any use of, or reliance on, all or a portion of a building information model without agreement to protocols governing the use of, and reliance on, the information contained in the model and without having those protocols set forth in AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, and the requisite AIA Document G202™–2013, Project Building Information Modeling Protocol Form or other form, shall be at the using or relying party's sole risk and without liability to the other party and its contractors or consultants, the authors of, or contributors to, the building information model, and each of their agents and employees.

ARTICLE 2 OWNER

§ 2.1 General

§ 2.1.1 The Owner is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The Owner shall designate in writing a representative who shall have express authority to bind the Owner with respect to all matters requiring the Owner's approval or authorization in accordance with Owner's Delegation of Authority Policy, a copy of which will be provided at Contractor's request. Except as otherwise provided in Section 4.2.1, the Construction Manager and the Architect do not have such authority. The term "Owner" means the Owner or the Owner's authorized representative.

(Paragraph deleted)

§ 2.2 Evidence of the Owner's Financial Arrangements

§ 2.2.1 Prior to commencement of the Work, and upon written request by the Contractor, the Owner shall furnish to the Contractor reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Contract. The Contractor shall have no obligation to commence the Work until the Owner provides such evidence. If commencement of the Work is delayed under this Section 2.2.1, the Contract Time shall be extended appropriately.

§ 2.2.2 Following commencement of the Work and upon written request by the Contractor, the Owner shall furnish to the Contractor reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Contract only if (1) the Owner fails to make payments to the Contractor as the Contract Documents require; (2) the Contractor identifies in writing a reasonable concern regarding the Owner's ability to make payment when due; or (3) a change in the Work materially changes the Contract Sum. If the Owner fails to provide such evidence, as required, within fourteen days of the Contractor's request, the Contractor may immediately stop the Work and, in that event, shall notify the Owner that the Work has stopped. However, if the request is made because a change in the Work materially changes the Contract Sum under (3) above, the Contractor may immediately stop only that portion of the Work affected by the change until reasonable evidence is provided. If the Work is stopped under this Section 2.2.2, the Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable costs of shutdown, delay and start-up, plus interest as provided in the Contract Documents.

§ 2.2.3 After the Owner furnishes evidence of financial arrangements under this Section 2.2, the Owner shall not materially vary such financial arrangements without prior notice to the Contractor.

§ 2.2.4 Where the Owner has designated information furnished under this Section 2.2 as "confidential," the Contractor shall keep the information confidential and shall not disclose it to any other person. However, the Contractor may disclose "confidential" information, after seven (7) days' notice to the Owner, where disclosure is required by law, including a subpoena or other form of compulsory legal process issued by a court or governmental entity, or by court

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or arbitrator(s) order. The Contractor may also disclose "confidential" information to its employees, consultants, sureties, Subcontractors and their employees, Sub-subcontractors, and others who need to know the content of such information solely and exclusively for the Project and who agree to maintain the confidentiality of such information.

§ 2.3 Information and Services Required of the Owner

§ 2.3.1 Except for permits and fees that are the responsibility of the Contractor under the Contract Documents, including those required under Section 3.7.1, the Owner shall secure and pay for necessary approvals, easements, assessments and charges required for construction, use or occupancy of permanent structures or for permanent changes in existing facilities. Unless otherwise provided under the Contract Documents, the Owner, assisted by the Construction Manager, shall secure and pay for the building permit.

§ 2.3.2 The Owner shall retain an architect lawfully licensed to practice architecture, or an entity lawfully practicing architecture, in the jurisdiction where the Project is located. That person or entity is identified as the Architect in the Agreement and is referred to throughout the Contract Documents as if singular in number.

§ 2.3.3 The Owner shall retain a construction manager adviser lawfully practicing construction management in the jurisdiction where the Project is located. That person or entity is identified as the Construction Manager in the Agreement and is referred to throughout the Contract Documents as if singular in number.

§ 2.3.4 If the employment of the Construction Manager or Architect terminates, the Owner shall employ a successor construction manager or architect to whom the Contractor has no reasonable objection and whose status under the Contract Documents shall be that of the Construction Manager or Architect, respectively.

§ 2.3.5 If requested by the Contractor and reasonably required for the Project, the Owner shall furnish surveys describing physical characteristics, legal limitations and utility locations for the site of the Project, and a written legal description of the site. The Contractor shall exercise proper precautions relating to the safe performance of the Work.

§ 2.3.6 The Owner shall furnish information or services required of the Owner by the Contract Documents with reasonable promptness. The Owner shall also furnish any other information or services under the Owner's control and relevant to the Contractor's performance of the Work with reasonable promptness after receiving the Contractor's written request for such information or services. The Contractor is responsible for the timeliness of, or interference caused by, Subcontractors, Sub-subcontractors (of any tier), and others directly or indirectly under contract to the Contractor.

§ 2.3.7 Unless otherwise provided in the Contract Documents, the Owner shall furnish to the Contractor one copy of the Contract Documents for purposes of making reproductions pursuant to Section 1.5.2.

§ 2.3.8 The Owner shall forward all communications to the Contractor through the Construction Manager. Other communication shall be made as set forth in Section 4.2.6.

§ 2.4 Owner's Right to Stop the Work

If the Contractor fails to correct Work that is not in accordance with the requirements of the Contract Documents as required by Section 12.2 or repeatedly fails to carry out Work in accordance with the Contract Documents, the Owner may issue a written order to the Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, the right of the Owner to stop the Work shall not give rise to a duty on the part of the Owner to exercise this right for the benefit of the Contractor or any other person or entity, except to the extent required by Section 6.1.3.

§ 2.5 Owner's Right to Carry Out the Work

If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within a three-business-day (3) period after receipt of notice from the Owner to commence and continue correction of such default or neglect with diligence and promptness, the Owner may, without prejudice to other remedies the Owner may have, correct such default or neglect. Such action by the Owner and amounts charged to the Contractor are both subject to review by the Construction Manager and prior approval of the Architect, and the Construction Manager or Architect may, pursuant to Section 9.5.1, withhold or nullify a Certificate for Payment in whole or in part, to the extent reasonably necessary to reimburse the Owner for the reasonable cost of correcting such deficiencies, including Owner's expenses and compensation for the Construction Manager's and Architect's and their respective consultants'

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additional services and expenses made necessary by such default, neglect, or failure. If current and future payments are not sufficient to cover such amounts, the Contractor shall pay the difference to the Owner within ten (10) days following written request for payment delivered by the Owner to the Contractor. If the Contractor disagrees with the actions of the Owner or the Architect, or the amounts claimed as costs to the Owner, the Contractor may file a Claim pursuant to Article 15.

ARTICLE 3 CONTRACTOR

§ 3.1 General

§ 3.1.1 The Contractor is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The Contractor shall be lawfully licensed, if required in the jurisdiction where the Project is located. The Contractor shall designate in writing a representative who shall have express authority to bind the Contractor with respect to all matters under this Contract. The term "Contractor" means the Contractor or the Contractor's authorized representative.

§ 3.1.2 The Contractor shall perform the Work in accordance with the Contract Documents.

§ 3.1.3 The Contractor shall hire a professional utilities locator to investigate and verify all private utility locations prior to excavation and cutting into of existing Work. The Contractor is responsible for locating, terminating, and reinstallation of all private utilities. Private site utilities may not be in the Drawings and Project Manual and as such, verification of private utilities is the sole responsibility of the Contractor. Costs associated with moving and repairing of unknown and undocumented utilities will be by appropriate Change Order. The Contractor shall comply with Gopher State One Call, or other public utility service locator to locate all public utilities prior to any work on the site. This shall not relieve Contractor from obligations under Article 3.

§ 3.1.4 The Contractor shall not be relieved of its obligations to perform the Work in accordance with the Contract Documents either by activities or duties of the Construction Manager or Architect in their administration of the Contract, or by tests, inspections or approvals required or performed by persons or entities other than the Contractor.

§ 3.2 Review of Contract Documents and Field Conditions by Contractor

§ 3.2.1 The Contractor shall carefully study and compare the Contract Documents with each other and with information furnished by the Owner pursuant to Section 2.2.3, and shall immediately report to the Architect and Construction Manager errors, inconsistencies, or omissions discovered. The Contractor shall not be liable to the Owner or Architect for damage resulting from errors, inconsistencies, or omissions in the Contract Document unless the Contractor recognized such error, inconsistency, or omission and knowingly failed to report it to the Architect. If the Contractor performs any construction activity knowing or believing it involves a recognized error, inconsistency, or omission in the Contract Documents without such notice to the Architect, the Contractor shall assume full responsibility for such performance and shall bear the attributable costs for correction and shall bear responsibility for any additional costs, delays, and damages resulting from such failure to immediately report any such errors, inconsistencies, or omissions which the Contractor may discover. By executing the Contract, the Contractor represents that the Contractor has reviewed and understands the Contract Documents, has visited the Site and is familiar with local conditions under which the Work is to be performed, has correlated personal observations with the requirements of the Contract Documents, and has notified the Architect of and obtained clarification of any discrepancies which have become apparent during the bidding or proposal period.

§ 3.2.1.1 The Contractor shall take field measurements and verify field conditions and shall carefully compare such field measurements and conditions and other information known to the Contractor with the Contract Documents before commencing activities. Errors, inconsistencies, or omissions discovered shall be reported to the Architect immediately in writing.

§ 3.2.1.2 The Contractor shall carefully study and compare the Contract Documents with existing conditions at the job site and shall immediately report in writing to the Architect any error, inconsistency, or omission which the Contractor may discover or any materials, systems, procedures, or methods of construction, either shown on the Drawings or specified, which the Contractor has reason to believe are incorrect, inadequate, obsolete, unsuitable for the purpose intended or which the Contractor has reason to believe would constitute or result in a violation of the Contractor's warranty under Section 3.5 or applicable law. The Contractor shall not proceed with any work in such areas until written instructions are received from the Architect.

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§ 3.2.2 The Contractor shall perform the Work in accordance with the Contract Documents and submittals accepted pursuant to Section 3.12.

§ 3.2.3 The Owner shall be entitled to deduct from the Contract Sum amounts paid to the Architect for the Architect to evaluate and respond to the Contractor's requests for interpretation or information where such information was available to the Contractor from a careful study and comparison of the Contract Documents, Filed Conditions, Owner Provided Information, Contractor Prepared Coordination Drawings, or prior Project Correspondence or Documentation.

§ 3.2.4 If the Contractor believes that any portions of the Contract Documents do not comply with applicable laws, statutes, ordinances, building codes, and rules and regulations, or any orders by code enforcement officials or the Owner or its designees acting in the capacity of building code inspectors or Referenced Standards, the Contractor must promptly notify the Owner and the Architect of the non-compliance as provided in Section 3.2.6 and request direction before proceeding with the affected Work.

§ 3.2.5 The Contractor must promptly notify the Owner and the Architect in writing of any apparent errors, inconsistencies, omissions, ambiguities, construction impracticalities or code violations discovered as a result of the Contractor's review of the Contract Documents including any differences between actual and indicated dimensions, locations and descriptions, and must give the Owner and the Architect timely notice in writing of same and of any corrections, clarifications, additional Drawings or Specifications, or other information required to define the Work in greater detail or to permit the proper progress of the Work. The Contractor must provide similar notice with respect to any variance between its review of the Site and physical data and Site conditions observed.

§ 3.2.6 If the Contractor performs any Work involving an apparent error, inconsistency, ambiguity, construction impracticality, omission or code violation in the Contract Documents of which the Contractor is aware, or which could reasonably have been discovered by the review required by Section 3.2, without prompt written notice to the Owner and the Architect and request for correction, clarification or additional information, as appropriate, the Contractor does so at its own risk and expense and all Claims relating thereafter are specifically waived.

§ 3.3 Supervision and Construction Procedures

§ 3.3.1 The Contractor shall supervise and direct the Work, using the Contractor's best skill and attention. The Contractor shall be solely responsible for, and have control over, construction means, methods, techniques, sequences, and procedures, and for coordinating all portions of the Work under the Contract. If the Contract Documents give specific instructions concerning construction means, methods, techniques, sequences, or procedures, the Contractor shall evaluate the jobsite safety thereof and shall be solely responsible for the jobsite safety of such means, methods, techniques, sequences, or procedures. If the Contractor determines that such means, methods, techniques, sequences or procedures may not be safe, the Contractor shall give timely notice to the Owner, the Construction Manager, and the Architect, and shall propose alternative means, methods, techniques, sequences, or procedures. The Architect shall evaluate the proposed alternative solely for conformance with the design intent for the completed construction. The Construction Manager shall review the proposed alternative for sequencing, constructability, and coordination impacts on the other Contractors. Unless the Architect or the Construction Manager objects to the Contractor's proposed alternative, the Contractor shall perform the Work using its alternative means, methods, techniques, sequences, or procedures.

§ 3.3.2 The Contractor shall be responsible to the Owner for acts and omissions of the Contractor's employees, Subcontractors and their agents and employees, and other persons or entities performing portions of the Work for, or on behalf of, the Contractor or any of its Subcontractors.

§ 3.3.3 The Contractor shall be responsible for inspection of portions of the Project already performed to determine that such portions are in proper condition to receive subsequent Work.

§ 3.3.4 The Contractor shall at all times staff the Project adequately to allow the Project to be managed and completed in a timely and professional manner. The Contractor shall have competent supervision on the job during work hours and readily available at all times upon call.

§ 3.3.5 The Contractor shall at all times make reasonable provisions to protect any Work performed by any separate contractors, adjacent property, and the existing building (if any) from damage due to the Work or due to the weather.

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§ 3.3.6 The Owner or its approved representative (heretofore referred to as Owner's Representative) shall have access to the Work site and all Work. No supervision or inspection by the Owner or the Owner's Representative, nor the authority to act, nor any other actions taken by the Owner's Representative shall relieve the Contractor of any of its obligations under the Contract Documents or give rise to any duty on the part of the Owner.

§ 3.3.7 The Contract shall take appropriate precautions to ensure that the Work does not materially disrupt any ongoing operation by the Owner at the Project (if any) except to the extent any such disruption is a necessary result of performing a particular portion of the Work, in which case the Contractor shall provide the Owner with reasonable advanced written notice and shall take all commercially reasonable measures to minimize the impact on the Owner and the Owner's operations.

§ 3.4 Labor and Materials

§ 3.4.1 Unless otherwise provided in the Contract Documents, the Contractor shall provide and pay for labor, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation, and other facilities and services necessary for proper execution and completion of the Work, whether temporary or permanent and whether or not incorporated or to be incorporated in the Work. Should the Contract Documents require Work to be performed after regular working hours or should the Contractor elect to perform Work after regular working hours, the additional cost of such Work shall be borne by the Contractor.

§ 3.4.2 Except in the case of minor changes in the Work approved by the Architect in accordance with Section 3.12.8 or ordered by the Architect in accordance with Section 7.4, the Contractor may make substitutions only with the consent of the Owner, after evaluation by the Architect, in consultation with the Construction Manager, and in accordance with a Change Order or Construction Change Directive.

§ 3.4.3 The Contractor shall enforce strict discipline and good order among the Contractor's employees and other persons carrying out the Work. The Contractor shall not permit employment of unfit persons or persons not properly skilled in tasks assigned to them.

§ 3.4.4 The Contractor shall be responsible for all additional costs incurred to incorporate into the Project substitute materials, products, or equipment approved by Owner during the bidding period.

§ 3.4.5 In the event of a Change related to substitute or additional materials, and which shall comply with Article 7, the Contractor shall exercise reasonable efforts, consistent with the provisions of the Contract Documents to obtain the maximum available case discounts on all materials, provided that, in doing so, the Contractor shall not accept or use materials for incorporation into the Project which are of a type or quality not reasonably contemplated under the terms of the Contract Documents.

§ 3.4.6 After award of the Contract, a request for substitution of a material, product, or piece of equipment at no change in the Contract Sum will not be approved by the Owner or the Architect, unless the specified item is no longer manufactured, the specified item is unavailable as a result of an act of government such as a declaration of a national emergency, or delivery of the specified items is substantially delayed as a result of labor disputes affecting the manufacturer, unusual delay in transportation, or any other cause beyond control of the Contractor or a Subcontractor or material supplier which the Architect determines justified the delay. Requests will not be approved where the delay in delivery results from failure to promptly place subcontracts and material orders. Requests for substitution shall be submitted in writing to the Architect and shall clearly describe the proposed substitution, state the reason for the unavailability of a specified item and be accompanied by such additional data and information as may be necessary in the discretion of the Owner and the Architect to establish the acceptability of the proposed substitute.

§ 3.4.7 The Owner shall be entitled to deduct from the Contract Sum amounts paid to the Architect to evaluate the Contractor's proposed Substitutions and for changes made to the Contract Documents as a result of Owner's acceptance of such Substitutions.

§ 3.5 Warranty

§ 3.5.1 The Contractor warrants to the Owner, Construction Manager, and Architect that materials and equipment furnished under the Contract will be of good quality and new unless the Contract Documents require or permit otherwise. The Contractor further warrants that the Work will conform to the requirements of the Contract Documents

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and will be free from defects, except for those inherent in the quality of the Work the Contract Documents require or permit. Work, materials, or equipment not conforming to these requirements may be considered defective. The Contractor's warranty excludes remedy for damage or defect caused by abuse, alterations to the Work not executed by the Contractor, improper or insufficient maintenance, improper operation, or normal wear and tear and normal usage. If required by the Construction Manager or Architect, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment.

§ 3.5.2 All material, equipment, or other special warranties required by the Contract Documents shall be issued in the name of the Owner, or shall be transferable to the Owner, and shall commence in accordance with Section 9.8.4. The Contractor shall arrange for the Owner to have the benefit of and right to enforce all warranties by Subcontractors, Sub-subcontractors, suppliers, and manufacturers.

§ 3.5.3 Manufacturers' warranties and warranties by other shall not relieve the Contractor of any of its responsibilities.

§ 3.5.4 The Contractor's general warranty and any additional or special warranties are not limited by the Contractor's obligations to specifically correct defective or nonconforming Work as provided in Article 12, nor are they limited by any other remedies provided in the Contract Documents. The Contractor shall also be liable for any damage to property or persons (including death) including consequential and direct damages relating to any breach of the Contractor's general warranty or any additional or special warranties required by the Contract Documents.

§ 3.5.5 The Contractor must furnish all special warranties required by the Contract Documents to the Owner no later than Substantial Completion. The Owner may require additional special warranties in connection with the approval of "Or-Equals" or Substitutions, Allowance items, Work that is defective or nonconforming, or the acceptance of nonconforming Work pursuant to Article 12.

§ 3.6 Taxes

The Contractor shall pay sales, consumer, use and similar taxes for the Work or portions thereof provided by the Contractor that are legally enacted when bids are received or negotiations concluded, whether or not yet effective or merely scheduled to go into effect.

§ 3.7 Permits, Fees, Notices, and Compliance with Laws

§ 3.7.1 Unless otherwise provided in the Contract Documents, the Owner, assisted by the Construction Manager, shall secure and pay for the building permit. The Contractor shall secure and pay for other permits, fees, licenses, and inspections by government agencies necessary for proper execution and completion of the Work that are customarily secured after execution of the Contract and legally required at the time bids are received or negotiations concluded. The Contractor shall be responsible for the Sewer Access (SAC) and Water Access (WAC) fees for the Project. The Contractor shall pay the SAC/WAC costs to the authorities having jurisdiction from the Allowance in the Base Bid for such charges as defined in the Construction Documents.

§ 3.7.2 The Contractor shall comply with and give notices required by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities applicable to performance of the Work.

§ 3.7.3 If the Contractor performs Work knowing or believing it to be contrary to applicable laws, statutes, ordinances, building codes, rules and regulations, or lawful orders of public authorities, without such notice to the Architect and Owner, the Contractor shall assume full responsibility for such Work and shall bear the attributable costs, delays, and damages resulting from such failure to immediately notify the Architect and Owner of any such violation..

§ 3.7.4 Concealed or Unknown Conditions. If the Contractor encounters conditions at the site that are (1) subsurface or otherwise concealed physical conditions that differ materially from those indicated in the Contract Documents or (2) unknown physical conditions of an unusual nature that differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents, the Contractor shall promptly provide notice to the Owner, Construction Manager, and the Architect before conditions are disturbed and in no event later than ten (10) days after first observance of the conditions. The Architect and Construction Manager will promptly investigate such conditions and, if the Architect, in consultation with the Construction Manager, determines that they differ materially and cause an increase or decrease in the Contractor's cost of, or time required for, performance of any part of the Work, will recommend that an equitable adjustment be made in the Contract Sum or Contract Time, or both. If the Architect, in consultation with the Construction Manager,

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determines that the conditions at the site are not materially different from those indicated in the Contract Documents and that no change in the terms of the Contract is justified, the Architect shall promptly notify the Owner, Construction Manager, and Contractor, stating the reasons. If the Owner or Contractor disputes the Architect's determination or recommendation, either party may submit a Claim as provided in Article 15.

§ 3.7.5 If, in the course of the Work, the Contractor encounters human remains or recognizes the existence of burial markers, archaeological sites or wetlands not indicated in the Contract Documents, the Contractor shall immediately suspend any operations that would affect them and shall notify the Owner, Construction Manager, and Architect. Upon receipt of such notice, the Owner shall promptly take any action necessary to obtain governmental authorization required to resume the operations. The Contractor shall continue to suspend such operations until otherwise instructed by the Owner but shall continue with all other operations that do not affect those remains or features. Requests for adjustments in the Contract Sum and Contract Time arising from the existence of such remains or features may be made as provided in Article 15.

§ 3.8 Allowances

§ 3.8.1 The Contractor shall include in the Contract Sum all allowances stated in the Contract Documents. Items covered by allowances shall be supplied for such amounts and by such persons or entities as the Owner may direct, but the Contractor shall not be required to employ persons or entities to whom the Contractor has reasonable objection.

§ 3.8.2 Unless otherwise provided in the Contract Documents:

- **.1** allowances shall cover the cost to the Contractor of materials and equipment delivered at the site and all required taxes, less applicable trade discounts;
- **.2** Contractor's costs for unloading and handling at the site, labor, installation costs, overhead, profit, and other expenses contemplated for stated allowance amounts shall be included in the Contract Sum but not in the allowances; and
- **.3** whenever costs are more than or less than allowances, the Contract Sum shall be adjusted accordingly by Change Order. The amount of the Change Order shall reflect (1) the difference between actual costs and the allowances under Section 3.8.2.1 and (2) changes in Contractor's costs under Section 3.8.2.2.

§ 3.8.3 Materials and equipment under an allowance shall be selected by the Owner with reasonable promptness.

§ 3.9 Superintendent

§ 3.9.1 The Contractor shall employ a competent superintendent and necessary assistants who shall be in attendance at the Project site during performance of the Work, including that performed by all Subcontractors. The superintendent shall represent the Contractor, and communications given to the superintendent shall be as binding as if given to the Contractor. Important communications including and not limited to communications regarding design changes, alterations, substitutions, clarifications, cost changes, etc. shall be confirmed in writing by the Contractor. Other communications shall be similarly confirmed on written request in each case.

§ 3.9.2 The Contractor, as soon as practicable after award of the Contract, shall notify the Owner and Architect, through the Construction Manager, of the name and qualifications of a proposed superintendent. Within 14 days of receipt of the information, the Construction Manager may notify the Contractor, stating whether the Owner, the Construction Manager, or the Architect (1) has reasonable objection to the proposed superintendent or (2) require additional time for review. Failure of the Construction Manager to provide notice within the 14-day period shall constitute notice of no reasonable objection.

§ 3.9.3 The Contractor shall not employ a proposed superintendent or any other management personnel to whom the Owner, Construction Manager, or Architect has made reasonable and timely objection. The Contractor shall not change the superintendent without the Owner's consent, which shall not unreasonably be withheld or delayed.

§ 3.9.4 If requested by the Owner, the Contractor shall replace the superintendent at no additional cost to the Owner. No other change in this position shall be made without notice to and written consent of the Owner.

§ 3.10 Contractor's Construction and Submittal Schedules

§ 3.10.1 The Contractor, promptly after being awarded the Contract, shall submit for the Owner's and Architect's information, and the Construction Manager's use in developing the Project schedule, a Contractor's construction schedule for the Work. The schedule shall contain detail appropriate for the Project, including (1) the date of

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commencement of the Work, interim schedule milestone dates, critical path schedule milestones, major construction milestones, including and not limited to Civil, Demolition, Structural, Mechanical, Electrical, and Plumbing, and the date of Substantial Completion; (2) an apportionment of the Work by construction activity; and (3) the time required for completion of each portion of the Work. The schedule shall provide for the orderly progression of the Work to completion and shall not exceed time limits current under the Contract Documents. The schedule shall be revised at appropriate intervals as required by the conditions of the Work and Project. The Contractor shall cooperate with the Construction Manager in scheduling and performing the Contractor's Work to avoid conflict with, and as to cause no delay in, the work or activities of other Contractors, or the construction or operations of the Owner's own forces or Separate Contractors.

§ 3.10.2 The Contractor, promptly after being awarded the Contract and thereafter as necessary to maintain a current submittal schedule, shall submit a submittal schedule for the Construction Manager's and Architect's approval. The Architect and Construction Manager's approval shall not be unreasonably delayed or withheld. The submittal schedule shall (1) be coordinated with the Contractor's construction schedule, and (2) allow the Construction Manager and Architect reasonable time to review submittals. If the Contractor fails to submit a submittal schedule, or fails to provide submittals in accordance with the approved submittal schedule, the Contractor shall not be entitled to any increase in Contract Sum or extension of Contract Time based on the time required for review of submittals.

§ 3.10.3 The Contractor shall participate with other Contractors, the Construction Manager, and the Owner in reviewing and coordinating all schedules for incorporation into the Project schedule that is prepared by the Construction Manager. The Contractor shall make revisions to the construction schedule and submittal schedule as deemed necessary by the Construction Manager to conform to the Project schedule.

§ 3.10.4 The Contractor shall perform the Work in general accordance with the most recent schedules submitted to and accepted in writing by the Owner, Construction Manager, and Architect, and incorporated into the approved Project schedule.

§ 3.11 Documents and Samples at the Site

§ 3.11.1 The Contractor shall make available, at the Project site, one record copy of the Contract Documents, including Change Orders, Construction Change Directives, and other Modifications, in good order and updated daily to indicate field changes and selections made during construction, and in addition accepted and approved Shop Drawings, Product Data, Samples, and similar required submittals. These shall be in electronic form or paper copy, available to the Construction Manager, Architect, and Owner as required to complete routine inspections by Architect, Construction Manager and Owner prior to any approval of payments to the Contractor, and delivered to the Construction Manager for submittal to the Owner upon completion of the Work. The Architect and Contractor must verify that all "as-built" Drawings, Specifications, Addenda, Change Orders, and other Modifications are up-to-date before Contractor's Application for Payment is acceptable and before the Owner incurs any duty to pay Contractor in accordance with the Contract. The record documents shall be a separate set of documents labeled "Record Documents" and used only for record purposes and kept clean and undamaged.

§ 3.11.2 No review or receipt of such records by the Architect or Owner shall be considered a waiver of any deviation from the Contract Documents or approved shop drawings, or any way relieve the Contractor from its responsibility to perform the Work in accordance with the Contract Documents.

§ 3.12 Shop Drawings, Product Data, and Samples

§ 3.12.1 Shop Drawings are drawings, diagrams, schedules, and other data specially prepared for the Work by the Contractor or a Subcontractor, Sub-subcontractor, manufacturer, supplier, or distributor to illustrate some portion of the Work.

§ 3.12.2 Product Data are illustrations, standard schedules, performance charts, instructions, brochures, diagrams, and other information furnished by the Contractor to illustrate materials or equipment for some portion of the Work.

§ 3.12.3 Samples are physical examples that illustrate materials, equipment, or workmanship, and establish standards by which the Work will be judged.

§ 3.12.4 Shop Drawings, Product Data, Samples, and similar submittals are not Contract Documents. Their purpose is to demonstrate how the Contractor proposes to conform to the information given and the design concept expressed in the Contract Documents for those portions of the Work for which the Contract Documents require submittals. Review

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by the Architect and Construction Manager is subject to the limitations of Sections 4.2.10 through 4.2.12. Informational submittals upon which the Construction Manager and Architect are not expected to take responsive action may be so identified in the Contract Documents. Submittals that are not required by the Contract Documents may be returned by the Construction Manager or Architect without action.

§ 3.12.5 The Contractor shall review for compliance with the Contract Documents, approve, and submit to the Construction Manager, Shop Drawings, Product Data, Samples, and similar submittals required by the Contract Documents, in accordance with the Project submittal schedule approved by the Construction Manager and Architect or, in the absence of an approved Project submittal schedule, with reasonable promptness and in such sequence as to cause no delay in the Work or in the activities of other Contractors, Separate Contractors, or the Owner's own forces. The Contractor shall cooperate with the Construction Manager in the coordination of the Contractor's Shop Drawings, Product Data, Samples, and similar submittals with related documents submitted by other Contractors. The Contractor must provide the Owner and the Architect with copies of all submittals made to regulatory agencies.

§ 3.12.6 By submitting Shop Drawings, Product Data, Samples, and similar submittals, the Contractor represents to the Owner, Construction Manager, and Architect, that the Contractor has (1) reviewed and approved them, (2) determined and verified materials, field measurements and field construction criteria related thereto, or will do so, and (3) checked and coordinated the information contained within such submittals with the requirements of the Work and of the Contract Documents.

§ 3.12.7 The Contractor shall perform no portion of the Work for which the Contract Documents require submittal and review of Shop Drawings, Product Data, Samples, or similar submittals, until the respective submittal has been reviewed and accepted by the Architect. The Contractor must correct at its cost, and without any adjustment in Contract Time, any Work the correction of which is required due to the Contractor's failure to obtain approval of a submittal required to have been obtained prior to proceeding with the Work, including, but not limited to, correction of any conflicts in the Work resulting from such failure.

§ 3.12.8 The Work shall be in accordance with accepted submittals except that the Contractor shall not be relieved of responsibility for deviations from the requirements of the Contract Documents by the Architect's acceptance of Shop Drawings, Product Data, Samples, or similar submittals, unless the Contractor has specifically notified the Construction Manager and Architect of such deviation at the time of submittal and (1) the Architect has given written acceptance to the specific deviation as a minor change in the Work, or (2) a Change Order or Construction Change Directive has been issued authorizing the deviation. The Contractor shall not be relieved of responsibility for errors or omissions in Shop Drawings, Product Data, Samples, or similar submittals, by the Architect's acceptance thereof.

§ 3.12.9 The Contractor shall direct specific attention, in writing or on resubmitted Shop Drawings, Product Data, Samples, or similar submittals, to revisions other than those requested by the Construction Manager and Architect on previous submittals. In the absence of such notice, the Architect's acceptance of a resubmission shall not apply to such revisions.

§ 3.12.10 The Contractor shall not be required to provide professional services that constitute the practice of architecture or engineering unless such services are specifically required by the Contract Documents for a portion of the Work or unless the Contractor needs to provide such services in order to carry out the Contractor's responsibilities for construction means, methods, techniques, sequences, and procedures. The Contractor shall not be required to provide professional services in violation of applicable law.

§ 3.12.10.1 If professional design services or certifications by a design professional related to systems, materials, or equipment are specifically required of the Contractor by the Contract Documents, the Owner and the Architect will specify all performance and design criteria that such services must satisfy. The Contractor shall be entitled to rely upon the adequacy and accuracy of the performance and design criteria provided in the Contract Documents. The Contractor shall cause such services or certifications to be provided by an appropriately licensed design professional, whose signature and seal shall appear on all drawings, calculations, specifications, certifications, Shop Drawings, and other submittals prepared by such professional. Shop Drawings, and other submittals related to the Work, designed or certified by such professional, if prepared by others, shall bear such professional's written approval when submitted to the Architect. The Owner, the Architect, and the Construction Manager shall be entitled to rely upon the adequacy and accuracy of the services, certifications, and approvals performed or provided by such design professionals, provided the Owner and Architect have specified to the Contractor the performance and design criteria that such services must

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satisfy. Pursuant to this Section 3.12.10, the Architect will review and approve or take other appropriate action on submittals only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Construction Manager shall review submittals for sequencing, constructability, and coordination impacts on other Contractors.

§ 3.12.10.2 If the Contract Documents require the Contractor's design professional to certify that the Work has been performed in accordance with the design criteria, the Contractor shall furnish such certifications to the Construction Manager and Architect at the time and in the form specified by the Architect.

§ 3.13 Use of Site

§ 3.13.1 The Contractor shall confine operations at the site to areas permitted by applicable laws, statutes, ordinances, codes, rules and regulations, lawful orders of public authorities, and the Contract Documents and shall not unreasonably encumber the site with materials or equipment.

§ 3.13.2 The Contractor shall coordinate the Contractor's operations with, and secure the approval of, the Construction Manager before using any portion of the site.

§ 3.13.3 Except as may be specifically provided in the Contract Documents, the Contractor shall provide all necessary temporary facilities, including power, water, sanitation, scaffolding, storage, and security. If Owner makes any such facilities available to Contractor, it is without representation or warranty as to their adequacy for Contractor's use, and Contractor shall indemnify, defend, and hold Owner harmless from and against any claims arising out of Contractor's use of such facilities.

§ 3.14 Cutting and Patching

§ 3.14.1 The Contractor shall be responsible for cutting, fitting, or patching required to complete the Work or to make its parts fit together properly. All areas requiring cutting, fitting, or patching shall be restored to the condition existing prior to the cutting, fitting, or patching, unless otherwise required by the Contract Documents.

§ 3.14.2 The Contractor shall not damage or endanger a portion of the Work or fully or partially completed construction of the Owner, Separate Contractors, or of other Contractors by cutting, patching, or otherwise altering such construction, or by excavation. The Contractor shall not cut or otherwise alter construction by the Owner, Separate Contractors, or by other Contractors except with written consent of the Construction Manager, Owner, and such other Contractors or Separate Contractors. Consent shall not be unreasonably withheld. The Contractor shall hire a professional utilities locator to verify locations of all public and private utilities prior to initiating any cutting work. The Contractor shall not unreasonably withhold, from the Separate Contractors, other Contractors, or the Owner, its consent to cutting or otherwise altering the Work.

§ 3.15 Cleaning Up

§ 3.15.1 The Contractor shall keep the premises and surrounding area continuously free from accumulation of waste materials and rubbish caused by operations under the Contract. At completion of the Work, the Contractor shall remove from and about the Project waste materials, rubbish, Contractor-generated waste materials, the Contractor's generated hazardous waste materials, the Contractor's tools, construction equipment, machinery, and surplus materials from and about the Project.

§ 3.15.2 If the Contractor fails to clean up as provided in the Contract Documents, the Owner, or Construction Manager with the Owner's approval, may do so and the Owner shall be entitled to reimbursement from the Contractor.

§ 3.16 Access to Work

The Contractor shall provide the Owner, Construction Manager, and Architect with access to the Work in preparation and progress wherever located.

§ 3.17 Royalties, Patents and Copyrights

The Contractor shall pay all royalties and license fees. The Contractor shall defend suits or claims for infringement of copyrights and patent rights and shall hold the Owner, Construction Manager, and Architect harmless from loss on account thereof, but shall not be responsible for defense or loss when a particular design, process, or product of a particular manufacturer or manufacturers is required by the Contract Documents, or where the copyright violations are contained in Drawings, Specifications, or other documents prepared by the Owner, Architect, or Construction

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Manager. However, if an infringement of a copyright or patent is discovered by, or made known to, the Contractor, the Contractor shall be responsible for the loss unless the information is promptly furnished to the Architect through the Construction Manager.

§ 3.18 Indemnification

§ 3.18.1 To the fullest extent permitted by law, the Contractor shall indemnify, defend and hold harmless the Owner, Construction Manager, Architect, Construction Manager's and Architect's consultants, and agents and employees of any of them from and against claims, damages, losses, and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), but only to the extent caused by the negligent acts or omissions of the Contractor, a Subcontractor, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss, or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity which would otherwise exist as to a party or person described in this Section 3.18. The Contractor, furthermore, agrees to obtain, maintain, and pay for such general liability coverage and endorsements (including product and completed operations coverage) as will ensure the provisions of this Section 3.18.1. The Contractor agrees to reimburse the Owner, its agents and employees for all costs and disbursements, including attorneys' fees, paid or incurred to enforce the provisions of this Section 3.18.1.

§ 3.18.2 In claims against any person or entity indemnified under this Section 3.18 by an employee of the Contractor, a Subcontractor, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, the indemnification obligation under Section 3.18.1 shall not be limited by a limitation on amount or type of damages, compensation, or benefits payable by or for the Contractor or a Subcontractor under workers' compensation acts, disability benefit acts, or other employee benefit acts.

§ 3.18.3 To the fullest extent permitted by law and without limiting any other indemnification obligations of the Contractor, except to the extent caused by the uncured failure of the Owner to make payment when due and owing, the Contractor shall indemnify and defend the Owner, its officers, directors, assigns, lenders, agents, and employees from any liens, charges (including attorneys' fees) or encumbrances (including but not limited to mechanic's and materialmen's liens or bond claims) arising out of or in connection with the performance of the Work by Contractor, its Subcontractors, or its material suppliers. Upon request of the Owner, the Contractor shall within sixty (60) days remove any liens filed against the Owner or its property. If the Contractor fails to do so, the Owner is authorized by the Contractor to remove or satisfy any such liens, and the Contractor shall pay to the Owner all costs and damages incurred by the Owner to do so, including attorneys' fees.

ARTICLE 4 ARCHITECT AND CONSTRUCTION MANAGER

§ 4.1 General

§ 4.1.1 The Architect is the person or entity retained by the Owner pursuant to Section 2.3.2 and identified as such in the Agreement.

§ 4.1.2 The Construction Manager is the person or entity retained by the Owner pursuant to Section 2.3.3 and identified as such in the Agreement.

§ 4.1.3 Duties, responsibilities, and limitations of authority of the Construction Manager and Architect as set forth in the Contract Documents shall not be restricted, modified, or extended without written consent of the Owner, Construction Manager, Architect, and Contractor. Consent shall not be unreasonably withheld.

§ 4.2 Administration of the Contract

§ 4.2.1 The Construction Manager and Architect will provide administration of the Contract as described in the Contract Documents and will be the Owner's consultants (1) during construction; (2) until final payment is due; and (3) with the Owner's concurrence, from time to time during the correction period described in Section 12.2. The Architect and Construction Manager will advise and consult with the Owner. The Construction Manager and Architect will have authority to act on behalf of the Owner only to the extent provided in the Contract Documents, unless otherwise modified in writing in accordance with other provisions of the Contract.

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§ 4.2.2 The Architect will visit the site at intervals appropriate to the stage of construction, or as otherwise agreed with the Owner, to become generally familiar with the progress and quality of the Work completed, to endeavor to guard the Owner against defects and deficiencies in the Work, and to determine in general if the Work is being performed in a manner indicating that the Work, when completed, will be in accordance with the Contract Documents. However, the Architect will not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. On the basis of the site visits, the Architect will keep the Owner and the Construction Manager reasonably informed about the progress and quality of the portion of the Work completed, and promptly report to the Owner and Construction Manager known deviations from the Contract Documents and defects and deficiencies observed in the Work.

§ 4.2.2.2 The Contractor shall reimburse the Owner for compensation paid to the Architect for additional site visits made necessary by fault, neglect, or request of the Contractor.

§ 4.2.3 The Construction Manager shall provide one or more representatives who shall be in attendance at the Project site whenever the Work is being performed. The Construction Manager will determine in general if the Work observed is being performed in accordance with the Contract Documents, will keep the Owner and Architect reasonably informed of the progress of the Work, and will promptly report to the Owner and Architect known deviations from the Contract Documents and the most recent Project schedule, and defects and deficiencies observed in the Work.

§ 4.2.4 The Construction Manager will schedule and coordinate the activities of the Contractor and other Contractors in accordance with the latest approved Project schedule.

§ 4.2.5 The Construction Manager, except to the extent required by Section 4.2.4, and Architect will not have control over, charge of, or responsibility for, the construction means, methods, techniques, sequences or procedures, or for the safety precautions and programs in connection with the Work, since these are solely the Contractor's rights and responsibilities under the Contract Documents, and neither will be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. Neither the Construction Manager nor the Architect will have control over or charge of, or be responsible for acts or omissions of, the Contractor, Subcontractors, or their agents or employees, or of any other persons or entities performing portions of the Work.

§ 4.2.6 Communications. The Owner shall communicate with the Contractor and the Construction Manager's consultants through the Construction Manager about matters arising out of or relating to the Contract Documents. The Owner and Construction Manager shall include the Architect in all communications that relate to or affect the Architect's services or professional responsibilities. The Owner shall promptly notify the Architect of the substance of any direct communications between the Owner and the Construction Manager otherwise relating to the Project. Communications by and with the Architect's consultants shall be through the Architect. Communications by and with Subcontractors and suppliers shall be through the Contractor. Communications by and with other Contractors shall be through the Construction Manager. Communications by and with the Owner's own forces and Separate Contractors shall be through the Owner unless otherwise provided. The Contract Documents may specify other communication protocols. The Owner may require the Architect, Construction Manager and the Contractor to comply with Owner requirements in regards to public communications and site signage.

§ 4.2.7 The Construction Manager and Architect will review and certify all Applications for Payment by the Contractor, in accordance with the provisions of Article 9.

§ 4.2.8 The Architect and Construction Manager have authority to reject Work that does not conform to the Contract Documents, and will notify each other about the rejection. Whenever the Construction Manager considers it necessary or advisable for implementation of the intent of the Contract Documents, the Construction Manager will have authority to require additional inspection or testing of the Work in accordance with Sections 13.4.2 and 13.4.3, upon written authorization of the Owner, whether or not the Work is fabricated, installed or completed. The foregoing authority of the Construction Manager will be subject to the provisions of Sections 4.2.18 through 4.2.20 inclusive, with respect to interpretations and decisions of the Architect. However, neither the Architect's nor the Construction Manager's authority to act under this Section 4.2.8 nor a decision made by either of them in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect or the Construction Manager to the Contractor, Subcontractors, suppliers, their agents or employees, or other persons performing any of the Work.

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§ 4.2.9 Utilizing the submittal schedule provided by the Contractor, the Construction Manager shall prepare, and revise as necessary, a Project submittal schedule incorporating information from other Contractors, the Owner, Owner's consultants, Owner's Separate Contractors and vendors, governmental agencies, and participants in the Project under the management of the Construction Manager. The Project submittal schedule and any revisions shall be submitted to the Architect for approval.

§ 4.2.10 The Construction Manager will receive and promptly review for conformance with the submittal requirements of the Contract Documents, all submittals from the Contractor such as Shop Drawings, Product Data, and Samples. Where there are other Contractors, the Construction Manager will also check and coordinate the information contained within each submittal received from the Contractor and other Contractors, and transmit to the Architect those recommended for approval. By submitting Shop Drawings, Product Data, Samples, and similar submittals, the Construction Manager represents to the Owner and Architect that the Construction Manager has reviewed and recommended them for approval. The Construction Manager's actions will be taken in accordance with the Project submittal schedule approved by the Architect or, in the absence of an approved Project submittal schedule, with reasonable promptness while allowing sufficient time to permit adequate review by the Architect.

§ 4.2.11 The Architect will, and the Owner may, review and approve, or take other appropriate action upon, the Contractor's submittals such as Shop Drawings, Product Data, and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Architect's or Owner's action will be taken with such reasonable promptness as to cause no delay in the Work or in the activities of the Owner, Contractor or separate contractors, while allowing sufficient time in the Architect's professional judgment to permit adequate review. Upon the Architect's or the Owner's completed review, the Architect shall transmit its submittal review to the Construction Manager.

§ 4.2.12 Review of the Contractor's submittals by the Construction Manager and Architect is not conducted for the purpose of determining the accuracy and completeness of other details such as dimensions and quantities, or for substantiating instructions for installation or performance of equipment or systems, all of which remain the responsibility of the Contractor as required by the Contract Documents. The Construction Manager and Architect's review of the Contractor's submittals shall not relieve the Contractor of the obligations under Sections 3.3, 3.5, and 3.12. The Construction Manager and Architect's review shall not constitute approval of safety precautions or of any construction means, methods, techniques, sequences, or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

§ 4.2.13 The Construction Manager will prepare Change Orders and Construction Change Directives.

§ 4.2.14 The Construction Manager and the Architect will take appropriate action on Change Orders or Construction Change Directives in accordance with Article 7, and the Architect will have authority to order minor changes in the Work as provided in Section 7.4. The Architect, in consultation with the Construction Manager, will investigate and make determinations and recommendations regarding concealed and unknown conditions as provided in Section 3.7.4.

§ 4.2.15 Utilizing the documents provided by the Contractor, the Construction Manager will maintain at the site for the Owner one copy of all Contract Documents, approved Shop Drawings, Product Data, Samples, and similar required submittals, in good order and marked currently to record all changes and selections made during construction. These will be available to the Architect and the Contractor, and will be delivered to the Owner upon completion of the Project.

§ 4.2.16 The Construction Manager will assist the Architect in conducting inspections to determine the date or dates of Substantial Completion and the date of final completion; issue Certificates of Substantial Completion in conjunction with the Architect pursuant to Section 9.8; and receive and forward to the Owner written warranties and related documents required by the Contract and assembled by the Contractor pursuant to Section 9.10. The Construction Manager will forward to the Architect a final Application and Certificate for Payment or final Project Application and Project Certificate for Payment upon the Contractor's compliance with the requirements of the Contract Documents.

§ 4.2.17 If the Owner and Architect agree, the Architect will provide one or more Project representatives to assist in carrying out the Architect's responsibilities at the site. The Owner shall notify the Construction Manager of any change in the duties, responsibilities and limitations of authority of the Project representatives.

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§ 4.2.18 The Architect will interpret and decide matters concerning performance under the requirements of, the Contract Documents on written request of the Construction Manager, Owner, or Contractor through the Construction Manager. The Architect's response to such requests will be made with reasonable promptness and within any time limits agreed upon. If no agreement is made concerning the time within which interpretations required of the Architect shall be furnished in compliance with this Section 4.2.18, then delay shall not be recognized on account of failure by the Architect to furnish such interpretations until fifteen (15) days after written request is made to them.

§ 4.2.19 Architect's decisions on matters relating to aesthetic effect will be final if consistent with the intent expressed in the Contract Documents.

§ 4.2.20 Architect will review and respond to requests for information about the Contract Documents. The Architect's response to such requests will be made in writing within any time limits agreed upon or otherwise with reasonable promptness. If appropriate, the Architect will prepare and issue supplemental Drawings and Specifications in response to the requests for information.

(Paragraph deleted)

ARTICLE 5 SUBCONTRACTORS

§ 5.1 Definitions

§ 5.1.1 A Subcontractor is a person or entity who has a direct contract with the Contractor to perform a portion of the Work at the site. The term "Subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Subcontractor or an authorized representative of the Subcontractor. The term "Subcontractor" does not include other Contractors or Separate Contractors or the subcontractors of other Contractors or Separate Contractors.

§ 5.1.2 A Sub-subcontractor is a person or entity who has a direct or indirect contract with a Subcontractor to perform a portion of the Work at the site. The term "Sub-subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Sub-subcontractor or an authorized representative of the Sub-subcontractor.

§ 5.2 Award of Subcontracts and Other Contracts for Portions of the Work

§ 5.2.1 Unless otherwise stated in the Contract Documents, the Contractor, as soon as practicable after award of the Contract, shall notify in writing the Construction Manager, for review by the Owner, Construction Manager and Architect, of the persons or entities proposed for each principal portion of the Work, including those who are to furnish materials or equipment fabricated to a special design. Within 14 days of receipt of the information, the Construction Manager may notify the Contractor whether the Owner, the Construction Manager or the Architect (1) has reasonable objection to any such proposed person or entity or, (2) requires additional time for review. Failure of the Construction Manager to provide notice within the 14-day period shall constitute notice of no reasonable objection. The Contractor shall not employ any Subcontractor or use any material to which the Architect, Construction Manager or Owner may object. Prior to the employment of any Subcontractor, the Contractor must obtain the Owner's approval of such Subcontractor for the designated portion of the Work.

§ 5.2.2 The Contractor shall not contract with a proposed person or entity to whom the Owner, Construction Manager or Architect has made reasonable and timely objection. The Contractor shall not be required to contract with anyone to whom the Contractor has made reasonable objection.

§ 5.2.3 If the Owner, Construction Manager or Architect has reasonable objection to a person or entity proposed by the Contractor, the Contractor shall propose another to whom the Owner, Construction Manager or Architect has no reasonable objection. The Contract Sum shall be increased or decreased by the difference in cost occasioned by such change, and an appropriate Change Order shall be issued. However, no increase in the Contract Sum or Contract Time shall be allowed for such change unless the Contractor has acted promptly and responsively in submitting names as required. Notwithstanding the foregoing, the Contractor shall have a continuing duty to the Owner, Construction Manager and Architect to find and propose such persons or entities as shall not result in material increase in the Contract Sum, or a material decrease in the quality of Work contemplated under the Contract Documents.

§ 5.2.4 The Contractor shall not substitute a Subcontractor, person, or entity for one previously selected if the Owner, Construction Manager or Architect makes reasonable objection to such substitution. Any proposed substitution of a Subcontractor, person, or entity for one previously selected shall be made in a separate writing to the Owner, Construction Manager and Architect. No substitution shall be deemed approved/accepted without written

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confirmation from the Owner, Construction Manager and Architect. Neither acceptance of, nor objection to a Subcontractor or Sub-subcontractor, material supplier, or other person or organization by the Owner, Construction Manager and Architect shall limit the responsibility of the Contractor to furnish materials, products, equipment, and services in conformance with the requirements of the Contract Documents.

§ 5.3 Subcontractual Relations

§ 5.3.1 By appropriate written agreement, the Contractor shall require each Subcontractor, to the extent of the Work to be performed by the Subcontractor, to be bound to the Contractor by terms of the Contract Documents, and to assume toward the Contractor all the obligations and responsibilities, including the responsibility for safety of the Subcontractor's Work, that the Contractor, by these Contract Documents, assumes toward the Owner, Construction Manager and Architect. Each subcontract agreement shall preserve and protect the rights of the Owner, Construction Manager and Architect under the Contract Documents with respect to the Work to be performed by the Subcontractor so that subcontracting thereof will not prejudice such rights, and shall allow to the Subcontractor, unless specifically provided otherwise in the subcontract agreement, the benefit of all rights, remedies, and redress against the Contractor that the Contractor, by the Contract Documents, has against the Owner. Where appropriate, the Contractor shall require each Subcontractor to enter into similar agreements with Sub-subcontractors. The Contractor shall make available to each proposed Subcontractor, prior to the execution of the subcontract agreement, copies of the Contract Documents to which the Subcontractor will be bound, and, upon written request of the Subcontractor, identify to the Subcontractor terms and conditions of the proposed subcontract agreement that may be at variance with the Contract Documents. Subcontractors shall similarly make copies of applicable portions of such documents available to their respective proposed Sub-subcontractors.

§ 5.3.2 The Contractor is responsible for the performance of, the actions of, the timeliness of, or interference caused by, Subcontractors, Sub-subcontractors (of any tier), and others directly or indirectly under contract to the Contractor.

§ 5.4 Contingent Assignment of Subcontracts

§ 5.4.1 Each subcontract agreement for a portion of the Work is assigned by the Contractor to the Owner, provided that

.1 assignment is effective only after termination of the Contract by the Owner for cause pursuant to Section 14.2 and only for those subcontract agreements that the Owner accepts by notifying the Subcontractor and Contractor; and

.2 assignment is subject to the prior rights of the surety, if any, obligated under bond relating to the Contract.

When the Owner accepts the assignment of a subcontract agreement, the Owner assumes the Contractor's rights and obligations under the subcontract.

§ 5.4.2 Upon such assignment, if the Work has been suspended for more than 30 days, the Subcontractor's compensation shall be equitably adjusted for increases in cost resulting from the suspension.

§ 5.4.3 Upon assignment to the Owner under this Section 5.4, the Owner may further assign the subcontract to a successor Contractor or other entity. If the Owner assigns the subcontract to a successor Contractor or other entity, the Owner shall nevertheless remain legally responsible for all of the successor Contractor's obligations under the subcontract.

ARTICLE 6 CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTORS

§ 6.1 Owner's Right to Perform Construction with Own Forces and to Award Other Contracts

§ 6.1.1 The Owner reserves the right to perform construction or operations related to the Project with the Owner's own forces, and with Separate Contractors retained under Conditions of the Contract substantially similar to those of this Contract, including those provisions of the Conditions of the Contract related to insurance and waiver of subrogation.

§ 6.1.2 When the Owner performs construction or operations with the Owner's own forces or Separate Contractors, the Owner shall provide for coordination of such forces and Separate Contractors with the Work of the Contractor, who shall cooperate with them.

§ 6.1.3 Unless otherwise provided in the Contract Documents, when the Owner performs construction or operations related to the Project with the Owner's own forces or with Separate Contractors, the Owner or its Separate Contractors

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shall have the same obligations and rights that the Contractor has under the Conditions of the Contract, including, without excluding others, those stated in Article 3, this Article 6, and Articles 10, 11, and 12.

§ 6.2 Mutual Responsibility

§ 6.2.1 The Contractor shall afford the Owner's own forces, Separate Contractors, Construction Manager and other Contractors reasonable opportunity for introduction and storage of their materials and equipment and performance of their activities, and shall connect and coordinate the Contractor's construction and operations with theirs as required by the Contract Documents.

§ 6.2.2 If part of the Contractor's Work depends for proper execution or results upon construction or operations by the Owner's own forces, Separate Contractors or other Contractors, the Contractor shall, prior to proceeding with that portion of the Work, promptly notify the Construction Manager and Architect of apparent discrepancies or defects in the construction or operations by the Owner or Separate Contractor or other Contractors that would render it unsuitable for proper execution and results of the Contractor's Work. Failure of the Contractor to notify the Construction Manager and the Architect of apparent discrepancies or defects prior to proceeding with the Work shall constitute an acknowledgment that the Owner's or Separate Contractor's or other Contractors' completed or partially completed construction is fit and proper to receive the Contractor's Work. The Contractor shall not be responsible for discrepancies or defects in the construction or operations by the Owner or Separate Contractors or other Contractors that are not reasonably discoverable.

§ 6.2.3 Costs caused by delays or by improperly timed activities or defective construction shall be borne by the party responsible therefor.

§ 6.2.4 The Contractor shall promptly remedy damage that the Contractor wrongfully causes to completed or partially completed construction, or to property of the Owner, Separate Contractors, or other Contractors as provided in Section 10.2.5.

§ 6.2.5 Claims and other disputes and matters in question between the Contractor and a separate contractor shall be subject to the provisions of Article 15 provided the separate contractor has reciprocal obligations.

§ 6.2.6 The Owner, Separate Contractors, and other Contractors shall have the same responsibilities for cutting and patching as are described for the Contractor in Section 3.14.

§ 6.3 Owner's Right to Clean Up

If a dispute arises among the Contractor, Separate Contractors, other Contractors, and the Owner as to the responsibility under their respective contracts for maintaining the premises and surrounding area free from waste materials and rubbish as described in Section 3.15, the Owner may clean up allocate the cost among those responsible as the Architect determines to be just..

ARTICLE 7 CHANGES IN THE WORK

§ 7.1 General

§ 7.1.1 Changes in the Work may be accomplished after execution of the Contract, and without invalidating the Contract, by Change Order, Construction Change Directive or order for a minor change in the Work, subject to the limitations stated in this Article 7 and elsewhere in the Contract Documents.

§ 7.1.2 A Change Order shall be based upon agreement among the Owner, Construction Manager, Architect and Contractor. A Construction Change Directive requires agreement by the Owner, Construction Manager and Architect and may or may not be agreed to by the Contractor.

§ 7.1.3 Changes in the Work shall be performed under applicable provisions of the Contract Documents. The Contractor shall proceed promptly with changes in the Work, unless otherwise provided in the Change Order, Construction Change Directive, or order for a minor change in the Work.

§ 7.1.4 The amount of credit to be allowed by the Contractor to the Owner for any deletion or change which results in a net decrease in the Contract Sum will be the amount of the actual net cost as confirmed by the Architect after consultation with the Owner and Construction Manager. When both additions and credits covering related Work or

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substitutions are involved in any one change, the allowance for both overhead and profit shall be figured on the basis of the net increase or decrease, if any, with respect to that change.

§ 7.1.5 In Section 7.3.6, the allowance for the combined overhead and profit included in the total cost to the Owner shall be based on the following schedule:

.1 For the Contractor, for Work performed by the Contractor's own forces, ten percent (10%) of the cost;

.2 For the Contractor, for Work performed by the Contractor's Subcontractor, five percent (5%) of the amount due the Subcontractor;

.3 For each Subcontractor or Sub-subcontractor involved for Work performed by the Subcontractor's or Sub-subcontractor's own forces, ten percent (10%) of the cost;

.4 For each Subcontractor for Work performed by the Subcontractor's Sub-subcontractor, five percent (5%) of the amount due the Subcontractor;

.5 Costs to which overhead and profit is to be applied shall be determined in accordance with Section 7.3.6;

.6 In order to facilitate checking of quotations for extras or credits, all proposals, expect those so minor that their propriety can be seen by inspection, shall be accompanied by a complete itemization of costs, including labor, materials and subcontracts. Labor and materials shall be itemized in the manner prescribed above. Where major cost items are subcontracts, they shall be itemized also. In no case will a change involving over $500 be approved without such itemization.

§ 7.2 Change Orders and Change Proposals

§ 7.2.1 A Change Order is a written instrument prepared by the Construction Manager and signed by the Owner, Construction Manager, Architect, and Contractor, stating their agreement upon all of the following:

.1 The change in the Work;

.2 The amount of the adjustment, if any, in the Contract Sum; and

.3 The extent of the adjustment, if any, in the Contract Time.

§ 7.2.2 Change Order shall be prepared on AIA Document G731.

§ 7.2.3 The Contractor must submit Change Proposals covering a contemplated Change Order within ten (10) days after request of the Owner, or the Architect or within ten (10) days of the event, or Contractor's discovery of a condition, whichever is earlier, giving rise to the Contractor's claim for a change in the Contract Sum or Contract Time. No increase in the Contract Sum or extension of the Contract Time will be allowed the Contractor for the cost or time involved in making Change Proposals. Change Proposals will define or confirm in detail the Work which is proposed to be added, deleted, or changed and must include any adjustment which the Contractor believes to be necessary in (i) the Contract Sum, or (ii) the Contract Time. Any proposed adjustment must include detailed documentation including, but not limited to: cost, properly itemized and supported by sufficient substantiating data to permit evaluation including cost of labor, materials, supplies and equipment, rental cost of machinery and equipment, additional bond cost, plus a fixed fee for profit and overhead (which includes office overhead and Site-specific overhead and general conditions) of ten percent (10%) if the Work is performed by the Contractor, or five percent (5%) if the Work is performed by a Subcontractor or Sub-subcontractor. The Subcontractor's or Sub-subcontractor's overhead and profit in turn must not exceed a total aggregate of ten percent (10%). Change Proposals will be binding upon the Contractor and may be accepted or rejected by the Owner in its discretion. The Owner may, at its option, instruct the Contractor through a Construction Change Directive to proceed with the Work involved in the Change Proposal in accordance with Section 7.3 without accepting the Change Proposal in its entirety.

§ 7.2.4 If the Owner determines that a Change Proposal is appropriate, the Architect will prepare and submit a request for a Change Order or Contract Amendment providing for an appropriate adjustment in the Contract Sum or Contract Time, or both, for further action by the Owner. No such change is effective until the Owner and Architect sign the Change Order.

§ 7.3 Construction Change Directives

§ 7.3.1 A Construction Change Directive is a written order prepared by the Construction Manager and signed by the Owner, Construction Manager and Architect, directing a change in the Work prior to agreement on adjustment, if any, in the Contract Sum or Contract Time, or both. The Owner may by Construction Change Directive, without

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invalidating the Contract, order changes in the Work within the general scope of the Contract consisting of additions, deletions, or other revisions, the Contract Sum and Contract Time being adjusted accordingly.

§ 7.3.2 A Construction Change Directive shall be used in the absence of total agreement on the terms of a Change Order.

§ 7.3.3 If the Construction Change Directive provides for an adjustment to the Contract Sum, the adjustment shall be based on one of the following methods:

.1 Mutual acceptance of a lump sum properly itemized and supported by sufficient substantiating data to permit evaluation;

.2 Unit prices stated in the Contract Documents or subsequently agreed upon;

.3 Cost to be determined in a manner agreed upon by the parties and a mutually acceptable fixed or percentage fee; or

.4 As provided in Section 7.3.4.

§ 7.3.4 If the Contractor does not respond promptly or disagrees with the method for adjustment in the Contract Sum, the Owner and the Construction Manager shall determine the adjustment on the basis of reasonable expenditures and savings of those performing the Work attributable to the change, including, in case of an increase in the Contract Sum, an amount for overhead and profit as set forth in the Agreement, or if no such amount is set forth in the Agreement, a reasonable amount. In such case, and also under Section 7.3.3.3, the Contractor shall keep and present, in such form as the Construction Manager may prescribe, an itemized accounting together with appropriate supporting data. Unless otherwise provided in the Contract Documents, costs for the purposes of this Section 7.3.4 shall be limited to the following:

.1 Costs of labor, including applicable payroll taxes, fringe benefits required by agreement or custom, workers' compensation insurance, and other employee costs approved by the Construction Manager and Architect;

.2 Costs of materials, supplies, and equipment, including cost of transportation, whether incorporated or consumed;

.3 Rental costs of machinery and equipment, exclusive of hand tools, whether rented from the Contractor or others (at rates approved by the Owner);

.4 Costs of premiums for all bonds and insurance, permit fees, and sales, use, or similar taxes, directly related to the change; and

.5 Costs of supervision and field office personnel directly attributable to the change.

§ 7.3.5 If the Contractor disagrees with the adjustment in the Contract Time, the Contractor may make a Claim in accordance with applicable provisions of Article 15.

§ 7.3.6 Upon receipt of a Construction Change Directive, the Contractor shall promptly proceed with the change in the Work involved and advise the Construction Manager of the Contractor's agreement or disagreement with the method, if any, provided in the Construction Change Directive for determining the proposed adjustment in the Contract Sum or Contract Time.

§ 7.3.7 A Construction Change Directive signed by the Contractor indicates the Contractor's agreement therewith, including adjustment in Contract Sum and Contract Time or the method for determining them. Such agreement shall be effective immediately.

§ 7.3.8 The amount of credit to be allowed by the Contractor to the Owner for a deletion or change that results in a net decrease in the Contract Sum shall be actual net cost as confirmed by the Construction Manager and Architect. When both additions and credits covering related Work or substitutions are involved in a change, the allowance for overhead and profit shall be figured on the basis of net increase, if any, with respect to that change.

§ 7.3.9 Pending final determination of the total cost of a Construction Change Directive to the Owner, the Contractor may request payment for Work completed under the Construction Change Directive in Applications for Payment up to and not exceeding $25,000. The Construction Manager and Architect will make an interim determination for purposes of monthly certification for payment for those costs and certify for payment the amount that the Construction Manager and Architect determine to be reasonably justified. The interim determination of cost shall adjust the Contract Sum on

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the same basis as a Change Order, subject to the right of either party to disagree and assert a Claim in accordance with Article 15.

§ 7.3.10 When the Owner and Contractor agree with a determination made by the Construction Manager and Architect concerning the adjustments in the Contract Sum and Contract Time, or otherwise reach agreement upon the adjustments, such agreement shall be effective immediately and the Construction Manager shall prepare a Change Order. Change Orders may be issued for all or any part of a Construction Change Directive.

§ 7.4 Minor Changes in the Work

The Architect may order minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. The Architect's order for minor changes shall be in writing and approved by the Owner. If the Contractor believes that the proposed minor change in the Work will affect the Contract Sum or Contract Time, the Contractor shall notify the Construction Manager and shall not proceed to implement the change in the Work. If the Contractor performs the Work set forth in the Architect's order for a minor change without prior notice to the Construction Manager that such change will affect the Contract Sum or Contract Time, the Contractor waives any adjustment to the Contract Sum or extension of the Contract Time.

ARTICLE 8 TIME

§ 8.1 Definitions

§ 8.1.1 Unless otherwise provided, Contract Time is the period of time, including authorized adjustments, allotted in the Contract Documents for Substantial Completion of the Work.

§ 8.1.2 The date of commencement of the Work is the date established in the Agreement. The date shall not be postponed by the failure to act of the Contractor or of persons or entities for whom the Contractor is responsible.

§ 8.1.3 The date of Substantial Completion is the date certified by the Architect in accordance with Section 9.8.

§ 8.1.4 The term "day" shall mean calendar day of 24 hours beginning at 12:00 midnight. Calendar days as stated in the Contract Documents, shall include all days of a seven (7) day week including Saturdays, Sundays, and holidays. The term "Milestone Date" is, in each instance, the date established in the Contract Documents for the Substantial completion of all or a designated portion of the Work.

§ 8.2 Progress and Completion

§ 8.2.1 Time limits stated in the Contract Documents are of the essence of the Contract. By executing the Agreement, the Contractor confirms that the Contract Time is a reasonable period for performing the Work.

§ 8.2.2 The Contractor shall not knowingly, except by agreement or instruction of the Owner in writing, commence the Work prior to the effective date of insurance required to be furnished by the Contractor and Owner.

§ 8.2.3 The Contractor shall proceed expeditiously with adequate forces and shall achieve Substantial Completion within the Contract Time and shall achieve specific contractual Milestone Dates (if any), Substantial Completion and final Completion within the time stated in the Contract Documents.

§ 8.2.4 Contractor understands and agrees that all Work must be performed in an orderly and closely coordinated sequence so that the dates for Substantial Completion, Final Completion, and Milestone Dates (if any) may be met by the Contractor.

§ 8.2.5 Timely final completion of the Project is of critical importance to the Owner. The Contractor agrees that it shall substantially complete all Work under the Contract documents within the time established herein and that it shall finally complete the Work in the detail required and in the time required by the Contract Documents.

§ 8.2.6 To the extent that the Contract Documents contain or provide for specific contractual Milestone Dates in addition to Final and Substantial Completion dates, such dates shall be adhered to and shall be the last acceptable dates for those milestones and completions, unless modified by the Owner.

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§ 8.2.7 Notwithstanding anything to the contrary contained in the Contract Documents, in the event that any Contractor fails, or appears likely, in the reasonable opinion of the Owner and Construction Manager, to fail to complete a critical portion of their Work on time or to complete any dates for Substantial Completion, Final Completion, or Milestone Dates as evidenced by the latest update of the CPM Schedule Report, the Owner shall have the right to select and require Contractor's performance under any or all of the following operations:

.1 Require the Contractor to substantiate their capability to get back on schedule within two (2) days;

.2 Require the Contractor, at no additional cost to the Owner, to increase their work force, work overtime and/or extra shifts and do whatever else is required by the Owner until the Contractor gets back on schedule as established by the CPM Schedule Report (including any updates thereto);

.3 Withhold progress payments or portions thereof until such time as the contractor returns to schedule, but only related to Substantial Completion or Final Completion;

.4 Contact or visit the factory, plant, or distribution center whose production or delivery schedule may be critical to the scheduled completion of a portion of the contract work and expedite such production delivery at Contractor's expense; or

.5 Require the Contractor to complete, in detail, and submit weekly a Short Interval Schedule (SIS) showing: (1) planning for the next two weeks; (2) work completed for the previous week; (3) sufficient detail to evaluate daily milestone (if any) and manpower/equipment loading, and shall identify/tie into the monthly updated CPM Schedule Report.

Any costs incurred by the Contractor in fulfilling the option(s) selected by the Owner shall be at the Contractor's expense.

§ 8.3 Delays and Extensions of Time

§ 8.3.1 If the Contractor is delayed at any time in the progress of the Work by (1) an act or neglect of the Owner, Architect, Construction Manager, or an employee of any of them, or of the Owner's own forces, Separate Contractors, or other Contractors; (2) by changes ordered in the Work; (3) by labor disputes, fire, unusual delay in deliveries, unavoidable casualties, adverse weather conditions documented in accordance with Section 15.1.6.2, or other causes beyond the Contractor's control; or (4) by other causes that the Contractor asserts and the Architect, based on the recommendation of the Construction Manager, determines justify delay, then subject to the conditions hereinafter set forth, the Contract Time shall be extended by Change Order for such reasonable time as the Architect may determine. Requests for extensions of time for causes enumerated above will be considered by the Architect subject to the following:

.1 Only those conditions enumerated above over which the Contractor has no control will be considered. The burden of proof to substantiate the claim for an extension shall rest with the Contractor, including evidence that the cause was beyond their control. It shall be deemed the Contractor has control over the supply of labor, materials, equipment, methods, techniques, and over their Subcontractors and suppliers;

.2 In the event of Changes in the Work, any consideration for a time extension will be made only at the time of authorizing the changes, and no later than when the Change Order is prepared, and only if the Change Order significantly affects the time and progress of the entire Work. For changes which do not affect the entire Work, time extension may be granted only for the area, phase, unit, or element affected by the change, if due to a valid reason for a time extension;

.3 Any unusual delay in deliveries will not be considered unless it is solely due to transportation issues wholly outside of Contractor's, Subcontractor's, Sub-subcontractor's or Supplier's control. An extension of time will not be granted for delays in deliveries where said delivery was not properly scheduled or when orders were not promptly and properly placed;

.4 With respect to a claim for an extension of time as a result of climatic conditions, the Contractor shall recognize the location of the site and the existence, as normal, or variations from "average" conditions. Foul weather in itself will not be a valid reason for a time extension. Requests for time extensions because of delay resulting from weather extremes will not be considered unless a substantial variation from usual weather conditions occurs for a significant period of time, during phases of the Work when operation necessarily were suspended to a significant degree when they would otherwise have been in progress. In considering the time extension, the weather conditions both before and after the period in which the delay is claimed will be evaluated with credit given to Owner for unseasonably favorable weather;

.5 Delays resulting from a labor dispute will not result in a time extension of a longer period than the dispute, plus a reasonable time for mobilization if justified and necessary as approved by the

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Architect, and may be less depending on the impact of the dispute, including what operations were suspended or curtailed;

.6 No time extension will be granted as a result of improper scheduling or for failure to have shop drawings or samples submitted in ample time for review under a reasonable and agreed upon schedule; or

.7 Delays by Subcontractors or suppliers will not be considered justification for a time extension, except for the same valid reasons and conditions enumerated under Section 8.3.1.

§ 8.3.2 Claims relating to time shall be made in accordance with applicable provisions of Article 15.

§ 8.3.3 This Section 8.3 does not preclude recovery of damages for delay by either party under other provisions of the Contract Documents.

§ 8.3.4 The Contractor shall be responsible for all Owner incurred costs associated with a Contractor related to delay in completion of the Project. These costs may include, but are not limited to, Owner staff overtime, Consultant additional fees, additional testing, and/or additional rental or storage costs. A Change Order or Construction Change Directive will be issued to cover these costs. If a Change Order is not agreed to by the Contractor, the Owner, after presenting documentation to the Contractor, may deduct these amounts without a Change Order from the Contract Sum.

ARTICLE 9 PAYMENTS AND COMPLETION

§ 9.1 Contract Sum

§ 9.1.1 The Contract Sum is stated in the Agreement and, including authorized adjustments, is the total amount payable by the Owner to the Contractor for performance of the Work under the Contract Documents.

§ 9.1.2 If unit prices are stated in the Contract Documents or subsequently agreed upon, and if quantities originally contemplated are materially changed so that application of such unit prices to the actual quantities causes substantial inequity to the Owner or Contractor, the applicable unit prices shall be equitably adjusted.

§ 9.2 Schedule of Values

Before the first Application for Payment, the Contractor shall submit to the Architect and Construction Manager a schedule of values allocated to various portions of the Work, prepared in the form, and supported by the data to substantiate its accuracy, required by the Construction Manager and the Architect. The schedule, unless objected to by the Construction Manager or Architect, shall be used as a basis for reviewing the Contractor's Applications for Payment. The Construction Manager shall forward to the Architect the Contractor's schedule of values. Any changes to the schedule of values shall be submitted to the Construction Manager and supported by such data to substantiate its accuracy as the Construction Manager and the Architect may require, and unless objected to by the Construction Manager or the Architect, shall be used as a basis for reviewing the Contractor's subsequent Applications for Payment. The Contractor, after receipt of Notice to Proceed, shall meet with the Owner, Construction Manager and the Architect for the purpose of reviewing the Project CPM Schedule and the Contract Schedule of Values. The Contractor shall develop a CPM Schedule for completing their portion of the Work, in conjunction with all other Contractors or Bid Packages, at the Pre-Construction Meeting(s). The Schedule of Values is to be broken down into specification sections and by labor and materials.

§ 9.3 Applications for Payment

§ 9.3.1 At least fifteen days before the date established for each progress payment, the Contractor shall submit to the Construction Manager an itemized Application for Payment for operations completed in accordance with the Schedule of Values. Such application shall be notarized and supported by all data substantiating the Contractor's right to payment that the Owner, Construction Manager or Architect require, such as copies of requisitions, and releases of waivers of lien from Subcontractors and material suppliers, and reflecting retainage if provided for elsewhere in the Contract Documents. The form of Application for Payment shall be a notarized AIA Document G732–2019, Application and Certificate for Payment, supported by AIA Document G703–1992, Continuation Sheet.

§ 9.3.1.1 As provided in Section 7.3.9, such applications may include requests for payment on account of changes in the Work that have been properly authorized by Construction Change Directives, or by interim determinations of the Construction Manager and Architect, but not yet included in Change Orders.

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§ 9.3.1.2 Such applications shall not include requests for payment of amounts the Contractor does not intend to pay a Subcontractor or supplier because of a dispute or other reason, unless such Work has been performed by others whom the Contractor intends to pay.

§ 9.3.1.3 Following certification of the Application for Payment by the Architect and Construction Manager, the Owner shall pay ninety-five percent (95%) of its value, retaining five percent (5%) until Final Completion.

§ 9.3.1.4 Contractor shall provide lien waivers for itself for the current payment application and for Subcontractors, Sub-subcontractors, and suppliers for the previous payment application before the Contractor has earned or has the right to receive payment for the specific items of work or materials covered by the lien waivers. All lien waivers shall be provided in the form required by the Owner. This Section 9.3.1.4 shall not limit other obligations of the Contractor contained elsewhere to provide lien waivers.

§ 9.3.2 Unless otherwise provided in the Contract Documents, payments shall be made on account of materials and equipment delivered and suitably stored at the site for subsequent incorporation in the Work. If approved in advance by the Owner, payment may similarly be made for materials and equipment suitably stored off the site at a location agreed upon in writing. Payment for materials and equipment stored on or off the site shall be conditioned upon compliance by the Contractor with procedures satisfactory to the Owner to establish the Owner's title to such materials and equipment or otherwise protect the Owner's interest, and shall include the costs of applicable insurance, storage, and transportation to the site, for such materials and equipment stored off the site.

§ 9.3.3 The Contractor warrants that title to all Work covered by an Application for Payment will pass to the Owner no later than the time of payment. The Contractor further warrants that upon submittal of an Application for Payment all Work for which Certificates for Payment have been previously issued and payments received from the Owner shall, to the best of the Contractor's knowledge, information, and belief, be free and clear of liens, claims, security interests, or encumbrances, in favor of the Contractor, Subcontractors, suppliers, or other persons or entities that provided labor, materials and equipment relating to the Work.

§ 9.3.4 In each Application for Payment, the Contractor shall certify as follows:

> "That there are no known mechanics' or materialmen's liens or stop notice claims outstanding by the application or any of its subcontractors of any tier, or any of the applicant's or subcontractor's material suppliers, or laborers at the date of this application, that all due and payable bills with respect to the Work have been paid or are included in the amount requested in current application, and that, except for such bills, not paid by Owner, but so included, there is no known basis for the filing of any mechanics' or materialmen's liens or stop notice claims on the Work, and that waivers from Contractor, its subcontractors of any tier, or any of the applicant's or subcontractor's material suppliers and laborers have been obtained in such form as to constitute an effective waiver of liens or stop notice claims, under the laws of the State of Minnesota to the extent of payments made by Owner to Contractor."

Notwithstanding the foregoing Section 9.3.4, Contractor acknowledges its obligation to provide a Payment Bond in accordance with the Contract Documents, and that Contractor's failure to pay any of its Subcontractors, Sub-subcontractors, suppliers, or laborers will be resolved through a claim under the Payment Bond.

§ 9.4 Certificates for Payment

§ 9.4.1 Where there is only one Contractor, the Construction Manager will, within seven days after the Construction Manager's receipt of the Contractor's Application for Payment, review the Application, certify the amount the Construction Manager determines is due the Contractor, and forward the Contractor's Application and Certificate for Payment to the Architect. Within seven days after the Architect receives the Contractor's Application for Payment from the Construction Manager, the Architect will either (1) issue to the Owner a Certificate for Payment, in the full amount of the Application for Payment, with a copy to the Construction Manager; or (2) issue to the Owner a Certificate for Payment for such amount as the Architect determines is properly due, and notify the Construction Manager and Owner of the Architect's reasons for withholding certification in part as provided in Section 9.5.1; or (3) withhold certification of the entire Application for Payment, and notify the Construction Manager and Owner of the Architect's reason for withholding certification in whole as provided in Section 9.5.1. The Construction Manager will promptly forward to the Contractor the Architect's notice of withholding certification.

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§ 9.4.2 Where there is more than one Contractor performing portions of the Project, the Construction Manager will, within seven days after the Construction Manager receives all of the Contractors' Applications for Payment: (1) review the Applications and certify the amount the Construction Manager determines is due each of the Contractors; (2) prepare a Summary of Contractors' Applications for Payment by combining information from each Contractor's application with information from similar applications for progress payments from the other Contractors; (3) prepare a Project Application and Certificate for Payment; (4) certify the amount the Construction Manager determines is due all Contractors; and (5) forward the Summary of Contractors' Applications for Payment and Project Application and Certificate for Payment to the Architect.

§ 9.4.2.1 Within seven days after the Architect receives the Project Application and Project Certificate for Payment and the Summary of Contractors' Applications for Payment from the Construction Manager, the Architect will either (1) issue to the Owner a Project Certificate for Payment, with a copy to the Construction Manager; or (2) issue to the Owner a Project Certificate for Payment for such amount as the Architect determines is properly due, and notify the Construction Manager and Owner of the Architect's reasons for withholding certification in part as provided in Section 9.5.1; or (3) withhold certification of the entire Project Application for Payment, and notify the Construction Manager and Owner of the Architect's reason for withholding certification in whole as provided in Section 9.5.1. The Construction Manager will promptly forward the Architect's notice of withholding certification to the Contractors.

§ 9.4.3 The Construction Manager's certification of an Application for Payment or, in the case of more than one Contractor, a Project Application and Certificate for Payment, shall be based upon the Construction Manager's evaluation of the Work and the data in the Application or Applications for Payment. The Construction Manager's certification will constitute a representation that, to the best of the Construction Manager's knowledge, information, and belief, the Work has progressed to the point indicated, the quality of the Work is in accordance with the Contract Documents, and that the Contractor is, or Contractors are, entitled to payment in the amount certified.

§ 9.4.4 The Architect's issuance of a Certificate for Payment or, in the case of more than one Contractor, Project Application and Certificate for Payment, shall be based upon the Architect's evaluation of the Work, the recommendation of the Construction Manager, and data in the Application for Payment or Project Application for Payment. The Architect's certification will constitute a representation that, to the best of the Architect's knowledge, information, and belief, the Work has progressed to the point indicated, the quality of the Work is in accordance with the Contract Documents, and that the Contractor is, or Contractors are, entitled to payment in the amount certified.

§ 9.4.5 The representations made pursuant to Sections 9.4.3 and 9.4.4 are subject to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, to results of subsequent tests and inspections, to correction of minor deviations from the Contract Documents prior to completion, and to specific qualifications expressed by the Construction Manager or Architect.

§ 9.4.6 The issuance of a Certificate for Payment or a Project Certificate for Payment will not be a representation that the Construction Manager or Architect has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work; (2) reviewed construction means, methods, techniques, sequences, or procedures; (3) reviewed copies of requisitions received from Subcontractors and suppliers and other data requested by the Owner to substantiate the Contractor's right to payment; or (4) made examination to ascertain how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

§ 9.5 Decisions to Withhold Certification

§ 9.5.1 The Construction Manager or Architect may withhold a Certificate for Payment or Project Certificate for Payment in whole or in part, to the extent reasonably necessary to protect the Owner, if in the Construction Manager's or Architect's opinion the representations to the Owner required by Section 9.4.3 and 9.4.4 cannot be made. If the Construction Manager or Architect is unable to certify payment in the amount of the Application, the Construction Manager will notify the Contractor and Owner as provided in Section 9.4.1 and 9.4.2. If the Contractor, Construction Manager and Architect cannot agree on a revised amount, the Architect will promptly issue a Certificate for Payment or a Project Certificate for Payment for the amount for which the Architect is able to make such representations to the Owner. The Construction Manager or Architect may also withhold a Certificate for Payment or, because of subsequently discovered evidence, may nullify the whole or a part of a Certificate for Payment or Project Certificate for Payment previously issued, to such extent as may be necessary in the Construction Manager's or Architect's opinion to protect the Owner from loss for which the Contractor is responsible, including loss resulting from the acts and omissions described in Section 3.3.2 because of

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.1 defective Work not remedied;
.2 third party claims filed or reasonable evidence indicating probable filing of such claims, unless security acceptable to the Owner is provided by the Contractor;
.3 failure of the Contractor to make payments properly to Subcontractors or suppliers for labor, materials or equipment;
.4 reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Sum;
.5 damage to the Owner or a Separate Contractor or other Contractor;
.6 reasonable evidence that the Work will not be completed within the Contract Time, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay; or
.7 repeated failure to carry out the Work in accordance with the Contract Documents.

§ 9.5.2 When either party disputes the Architect's decision regarding a Certificate for Payment under Section 9.5.1, in whole or in part, that party may submit a Claim in accordance with Article 15.

§ 9.5.3 When the reasons for withholding certification are removed, certification will be made for amounts previously withheld.

§ 9.5.4 If the Architect or Construction Manager withholds certification for payment under Section 9.5.1, the Owner may, at its sole option, issue joint checks to the Contractor and to any Subcontractor or supplier to whom the Contractor failed to make payment for Work properly performed or material or equipment suitably delivered. If the Owner makes payments by joint check, the Owner shall notify the Architect and the Construction Manager, and both will reflect such payment on the next Certificate for Payment.

§ 9.6 Progress Payments

§ 9.6.1 After the Architect has issued a Certificate for Payment or Project Certificate for Payment, the Owner shall make payment within thirty (30) days of receipt by Owner of Certificate of Payment in the manner and within the time provided in the Contract Documents, and shall so notify the Construction Manager and Architect.

§ 9.6.2 The Contractor shall pay each Subcontractor, no later than seven days after receipt of payment from the Owner, the amount to which the Subcontractor is entitled, reflecting percentages actually retained from payments to the Contractor on account of the Subcontractor's portion of the Work. The Contractor shall, by appropriate agreement with each Subcontractor, require each Subcontractor to make payments to Sub-subcontractors in a similar manner. Per Minnesota Statutes, Section 471.425, within ten (10) days of Contractor's receipt of payment from Owner, the Contractor must pay any Subcontractor for any undisputed services provided by the Subcontractor. The Contractor shall pay interest of one and one-half percent (1-1/2%) per month, or any part of a month, to the Subcontractor on any undisputed amount not paid on time to the subcontractor. The minimum monthly interest penalty payment for an unpaid balance of $100 or more is $10.00. For an unpaid balance of less than $100, the Contractor shall pay the actual interest penalty due to the Subcontractor. Contractor is advised that by reason of Minnesota Statutes, Section 471.425, subd. 4a, if a Subcontractor prevails in a civil action to collect interest penalties from a prime contractor, the Subcontractor must be awarded its costs and disbursements, including attorneys' fees incurred in bringing the action.

§ 9.6.3 The Construction Manager will, on request, furnish to a Subcontractor, if practicable, information regarding percentages of completion or amounts applied for by the Contractor and action taken thereon by the Owner, Construction Manager and Architect on account of portions of the Work done by such Subcontractor.

§ 9.6.4 The Owner has the right to request written evidence from the Contractor that the Contractor has properly paid Subcontractors and suppliers amounts paid by the Owner to the Contractor for subcontracted Work. If the Contractor fails to furnish such evidence within seven days, the Owner shall have the right to contact Subcontractors and suppliers to ascertain whether they have been properly paid. Neither the Owner, Construction Manager nor Architect shall have an obligation to pay, or to see to the payment of money to, a Subcontractor or supplier, except as may otherwise be required by law.

§ 9.6.5 The Contractor's payments to material and equipment suppliers shall be treated in a manner similar to that provided in Sections 9.6.2, 9.6.3 and 9.6.4.

§ 9.6.6 A Certificate for Payment, a progress payment, or partial or entire use or occupancy of the Project by the Owner shall not constitute acceptance of Work not in accordance with the Contract Documents.

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§ 9.6.7 Unless the Contractor provides the Owner with a payment bond in the full penal sum of the Contract Sum, payments received by the Contractor for Work properly performed by Subcontractors or provided by suppliers shall be held by the Contractor for those Subcontractors or suppliers who performed Work or furnished materials, or both, under contract with the Contractor for which payment was made by the Owner. Nothing contained herein shall require money to be placed in a separate account and not commingled with money of the Contractor, create any fiduciary liability or tort liability on the part of the Contractor for breach of trust, or entitle any person or entity to an award of punitive damages against the Contractor for breach of the requirements of this provision.

§ 9.6.8 Provided the Owner has fulfilled its payment obligations under the Contract Documents, the Contractor shall defend and indemnify the Owner from all loss, liability, damage or expense, including reasonable attorney's fees and litigation expenses, arising out of any lien claim or other claim for payment by any Subcontractor or supplier of any tier. Upon receipt of notice of a lien claim or other claim for payment, the Owner shall notify the Contractor. If approved by the applicable court, when required, the Contractor may substitute a surety bond for the property against which the lien or other claim for payment has been asserted.

§ 9.7 Failure of Payment

If the Construction Manager and Architect do not issue a Certificate for Payment or a Project Certificate for Payment, through no fault of the Contractor, within fourteen days after the Construction Manager's receipt of the Contractor's Application for Payment, or if the Owner does not pay the Contractor within thirty (30) days after the date established in the Contract Documents, the amount certified by the Construction Manager and Architect then the Contractor may, upon ten (10) additional days' notice to the Owner, Construction Manager and Architect, stop the Work until payment of the amount owing has been received. The Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable costs of shutdown, delay and start-up which shall be accomplished as provided in Article 7.

§ 9.8 Substantial Completion

§ 9.8.1 Substantial Completion is the stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Contract Documents so the Owner can occupy or utilize the Work for its intended use and when the Architect issues a Certificate of Substantial Completion.

§ 9.8.2 When the Contractor considers that the Work, or a portion thereof which the Owner agrees to accept separately, is substantially complete, the Contractor shall notify the Construction Manager, and the Contractor and Construction Manager shall jointly prepare and submit to the Architect a comprehensive list of items to be completed or corrected. The Contractor shall proceed promptly to complete and correct items on the list. Failure to include an item on such list does not alter the responsibility of the Contractor to complete all Work in accordance with the Contract Documents. Upon receipt of the Contractor's list, the Architect, assisted by the Construction Manager, will make an inspection to determine whether the Work or designated portion thereof is substantially complete. If the Architect's inspection discloses any item, whether or not included on the Contractor's list, which is not in accordance with the requirements of the Contract documents, the Contractor shall, before issuance of the Certificate of Substantial Completion, complete or correct such item, upon notification by the Architect. The Contractor shall then submit a request for another inspection by the Architect, assisted by the Construction Manager, to determine Substantial Completion. When the Work or designated portion thereof is substantially complete, the Architect will prepare a Certificate of Substantial Completion which shall establish the date of Substantial Completion, shall establish responsibilities of the Owner and Contractor for security, maintenance, heat, utilities, damage to the Work and insurance, and shall fix the time within which the Contractor shall finish all items on the list accompanying the Certificate. Warranties required by the Contract Document shall commence on the date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion.

§ 9.8.3 Upon receipt of the list, the Architect, assisted by the Construction Manager, will make an inspection to determine whether the Work or designated portion thereof is substantially complete. If the Architect's inspection discloses any item, whether or not included on the list, which is not sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work or designated portion thereof for its intended use, the Contractor shall, before issuance of the Certificate of Substantial Completion, complete or correct such item upon notification by the Architect. In such case, the Contractor shall then submit a request for another inspection by the Architect, assisted by the Construction Manager, to determine Substantial Completion.

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§ 9.8.4 When the Architect, assisted by the Construction Manager, determines that the Work of all of the Contractors, or designated portion thereof, is substantially complete, the Construction Manager will prepare, and the Construction Manager and Architect shall execute, a Certificate of Substantial Completion that shall establish the date of Substantial Completion; establish responsibilities of the Owner and Contractor for security, maintenance, heat, utilities, damage to the Work and insurance; and fix the time within which the Contractor shall finish all items on the list accompanying the Certificate. Warranties required by the Contract Documents shall commence on the date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion.

§ 9.8.5 The Certificate of Substantial Completion shall be submitted to the Owner and Contractor for their written acceptance of responsibilities assigned to them in the Certificate. Upon such acceptance, and consent of surety if any, the Owner shall make payment of retainage applying to the Work or designated portion thereof. Such payment shall be adjusted for Work that is incomplete or not in accordance with the requirements of the Contract Documents.

§ 9.8.6 Upon Substantial completion of the Work or designated portion thereof and upon application by the Contractor and certification by the Architect, the Owner shall make payment, reflecting adjustment in retainage, pursuant to Minnesota Statutes, Section 15.72, for such Work or portion thereof as provided in the Contract Documents.

§ 9.8.7 The Architect, assisted by the Construction Manager, shall make one (1) inspection for Substantial Completion and Final Completion in accordance with the AIA Document B101–2017 Owner Architect Agreement. If additional inspections are required due to the Contractor's failure to complete previously listed corrective or uncompleted work, the Architect's expense for conducting such re-inspections and related time in processing, reviewing, and revision of requirements shall be charged to the Contractor and such payment shall be accomplished by a deductive Change Order to the Contractor.

§ 9.9 Partial Occupancy or Use

§ 9.9.1 The Owner may occupy or use any completed or partially completed portion of the Work at any stage when such portion is designated by separate agreement with the Contractor, provided such occupancy or use is consented to by the insurer and authorized by public authorities having jurisdiction over the Project. Such partial occupancy or use may commence whether or not the portion is substantially complete, provided the Owner and Contractor have accepted in writing the responsibilities assigned to each of them for payments, retainage if any, security, maintenance, heat, utilities, damage to the Work and insurance, and have agreed in writing concerning the period for correction of the Work and commencement of warranties required by the Contract Documents. When the Contractor considers a portion substantially complete, the Contractor and Construction Manager shall jointly prepare and submit a list to the Architect as provided under Section 9.8.2. Consent of the Contractor to partial occupancy or use shall not be unreasonably withheld. The stage of the progress of the Work shall be determined by written agreement between the Owner and Contractor or, if no agreement is reached, by decision of the Architect after consultation with the Construction Manager.

§ 9.9.2 Immediately prior to such partial occupancy or use, the Owner, Construction Manager, Contractor, and Architect shall jointly inspect the area to be occupied or portion of the Work to be used in order to determine and record the condition of the Work.

§ 9.9.3 Unless otherwise agreed upon, partial occupancy or use of a portion or portions of the Work shall not constitute acceptance of Work not complying with the requirements of the Contract Documents.

§ 9.10 Final Completion and Final Payment

§ 9.10.1 Upon completion of the Work, the Contractor shall forward to the Construction Manager a notice that the Work is ready for final inspection and acceptance, and shall also forward to the Construction Manager a final Contractor's Application for Payment. Upon receipt, the Construction Manager shall perform an inspection to confirm the completion of Work of the Contractor. The Construction Manager shall make recommendations to the Architect when the Work of all of the Contractors is ready for final inspection, and shall then forward the Contractors' notices and Application for Payment or Project Application for Payment, to the Architect, who will promptly make such inspection. When the Architect finds the Work acceptable under the Contract Documents and the Contract fully performed, the Construction Manager and Architect will promptly issue a final Certificate for Payment or Project Certificate for Payment stating that to the best of their knowledge, information and belief, and on the basis of their observations, on-site visits and inspections, the Work has been completed in accordance with the Contract Documents

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and that the entire balance found to be due the Contractor and noted in the final Certificate is due and payable. The Construction Manager's and Architect's final Certificate for Payment or Project Certificate for Payment will constitute a further representation that conditions listed in Section 9.10.2 as precedent to the Contractor's being entitled to final payment have been fulfilled.

§ 9.10.2 Neither final payment nor any remaining retained percentage shall become due until the Contractor submits to the Architect through the Construction Manager (1) an affidavit that payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which the Owner or the Owner's property might be responsible or encumbered (less amounts withheld by Owner) have been paid or otherwise satisfied, (2) a certificate evidencing that insurance required by the Contract Documents to remain in force after final payment is currently in effect and will not be cancelled or allowed to expire until at least (60) days' prior written notice has been given to the Owner, (3) a written statement that the Contractor knows of no reason that the insurance will not be renewable to cover the period required by the Contract Documents, (4) consent of surety, if any, to final payment (5) documentation of any special warranties, such as manufacturers' warranties or specific Subcontractor warranties, including a summary listing all applicable warranties both standard and extended, itemized by specification section and included at the front of the Operation and Maintenance manuals, and (6) other data establishing payment or satisfaction of obligations, such as receipts and releases and waivers of liens, claims, security interests, or encumbrances arising out of the Contract, to the extent and in such form as may be designated by the Owner. If a Subcontractor refuses to furnish a release or waiver required by the Owner, the Contractor may furnish a bond satisfactory to the Owner to indemnify the Owner against such lien, claim, security interest, or encumbrance. If a lien, claim, security interest, or encumbrance remains unsatisfied after payments are made, the Contractor shall refund to the Owner all money that the Owner may be compelled to pay in discharging the lien, claim, security interest, or encumbrance, including all costs and reasonable attorneys' fees.

§ 9.10.3 If, after Substantial Completion of the Work, final completion thereof is materially delayed through no fault of the Contractor or by issuance of Change Orders affecting final completion, and the Construction Manager and Architect so confirm, the Owner shall, upon application by the Contractor and certification by the Construction Manager and Architect, and without terminating the Contract, make payment of the balance due for that portion of the Work fully completed, corrected, and accepted. If the remaining balance for Work not fully completed or corrected is less than retainage stipulated in the Contract Documents, and if bonds have been furnished, the written consent of the surety to payment of the balance due for that portion of the Work fully completed and accepted shall be submitted by the Contractor to the Architect through the Construction Manager prior to certification of such payment. Such payment shall be made under terms and conditions governing final payment, except that it shall not constitute a waiver of Claims.

§ 9.10.4 The making of final payment shall constitute a waiver of Claims by the Owner except those arising from

- **.1** liens, Claims, security interests, or encumbrances arising out of the Contract and unsettled;
- **.2** failure of the Work to comply with the requirements of the Contract Documents;
- **.3** terms of special warranties required by the Contract Documents; or
- **.4** audits performed by the Owner, if permitted by the Contract Documents, after final payment.

§ 9.10.5 Acceptance of final payment by the Contractor, a Subcontractor, or a supplier, shall constitute a waiver of claims by that payee except those previously made in writing and identified by that payee as unsettled at the time of final Application for Payment.

§ 9.11 Damages for Delay

§ 9.11.1 The Contractor shall be responsible for damages incurred by the Owner and any other separate contractors for delay resulting from the Contractor's failure to complete the Work within the contract Time or resulting from the progress of the Work failing to substantially conform to the Project Construction Schedule. These damages are not included in liquidated damages and represent additional direct costs incurred by the Owner for the delay. These damages may include Owner incurred costs for temporary classrooms, temporary facilities, moving of programs, etc.

ARTICLE 10 PROTECTION OF PERSONS AND PROPERTY

§ 10.1 Safety Precautions and Programs

§ 10.1.1 The Contractor shall be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the performance of the Contract. The Contractor shall submit the Contractor's safety program to the Construction Manager for review and coordination with the safety programs of other Contractors. The Construction Manager's responsibilities for review and coordination of safety programs shall not extend to direct control over or charge of the acts or omissions of the Contractors, Subcontractors, agents or employees of the

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Contractors or Subcontractors, or any other persons performing portions of the Work and not directly employed by the Construction Manager.

§ 10.1.2 The Contractor shall comply with all applicable laws and regulations. Notwithstanding any language to the contrary, the Owner shall not have any responsibility for job site inspections or safety recommendations. Any inspections or observations by the Owner, Construction Manager or the Architect are solely for the benefit of the Owner and shall not create any duties or obligations to anyone else.

§ 10.2 Safety of Persons and Property

§ 10.2.1 The Contractor shall take reasonable precautions for safety of, and shall provide reasonable protection to prevent damage, injury, or loss to

- **.1** employees on the Work and other persons who may be affected thereby;
- **.2** the Work and materials and equipment to be incorporated therein, whether in storage on or off the site, under care, custody, or control of the Contractor, a Subcontractor, or a Sub-subcontractor;
- **.3** other property at the site or adjacent thereto, such as trees, shrubs, lawns, walks, pavements, roadways, structures, and utilities not designated for removal, relocation, or replacement in the course of construction; and
- **.4** construction or operations by the Owner, Separate Contractors, or other Contractors.

§ 10.2.2 The Contractor shall comply with, and give notices required by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities, bearing on safety of persons or property or their protection from damage, injury, or loss.

§ 10.2.3 The Contractor shall implement, erect, and maintain, as required by existing conditions and performance of the Contract, reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards; promulgating safety regulations; and notifying the owners and users of adjacent sites and utilities of the safeguards.

§ 10.2.4 When use or storage of explosives or other hazardous materials or equipment or unusual methods are necessary for execution of the Work, the Contractor shall exercise utmost care and carry on such activities under supervision of properly qualified personnel.

§ 10.2.5 The Contractor shall promptly remedy damage and loss (other than damage or loss insured under property insurance required by the Contract Documents) to property referred to in Sections 10.2.1.2, 10.2.1.3 and 10.2.1.4 caused in whole or in part by the Contractor, a Subcontractor, a Sub-subcontractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable and for which the Contractor is responsible under Sections 10.2.1.2, 10.2.1.3 and 10.2.1.4. The Contractor may make a Claim for the cost to remedy the damage or loss to the extent such damage or loss is attributable to acts or omissions of the Owner, Construction Manager or Architect or anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable, and not attributable to the fault or negligence of the Contractor. The foregoing obligations of the Contractor are in addition to the Contractor's obligations under Section 3.18.

§ 10.2.6 The Contractor shall designate a responsible member of the Contractor's organization at the site whose duty shall be the prevention of accidents. This person shall be the Contractor's superintendent unless otherwise designated by the Contractor in writing to the Owner, Construction Manager and Architect.

§ 10.2.7 The Contractor shall not permit any part of the construction or site to be loaded so as to cause damage or create an unsafe condition.

§ 10.2.8 Injury or Damage to Person or Property

If either party suffers injury or damages to person or property because of an act or omission of the other party, of any of the other party's employees or agents, or of others for whose acts such party is legally responsible, notice of the injury or damage, whether or not insured, shall be given to the other party within a reasonable time not exceeding ten (10) days after first observance. The notice shall provide sufficient detail to enable the other party to investigate the matter. If a Claim for additional cost or time related to this Claim is to be asserted, it shall be filed as provided in Sections 15.1.4 and 15.1.5.

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§ 10.3 Hazardous Materials

§ 10.3.1 In the event the Contractor encounters on the site material reasonably believed to be asbestos or polychlorinated biphenyl (PCB) which has not been rendered harmless, the Contractor shall immediately stop Work in the area affected and report the condition to the Owner, Construction Manager and Architect in writing. The Work in the affected area shall not thereafter be resumed except by written agreement of the Owner and Contractor if in fact the material is asbestos or polychlorinated biphenyl (PCB) and has not been rendered harmless. The Work in the affected area shall be resumed in the absence of asbestos or polychlorinated biphenyl (PCB), or when it has been rendered harmless, by written agreement of the Owner and Contractor.

.1 Except where otherwise stated in the Contract Documents, no hazardous material work of any nature shall be performed by the Contractor pursuant to this Contract.

.2 The term "hazardous materials" includes, but is not limited to, asbestos, toxic chemicals, acids, alkalis, irritants, contaminants, or other pollutants, together with any other waste, material, substance, pollutants, or contaminant, all or a portion of which is or would be designated as hazardous waste or substance under applicable local, state, or federal laws, ordinances, codes, rules, or regulations.

§ 10.3.2 To the fullest extent permitted by law, the Owner shall indemnify and hold harmless the Contractor, Construction Manager, Architect, their consultants, and agents and employees of any of them from and against claims, damages, losses, and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work on Owner's property if in fact the material is asbestos or polychlorinated biphenyl (PCB) and has not been rendered harmless, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), including loss of use resulting therefrom, but only to the extent caused in whole or in part by negligent acts or omissions of the Owner, anyone directly or indirectly employed by the Owner, or anyone for whose acts the Owner may be liable, regardless of whether or not such claim, damage, loss, or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity which would otherwise exist as to a party or person described in this Subparagraph 10.3.2.

§ 10.3.3 If reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a material or substance encountered on the site by the contractor, the Contractor shall, upon recognizing the condition, immediately stop Work on Owner's property and report the condition to the Owner, Construction Manager and Architect in writing. The Owner, Construction Manager, Contractor, and Architect shall then proceed in the same manner described in Subparagraph 10.3.1.

(Paragraph deleted)

§ 10.3.5 The Contractor shall reimburse the Owner for the cost and expense the Owner incurs (1) for remediation of hazardous materials or substances the Contractor brings to the site and negligently handles, or (2) where the Contractor fails to perform its obligations under Section 10.3.1, except to the extent that the cost and expense are due to the Owner's fault or negligence. Owner shall be responsible for obtaining the services of a licensed laboratory to verify a presence or absence of the material or substance reported by the Contractor and, in the event such material or substance is found to be present, to verify that it has been rendered harmless.

§ 10.3.6 Regulations concerning the availability of information and employee training in the use and handling of "hazardous substances" and "harmful physical agents", as set forth in the Employee Right-to-Know Act of 1983, Minnesota Statutes, Sections 182.65 to 182.676 are incorporated herein by reference as if fully set forth herein.

§ 10.3.7 The Contractor shall furnish three Material Safety Data Sheets to the Owner for each material used in the Work that is classified by the Employee Right-to-Know Act of 1983 as a "hazardous substance" or a "harmful physical agent."

§ 10.3.8 The Contractor shall label, in generally accepted and/or standardized fashion, all containers on the work site containing "hazardous substances" or as "harmful physical agents." This shall include factory containers and all subsequent containers used in the Work.

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§ 10.4 Emergencies

In an emergency affecting safety of persons or property, the Contractor shall act to prevent threatened damage, injury, or loss. Additional compensation or extension of time claimed by the Contractor on account of an emergency shall be determined as provided in Article 15 and Article 7.

ARTICLE 11 INSURANCE AND BONDS

§ 11.1 Contractor's Insurance and Bonds

§ 11.1.1 The Contractor shall purchase and maintain insurance of the types and limits of liability, containing the endorsements, and subject to the terms and conditions, as described in the Agreement, in EXH-C Owner Insurance or elsewhere in the Contract Documents. The Contractor shall purchase and maintain the required insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located and which carry a Best's rating of A- or higher or are otherwise acceptable to the Owner. The Owner, Construction Manager and Construction Manager's consultants, and the Architect and Architect's consultants, shall be named as additional insureds under the Contractor's commercial general liability policy or as otherwise described in the Contract Documents.

§ 11.1.2 The Contractor shall provide surety bonds of the types, for such penal sums, and subject to such terms and conditions as required by the Contract Documents. The Contractor shall purchase and maintain the required bonds from a company or companies lawfully authorized to issue surety bonds in the jurisdiction where the Project is located.

§ 11.1.3 Upon the request of any person or entity appearing to be a potential beneficiary of bonds covering payment of obligations arising under the Contract, the Contractor shall promptly furnish a copy of the bonds or shall authorize a copy to be furnished. The Contractor shall furnish Certificates of Insurance acceptable to the Owner which shall specifically set forth evidence of all coverage required by Article 11 and EXH-C Owner Insurance and shall be filed with the Owner and Construction Manager prior to commencement of the Work and thereafter upon renewal or replacement of each required policy of insurance.

The Contractor shall not allow insurance required by this Agreement to lapse, be canceled, reduced in limits or coverage, non-renewed, or materially changed or have restrictive modifications added during the life of this Agreement, including the periods of required coverage. The Contractor shall furnish to the Owner and Construction Manager copies of any endorsements that are subsequently issued amending coverage and limits.

If any of the foregoing insurance coverages are required to remain in force after final payment and are reasonably available, all additional certificates evidencing continuation of such coverage shall be submitted with the final Application for Payment. Information concerning reduction of coverage shall be furnished by the Contractor with reasonable promptness in accordance with the Contractor's information and belief.

§ 11.1.3.1 Acceptable insurance certificates are AIA Document G705, CICC of Minnesota Form 701, and/or ACORD form of the American Insurance Institute.

Failure of the Owner to collect certificates does not void the requirements to obtain insurance.

The acceptance of any certificate of insurance by the Owner shall not relieve or decrease the liability of the Contractor hereunder. It is to be understood the Owner, Construction Manager and Architect do not in any way represent that the insurance specified in these articles are sufficient or adequate to protect the Contractor's interest or liabilities, but are merely minimum requirements.

The Contractor shall furnish to the Owner copies of any endorsements that are subsequently issued amending coverage and limits.

§ 11.1.4 In the event the Contractor fails to procure or maintain any insurance coverage required under this Agreement, the Owner may purchase such coverage and deduct the cost thereof from any monies due to the Contractor, or terminate this Agreement under Paragraph 14.2. The Contractor shall be liable to the Owner for providing all coverage, defense, and payments that would have been provided by any insurance that the Contractor failed to procure and maintain as required by the Contract Documents.

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§ 11.1.5 Compliance by the Contractor with the foregoing insurance requirements shall not relieve it from liability for amounts in excess of the limits of insurance.

§ 11.1.6 The Contractor and any of its Subcontractors, Sub-subcontractors, agents and employees, and any separate contractors described in Article 6, if any, and any of their subcontractors, sub-subcontractors, agents and employees shall waive any of their subrogation rights on their Workers Compensation Policy in favor of the Owner, Construction Manager and Architect. The policies shall provide such waivers of subrogation by endorsement or otherwise. A waiver of subrogation shall be effective as to a person or entity even though that person or entity would otherwise have a duty of indemnification, contractual, or otherwise, did not pay the insurance premium directly or indirectly, and whether or not the person or entity had an insurable interest.

§ 11.2 Owner's Insurance

§ 11.2.1 The Owner shall purchase and maintain insurance of the types and limits of liability, containing the endorsements, and subject to the terms and conditions, as described in the Agreement or elsewhere in the Contract Documents. The Owner shall purchase and maintain the required insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The Owner may self-insure and maintain the Owner's usual liability insurance. Optionally, the Owner may purchase and maintain other insurance for self-protection against claims which may arise from operations under the Contract. The Contractor shall not be responsible for purchasing and maintaining this optional Owner's liability insurance unless specifically required by the Contract Documents.

§ 11.2.2 Failure to Purchase Required Property Insurance. If the Owner fails to purchase and maintain the required property insurance, with all of the coverages and in the amounts described in the Agreement or elsewhere in the Contract Documents, the Owner shall inform both the Contractor and the Construction Manager, separately and in writing, prior to commencement of the Work. Upon receipt of notice from the Owner, the Contractor may delay commencement of the Work and may obtain insurance that will protect the interests of the Contractor, Subcontractors, and Sub-Subcontractors in the Work. When the failure to provide coverage has been cured or resolved, the Contract Sum and Contract Time shall be equitably adjusted. In the event the Owner fails to procure coverage, the Owner waives all rights against the Contractor, Subcontractors, and Sub-subcontractors to the extent the loss to the Owner would have been covered by the insurance to have been procured by the Owner. The cost of the insurance shall be charged to the Owner by a Change Order. If the Owner does not provide written notice, and the Contractor is damaged by the failure or neglect of the Owner to purchase or maintain the required insurance, the Owner shall reimburse the Contractor for all reasonable costs and damages attributable thereto.

§ 11.2.3 Notice of Cancellation or Expiration of Owner's Required Property Insurance. Within three (3) business days of the date the Owner becomes aware of an impending or actual cancellation or expiration of any property insurance required by the Contract Documents, the Owner shall provide notice directly to the Contractor, and separately to the Construction Manager, of such impending or actual cancellation or expiration. Unless the lapse in coverage arises from an act or omission of the Contractor: (1) the Contractor, upon receipt of notice from the Owner, shall have the right to stop the Work until the lapse in coverage has been cured by the procurement of replacement coverage by either the Owner or the Contractor; (2) the Contract Time and Contract Sum shall be equitably adjusted; and (3) the Owner waives all rights against the Contractor, Subcontractors, and Sub-subcontractors to the extent any loss to the Owner would have been covered by the insurance had it not expired or been cancelled. If the Contractor purchases replacement coverage, the cost of the insurance shall be charged to the Owner by an appropriate Change Order. The furnishing of notice by the Owner shall not relieve the Owner of any contractual obligation to provide required insurance.

§ 11.3 Waivers of Subrogation

§ 11.3.1 The Owner and Contractor waive all rights against (1) each other and any of their subcontractors, sub-subcontractors, agents, and employees, each of the other; (2) the Construction Manager and Construction Manager's consultants; (3) the Architect and Architect's consultants; (4) other Contractors and any of their subcontractors, sub-subcontractors, agents, and employees; and (5) Separate Contractors, if any, and any of their subcontractors, sub-subcontractors, agents, and employees, for damages caused by fire, or other causes of loss, to the extent those losses are covered by property insurance required by the Agreement or other property insurance applicable to the Project, except such rights as they have to proceeds of such insurance. The Owner or Contractor, as appropriate, shall require similar written waivers in favor of the individuals and entities identified above from the Construction Manager, Construction Manager's consultants, Architect, Architect's consultants, other Contractors,

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Separate Contractors, subcontractors, and sub-subcontractors. The policies of insurance purchased and maintained by each person or entity agreeing to waive claims pursuant to this Section 11.3.1 shall not prohibit this waiver of subrogation. This waiver of subrogation shall be effective as to a person or entity (1) even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, (2) even though that person or entity did not pay the insurance premium directly or indirectly, or (3) whether or not the person or entity had an insurable interest in the damaged property.

(Paragraph deleted)

§ 11.4 Loss of Use, Business Interruption, and Delay in Completion Insurance

The Owner, at the Owner's option, may purchase and maintain insurance that will protect the Owner against loss of use of the Owner's property, or the inability to conduct normal operations, due to fire or other causes of loss. The Owner waives all rights of action against the Contractor, Architect, and Construction Manager for loss of use of the Owner's property, due to fire or other hazards however caused.

§ 11.5 Adjustment and Settlement of Insured Loss

§ 11.5.1 A loss insured under the property insurance required by the Agreement shall be adjusted by the Owner as fiduciary and made payable to the Owner as fiduciary for the insureds, as their interests may appear, subject to requirements of any applicable mortgagee clause and of Section 11.5.2. The Owner shall pay the Construction Manager, Architect and Contractor their just shares of insurance proceeds received by the Owner, and by appropriate agreements the Construction Manager, Architect and Contractor shall make payments to their consultants and Subcontractors in similar manner.

§ 11.5.2 Prior to settlement of an insured loss, the Owner shall notify the Contractor of the terms of the proposed settlement as well as the proposed allocation of the insurance proceeds. The Contractor shall have 14 days from receipt of notice to object to the proposed settlement or allocation of the proceeds. If the Contractor does not object, the Owner shall settle the loss and the Contractor shall be bound by the settlement and allocation. Upon receipt, the Owner shall make the appropriate distributions. Thereafter, if no other agreement is made or the Owner does not terminate the Contract for convenience, the Owner and Contractor shall execute a Change Order for reconstruction of the damaged or destroyed Work in the amount allocated for that purpose. If the Contractor timely objects to either the terms of the proposed settlement or the allocation of the proceeds, the Owner may proceed to settle the insured loss, and any dispute between the Owner and Contractor arising out of the settlement or allocation of the proceeds shall be resolved pursuant to Article 15. Pending resolution of any dispute, the Owner may issue a Construction Change Directive for the reconstruction of the damaged or destroyed Work.

§ 11.6 Bonds

§ 11.6.1 Contractor shall furnish a Performance Bond and a Payment Bond to the Owner in the amount of one hundred percent (100%) of the Contract Sum and issued by a Surety Company authorized to do business in the State of Minnesota, rated "A" or better, and approved by the Owner. The Performance Bond shall be in accordance with Minnesota Statutory requirements, and shall be in the form included in the Project Manual. The Bonds shall allow for any additions or deductions to the Contract Sum.

§ 11.6.2 In order to be acceptable as a surety, Contractor's bonding company bust hold a "Certificate of Authority acceptable to the U.S. Treasury Department and be listed in the Department's current publication of "Bond Qualifiers" with underwriting limitations not less than ten percent (10%) above the Contract Sum.

§ 11.6.3 The surety of the Bonds shall be by a corporate surety company authorized to do business in the state in which Work is being performed under this Contract and acceptable to the Owner. The conditions of the bonds shall meet requirements of the statutes of the state where Work is being performed and all other applicable provisions of state law.

§ 11.6.4 The Contractor shall furnish two (2) originals of the Bonds to the Owner, with copies to the Architect and Construction Manager, within ten (10) days after notification of award and before execution of the Contract. Failure to do so shall constitute a violation of terms of the proposal and provide grounds for forfeiture of bid security.

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ARTICLE 12 UNCOVERING AND CORRECTION OF WORK

§ 12.1 Uncovering of Work

§ 12.1.1 If a portion of the Work is covered contrary to the Construction Manager's or Architect's request or to requirements specifically expressed in the Contract Documents, it must, if requested in writing by either, be uncovered for their examination and be replaced at the Contractor's expense without change in the Contract Time.

§ 12.1.2 If a portion of the Work has been covered that the Construction Manager or Architect has not specifically requested to examine prior to its being covered, the Construction Manager or Architect may request to see such Work and it shall be uncovered by the Contractor. If such Work is in accordance with the Contract Documents, the Contractor shall be entitled to an equitable adjustment to the Contract Sum and Contract Time as may be appropriate. If such Work is not in accordance with the Contract Documents, the costs of uncovering the Work, and the cost of correction, shall be at the Contractor's expense.

§ 12.2 Correction of Work

§ 12.2.1 Before Substantial Completion

The Contractor shall promptly correct Work rejected by the Construction Manager or Architect or failing to conform to the requirements of the Contract Documents, discovered before Substantial Completion, and whether or not fabricated, installed or completed. The Contractor shall bear costs of correcting such rejected Work, including additional testing and inspections, the cost of uncovering and replacement, and compensation for the Construction Manager's and Architect's services and expenses made necessary thereby.

§ 12.2.2 After Substantial Completion

(Paragraphs deleted)

§ 12.2.2.1 If within one year after the date of Substantial Completion of the Work or designated portion thereof, or after the date for commencement of warranties established under Section 9.9.1, or by terms of any applicable special warranty required by the Contract Documents, any of the Work is found to be not in accordance with the requirements of the Contract Documents, the Contractor shall correct it promptly (and any other property damaged or removed in effecting the correction) after receipt of notice from the Owner, Construction Manager or Architect to do so, unless the Owner has previously given the Contractor a written acceptance of such condition. The Owner, Construction Manager or Architect shall give such notice promptly after discovery of the condition. This period of one year shall be extended with respect to portions of Work first performed after Substantial completion by the period of time between Substantial completion and the actual performance of the Work. This obligation under this Subparagraph 12.2.2.1 shall survive acceptance of the Work under the contract and termination of the Contract. The Owner, Construction Manager or Architect shall give such notice promptly after discovery of the condition. The expiration of the above one year or any other specified time period, or any other period prescribed by the law, shall not relieve the Contractor of the obligation form the expense to correct any latent defect in the work or deficiencies which are not readily ascertained, including but not limited to, defective materials and quality of work performed, defects attributable to material substitutions for special materials, substandard performance or otherwise not in compliance with the Contract Documents. Such latent defects or deficiencies shall be corrected as provided in this Paragraph 12.2. Following the correction or replacement of any of the Work, as above specified, the Contractor shall correct any defects or deficiencies in the corrected or replaced materials and workmanship which is found within one year after the date of correction or replacement.

§ 12.2.3 The Contractor shall remove from the site portions of the Work that are not in accordance with the requirements of the Contract Documents and are neither corrected by the Contractor nor accepted by the Owner.

§ 12.2.4 If the Contractor fails to correct nonconforming Work within a reasonable time, the Owner may correct it in accordance with Paragraph 2.4. If the Contractor does not proceed with correction of such nonconforming Work within a reasonable time fixed by written notice from the Architect or Construction Manager, the Owner may correct or remove it and store the salvageable materials or equipment all at the Contractor's expense. If the Contractor does not pay costs of such removal and storage within ten (10) days after written notice, the Owner may upon ten (10) additional days' written notice sell such materials and equipment at auction or at private sale and shall account for the proceeds thereof, after deducting costs and damages that should have been borne by the Contractor, the Contract Sum shall be reduced by the deficiency. If payments then or thereafter due the Contractor are not sufficient to cover such amount, the Contractor shall pay the difference to the Owner.

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§ 12.2.5 The Contractor shall bear the cost of correcting destroyed or damaged construction whether completed or partially completed, of the Owner or separate contractors caused by the Contractor's correction or removal of Work which is not in accordance with the requirements of the Contract Documents.

§ 12.2.6 Nothing contained in this Section 12.2 shall be construed to establish a period of limitation with respect to other obligations the Contractor has under the Contract Documents. Establishment of the one-year period for correction of Work as described in Section 12.2.2 relates only to the specific obligation of the Contractor to correct the Work, and has no relationship to the time within which the obligation to comply with the Contract Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Contractor's liability with respect to the Contractor's obligations other than specifically to correct the Work.

§ 12.3 Acceptance of Nonconforming Work

If the Owner prefers to accept Work that is not in accordance with the requirements of the Contract Documents, the Owner may do so instead of requiring its removal and correction, in which case the Contract Sum will be reduced as appropriate and equitable. Such adjustment shall be effected whether or not final payment has been made.

ARTICLE 13 MISCELLANEOUS PROVISIONS

§ 13.1 Governing Law

The Contract shall be governed by the law of the place where the Project is located excluding that jurisdiction's choice of law rules. If the parties have selected arbitration as the method of binding dispute resolution, the Federal Arbitration Act shall govern Section 15.4.

§ 13.2 Successors and Assigns

§ 13.2.1 The Owner and Contractor respectively bind themselves, their partners, successors, assigns, and legal representatives to covenants, agreements, and obligations contained in the Contract Documents. Except as provided in Section 13.2.2, neither party to the Contract shall assign the Contract as a whole without written consent of the other. If either party attempts to make an assignment without such consent, that party shall nevertheless remain legally responsible for all obligations under the Contract.

§ 13.2.2 The Owner may, without consent of the Contractor, assign the Contract to a lender providing construction financing for the Project, if the lender assumes the Owner's rights and obligations under the Contract Documents. The Contractor shall execute all consents reasonably required to facilitate the assignment.

§ 13.3 Rights and Remedies

§ 13.3.1 Duties and obligations imposed by the Contract Documents and rights and remedies available thereunder shall be in addition to and not a limitation of duties, obligations, rights, and remedies otherwise imposed or available by law.

§ 13.3.2 No action or failure to act by the Owner, Construction Manager, Architect, or Contractor shall constitute a waiver of a right or duty afforded them under the Contract, nor shall such action or failure to act constitute approval of or acquiescence in a breach thereunder, except as may be specifically agreed upon in writing.

§ 13.4 Tests and Inspections

§ 13.4.1 Tests, inspections, and approvals of portions of the Work shall be made as required by the Contract Documents and by applicable laws, statutes, ordinances, codes, rules, and regulations or lawful orders of public authorities. The Owner, Construction Manager or Architect shall make arrangements for such tests, inspections, and approvals with an independent testing laboratory or entity acceptable to the Owner, or with the appropriate public authority. Timely notice shall be given to the Construction Manager and Architect of when and where tests and inspections are to be made so that the Construction Manager and Architect may observe such procedures. The Owner shall bear costs of tests, inspections, or approvals that do not become requirements until after bids are received or negotiations concluded. The Owner shall directly arrange and pay for tests, inspections, or approvals where building codes or applicable laws or regulations so require.

§ 13.4.2 If the Construction Manager, Architect, Owner, or public authorities having jurisdiction determine that portions of the Work require additional testing, inspection, or approval not included under Section 13.4.1, the Construction Manager and Architect will, upon written authorization from the Owner, instruct the Contractor to make arrangements for such additional testing, inspection, or approval, by an entity acceptable to the Owner, and the

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Contractor shall give a minimum of two (2) working days' notice to the Construction Manager and Architect of when and where tests and inspections are to be made so that the Construction Manager and Architect may observe procedures. The Owner shall bear such costs, except as provided in Section 13.4.3.

§ 13.4.3 If procedures for testing, inspection, or approval under Sections 13.4.1 and 13.4.2 reveal failure of the portions of the Work to comply with requirements established by the Contract Documents, all costs made necessary by such failure, including those of repeated procedures and compensation for the Construction Manager's and Architect's services and expenses, shall be at the Contractor's expense.

§ 13.4.4 Required certificates of testing, inspection, or approval shall, unless otherwise required by the Contract Documents, be secured by the Contractor and promptly delivered to the Construction Manager for transmittal to the Architect.

§ 13.4.5 If the Construction Manager or Architect is to observe tests, inspections, or approvals required by the Contract Documents, the Construction Manager or Architect will do so promptly and, where practicable, at the normal place of testing.

§ 13.4.6 Tests or inspections conducted pursuant to the Contract Documents shall be made promptly to avoid unreasonable delay in the Work.

§ 13.5 Interest

All payments to the Contractor shall be governed by the Prompt Payment of Local Government Bills, Minnesota Statutes, Section 471.125 ("Prompt Payment Act") and Article 5 of the A132–2019 Agreement on this Project.

§ 13.6 Non-Discrimination

§ 13.6.1 All contracts between the Owner and companies providing goods and services under the Contract Documents shall contain the following equal opportunity and civil right clause:

> "During the performance of this Agreement, the provider agrees to the following: No contractor, material supplier, vendor, or other person shall on the basis of sex, race, creed, color, religion, national origin, age, marital status, sexual orientation, or disability be excluded from full employment rights in, participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program, service, or activity under the provisions of any and all applicable Federal and State laws against discrimination, including the Minnesota Human Rights Act and the Civil Rights Act of 1964."

Upon request, the Contractor shall furnish all information and reports required by the Owner, or by the rules and regulations of investigation to ascertain compliance with all applicable rules and regulations. The Contractor shall also comply with any applicable licensing requirements of the Minnesota Department of Human Services in employment of personnel.

The Contractor acknowledges that the violation of the above-stated paragraph is a misdemeanor pursuant to Minnesota Statutes, Section 181.59.

This Agreement may be cancelled or terminated by the Owner or any other person authorized to grant the contracts for employment under this Agreement, and all money due, or to become due under this Agreement may be forfeited for a second or any subsequent violation of the non-discriminatory terms stated above.

§ 13.6.2 During the completion of the work and all other services required by the Contract Documents, the Contractor agrees that no contractor, material supplier, vendor, or other person shall, on the basis of sex, race, creed, color, religion, national origin, age, marital status, sexual orientation, or disability be excluded from full employment rights in participation in, be denied the benefits of, or be otherwise subjected to discrimination under the provisions of any and all applicable Federal and State laws against discrimination, including the Minnesota Human Rights Act and the Civil Rights Act of 1964. Upon request, the Architect, Construction Manager and Contractor shall furnish all information and reports required by the Owner, or by the rules and regulations of investigation to ascertain compliance with all applicable rules and regulations. The Contractor shall also comply with any applicable licensing requirements of the Minnesota Department of Human Services in employment of personnel.

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Contractor acknowledges that the violation of the above-states paragraph is a misdemeanor pursuant to Minnesota Statutes Section 181.59.

The Contract Documents may be cancelled or terminated by the Owner or any other person authorized to grant the contracts for employment under this Agreement, and all money due, or to become due under the Agreement may be forfeited for a second or any subsequent violation of the non-discriminatory terms stated above.

§ 13.7 No action or failure to act by the Owner shall constitute a waiver of a right or duty afforded the Owner under the Contract Documents, nor shall such action or failure to act constitute approval of or acquiescence of the Owner in a breach of the Contract Documents, except as may be specifically agreed in writing. None of the approval of any Application for Payment, the making of any payment, the giving of any approval or consent, the use or occupancy of the Work, or any part thereof, the making of final payment, or any other action or inaction on the part of the Owner, Construction Manager or Architect shall constitute a waiver of claims by or rights of the Owner or an acceptance of any Work that is not in accordance with the Contract Documents. The Contractor shall not be relieved from its obligations to perform the Work in accordance with the Contract Documents either by the activities or duties of the representations of the Owner, Construction Manager or Architect, or by inspections, tests, or approvals required or performed by the Owner, Construction Manager or Architect or anyone else.

ARTICLE 14 TERMINATION OR SUSPENSION OF THE CONTRACT

§ 14.1 Termination by the Contractor

§ 14.1.1 The Contractor may terminate the Contract if the Work is stopped for a period of 30 consecutive days through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, their agents or employees, or any other persons or entities performing portions of the Work, for any of the following reasons:

.1 Issuance of an order of a court or other public authority having jurisdiction that requires all Work to be stopped;

.2 An act of government, such as a declaration of national emergency, that requires all Work to be stopped;

.3 Because the Construction Manager has not certified or the Architect has not issued a Certificate for Payment and has not notified the Contractor of the reason for withholding certification as provided in Section 9.4, or because the Owner has not made payment on a Certificate for Payment within the time stated in the Contract Documents; or

.4 The Owner has failed to furnish to the Contractor reasonable evidence as required by Section 2.2.

§ 14.1.2 The Contractor may terminate the Contract if, through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, their agents or employees, or any other persons or entities performing portions of the Work, repeated suspensions, delays, or interruptions of the entire Work by the Owner as described in Section 14.3, constitute in the aggregate more than 100 percent of the total number of days scheduled for completion, or 120 days in any 365-day period, whichever is less.

§ 14.1.3 If one of the reasons described in Section 14.1.1 or 14.1.2 exists, the Contractor may, upon seven days' notice to the Owner, Construction Manager and Architect, terminate the Contract and recover from the Owner payment for Work executed, as well as reasonable overhead and profit on Work not executed, and costs incurred by reason of such termination.

§ 14.1.4 If the Work is stopped for a period of 60 consecutive days through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, or their agents or employees, or any other persons performing portions of the Work because the Owner has repeatedly failed to fulfill the Owner's obligations under the Contract Documents with respect to matters important to the progress of the Work, the Contractor may, upon seven additional days' notice to the Owner, Construction Manager and Architect, terminate the Contract and recover from the Owner as provided in Section 14.1.3.

§ 14.1.5 No Right to Stop Work for Non-Payment

The Contractor has no right to stop Work as a consequence of non-payment. In the event of any disagreement between the Contractor and Owner involving the Contractor's entitlement to payment, the Contractor's only remedy is to file a Claim in accordance with Article 15. The Contractor must diligently proceed with the Work pending resolution of the Claim. If, however, an Application for Payment has been approved for payment by the Owner, and the Owner fails to make payment within sixty (60) days of the approval for payment by the Owner, the Contractor may upon ten (10)

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days written notice to the Owner, stop work if payment is not made by the Owner within ten (10) days following the notice.

§ 14.2 Termination by the Owner for Cause

§ 14.2.1 The Owner may terminate the Contract if the Contractor

.1 repeatedly refuses or fails to supply enough properly skilled workers or proper materials;

.2 fails to make payment to Subcontractors or suppliers in accordance with the respective agreements between the Contractor and the Subcontractors or suppliers;

.3 repeatedly disregards applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of a public authority; or

.4 otherwise is guilty of substantial breach of a provision of the Contract Documents.

§ 14.2.2 When any of the reasons described in Section 14.2.1 exist, after consultation with the Construction Manager, and upon certification by the Architect that sufficient cause exists to justify such action, the Owner may, without prejudice to any other rights or remedies of the Owner and after giving the Contractor and the Contractor's surety, if any, seven days' notice, terminate employment of the Contractor and may, subject to any prior rights of the surety:

.1 Exclude the Contractor from the site and take possession of all materials, equipment, tools, and construction equipment and machinery thereon owned by the Contractor;

.2 Accept assignment of subcontracts pursuant to Section 5.4; and

.3 Finish the Work by whatever reasonable method the Owner may deem expedient. Upon written request of the Contractor, the Owner shall furnish to the Contractor a detailed accounting of the costs incurred by the Owner in finishing the Work.

§ 14.2.3 When the Owner terminates the Contract for one of the reasons stated in Section 14.2.1, the Contractor shall not be entitled to receive further payment until the Work is finished.

§ 14.2.4 If the unpaid balance of the Contract Sum exceeds costs of finishing the Work, including compensation for the Construction Manager's and Architect's services and expenses made necessary thereby, and other damages incurred by the Owner and not expressly waived, such excess shall be paid to the Contractor. If such costs and damages exceed the unpaid balance, the Contractor shall pay the difference to the Owner. The amount to be paid to the Contractor or Owner, as the case may be, shall, upon application, be certified by the Initial Decision Maker after consultation with the Construction Manager, and this obligation for payment shall survive termination of the Contract.

§ 14.3 Suspension by the Owner for Convenience

§ 14.3.1 The Owner may, without cause, order the Contractor in writing to suspend, delay or interrupt the Work, in whole or in part for such period of time as the Owner may determine.

§ 14.3.2 The Contract Sum and the Contract Time shall be adjusted for increases or decreases in the cost and time caused by suspension, delay, or interruption under Section 14.3.1. Adjustment of the Contract Sum shall include reasonable profit. No adjustment shall be made to the extent:

.1 that performance is, was, or would have been, so suspended, delayed, or interrupted, by another cause for which the Contractor is responsible; or

.2 that an equitable adjustment is made or denied under another provision of this Contract.

§ 14.4 Termination by the Owner for Convenience

§ 14.4.1 The Owner may, at any time, terminate the Contract for the Owner's convenience and without cause.

§ 14.4.2 Upon receipt of notice from the Owner of such termination for the Owner's convenience, the Contractor shall

.1 cease operations as directed by the Owner in the notice;

.2 take actions necessary, or that the Owner may direct, for the protection and preservation of the Work; and

.3 except for Work directed to be performed prior to the effective date of termination stated in the notice, terminate all existing subcontracts and purchase orders and enter into no further subcontracts and purchase orders.

(Paragraph deleted)

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ARTICLE 15 CLAIMS AND DISPUTES

§ 15.1 Claims

§ 15.1.1 Definition. A Claim is a demand or assertion by the Contractor seeking, as a matter of right, payment of money, a change in the Contract Time, or other relief with respect to the terms of the Contract. The responsibility to substantiate Claims shall rest with the Contractor. Nothing in this paragraph 15.1.1 is intended to apply to or in any way limit the Owner's right to make Claims related to or arising out of the Contract. This Section 15.1.1 does not require the Owner to file a Claim in order to impose liquidated damages in accordance with the Contract Documents.

§ 15.1.2 Time Limits on Claims

The Owner and Contractor shall commence all Claims and causes of action against the other and arising out of or related to the Contract, whether in contract, tort, breach of warranty or otherwise, in accordance with the requirements of the binding dispute resolution method selected in the Agreement and within the period specified by applicable law, but in any case not more than 10 years after the date of Substantial Completion of the Work. The Owner and Contractor waive all Claims and causes of action not commenced in accordance with this Section 15.1.2.

§ 15.1.3 Notice of Claims

§ 15.1.3.1 Claims by Contractor, where the condition giving rise to the Claim is first discovered prior to expiration of the period for correction of the Work set forth in Section 12.2.2, shall be initiated by written notice to the Owner and to the Initial Decision Maker with a copy sent to the Construction Manager and Architect, if the Architect is not serving as the Initial Decision Maker. Claims by the Contractor under this Section 15.1.3.1 shall be initiated within ten (10) days after occurrence of the event giving rise to such Claim or within ten (10) days after the Contractor first recognizes the condition giving rise to the Claim, whichever is later. Any additional Claim made after and relating to the initial Claim has been implemented by Change Order will not be considered unless submitted in a timely manner. As a condition to making a claim for additional costs, the Contractor shall maintain and produce accurate records to substantiate all additional costs actually incurred. If a Claim for actual costs is approved, the Owner shall pay the Contractor actual costs incurred, plus either (a) ten percent (10%) for overhead and profit for work performed by the Contractor, or (b) five percent (5%) overhead and profit for work performed by a Subcontractor, as applicable.

§ 15.1.3.2 Claims by either the Owner or Contractor, where the condition giving rise to the Claim is first discovered after expiration of the period for correction of the Work set forth in Section 12.2.2, shall be initiated by written notice to the other party. In such event, no decision by the Initial Decision Maker is required.

§ 15.1.4 Continuing Contract Performance

§ 15.1.4.1 Pending final resolution of a Claim, except as otherwise agreed in writing or as provided in Section 9.7 and Article 14, the Contractor shall proceed diligently with performance of the Contract and the Owner shall continue to make payments in accordance with the Contract Documents. Subject to Paragraph 15.1.5, no such continuing performance by the Contractor, nor payment by the Owner shall be deemed a waiver of, or to otherwise impair any such Claim.

§ 15.1.4.2 The Contract Sum and Contract Time shall be adjusted in accordance with the Initial Decision Maker's decision, subject to the right of either party to proceed in accordance with this Article 15. The Architect will issue Certificates for Payment in accordance with the decision of the Initial Decision Maker.

§ 15.1.5 Claims for Additional Cost. If the Contractor wishes to make a Claim for an increase in the Contract Sum, notice as provided in Section 15.1.3 shall be given before proceeding to execute the portion of the Work that is the subject of the Claim. Prior notice is not required for Claims relating to an emergency endangering life or property arising under Section 10.4.

§ 15.1.6 Claims for Additional Time

§ 15.1.6.1 If the Contractor wishes to make a Claim for any increase in the Contract Time, notice as provided in Section 15.1.3 shall be given. The Contractor's Claim shall include an estimate of cost and of probable effect of delay on progress of the Work. In the case of a continuing delay only one Claim is necessary.

§ 15.1.6.2 If adverse weather conditions are the basis for a Claim for additional time, such Claim shall be documented by data substantiating that weather conditions were abnormal for the period of time, could not have been reasonably anticipated and had an adverse effect on the scheduled construction.

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(Paragraphs deleted)

§ 15.2 Initial Decision

§ 15.2.1 Claims, excluding those where the condition giving rise to the Claim is first discovered after expiration of the period for correction of the Work set forth in Section 12.2.2 or arising under Sections 10.3, 10.4, and 11.5, shall be referred to the Initial Decision Maker for initial decision. The Architect will serve as the Initial Decision Maker, unless otherwise indicated in the Agreement. Except for those Claims excluded by this Section 15.2.1, an initial decision shall be required as a condition precedent to mediation of any Claim. If an initial decision has not been rendered within 30 days after the Claim has been referred to the Initial Decision Maker, the party asserting the Claim may demand mediation and binding dispute resolution without a decision having been rendered. Unless the Initial Decision Maker and all affected parties agree, the Initial Decision Maker will not decide disputes between the Contractor and persons or entities other than the Owner.

§ 15.2.2 The Initial Decision Maker will review Claims and within ten days of the receipt of a Claim take one or more of the following actions: (1) request additional supporting data from the claimant or a response with supporting data from the other party, (2) reject the Claim in whole or in part, (3) approve the Claim, (4) suggest a compromise, or (5) advise the parties that the Initial Decision Maker is unable to resolve the Claim if the Initial Decision Maker lacks sufficient information to evaluate the merits of the Claim or if the Initial Decision Maker concludes that, in the Initial Decision Maker's sole discretion, it would be inappropriate for the Initial Decision Maker to resolve the Claim.

§ 15.2.3 In evaluating Claims, the Initial Decision Maker may, but shall not be obligated to, consult with or seek information from either party or from persons with special knowledge or expertise who may assist the Initial Decision Maker in rendering a decision. The Initial Decision Maker may request the Owner to authorize retention of such persons at the Owner's expense.

§ 15.2.4 If the Initial Decision Maker requests a party to provide a response to a Claim or to furnish additional supporting data, such party shall respond, within ten days after receipt of the request, and shall either (1) provide a response on the requested supporting data, (2) advise the Initial Decision Maker when the response or supporting data will be furnished, or (3) advise the Initial Decision Maker that no supporting data will be furnished. Upon receipt of the response or supporting data, if any, the Initial Decision Maker will either reject or approve the Claim in whole or in part.

§ 15.2.5 The Initial Decision Maker will render an initial decision approving or rejecting the Claim, or indicating that the Initial Decision Maker is unable to resolve the Claim. This initial decision shall (1) be in writing; (2) state the reasons therefor; and (3) notify the parties, the Construction Manager, and the Architect, if the Architect is not serving as the Initial Decision Maker, of any change in the Contract Sum or Contract Time or both. The initial decision shall be final and binding on the parties but subject to mediation and, if the parties fail to resolve their dispute through mediation, to binding dispute resolution.

§ 15.2.6 In the event of a Claim against the Contractor, the Owner may, but is not obligated to notify the surety, if any, of the nature and amount of the Claim. If the Claim relates to a possibility of a Contractor's default, the Owner may, but is not obligated to notify the surety and initiate a Claim on the performance bond.

(Paragraphs deleted)

§ 15.3 Mediation

§ 15.3.1 Any claim, dispute or other matter in question or arising out of or related to the Contract shall be subject to mediation. Mediation is not a condition precedent to commencing litigation, but if litigation is commenced before mediation is held, the Parties agree to mediate before any dispositive motions or trial.

§ 15.3.2 The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located unless another location is mutually agreed upon. Agreements reached in mediation and ratified by the Owner's Council shall be enforceable as settlement agreements in any court having jurisdiction thereof.

(Paragraphs deleted)

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Additions and Deletions Report for
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PAGE 1

North High School Phase 4 Work Scope 21-A Fire Suppression
1500 James Avenue, Minneapolis, MN 55411

...

Kraus-Anderson Construction Company
501 South 8th Street, Minneapolis, MN 55404

...

Minneapolis Public Schools Special School District #1
1250 West Broadway Avenue
Minneapolis, MN 55411

...

LSE Architects 1401 Glenwood Avenue
Minneapolis, MN 55405

PAGE 3

§ 1.1.1.1 Notwithstanding the foregoing, it is understood and agreed that the Owner is an intended third-party beneficiary of all contracts between the Contractor and Subcontractors or suppliers who provide labor and/or materials for the Work.

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§ 1.1.10 Initial Decision Maker. The Initial Decision Maker is the person identified in the Agreement to render initial decisions on Claims in accordance with Section 15.2. The ~~Initial Decision Maker shall not show partiality to the Owner or Contractor and shall not be liable for results of interpretations or decisions rendered in good faith.~~Architect will serve as the Initial Decision Maker pursuant to Section 15.2 of AIA Document A232–2019.

...

§ 1.2.1 The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work by the Contractor. The Contract Documents are complementary, and what is required by one shall be as binding as if required by all; performance by the Contractor shall be required only to the extent consistent with the Contract Documents and reasonably inferable from them as being necessary to produce the ~~indicated~~ intended results.

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§ 1.2.1.1 The invalidity of any provision of the Contract Documents shall not invalidate the Contract or its remaining provisions. ~~If it is determined that any provision of the Contract Documents violates any law, or is otherwise invalid or unenforceable, then that provision shall be revised to the extent necessary to make that provision legal and enforceable.~~ In such case the Contract Documents shall be construed, to the fullest extent permitted by law, to give effect to the parties' intentions and purposes in executing the Contract.

...

§ 1.4.1 In the case of inconsistency between Drawings and Specifications or within Contract Documents not clarified by Addenda, the better quality or greater quantity of Work shall be provided in accordance with the Architect's interpretation.

§ 1.5.1 The Architect and the Architect's consultants shall be deemed the authors and owners of their respective Instruments of Service, including the Drawings and Specifications, and retain all common law, statutory, and other reserved rights in their Instruments of Service, including copyrights. The Contractor, Subcontractors, sub-subcontractors, and suppliers shall not own or claim a copyright in the Instruments of Service. Submittal or distribution to meet official regulatory requirements or for other purposes in connection with the Project is not to be construed as publication in derogation of the Architect's or Architect's consultants' reserved rights. The Owner retains rights to the Instruments of Service pursuant to Article 7 of AIA Document B101-2017.

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§ 1.5.3 The Architect shall furnish to the Contractor a version of the Instruments of Service in electronic form for the sole purpose of the construction of the Project for which the Instruments of Service were created.

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The parties shall agree upon ~~written~~ protocols governing the transmission and use ~~of, and reliance on,~~ of Instruments of Service or any other information or documentation in digital form. The parties may use AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit or other form, to establish the protocols for the development, use, transmission, and exchange of digital data.

...

Any use of, or reliance on, all or a portion of a building information model without agreement to ~~written~~ protocols governing the use of, and reliance on, the information contained in the model and without having those protocols set forth in AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, and the requisite AIA Document G202™–2013, Project Building Information Modeling Protocol Form or other form, shall be at the using or relying party's sole risk and without liability to the other party and its contractors or consultants, the authors of, or contributors to, the building information model, and each of their agents and employees.

...

§ 2.1.1 The Owner is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The Owner shall designate in writing a representative who shall have express authority to bind the Owner with respect to all matters requiring the Owner's approval or ~~authorization.~~ authorization in accordance with Owner's Delegation of Authority Policy, a copy of which will be provided at Contractor's request. Except as otherwise provided in Section 4.2.1, the Construction Manager and the Architect do not have such authority. The term "Owner" means the Owner or the Owner's authorized representative.

~~**§ 2.1.2** The Owner shall furnish to the Contractor, within fifteen days after receipt of a written request, information necessary and relevant for the Contractor to evaluate, give notice of, or enforce mechanic's lien rights. Such information shall include a correct statement of the record legal title to the property on which the Project is located, usually referred to as the site, and the Owner's interest therein.~~

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§ 2.3.5 ~~The~~ If requested by the Contractor and reasonably required for the Project, the Owner shall furnish surveys describing physical characteristics, legal limitations and utility locations for the site of the Project, and a written legal description of the site. The Contractor ~~shall be entitled to rely on the accuracy of information furnished by the Owner but~~ shall exercise proper precautions relating to the safe performance of the Work.

§ 2.3.6 The Owner shall furnish information or services required of the Owner by the Contract Documents with reasonable promptness. The Owner shall also furnish any other information or services under the Owner's control and relevant to the Contractor's performance of the Work with reasonable promptness after receiving the Contractor's written request for such information or services. The Contractor is responsible for the timeliness of, or interference caused by, Subcontractors, Sub-subcontractors (of any tier), and others directly or indirectly under contract to the Contractor.

...

If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within a ~~ten-day~~ three-business-day (3) period after receipt of notice from the Owner to commence and continue correction of such default or neglect with diligence and promptness, the Owner may, without prejudice to other remedies the Owner may have, correct such default or neglect. Such action by the Owner and amounts charged to the Contractor are both subject to review by the Construction Manager and prior approval of the Architect, and the Construction Manager or Architect may, pursuant to Section 9.5.1, withhold or nullify a Certificate for Payment in whole or in part, to the extent reasonably necessary to reimburse the Owner for the reasonable cost of correcting such deficiencies, including Owner's expenses and compensation for the Construction Manager's and Architect's and their respective consultants' additional services and expenses made necessary by such default, neglect, or failure. If current and future payments are not sufficient to cover such amounts, the Contractor shall pay the difference to the ~~Owner.~~ Owner within ten (10) days following written request for payment delivered by the Owner to the Contractor. If the Contractor disagrees with the actions of the Owner or the Architect, or the amounts claimed as costs to the Owner, the Contractor may file a Claim pursuant to Article 15.

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§ 3.1.3 The Contractor shall ~~not be relieved of its obligations to perform the Work in accordance with the Contract Documents either by activities or duties of the Construction Manager or Architect in their administration of the Contract, or by tests, inspections or approvals required or performed by persons or entities other than the Contractor.~~hire a professional utilities locator to investigate and verify all private utility locations prior to excavation and cutting into of existing Work. The Contractor is responsible for locating, terminating, and reinstallation of all private utilities. Private site utilities may not be in the Drawings and Project Manual and as such, verification of private utilities is the sole responsibility of the Contractor. Costs associated with moving and repairing of unknown and undocumented utilities will be by appropriate Change Order. The Contractor shall comply with Gopher State One Call, or other public utility service locator to locate all public utilities prior to any work on the site. This shall not relieve Contractor from obligations under Article 3.

§ 3.1.4 The Contractor shall not be relieved of its obligations to perform the Work in accordance with the Contract Documents either by activities or duties of the Construction Manager or Architect in their administration of the Contract, or by tests, inspections or approvals required or performed by persons or entities other than the Contractor.

...

§ 3.2.1 ~~Execution of the Contract by the Contractor is a representation that the Contractor has visited the site, become generally~~ The Contractor shall carefully study and compare the Contract Documents with each other and with information furnished by the Owner pursuant to Section 2.2.3, and shall immediately report to the Architect and Construction Manager errors, inconsistencies, or omissions discovered. The Contractor shall not be liable to the Owner or Architect for damage resulting from errors, inconsistencies, or omissions in the Contract Document unless the Contractor recognized such error, inconsistency, or omission and knowingly failed to report it to the Architect. If the Contractor performs any construction activity knowing or believing it involves a recognized error, inconsistency, or omission in the Contract Documents without such notice to the Architect, the Contractor shall assume full responsibility for such performance and shall bear the attributable costs for correction and shall bear responsibility for any additional costs, delays, and damages resulting from such failure to immediately report any such errors,

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inconsistencies, or omissions which the Contractor may discover. By executing the Contract, the Contractor represents that the Contractor has reviewed and understands the Contract Documents, has visited the Site and is familiar with local conditions under which the Work is to be performed, ~~and correlated personal observations with requirements of the Contract Documents.~~has correlated personal observations with the requirements of the Contract Documents, and has notified the Architect of and obtained clarification of any discrepancies which have become apparent during the bidding or proposal period.

§ 3.2.1.1 The Contractor shall take field measurements and verify field conditions and shall carefully compare such field measurements and conditions and other information known to the Contractor with the Contract Documents before commencing activities. Errors, inconsistencies, or omissions discovered shall be reported to the Architect immediately in writing.

§ 3.2.1.2 The Contractor shall carefully study and compare the Contract Documents with existing conditions at the job site and shall immediately report in writing to the Architect any error, inconsistency, or omission which the Contractor may discover or any materials, systems, procedures, or methods of construction, either shown on the Drawings or specified, which the Contractor has reason to believe are incorrect, inadequate, obsolete, unsuitable for the purpose intended or which the Contractor has reason to believe would constitute or result in a violation of the Contractor's warranty under Section 3.5 or applicable law. The Contractor shall not proceed with any work in such areas until written instructions are received from the Architect.

§ 3.2.2 ~~Because the Contract Documents are complementary, the Contractor shall, before starting each portion of the Work, carefully study and compare the various Contract Documents relative to that portion of the Work, as well as the information furnished by the Owner pursuant to Section 2.3.5, shall take field measurements of any existing conditions related to that portion of the Work, and shall observe any conditions at the site affecting it. These obligations are for the purpose of facilitating coordination and construction by the Contractor and are not for the purpose of discovering errors, omissions, or inconsistencies in the Contract Documents; however, the Contractor shall promptly report to the Construction Manager and Architect any errors, inconsistencies or omissions discovered by or made known to the Contractor as a request for information submitted to the Construction Manager in such form as the Construction Manager and Architect may require. It is recognized that the Contractor's review is made in the Contractor's capacity as a contractor and not as a licensed design professional, unless otherwise specifically provided in the Contract Documents.~~The Contractor shall perform the Work in accordance with the Contract Documents and submittals accepted pursuant to Section 3.12.

§ 3.2.3 The ~~Contractor is not required to ascertain that the Contract Documents are in accordance with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, but the Contractor shall promptly report to the Construction Manager and Architect any nonconformity discovered by or made known to the Contractor as a request for information submitted to Construction Manager in such form as the Construction Manager and Architect may require.~~Owner shall be entitled to deduct from the Contract Sum amounts paid to the Architect for the Architect to evaluate and respond to the Contractor's requests for interpretation or information where such information was available to the Contractor from a careful study and comparison of the Contract Documents, Filed Conditions, Owner Provided Information, Contractor Prepared Coordination Drawings, or prior Project Correspondence or Documentation.

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§ 3.2.4 If the Contractor believes that ~~additional cost or time is involved because of clarifications or instructions the Architect issues in response to the Contractor's notices or requests for information pursuant to Sections 3.2.2 or 3.2.3, the Contractor shall submit Claims as provided in Article 15. If the Contractor fails to perform the obligations of Sections 3.2.2 or 3.2.3, the Contractor shall pay such costs and damages to the Owner, subject to section 15.1.7, as would have been avoided if the Contractor had performed such obligations. If the Contractor performs those obligations, the Contractor shall not be liable to the Owner or Architect for damages resulting from errors, inconsistencies or omissions in the Contract Documents, for differences between field measurements or conditions and the Contract Documents, or for nonconformities of the Contract Documents to applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities.~~any portions of the Contract Documents do not comply with applicable laws, statutes, ordinances, building codes, and rules and regulations, or any orders by code enforcement officials or the Owner or its designees acting in the capacity of building code inspectors or Referenced Standards, the Contractor must promptly notify the Owner and the Architect of the non-compliance as provided in Section 3.2.6 and request direction before proceeding with the affected Work.

§ 3.2.5 The Contractor must promptly notify the Owner and the Architect in writing of any apparent errors, inconsistencies, omissions, ambiguities, construction impracticalities or code violations discovered as a result of the Contractor's review of the Contract Documents including any differences between actual and indicated dimensions, locations and descriptions, and must give the Owner and the Architect timely notice in writing of same and of any corrections, clarifications, additional Drawings or Specifications, or other information required to define the Work in greater detail or to permit the proper progress of the Work. The Contractor must provide similar notice with respect to any variance between its review of the Site and physical data and Site conditions observed.

§ 3.2.6 If the Contractor performs any Work involving an apparent error, inconsistency, ambiguity, construction impracticality, omission or code violation in the Contract Documents of which the Contractor is aware, or which could reasonably have been discovered by the review required by Section 3.2, without prompt written notice to the Owner and the Architect and request for correction, clarification or additional information, as appropriate, the Contractor does so at its own risk and expense and all Claims relating thereafter are specifically waived.

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§ 3.3.4 The Contractor shall at all times staff the Project adequately to allow the Project to be managed and completed in a timely and professional manner. The Contractor shall have competent supervision on the job during work hours and readily available at all times upon call.

§ 3.3.5 The Contractor shall at all times make reasonable provisions to protect any Work performed by any separate contractors, adjacent property, and the existing building (if any) from damage due to the Work or due to the weather.

§ 3.3.6 The Owner or its approved representative (heretofore referred to as Owner's Representative) shall have access to the Work site and all Work. No supervision or inspection by the Owner or the Owner's Representative, nor the authority to act, nor any other actions taken by the Owner's Representative shall relieve the Contractor of any of its obligations under the Contract Documents or give rise to any duty on the part of the Owner.

§ 3.3.7 The Contract shall take appropriate precautions to ensure that the Work does not materially disrupt any ongoing operation by the Owner at the Project (if any) except to the extent any such disruption is a necessary result of performing a particular portion of the Work, in which case the Contractor shall provide the Owner with reasonable advanced written notice and shall take all commercially reasonable measures to minimize the impact on the Owner and the Owner's operations.

§ 3.4.1 Unless otherwise provided in the Contract Documents, the Contractor shall provide and pay for labor, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation, and other facilities and services necessary for proper execution and completion of the Work, whether temporary or permanent and whether or not incorporated or to be incorporated in the Work. Should the Contract Documents require Work to be performed after regular working hours or should the Contractor elect to perform Work after regular working hours, the additional cost of such Work shall be borne by the Contractor.

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§ 3.4.4 The Contractor shall be responsible for all additional costs incurred to incorporate into the Project substitute materials, products, or equipment approved by Owner during the bidding period.

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§ 3.4.5 In the event of a Change related to substitute or additional materials, and which shall comply with Article 7, the Contractor shall exercise reasonable efforts, consistent with the provisions of the Contract Documents to obtain the maximum available case discounts on all materials, provided that, in doing so, the Contractor shall not accept or use materials for incorporation into the Project which are of a type or quality not reasonably contemplated under the terms of the Contract Documents.

§ 3.4.6 After award of the Contract, a request for substitution of a material, product, or piece of equipment at no change in the Contract Sum will not be approved by the Owner or the Architect, unless the specified item is no longer manufactured, the specified item is unavailable as a result of an act of government such as a declaration of a national emergency, or delivery of the specified items is substantially delayed as a result of labor disputes affecting the manufacturer, unusual delay in transportation, or any other cause beyond control of the Contractor or a Subcontractor or material supplier which the Architect determines justified the delay. Requests will not be approved where the delay in delivery results from failure to promptly place subcontracts and material orders. Requests for substitution shall be submitted in writing to the Architect and shall clearly describe the proposed substitution, state the reason for the unavailability of a specified item and be accompanied by such additional data and information as may be necessary in the discretion of the Owner and the Architect to establish the acceptability of the proposed substitute.

§ 3.4.7 The Owner shall be entitled to deduct from the Contract Sum amounts paid to the Architect to evaluate the Contractor's proposed Substitutions and for changes made to the Contract Documents as a result of Owner's acceptance of such Substitutions.

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§ 3.5.2 All material, equipment, or other special warranties required by the Contract Documents shall be issued in the name of the Owner, or shall be transferable to the Owner, and shall commence in accordance with Section 9.8.4. The Contractor shall arrange for the Owner to have the benefit of and right to enforce all warranties by Subcontractors, Sub-subcontractors, suppliers, and manufacturers.

§ 3.5.3 Manufacturers' warranties and warranties by other shall not relieve the Contractor of any of its responsibilities.

§ 3.5.4 The Contractor's general warranty and any additional or special warranties are not limited by the Contractor's obligations to specifically correct defective or nonconforming Work as provided in Article 12, nor are they limited by any other remedies provided in the Contract Documents. The Contractor shall also be liable for any damage to property or persons (including death) including consequential and direct damages relating to any breach of the Contractor's general warranty or any additional or special warranties required by the Contract Documents.

§ 3.5.5 The Contractor must furnish all special warranties required by the Contract Documents to the Owner no later than Substantial Completion. The Owner may require additional special warranties in connection with the approval of "Or-Equals" or Substitutions, Allowance items, Work that is defective or nonconforming, or the acceptance of nonconforming Work pursuant to Article 12.

...

§ 3.7.1 Unless otherwise provided in the Contract Documents, the Owner, assisted by the Construction Manager, shall secure and pay for the building permit. The Contractor shall secure and pay for other permits, fees, licenses, and inspections by government agencies necessary for proper execution and completion of the Work that are customarily secured after execution of the Contract and legally required at the time bids are received or negotiations concluded. The Contractor shall be responsible for the Sewer Access (SAC) and Water Access (WAC) fees for the Project. The Contractor shall pay the SAC/WAC costs to the authorities having jurisdiction from the Allowance in the Base Bid for such charges as defined in the Construction Documents.

...

§ 3.7.3 If the Contractor performs Work knowing or believing it to be contrary to applicable laws, statutes, ordinances, building codes, rules and regulations, or lawful orders of public authorities, without such notice to the Architect and Owner, the Contractor shall assume ~~appropriate~~ full responsibility for such Work and shall bear the ~~costs attributable~~

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~~to correction.~~attributable costs, delays, and damages resulting from such failure to immediately notify the Architect and Owner of any such violation..

§ 3.7.4 Concealed or Unknown Conditions. If the Contractor encounters conditions at the site that are (1) subsurface or otherwise concealed physical conditions that differ materially from those indicated in the Contract Documents or (2) unknown physical conditions of an unusual nature that differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents, the Contractor shall promptly provide notice to the Owner, Construction Manager, and the Architect before conditions are disturbed and in no event later than ~~14~~ ten (10) days after first observance of the conditions. The Architect and Construction Manager will promptly investigate such conditions and, if the Architect, in consultation with the Construction Manager, determines that they differ materially and cause an increase or decrease in the Contractor's cost of, or time required for, performance of any part of the Work, will recommend that an equitable adjustment be made in the Contract Sum or Contract Time, or both. If the Architect, in consultation with the Construction Manager, determines that the conditions at the site are not materially different from those indicated in the Contract Documents and that no change in the terms of the Contract is justified, the Architect shall promptly notify the Owner, Construction Manager, and Contractor, stating the reasons. If the Owner or Contractor disputes the Architect's determination or recommendation, either party may submit a Claim as provided in Article 15.

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§ 3.9.1 The Contractor shall employ a competent superintendent and necessary assistants who shall be in attendance at the Project site during performance of the ~~Work.~~ Work, including that performed by all Subcontractors. The superintendent shall represent the Contractor, and communications given to the superintendent shall be as binding as if given to the Contractor. Important communications including and not limited to communications regarding design changes, alterations, substitutions, clarifications, cost changes, etc. shall be confirmed in writing by the Contractor. Other communications shall be similarly confirmed on written request in each case.

...

§ 3.9.3 The Contractor shall not employ a proposed superintendent or any other management personnel to whom the Owner, Construction Manager, or Architect has made reasonable and timely objection. The Contractor shall not change the superintendent without the Owner's consent, which shall not unreasonably be withheld or delayed.

§ 3.9.4 If requested by the Owner, the Contractor shall replace the superintendent at no additional cost to the Owner. No other change in this position shall be made without notice to and written consent of the Owner.

...

§ 3.10.1 The Contractor, promptly after being awarded the Contract, shall submit for the Owner's and Architect's information, and the Construction Manager's use in developing the Project schedule, a Contractor's construction schedule for the Work. The schedule shall contain detail appropriate for the Project, including (1) the date of commencement of the Work, interim schedule milestone dates, critical path schedule milestones, major construction milestones, including and not limited to Civil, Demolition, Structural, Mechanical, Electrical, and Plumbing, and the date of Substantial Completion; (2) an apportionment of the Work by construction activity; and (3) the time required for completion of each portion of the Work. The schedule shall provide for the orderly progression of the Work to completion and shall not exceed time limits current under the Contract Documents. The schedule shall be revised at appropriate intervals as required by the conditions of the Work and Project. The Contractor shall cooperate with the Construction Manager in scheduling and performing the Contractor's Work to avoid conflict with, and as to cause no delay in, the work or activities of other Contractors, or the construction or operations of the Owner's own forces or Separate Contractors.

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§ 3.10.4 The Contractor shall perform the Work in general accordance with the most recent schedules submitted to and accepted in writing by the Owner, Construction Manager, and Architect, and incorporated into the approved Project schedule.

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~~The Contractor shall make available, at the Project site, the Contract Documents, including Change Orders, Construction Change Directives, and other Modifications, in good order and marked currently to indicate field changes and selections made during construction, and the approved Shop Drawings, Product Data, Samples, and similar required submittals. These shall be in electronic form or paper copy, available to the Construction Manager, Architect, and Owner, and delivered to the Construction Manager for submittal to the Owner upon completion of the Work as a record of the Work as constructed.~~**§ 3.11.1** The Contractor shall make available, at the Project site, one record copy of the Contract Documents, including Change Orders, Construction Change Directives, and other Modifications, in good order and updated daily to indicate field changes and selections made during construction, and in addition accepted and approved Shop Drawings, Product Data, Samples, and similar required submittals. These shall be in electronic form or paper copy, available to the Construction Manager, Architect, and Owner as required to complete routine inspections by Architect, Construction Manager and Owner prior to any approval of payments to the Contractor, and delivered to the Construction Manager for submittal to the Owner upon completion of the Work. The Architect and Contractor must verify that all "as-built" Drawings, Specifications, Addenda, Change Orders, and other Modifications are up-to-date before Contractor's Application for Payment is acceptable and before the Owner incurs any duty to pay Contractor in accordance with the Contract. The record documents shall be a separate set of documents labeled "Record Documents" and used only for record purposes and kept clean and undamaged.

§ 3.11.2 No review or receipt of such records by the Architect or Owner shall be considered a waiver of any deviation from the Contract Documents or approved shop drawings, or any way relieve the Contractor from its responsibility to perform the Work in accordance with the Contract Documents.

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§ 3.12.5 The Contractor shall review for compliance with the Contract Documents, approve, and submit to the Construction Manager, Shop Drawings, Product Data, Samples, and similar submittals required by the Contract Documents, in accordance with the Project submittal schedule approved by the Construction Manager and Architect or, in the absence of an approved Project submittal schedule, with reasonable promptness and in such sequence as to cause no delay in the Work or in the activities of other Contractors, Separate Contractors, or the Owner's own forces. The Contractor shall cooperate with the Construction Manager in the coordination of the Contractor's Shop Drawings, Product Data, Samples, and similar submittals with related documents submitted by other Contractors. The Contractor must provide the Owner and the Architect with copies of all submittals made to regulatory agencies.

...

§ 3.12.7 The Contractor shall perform no portion of the Work for which the Contract Documents require submittal and review of Shop Drawings, Product Data, Samples, or similar submittals, until the respective submittal has been reviewed and ~~approved by the Architect.~~accepted by the Architect. The Contractor must correct at its cost, and without any adjustment in Contract Time, any Work the correction of which is required due to the Contractor's failure to obtain approval of a submittal required to have been obtained prior to proceeding with the Work, including, but not limited to, correction of any conflicts in the Work resulting from such failure.

§ 3.12.8 The Work shall be in accordance with ~~approved~~ accepted submittals except that the Contractor shall not be relieved of responsibility for deviations from the requirements of the Contract Documents by the Architect's ~~approval~~ acceptance of Shop Drawings, Product Data, Samples, or similar submittals, unless the Contractor has specifically notified the Construction Manager and Architect of such deviation at the time of submittal and (1) the Architect has given written ~~approval~~ acceptance to the specific deviation as a minor change in the Work, or (2) a Change Order or Construction Change Directive has been issued authorizing the deviation. The Contractor shall not be relieved of responsibility for errors or omissions in Shop Drawings, Product Data, Samples, or similar submittals, by the Architect's ~~approval~~ acceptance thereof.

§ 3.12.9 The Contractor shall direct specific attention, in writing or on resubmitted Shop Drawings, Product Data, Samples, or similar submittals, to revisions other than those requested by the Construction Manager and Architect on previous submittals. In the absence of such notice, the Architect's ~~approval~~ acceptance of a resubmission shall not apply to such revisions.

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§ 3.13.3 Except as may be specifically provided in the Contract Documents, the Contractor shall provide all necessary temporary facilities, including power, water, sanitation, scaffolding, storage, and security. If Owner makes any such

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facilities available to Contractor, it is without representation or warranty as to their adequacy for Contractor's use, and Contractor shall indemnify, defend, and hold Owner harmless from and against any claims arising out of Contractor's use of such facilities.

...

§ 3.14.2 The Contractor shall not damage or endanger a portion of the Work or fully or partially completed construction of the Owner, Separate Contractors, or of other Contractors by cutting, patching, or otherwise altering such construction, or by excavation. The Contractor shall not cut or otherwise alter construction by the Owner, Separate Contractors, or by other Contractors except with written consent of the Construction Manager, Owner, and such other Contractors or Separate Contractors. Consent shall not be unreasonably withheld. The Contractor shall hire a professional utilities locator to verify locations of all public and private utilities prior to initiating any cutting work. The Contractor shall not unreasonably withhold, from the Separate Contractors, other Contractors, or the Owner, its consent to cutting or otherwise altering the Work.

...

§ 3.15.1 The Contractor shall keep the premises and surrounding area continuously free from accumulation of waste materials and rubbish caused by operations under the Contract. At completion of the Work, the Contractor shall remove from and about the Project waste materials, rubbish, Contractor-generated waste materials, the Contractor's generated hazardous waste materials, the Contractor's tools, construction equipment, machinery, and surplus materials from and about the Project.

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§ 3.18.1 To the fullest extent permitted by law, the Contractor shall ~~indemnify~~ indemnify, defend and hold harmless the Owner, Construction Manager, Architect, Construction Manager's and Architect's consultants, and agents and employees of any of them from and against claims, damages, losses, and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), but only to the extent caused by the negligent acts or omissions of the Contractor, a Subcontractor, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss, or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity ~~that~~ which would otherwise exist as to a party or person described in this Section 3.18. The Contractor, furthermore, agrees to obtain, maintain, and pay for such general liability coverage and endorsements (including product and completed operations coverage) as will ensure the provisions of this Section 3.18.1. The Contractor agrees to reimburse the Owner, its agents and employees for all costs and disbursements, including attorneys' fees, paid or incurred to enforce the provisions of this Section 3.18.1.

...

§ 3.18.3 To the fullest extent permitted by law and without limiting any other indemnification obligations of the Contractor, except to the extent caused by the uncured failure of the Owner to make payment when due and owing, the Contractor shall indemnify and defend the Owner, its officers, directors, assigns, lenders, agents, and employees from any liens, charges (including attorneys' fees) or encumbrances (including but not limited to mechanic's and materialmen's liens or bond claims) arising out of or in connection with the performance of the Work by Contractor, its Subcontractors, or its material suppliers. Upon request of the Owner, the Contractor shall within sixty (60) days remove any liens filed against the Owner or its property. If the Contractor fails to do so, the Owner is authorized by the Contractor to remove or satisfy any such liens, and the Contractor shall pay to the Owner all costs and damages incurred by the Owner to do so, including attorneys' fees.

...

§ 4.2.1 The Construction Manager and Architect will provide administration of the Contract as described in the Contract Documents and will be the Owner's ~~representatives during construction until the date the Architect issues the final Certificate for Payment.~~ consultants (1) during construction; (2) until final payment is due; and (3) with the

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Owner's concurrence, from time to time during the correction period described in Section 12.2. The Architect and Construction Manager will advise and consult with the Owner. The Construction Manager and Architect will have authority to act on behalf of the Owner only to the extent provided in the Contract ~~Documents.~~Documents, unless otherwise modified in writing in accordance with other provisions of the Contract.

§ 4.2.2 The Architect will visit the site at intervals appropriate to the stage of construction, or as otherwise agreed with the Owner, to become generally familiar with the progress and quality of the ~~portion of the Work completed,~~ Work completed, to endeavor to guard the Owner against defects and deficiencies in the Work, and to determine in general if the Work ~~observed~~ is being performed in a manner indicating that the Work, when ~~fully~~ completed, will be in accordance with the Contract Documents. However, the Architect will not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. On the basis of the site visits, the Architect will keep the Owner and the Construction Manager reasonably informed about the progress and quality of the portion of the Work completed, and promptly report to the Owner and Construction Manager known deviations from the Contract Documents and defects and deficiencies observed in the Work.

§ 4.2.2.2 The Contractor shall reimburse the Owner for compensation paid to the Architect for additional site visits made necessary by fault, neglect, or request of the Contractor.
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§ 4.2.6 Communications. The Owner shall communicate with the Contractor and the Construction Manager's consultants through the Construction Manager about matters arising out of or relating to the Contract Documents. The Owner and Construction Manager shall include the Architect in all communications that relate to or affect the Architect's services or professional responsibilities. The Owner shall promptly notify the Architect of the substance of any direct communications between the Owner and the Construction Manager otherwise relating to the Project. Communications by and with the Architect's consultants shall be through the Architect. Communications by and with Subcontractors and suppliers shall be through the Contractor. Communications by and with other Contractors shall be through the Construction Manager. Communications by and with the Owner's own forces and Separate Contractors shall be through the ~~Owner.~~ Owner unless otherwise provided. The Contract Documents may specify other communication protocols. The Owner may require the Architect, Construction Manager and the Contractor to comply with Owner requirements in regards to public communications and site signage.

...

§ 4.2.8 The Architect and Construction Manager have authority to reject Work that does not conform to the Contract Documents, and will notify each other about the rejection. Whenever the Construction Manager considers it necessary or ~~advisable,~~ advisable for implementation of the intent of the Contract Documents, the Construction Manager will have authority to require additional inspection or testing of the Work in accordance with Sections 13.4.2 and 13.4.3, upon written authorization of the Owner, whether or not the Work is fabricated, installed or completed. The foregoing authority of the Construction Manager will be subject to the provisions of Sections 4.2.18 through 4.2.20 inclusive, with respect to interpretations and decisions of the Architect. However, neither the Architect's nor the Construction Manager's authority to act under this Section 4.2.8 nor a decision made by either of them in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect or the Construction Manager to the Contractor, Subcontractors, suppliers, their agents or employees, or other persons performing any of the Work.
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§ 4.2.11 The Architect ~~will~~ will, and the Owner may, review and approve, or take other appropriate action upon, the Contractor's submittals such as Shop Drawings, Product Data, and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Architect's ~~action will be taken in accordance with the submittal schedule approved by the Architect or, in the absence of an approved submittal schedule, with reasonable promptness~~ or Owner's action will be taken with such reasonable promptness as to cause no delay in the Work or in the activities of the Owner, Contractor or separate contractors, while allowing sufficient time in the Architect's professional judgment to permit adequate review. Upon the Architect's or the Owner's completed review, the Architect shall transmit its submittal review to the Construction Manager.
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§ 4.2.18 The Architect will interpret and decide matters concerning performance ~~under, and~~ under the requirements of, the Contract Documents on written request of the Construction Manager, Owner, or Contractor through the Construction Manager. The Architect's response to such requests will be made ~~in writing within any time limits agreed upon or otherwise with reasonable promptness.~~ with reasonable promptness and within any time limits agreed upon. If no agreement is made concerning the time within which interpretations required of the Architect shall be furnished in compliance with this Section 4.2.18, then delay shall not be recognized on account of failure by the Architect to furnish such interpretations until fifteen (15) days after written request is made to them.

§ 4.2.19 ~~Interpretations and decisions of the Architect will be consistent with the intent of, and reasonably inferable from, the Contract Documents and will be in writing or in the form of drawings. When making such interpretations and decisions, the Architect will endeavor to secure faithful performance by both Owner and Contractor, will not show partiality to either, and will not be liable for results of interpretations or decisions so rendered in good faith.~~Architect's decisions on matters relating to aesthetic effect will be final if consistent with the intent expressed in the Contract Documents.

§ 4.2.20 ~~The Architect's decisions on matters relating to aesthetic effect will be final if consistent with the intent expressed in the Contract Documents.~~Architect will review and respond to requests for information about the Contract Documents. The Architect's response to such requests will be made in writing within any time limits agreed upon or otherwise with reasonable promptness. If appropriate, the Architect will prepare and issue supplemental Drawings and Specifications in response to the requests for information.

~~**§ 4.2.21** The Construction Manager will receive and review requests for information from the Contractor, and forward each request for information to the Architect, with the Construction Manager's recommendation. The Architect will review and respond in writing, through the Construction Manager, to requests for information about the Contract Documents. The Construction Manager's recommendation and the Architect's response to each request will be made in writing within any time limits agreed upon or otherwise with reasonable promptness. If appropriate, the Architect will prepare and issue supplemental Drawings and Specifications in response to the requests for information.~~

...

§ 5.2.1 Unless otherwise stated in the Contract Documents, the Contractor, as soon as practicable after award of the Contract, shall notify in writing the Construction Manager, for review by the Owner, Construction Manager and Architect, of the persons or entities proposed for each principal portion of the Work, including those who are to furnish materials or equipment fabricated to a special design. Within 14 days of receipt of the information, the Construction Manager may notify the Contractor whether the Owner, the Construction Manager or the Architect (1) has reasonable objection to any such proposed person or entity or, (2) requires additional time for review. Failure of the Construction Manager to provide notice within the 14-day period shall constitute notice of no reasonable objection. The Contractor shall not employ any Subcontractor or use any material to which the Architect, Construction Manager or Owner may object. Prior to the employment of any Subcontractor, the Contractor must obtain the Owner's approval of such Subcontractor for the designated portion of the Work.

...

§ 5.2.3 If the Owner, Construction Manager or Architect has reasonable objection to a person or entity proposed by the Contractor, the Contractor shall propose another to whom the Owner, Construction Manager or Architect has no reasonable objection. ~~If the proposed but rejected Subcontractor was reasonably capable of performing the Work, the Contract Sum and Contract Time~~ The Contract Sum shall be increased or decreased by the ~~difference, if any,~~ difference in cost occasioned by such change, and an appropriate Change Order shall be ~~issued before commencement of the substitute Subcontractor's Work.~~ issued. However, no increase in the Contract Sum or Contract Time shall be allowed for such change unless the Contractor has acted promptly and responsively in submitting names as required. Notwithstanding the foregoing, the Contractor shall have a continuing duty to the Owner, Construction Manager and Architect to find and propose such persons or entities as shall not result in material increase in the Contract Sum, or a material decrease in the quality of Work contemplated under the Contract Documents.

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§ 5.2.4 The Contractor shall not substitute a Subcontractor, person, or entity for one previously selected if the Owner, Construction Manager or Architect makes reasonable objection to such substitution. Any proposed substitution of a Subcontractor, person, or entity for one previously selected shall be made in a separate writing to the Owner, Construction Manager and Architect. No substitution shall be deemed approved/accepted without written confirmation from the Owner, Construction Manager and Architect. Neither acceptance of, nor objection to a Subcontractor or Sub-subcontractor, material supplier, or other person or organization by the Owner, Construction Manager and Architect shall limit the responsibility of the Contractor to furnish materials, products, equipment, and services in conformance with the requirements of the Contract Documents.

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~~By appropriate written agreement, the Contractor shall require each Subcontractor, to the extent of the Work to be performed by the Subcontractor, to be bound to the Contractor by terms of the Contract Documents, and to assume toward the Contractor all the obligations and responsibilities, including the responsibility for safety of the Subcontractor's Work, that the Contractor, by these Contract Documents, assumes toward the Owner, Construction Manager and Architect. Each subcontract agreement shall preserve and protect the rights of the Owner, Construction Manager and Architect under the Contract Documents with respect to the Work to be performed by the Subcontractor so that subcontracting thereof will not prejudice such rights, and shall allow to the Subcontractor, unless specifically provided otherwise in the subcontract agreement, the benefit of all rights, remedies, and redress against the Contractor that the Contractor, by the Contract Documents, has against the Owner. Where appropriate, the Contractor shall require each Subcontractor to enter into similar agreements with Sub-subcontractors. The Contractor shall make available to each proposed Subcontractor, prior to the execution of the subcontract agreement, copies of the Contract Documents to which the Subcontractor will be bound, and, upon written request of the Subcontractor, identify to the Subcontractor terms and conditions of the proposed subcontract agreement that may be at variance with the Contract Documents. Subcontractors will similarly make copies of applicable portions of such documents available to their respective proposed Sub-subcontractors.~~**§ 5.3.1** By appropriate written agreement, the Contractor shall require each Subcontractor, to the extent of the Work to be performed by the Subcontractor, to be bound to the Contractor by terms of the Contract Documents, and to assume toward the Contractor all the obligations and responsibilities, including the responsibility for safety of the Subcontractor's Work, that the Contractor, by these Contract Documents, assumes toward the Owner, Construction Manager and Architect. Each subcontract agreement shall preserve and protect the rights of the Owner, Construction Manager and Architect under the Contract Documents with respect to the Work to be performed by the Subcontractor so that subcontracting thereof will not prejudice such rights, and shall allow to the Subcontractor, unless specifically provided otherwise in the subcontract agreement, the benefit of all rights, remedies, and redress against the Contractor that the Contractor, by the Contract Documents, has against the Owner. Where appropriate, the Contractor shall require each Subcontractor to enter into similar agreements with Sub-subcontractors. The Contractor shall make available to each proposed Subcontractor, prior to the execution of the subcontract agreement, copies of the Contract Documents to which the Subcontractor will be bound, and, upon written request of the Subcontractor, identify to the Subcontractor terms and conditions of the proposed subcontract agreement that may be at variance with the Contract Documents. Subcontractors shall similarly make copies of applicable portions of such documents available to their respective proposed Sub-subcontractors.

§ 5.3.2 The Contractor is responsible for the performance of, the actions of, the timeliness of, or interference caused by, Subcontractors, Sub-subcontractors (of any tier), and others directly or indirectly under contract to the Contractor.

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§ 6.2.2 If part of the Contractor's Work depends for proper execution or results upon construction or operations by the Owner's own forces, Separate Contractors or other Contractors, the Contractor shall, prior to proceeding with that portion of the Work, promptly notify the Construction Manager and Architect of apparent discrepancies or defects in the construction or operations by the Owner or Separate Contractor or other Contractors that would render it unsuitable for proper execution and results of the Contractor's Work. Failure of the Contractor to notify the Construction Manager and the Architect of apparent discrepancies or defects prior to proceeding with the Work shall constitute an acknowledgment that the Owner's or Separate Contractor's or other Contractors' completed or partially completed construction is fit and proper to receive the Contractor's Work. The Contractor shall not be responsible for discrepancies or defects in the construction or operations by the Owner or Separate Contractors or other Contractors that are not ~~apparent.~~reasonably discoverable.

§ 6.2.3 ~~The Contractor shall reimburse the Owner for costs the Owner incurs, including costs that are payable to a Separate Contractors or to other Contractors, because of the Contractor's delays, improperly timed activities or~~

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~~defective construction. The Owner shall be responsible to the Contractor for costs the Contractor incurs because of delays, improperly timed activities, damage to the Work or defective construction by the Owner's own forces, Separate Contractors, or other Contractors.~~Costs caused by delays or by improperly timed activities or defective construction shall be borne by the party responsible therefor.

...

§ 6.2.5 ~~The Owner, Separate Contractors, and other Contractors shall have the same responsibilities for cutting and patching as are described for the Contractor in Section 3.14.~~Claims and other disputes and matters in question between the Contractor and a separate contractor shall be subject to the provisions of Article 15 provided the separate contractor has reciprocal obligations.

§ 6.2.6 The Owner, Separate Contractors, and other Contractors shall have the same responsibilities for cutting and patching as are described for the Contractor in Section 3.14.

...

If a dispute arises among the Contractor, Separate Contractors, other Contractors, and the Owner as to the responsibility under their respective contracts for maintaining the premises and surrounding area free from waste materials and ~~rubbish, the Owner may clean up and the Construction Manager, with notice to the Architect, will allocate the cost among those responsible.~~rubbish as described in Section 3.15, the Owner may clean up allocate the cost among those responsible as the Architect determines to be just..

...

§ 7.1.2 A Change Order shall be based upon agreement among the Owner, Construction Manager, Architect and Contractor. A Construction Change Directive requires agreement by the Owner, Construction Manager and Architect and may or may not be agreed to by the Contractor. ~~An order for a minor change in the Work may be issued by the Architect alone.~~

...

§ 7.1.4 The amount of credit to be allowed by the Contractor to the Owner for any deletion or change which results in a net decrease in the Contract Sum will be the amount of the actual net cost as confirmed by the Architect after consultation with the Owner and Construction Manager. When both additions and credits covering related Work or substitutions are involved in any one change, the allowance for both overhead and profit shall be figured on the basis of the net increase or decrease, if any, with respect to that change.

§ 7.1.5 In Section 7.3.6, the allowance for the combined overhead and profit included in the total cost to the Owner shall be based on the following schedule:

.1 For the Contractor, for Work performed by the Contractor's own forces, ten percent (10%) of the cost;

.2 For the Contractor, for Work performed by the Contractor's Subcontractor, five percent (5%) of the amount due the Subcontractor;

.3 For each Subcontractor or Sub-subcontractor involved for Work performed by the Subcontractor's or Sub-subcontractor's own forces, ten percent (10%) of the cost;

.4 For each Subcontractor for Work performed by the Subcontractor's Sub-subcontractor, five percent (5%) of the amount due the Subcontractor;

.5 Costs to which overhead and profit is to be applied shall be determined in accordance with Section 7.3.6;

.6 In order to facilitate checking of quotations for extras or credits, all proposals, expect those so minor that their propriety can be seen by inspection, shall be accompanied by a complete itemization of costs, including labor, materials and subcontracts. Labor and materials shall be itemized in the manner prescribed above. Where major cost items are subcontracts, they shall be itemized also. In no case will a change involving over $500 be approved without such itemization.

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§ 7.2 Change Orders and Change Proposals

~~A Change Order is a written instrument prepared by the Construction Manager and signed by the Owner, Construction Manager, Architect, and Contractor, stating their agreement upon all of the following:~~**§ 7.2.1** A Change Order is a written instrument prepared by the Construction Manager and signed by the Owner, Construction Manager, Architect, and Contractor, stating their agreement upon all of the following:

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.3 The extent of the adjustment, if any, in the Contract Time.

§ 7.2.2 Change Order shall be prepared on AIA Document G731.

§ 7.2.3 The Contractor must submit Change Proposals covering a contemplated Change Order within ten (10) days after request of the Owner, or the Architect or within ten (10) days of the event, or Contractor's discovery of a condition, whichever is earlier, giving rise to the Contractor's claim for a change in the Contract Sum or Contract Time. No increase in the Contract Sum or extension of the Contract Time will be allowed the Contractor for the cost or time involved in making Change Proposals. Change Proposals will define or confirm in detail the Work which is proposed to be added, deleted, or changed and must include any adjustment which the Contractor believes to be necessary in (i) the Contract Sum, or (ii) the Contract Time. Any proposed adjustment must include detailed documentation including, but not limited to: cost, properly itemized and supported by sufficient substantiating data to permit evaluation including cost of labor, materials, supplies and equipment, rental cost of machinery and equipment, additional bond cost, plus a fixed fee for profit and overhead (which includes office overhead and Site-specific overhead and general conditions) of ten percent (10%) if the Work is performed by the Contractor, or five percent (5%) if the Work is performed by a Subcontractor or Sub-subcontractor. The Subcontractor's or Sub-subcontractor's overhead and profit in turn must not exceed a total aggregate of ten percent (10%). Change Proposals will be binding upon the Contractor and may be accepted or rejected by the Owner in its discretion. The Owner may, at its option, instruct the Contractor through a Construction Change Directive to proceed with the Work involved in the Change Proposal in accordance with Section 7.3 without accepting the Change Proposal in its entirety.

§ 7.2.4 If the Owner determines that a Change Proposal is appropriate, the Architect will prepare and submit a request for a Change Order or Contract Amendment providing for an appropriate adjustment in the Contract Sum or Contract Time, or both, for further action by the Owner. No such change is effective until the Owner and Architect sign the Change Order.

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§ 7.3.4 If the Contractor does not respond promptly or disagrees with the method for adjustment in the Contract Sum, the Owner and the Construction Manager shall determine the adjustment on the basis of reasonable expenditures and savings of those performing the Work attributable to the change, including, in case of an increase in the Contract Sum, an amount for overhead and profit as set forth in the Agreement, or if no such amount is set forth in the Agreement, a reasonable amount. In such case, and also under Section 7.3.3.3, the Contractor shall keep and present, in such form as the Construction Manager may prescribe, an itemized accounting together with appropriate supporting data. Unless otherwise provided in the Contract Documents, costs for the purposes of this Section 7.3.4 shall be limited to the following:

...

.3 Rental costs of machinery and equipment, exclusive of hand tools, whether rented from the Contractor or ~~others;~~others (at rates approved by the Owner);

...

§ 7.3.7 A Construction Change Directive signed by the Contractor indicates the Contractor's agreement therewith, including adjustment in Contract Sum and Contract Time or the method for determining them. Such agreement shall be effective ~~immediately and shall be recorded as a Change Order.~~immediately.

...

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§ 7.3.9 Pending final determination of the total cost of a Construction Change Directive to the Owner, the Contractor may request payment for Work completed under the Construction Change Directive in Applications for ~~Payment.~~ Payment up to and not exceeding $25,000. The Construction Manager and Architect will make an interim determination for purposes of monthly certification for payment for those costs and certify for payment the amount that the Construction Manager and Architect determine to be reasonably justified. The interim determination of cost shall adjust the Contract Sum on the same basis as a Change Order, subject to the right of either party to disagree and assert a Claim in accordance with Article 15.

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The Architect may order minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. The Architect's order for minor changes shall be in ~~writing.~~ writing and approved by the Owner. If the Contractor believes that the proposed minor change in the Work will affect the Contract Sum or Contract Time, the Contractor shall notify the Construction Manager and shall not proceed to implement the change in the Work. If the Contractor performs the Work set forth in the Architect's order for a minor change without prior notice to the Construction Manager that such change will affect the Contract Sum or Contract Time, the Contractor waives any adjustment to the Contract Sum or extension of the Contract Time.

...

§ 8.1.2 The date of commencement of the Work is the date established in the Agreement. The date shall not be postponed by the failure to act of the Contractor or of persons or entities for whom the Contractor is responsible.

...

§ 8.1.4 The term "day" ~~as used in the Contract Documents shall mean calendar day unless otherwise specifically defined.~~shall mean calendar day of 24 hours beginning at 12:00 midnight. Calendar days as stated in the Contract Documents, shall include all days of a seven (7) day week including Saturdays, Sundays, and holidays. The term "Milestone Date" is, in each instance, the date established in the Contract Documents for the Substantial completion of all or a designated portion of the Work.

...

§ 8.2.3 The Contractor shall proceed expeditiously with adequate forces and shall achieve Substantial Completion within the Contract ~~Time.~~Time and shall achieve specific contractual Milestone Dates (if any), Substantial Completion and final Completion within the time stated in the Contract Documents.

§ 8.2.4 Contractor understands and agrees that all Work must be performed in an orderly and closely coordinated sequence so that the dates for Substantial Completion, Final Completion, and Milestone Dates (if any) may be met by the Contractor.

§ 8.2.5 Timely final completion of the Project is of critical importance to the Owner. The Contractor agrees that it shall substantially complete all Work under the Contract documents within the time established herein and that it shall finally complete the Work in the detail required and in the time required by the Contract Documents.

§ 8.2.6 To the extent that the Contract Documents contain or provide for specific contractual Milestone Dates in addition to Final and Substantial Completion dates, such dates shall be adhered to and shall be the last acceptable dates for those milestones and completions, unless modified by the Owner.

§ 8.2.7 Notwithstanding anything to the contrary contained in the Contract Documents, in the event that any Contractor fails, or appears likely, in the reasonable opinion of the Owner and Construction Manager, to fail to complete a critical portion of their Work on time or to complete any dates for Substantial Completion, Final Completion, or Milestone Dates as evidenced by the latest update of the CPM Schedule Report, the Owner shall have the right to select and require Contractor's performance under any or all of the following operations:

.1 Require the Contractor to substantiate their capability to get back on schedule within two (2) days;

.2 Require the Contractor, at no additional cost to the Owner, to increase their work force, work overtime and/or extra shifts and do whatever else is required by the Owner until the Contractor gets

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back on schedule as established by the CPM Schedule Report (including any updates thereto);

.3 Withhold progress payments or portions thereof until such time as the contractor returns to schedule, but only related to Substantial Completion or Final Completion;

.4 Contact or visit the factory, plant, or distribution center whose production or delivery schedule may be critical to the scheduled completion of a portion of the contract work and expedite such production delivery at Contractor's expense; or

.5 Require the Contractor to complete, in detail, and submit weekly a Short Interval Schedule (SIS) showing: (1) planning for the next two weeks; (2) work completed for the previous week; (3) sufficient detail to evaluate daily milestone (if any) and manpower/equipment loading, and shall identify/tie into the monthly updated CPM Schedule Report.

Any costs incurred by the Contractor in fulfilling the option(s) selected by the Owner shall be at the Contractor's expense.

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§ 8.3.1 If the Contractor is delayed at any time in the ~~commencement or~~ progress of the Work by (1) an act or neglect of the Owner, Architect, Construction Manager, or an employee of any of them, or of the Owner's own forces, Separate Contractors, or other Contractors; (2) by changes ordered in the Work; (3) by labor disputes, fire, unusual delay in deliveries, unavoidable casualties, adverse weather conditions documented in accordance with Section 15.1.6.2, or other causes beyond the Contractor's control; ~~(4) by delay authorized by the Owner pending mediation and binding dispute resolution; or (5)~~ or (4) by other causes that the Contractor asserts and the Architect, based on the recommendation of the Construction Manager, determines justify delay, then subject to the conditions hereinafter set forth, the Contract Time shall be extended by Change Order for such reasonable time as the Architect may determine. Requests for extensions of time for causes enumerated above will be considered by the Architect subject to the following:

.1 Only those conditions enumerated above over which the Contractor has no control will be considered. The burden of proof to substantiate the claim for an extension shall rest with the Contractor, including evidence that the cause was beyond their control. It shall be deemed the Contractor has control over the supply of labor, materials, equipment, methods, techniques, and over their Subcontractors and suppliers;

.2 In the event of Changes in the Work, any consideration for a time extension will be made only at the time of authorizing the changes, and no later than when the Change Order is prepared, and only if the Change Order significantly affects the time and progress of the entire Work. For changes which do not affect the entire Work, time extension may be granted only for the area, phase, unit, or element affected by the change, if due to a valid reason for a time extension;

.3 Any unusual delay in deliveries will not be considered unless it is solely due to transportation issues wholly outside of Contractor's, Subcontractor's, Sub-subcontractor's or Supplier's control. An extension of time will not be granted for delays in deliveries where said delivery was not properly scheduled or when orders were not promptly and properly placed;

.4 With respect to a claim for an extension of time as a result of climatic conditions, the Contractor shall recognize the location of the site and the existence, as normal, or variations from "average" conditions. Foul weather in itself will not be a valid reason for a time extension. Requests for time extensions because of delay resulting from weather extremes will not be considered unless a substantial variation from usual weather conditions occurs for a significant period of time, during phases of the Work when operation necessarily were suspended to a significant degree when they would otherwise have been in progress. In considering the time extension, the weather conditions both before and after the period in which the delay is claimed will be evaluated with credit given to Owner for unseasonably favorable weather;

.5 Delays resulting from a labor dispute will not result in a time extension of a longer period than the dispute, plus a reasonable time for mobilization if justified and necessary as approved by the Architect, and may be less depending on the impact of the dispute, including what operations were suspended or curtailed;

.6 No time extension will be granted as a result of improper scheduling or for failure to have shop drawings or samples submitted in ample time for review under a reasonable and agreed upon schedule; or

.7 Delays by Subcontractors or suppliers will not be considered justification for a time extension, except for the same valid reasons and conditions enumerated under Section 8.3.1.

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§ 8.3.4 The Contractor shall be responsible for all Owner incurred costs associated with a Contractor related to delay in completion of the Project. These costs may include, but are not limited to, Owner staff overtime, Consultant additional fees, additional testing, and/or additional rental or storage costs. A Change Order or Construction Change Directive will be issued to cover these costs. If a Change Order is not agreed to by the Contractor, the Owner, after presenting documentation to the Contractor, may deduct these amounts without a Change Order from the Contract Sum.

...

~~Where the Contract is based on a stipulated sum or Guaranteed Maximum Price, the Contractor shall submit a schedule of values to the Construction Manager, before the first Application for Payment, allocating the entire Contract Sum to the various portions of the Work. The schedule of values shall be~~ Before the first Application for Payment, the Contractor shall submit to the Architect and Construction Manager a schedule of values allocated to various portions of the Work, prepared in the form, and supported by the data to substantiate its accuracy, required by the Construction Manager and the Architect. ~~This~~ The schedule, unless objected to by the Construction Manager or Architect, shall be used as a basis for reviewing the Contractor's Applications for Payment. The Construction Manager shall forward to the Architect the Contractor's schedule of values. Any changes to the schedule of values shall be submitted to the Construction Manager and supported by such data to substantiate its accuracy as the Construction Manager and the Architect may require, and unless objected to by the Construction Manager or the Architect, shall be used as a basis for reviewing the Contractor's subsequent Applications for Payment. The Contractor, after receipt of Notice to Proceed, shall meet with the Owner, Construction Manager and the Architect for the purpose of reviewing the Project CPM Schedule and the Contract Schedule of Values. The Contractor shall develop a CPM Schedule for completing their portion of the Work, in conjunction with all other Contractors or Bid Packages, at the Pre-Construction Meeting(s). The Schedule of Values is to be broken down into specification sections and by labor and materials.

...

§ 9.3.1 At least fifteen days before the date established for each progress payment, the Contractor shall submit to the Construction Manager an itemized Application for Payment ~~prepared in accordance with the schedule of values, if required under Section 9.2, for completed portions of the Work. The application shall be notarized, if required,~~ for operations completed in accordance with the Schedule of Values. Such application shall be notarized and supported by all data substantiating the Contractor's right to payment that the Owner, Construction Manager or Architect require, such as copies of requisitions, and releases of waivers of lien from Subcontractors and ~~suppliers, and shall reflect retainage if provided for in the Contract Documents.~~material suppliers, and reflecting retainage if provided for elsewhere in the Contract Documents. The form of Application for Payment shall be a notarized AIA Document G732–2019, Application and Certificate for Payment, supported by AIA Document G703–1992, Continuation Sheet.

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§ 9.3.1.2 ~~Applications for Payment~~ Such applications shall not include requests for payment ~~for portions of the Work for which the~~ of amounts the Contractor does not intend to pay a Subcontractor ~~or supplier,~~ or supplier because of a dispute or other reason, unless such Work has been performed by others whom the Contractor intends to pay.

§ 9.3.1.3 Following certification of the Application for Payment by the Architect and Construction Manager, the Owner shall pay ninety-five percent (95%) of its value, retaining five percent (5%) until Final Completion.

§ 9.3.1.4 Contractor shall provide lien waivers for itself for the current payment application and for Subcontractors, Sub-subcontractors, and suppliers for the previous payment application before the Contractor has earned or has the right to receive payment for the specific items of work or materials covered by the lien waivers. All lien waivers shall be provided in the form required by the Owner. This Section 9.3.1.4 shall not limit other obligations of the Contractor contained elsewhere to provide lien waivers.

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§ 9.3.4 In each Application for Payment, the Contractor shall certify as follows:

"That there are no known mechanics' or materialmen's liens or stop notice claims outstanding by the application or any of its subcontractors of any tier, or any of the applicant's or subcontractor's material suppliers, or laborers at the date of this application, that all due and payable bills with respect to the Work have been paid or are included in the amount requested in current application, and that, except for such bills, not paid by Owner, but so included, there is no known basis for the filing of any mechanics' or materialmen's liens or stop notice claims on the Work, and that waivers from Contractor, its subcontractors of any tier, or any of the applicant's or subcontractor's material suppliers and laborers have been obtained in such form as to constitute an effective waiver of liens or stop notice claims, under the laws of the State of Minnesota to the extent of payments made by Owner to Contractor."

Notwithstanding the foregoing Section 9.3.4, Contractor acknowledges its obligation to provide a Payment Bond in accordance with the Contract Documents, and that Contractor's failure to pay any of its Subcontractors, Sub-subcontractors, suppliers, or laborers will be resolved through a claim under the Payment Bond.

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§ 9.6.1 After the Architect has issued a Certificate for Payment or Project Certificate for Payment, the Owner shall make payment within thirty (30) days of receipt by Owner of Certificate of Payment in the manner and within the time provided in the Contract Documents, and shall so notify the Construction Manager and Architect.

§ 9.6.2 The Contractor shall pay each Subcontractor, no later than seven days after receipt of payment from the Owner, the amount to which the Subcontractor is entitled, reflecting percentages actually retained from payments to the Contractor on account of the Subcontractor's portion of the Work. The Contractor shall, by appropriate agreement with each Subcontractor, require each Subcontractor to make payments to Sub-subcontractors in a similar manner. Per Minnesota Statutes, Section 471.425, within ten (10) days of Contractor's receipt of payment from Owner, the Contractor must pay any Subcontractor for any undisputed services provided by the Subcontractor. The Contractor shall pay interest of one and one-half percent (1-1/2%) per month, or any part of a month, to the Subcontractor on any undisputed amount not paid on time to the subcontractor. The minimum monthly interest penalty payment for an unpaid balance of $100 or more is $10.00. For an unpaid balance of less than $100, the Contractor shall pay the actual interest penalty due to the Subcontractor. Contractor is advised that by reason of Minnesota Statutes, Section 471.425, subd. 4a, if a Subcontractor prevails in a civil action to collect interest penalties from a prime contractor, the Subcontractor must be awarded its costs and disbursements, including attorneys' fees incurred in bringing the action.

...

§ 9.6.5 The Contractor's payments to material and equipment suppliers shall be treated in a manner similar to that provided in Sections 9.6.2, 9.6.3 and 9.6.4.

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If the Construction Manager and Architect do not issue a Certificate for Payment or a Project Certificate for Payment, through no fault of the Contractor, within fourteen days after the Construction Manager's receipt of the Contractor's Application for Payment, or if the Owner does not pay the Contractor within ~~seven~~ thirty (30) days after the date established in the Contract Documents, the amount certified by the Construction Manager and Architect ~~or awarded by binding dispute resolution,~~ then the Contractor may, upon ~~seven~~ ten (10) additional days' notice to the Owner, Construction Manager and Architect, stop the Work until payment of the amount owing has been received. The Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable costs of shutdown, delay and ~~start-up, plus interest as provided for in the Contract Documents.~~start-up which shall be accomplished as provided in Article 7.

...

§ 9.8.1 Substantial Completion is the stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Contract Documents so the Owner can occupy or utilize the Work for its intended ~~use.~~use and when the Architect issues a Certificate of Substantial Completion.

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§ 9.8.2 When the Contractor considers that the Work, or a portion thereof which the Owner agrees to accept separately, is substantially complete, the Contractor shall notify the Construction Manager, and the Contractor and Construction Manager shall jointly prepare and submit to the Architect a comprehensive list of items to be completed or ~~corrected prior to final payment.~~ corrected. The Contractor shall proceed promptly to complete and correct items on the list. Failure to include an item on such list does not alter the responsibility of the Contractor to complete all Work in accordance with the Contract Documents. Upon receipt of the Contractor's list, the Architect, assisted by the Construction Manager, will make an inspection to determine whether the Work or designated portion thereof is substantially complete. If the Architect's inspection discloses any item, whether or not included on the Contractor's list, which is not in accordance with the requirements of the Contract documents, the Contractor shall, before issuance of the Certificate of Substantial Completion, complete or correct such item, upon notification by the Architect. The Contractor shall then submit a request for another inspection by the Architect, assisted by the Construction Manager, to determine Substantial Completion. When the Work or designated portion thereof is substantially complete, the Architect will prepare a Certificate of Substantial Completion which shall establish the date of Substantial Completion, shall establish responsibilities of the Owner and Contractor for security, maintenance, heat, utilities, damage to the Work and insurance, and shall fix the time within which the Contractor shall finish all items on the list accompanying the Certificate. Warranties required by the Contract Document shall commence on the date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion.

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§ 9.8.6 Upon Substantial completion of the Work or designated portion thereof and upon application by the Contractor and certification by the Architect, the Owner shall make payment, reflecting adjustment in retainage, pursuant to Minnesota Statutes, Section 15.72, for such Work or portion thereof as provided in the Contract Documents.

§ 9.8.7 The Architect, assisted by the Construction Manager, shall make one (1) inspection for Substantial Completion and Final Completion in accordance with the AIA Document B101–2017 Owner Architect Agreement. If additional inspections are required due to the Contractor's failure to complete previously listed corrective or uncompleted work, the Architect's expense for conducting such re-inspections and related time in processing, reviewing, and revision of requirements shall be charged to the Contractor and such payment shall be accomplished by a deductive Change Order to the Contractor.

...

§ 9.10.1 Upon completion of the Work, the Contractor shall forward to the Construction Manager a notice that the Work is ready for final inspection and acceptance, and shall also forward to the Construction Manager a final Contractor's Application for Payment. Upon receipt, the Construction Manager shall perform an inspection to confirm the completion of Work of the Contractor. The Construction Manager shall make recommendations to the Architect when the Work of all of the Contractors is ready for final inspection, and shall then forward the Contractors' notices and Application for Payment or Project Application for Payment, to the Architect, who will promptly make such inspection. When the Architect finds the Work acceptable under the Contract Documents and the Contract fully performed, the Construction Manager and Architect will promptly issue a final Certificate for Payment or Project Certificate for Payment stating that to the best of their knowledge, information and belief, and on the basis of their observations, on-site visits and inspections, the Work has been completed in accordance with the Contract Documents and that the entire balance found to be due the Contractor and noted in the final Certificate is due and payable. The Construction Manager's and Architect's final Certificate for Payment or Project Certificate for Payment will constitute a further representation that conditions listed in Section 9.10.2 as precedent to the Contractor's being entitled to final payment have been fulfilled.

§ 9.10.2 Neither final payment nor any remaining retained percentage shall become due until the Contractor submits to the Architect through the Construction Manager (1) an affidavit that payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which the Owner or the Owner's property might be responsible or encumbered (less amounts withheld by Owner) have been paid or otherwise satisfied, (2) a certificate evidencing that insurance required by the Contract Documents to remain in force after final payment is currently in ~~effect,~~ effect and will not be cancelled or allowed to expire until at least (60) days' prior written notice has been given to the Owner, (3) a written statement that the Contractor knows of no reason that the insurance will not be renewable to cover the period required by the Contract Documents, (4) consent of surety, if any, to final payment (5) documentation of any special

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warranties, such as manufacturers' warranties or specific Subcontractor warranties, ~~and (6), if required by the Owner,~~ including a summary listing all applicable warranties both standard and extended, itemized by specification section and included at the front of the Operation and Maintenance manuals, and (6) other data establishing payment or satisfaction of obligations, such as receipts and releases and waivers of liens, claims, security interests, or encumbrances arising out of the Contract, to the extent and in such form as may be designated by the Owner. If a Subcontractor refuses to furnish a release or waiver required by the Owner, the Contractor may furnish a bond satisfactory to the Owner to indemnify the Owner against such lien, claim, security interest, or encumbrance. If a lien, claim, security interest, or encumbrance remains unsatisfied after payments are made, the Contractor shall refund to the Owner all money that the Owner may be compelled to pay in discharging the lien, claim, security interest, or encumbrance, including all costs and reasonable attorneys' fees.

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§ 9.11 Damages for Delay

§ 9.11.1 The Contractor shall be responsible for damages incurred by the Owner and any other separate contractors for delay resulting from the Contractor's failure to complete the Work within the contract Time or resulting from the progress of the Work failing to substantially conform to the Project Construction Schedule. These damages are not included in liquidated damages and represent additional direct costs incurred by the Owner for the delay. These damages may include Owner incurred costs for temporary classrooms, temporary facilities, moving of programs, etc.

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~~The Contractor shall be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the performance of the Contract. The Contractor shall submit the Contractor's safety program to the Construction Manager for review and coordination with the safety programs of other Contractors. The Construction Manager's responsibilities for review and coordination of safety programs shall not extend to direct control over or charge of the acts or omissions of the Contractors, Subcontractors, agents or employees of the Contractors or Subcontractors, or any other persons performing portions of the Work and not directly employed by the Construction Manager.~~**§ 10.1.1** The Contractor shall be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the performance of the Contract. The Contractor shall submit the Contractor's safety program to the Construction Manager for review and coordination with the safety programs of other Contractors. The Construction Manager's responsibilities for review and coordination of safety programs shall not extend to direct control over or charge of the acts or omissions of the Contractors, Subcontractors, agents or employees of the Contractors or Subcontractors, or any other persons performing portions of the Work and not directly employed by the Construction Manager.

§ 10.1.2 The Contractor shall comply with all applicable laws and regulations. Notwithstanding any language to the contrary, the Owner shall not have any responsibility for job site inspections or safety recommendations. Any inspections or observations by the Owner, Construction Manager or the Architect are solely for the benefit of the Owner and shall not create any duties or obligations to anyone else.

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If either party suffers injury or ~~damage~~ damages to person or property because of an act or omission of the other party, of any of the other party's employees or agents, or of others for whose acts such party is legally responsible, notice of the injury or damage, whether or not insured, shall be given to the other party within a reasonable time not exceeding ~~21~~ ten (10) days after ~~discovery.~~ first observance. The notice shall provide sufficient detail to enable the other party to investigate the matter. If a Claim for additional cost or time related to this Claim is to be asserted, it shall be filed as provided in Sections 15.1.4 and 15.1.5.

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§ 10.3.1 ~~The Contractor is responsible for compliance with any requirements included in the Contract Documents regarding hazardous materials or substances. If the Contractor encounters a hazardous material or substance not addressed in the Contract Documents and if reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a material or substance, including but not limited to asbestos or polychlorinated biphenyl (PCB), encountered on the site by the Contractor, the Contractor shall, upon recognizing the condition, immediately stop Work in the affected area and notify~~ In the event the Contractor encounters on the site material reasonably believed to be asbestos or polychlorinated biphenyl (PCB) which has not been rendered harmless,

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the Contractor shall immediately stop Work in the area affected and report the condition to the Owner, Construction Manager and Architect ~~of the condition.~~in writing. The Work in the affected area shall not thereafter be resumed except by written agreement of the Owner and Contractor if in fact the material is asbestos or polychlorinated biphenyl (PCB) and has not been rendered harmless. The Work in the affected area shall be resumed in the absence of asbestos or polychlorinated biphenyl (PCB), or when it has been rendered harmless, by written agreement of the Owner and Contractor.

.1 Except where otherwise stated in the Contract Documents, no hazardous material work of any nature shall be performed by the Contractor pursuant to this Contract.

.2 The term "hazardous materials" includes, but is not limited to, asbestos, toxic chemicals, acids, alkalis, irritants, contaminants, or other pollutants, together with any other waste, material, substance, pollutants, or contaminant, all or a portion of which is or would be designated as hazardous waste or substance under applicable local, state, or federal laws, ordinances, codes, rules, or regulations.

§ 10.3.2 ~~Upon receipt of the Contractor's notice, the Owner shall obtain the services of a licensed laboratory to verify the presence or absence of the material or substance reported by the Contractor and, in the event such material or substance is found to be present, to cause it to be rendered harmless. Unless otherwise required by the Contract Documents, the Owner shall furnish in writing to the Contractor, Construction Manager and Architect the names and qualifications of persons or entities who are to perform tests verifying the presence or absence of the material or substance or who are to perform the task of removal or safe containment of the material or substance. The Contractor, the Construction Manager and the Architect will promptly reply to the Owner in writing stating whether or not any of them has reasonable objection to the persons or entities proposed by the Owner. If the Contractor, Construction Manager or Architect has an objection to a person or entity proposed by the Owner, the Owner shall propose another to whom the Contractor, the Construction Manager and the Architect have no reasonable objection. When the material or substance has been rendered harmless, Work in the affected area shall resume upon written agreement of the Owner and Contractor. By Change Order, the Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable additional costs of shutdown, delay, and start-up.~~To the fullest extent permitted by law, the Owner shall indemnify and hold harmless the Contractor, Construction Manager, Architect, their consultants, and agents and employees of any of them from and against claims, damages, losses, and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work on Owner's property if in fact the material is asbestos or polychlorinated biphenyl (PCB) and has not been rendered harmless, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), including loss of use resulting therefrom, but only to the extent caused in whole or in part by negligent acts or omissions of the Owner, anyone directly or indirectly employed by the Owner, or anyone for whose acts the Owner may be liable, regardless of whether or not such claim, damage, loss, or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity which would otherwise exist as to a party or person described in this Subparagraph 10.3.2.

§ 10.3.3 ~~To the fullest extent permitted by law, the Owner shall indemnify and hold harmless the Contractor, Subcontractors, Construction Manager, Architect, their consultants, and agents and employees of any of them from and against claims, damages, losses, and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work in the affected area if in fact the material or substance presents the risk of bodily injury or death as described in Section 10.3.1 and has not been rendered harmless, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), except to the extent that such damage, loss, or expense is due to the fault or negligence of the party seeking indemnity.~~If reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a material or substance encountered on the site by the contractor, the Contractor shall, upon recognizing the condition, immediately stop Work on Owner's property and report the condition to the Owner, Construction Manager and Architect in writing. The Owner, Construction Manager, Contractor, and Architect shall then proceed in the same manner described in Subparagraph 10.3.1.

§ 10.3.4 ~~The Owner shall not be responsible under this Section 10.3 for hazardous materials or substances the Contractor brings to the site unless such materials or substances are required by the Contract Documents. The Owner shall be responsible for hazardous materials or substances required by the Contract Documents, except to the extent of the Contractor's fault or negligence in the use and handling of such materials or substances.~~

§ 10.3.5 The Contractor shall reimburse the Owner for the cost and expense the Owner incurs (1) for remediation of hazardous materials or substances the Contractor brings to the site and negligently handles, or (2) where the

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Contractor fails to perform its obligations under Section 10.3.1, except to the extent that the cost and expense are due to the Owner's fault or negligence. Owner shall be responsible for obtaining the services of a licensed laboratory to verify a presence or absence of the material or substance reported by the Contractor and, in the event such material or substance is found to be present, to verify that it has been rendered harmless.

§ 10.3.6 ~~If, without negligence on the part of the Contractor, the Contractor is held liable by a government agency for the cost of remediation of a hazardous material or substance solely by reason of performing Work as required by the Contract Documents, the Owner shall reimburse the Contractor for all cost and expense thereby incurred.~~Regulations concerning the availability of information and employee training in the use and handling of "hazardous substances" and "harmful physical agents", as set forth in the Employee Right-to-Know Act of 1983, Minnesota Statutes, Sections 182.65 to 182.676 are incorporated herein by reference as if fully set forth herein.

§ 10.3.7 The Contractor shall furnish three Material Safety Data Sheets to the Owner for each material used in the Work that is classified by the Employee Right-to-Know Act of 1983 as a "hazardous substance" or a "harmful physical agent."

§ 10.3.8 The Contractor shall label, in generally accepted and/or standardized fashion, all containers on the work site containing "hazardous substances" or as "harmful physical agents." This shall include factory containers and all subsequent containers used in the Work.

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In an emergency affecting safety of persons or property, the Contractor shall ~~act, at the Contractor's discretion,~~ act to prevent threatened damage, injury, or loss. Additional compensation or extension of time claimed by the Contractor on account of an emergency shall be determined as provided in Article 15 and Article 7.

...

§ 11.1.1 The Contractor shall purchase and maintain insurance of the types and limits of liability, containing the endorsements, and subject to the terms and conditions, as described in the ~~Agreement~~ Agreement, in EXH-C Owner Insurance or elsewhere in the Contract Documents. The Contractor shall purchase and maintain the required insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is ~~located.~~ located and which carry a Best's rating of A- or higher or are otherwise acceptable to the Owner. The Owner, Construction Manager and Construction Manager's consultants, and the Architect and Architect's consultants, shall be named as additional insureds under the Contractor's commercial general liability policy or as otherwise described in the Contract Documents.

...

§ 11.1.3 Upon the request of any person or entity appearing to be a potential beneficiary of bonds covering payment of obligations arising under the Contract, the Contractor shall promptly furnish a copy of the bonds or shall authorize a copy to be furnished. The Contractor shall furnish Certificates of Insurance acceptable to the Owner which shall specifically set forth evidence of all coverage required by Article 11 and EXH-C Owner Insurance and shall be filed with the Owner and Construction Manager prior to commencement of the Work and thereafter upon renewal or replacement of each required policy of insurance.

The Contractor shall not allow insurance required by this Agreement to lapse, be canceled, reduced in limits or coverage, non-renewed, or materially changed or have restrictive modifications added during the life of this Agreement, including the periods of required coverage. The Contractor shall furnish to the Owner and Construction Manager copies of any endorsements that are subsequently issued amending coverage and limits.

If any of the foregoing insurance coverages are required to remain in force after final payment and are reasonably available, all additional certificates evidencing continuation of such coverage shall be submitted with the final Application for Payment. Information concerning reduction of coverage shall be furnished by the Contractor with reasonable promptness in accordance with the Contractor's information and belief.

§ 11.1.3.1 Acceptable insurance certificates are AIA Document G705, CICC of Minnesota Form 701, and/or ACORD form of the American Insurance Institute.

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Failure of the Owner to collect certificates does not void the requirements to obtain insurance.

The acceptance of any certificate of insurance by the Owner shall not relieve or decrease the liability of the Contractor hereunder. It is to be understood the Owner, Construction Manager and Architect do not in any way represent that the insurance specified in these articles are sufficient or adequate to protect the Contractor's interest or liabilities, but are merely minimum requirements.

The Contractor shall furnish to the Owner copies of any endorsements that are subsequently issued amending coverage and limits.

§ 11.1.4 ~~Notice of Cancellation or Expiration of Contractor's Required Insurance.~~ ~~Within three (3) business days of the date the Contractor becomes aware of an impending or actual cancellation or expiration of any insurance required by the Contract Documents, the Contractor shall provide notice directly to the Owner, and separately to the Construction Manager, of such impending or actual cancellation or expiration. Upon receipt of notice from the Contractor, the Owner shall, unless the lapse in coverage arises from an act or omission of the Owner, have the right to stop the Work until the lapse in coverage has been cured by the procurement of replacement coverage by the Contractor. The furnishing of notice by the Contractor shall not relieve the Contractor of any contractual obligation to provide any required coverage.~~In the event the Contractor fails to procure or maintain any insurance coverage required under this Agreement, the Owner may purchase such coverage and deduct the cost thereof from any monies due to the Contractor, or terminate this Agreement under Paragraph 14.2. The Contractor shall be liable to the Owner for providing all coverage, defense, and payments that would have been provided by any insurance that the Contractor failed to procure and maintain as required by the Contract Documents.

§ 11.1.5 Compliance by the Contractor with the foregoing insurance requirements shall not relieve it from liability for amounts in excess of the limits of insurance.

§ 11.1.6 The Contractor and any of its Subcontractors, Sub-subcontractors, agents and employees, and any separate contractors described in Article 6, if any, and any of their subcontractors, sub-subcontractors, agents and employees shall waive any of their subrogation rights on their Workers Compensation Policy in favor of the Owner, Construction Manager and Architect. The policies shall provide such waivers of subrogation by endorsement or otherwise. A waiver of subrogation shall be effective as to a person or entity even though that person or entity would otherwise have a duty of indemnification, contractual, or otherwise, did not pay the insurance premium directly or indirectly, and whether or not the person or entity had an insurable interest.

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§ 11.2.1 The Owner shall purchase and maintain insurance of the types and limits of liability, containing the endorsements, and subject to the terms and conditions, as described in the Agreement or elsewhere in the Contract Documents. The Owner shall purchase and maintain the required insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The Owner may self-insure and maintain the Owner's usual liability insurance. Optionally, the Owner may purchase and maintain other insurance for self-protection against claims which may arise from operations under the Contract. The Contractor shall not be responsible for purchasing and maintaining this optional Owner's liability insurance unless specifically required by the Contract Documents.

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~~§ 11.3.2~~ ~~If during the Project construction period the Owner insures properties, real or personal or both, at or adjacent to the site by property insurance under policies separate from those insuring the Project, or if after final payment property insurance is to be provided on the completed Project through a policy or policies other than those insuring the Project during the construction period, to the extent permissible by such policies, the Owner waives all rights in accordance with the terms of Section 11.3.1 for damages caused by fire or other causes of loss covered by this separate property insurance.~~

...

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§ 11.5.2 Prior to settlement of an insured loss, the Owner shall notify the Contractor of the terms of the proposed settlement as well as the proposed allocation of the insurance proceeds. The Contractor shall have 14 days from receipt of notice to object to the proposed settlement or allocation of the proceeds. If the Contractor does not object, the Owner shall settle the loss and the Contractor shall be bound by the settlement and allocation. Upon receipt, the Owner shall ~~deposit the insurance proceeds in a separate account and~~ make the appropriate distributions. Thereafter, if no other agreement is made or the Owner does not terminate the Contract for convenience, the Owner and Contractor shall execute a Change Order for reconstruction of the damaged or destroyed Work in the amount allocated for that purpose. If the Contractor timely objects to either the terms of the proposed settlement or the allocation of the proceeds, the Owner may proceed to settle the insured loss, and any dispute between the Owner and Contractor arising out of the settlement or allocation of the proceeds shall be resolved pursuant to Article 15. Pending resolution of any dispute, the Owner may issue a Construction Change Directive for the reconstruction of the damaged or destroyed Work.

§ 11.6 Bonds

§ 11.6.1 Contractor shall furnish a Performance Bond and a Payment Bond to the Owner in the amount of one hundred percent (100%) of the Contract Sum and issued by a Surety Company authorized to do business in the State of Minnesota, rated "A" or better, and approved by the Owner. The Performance Bond shall be in accordance with Minnesota Statutory requirements, and shall be in the form included in the Project Manual. The Bonds shall allow for any additions or deductions to the Contract Sum.

§ 11.6.2 In order to be acceptable as a surety, Contractor's bonding company bust hold a "Certificate of Authority acceptable to the U.S. Treasury Department and be listed in the Department's current publication of "Bond Qualifiers" with underwriting limitations not less than ten percent (10%) above the Contract Sum.

§ 11.6.3 The surety of the Bonds shall be by a corporate surety company authorized to do business in the state in which Work is being performed under this Contract and acceptable to the Owner. The conditions of the bonds shall meet requirements of the statutes of the state where Work is being performed and all other applicable provisions of state law.

§ 11.6.4 The Contractor shall furnish two (2) originals of the Bonds to the Owner, with copies to the Architect and Construction Manager, within ten (10) days after notification of award and before execution of the Contract. Failure to do so shall constitute a violation of terms of the proposal and provide grounds for forfeiture of bid security.

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The Contractor shall promptly correct Work rejected by the Construction Manager or Architect or failing to conform to the requirements of the Contract Documents, discovered before Substantial Completion, and whether or not fabricated, installed or completed. ~~Costs~~ The Contractor shall bear costs of correcting such rejected Work, including additional testing and inspections, the cost of uncovering and replacement, and compensation for the Construction Manager's and Architect's services and expenses made necessary ~~thereby, shall be at the Contractor's expense.~~thereby.

...

~~**§ 12.2.2.1** In addition to the Contractor's obligations under Section 3.5, if, within one year after the date of Substantial Completion of the Work or designated portion thereof, or after the date for commencement of warranties established under Section 9.9.1, or by terms of any applicable special warranty required by the Contract Documents, any of the Work is found to be not in accordance with the requirements of the Contract Documents, the Contractor shall correct it promptly after receipt of notice from the Owner to do so, unless the Owner has previously given the Contractor a written acceptance of such condition. The Owner shall give such notice promptly after discovery of the condition. During the one-year period for correction of Work, if the Owner fails to notify the Contractor and give the Contractor an opportunity to make the correction, the Owner waives the rights to require correction by the Contractor and to make a claim for breach of warranty. If the Contractor fails to correct nonconforming Work within a reasonable time during that period after receipt of notice from the Owner, Construction Manager or Architect, the Owner may correct it in accordance with Section 2.5.~~

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~~**§ 12.2.2.2** The one-year period for correction of Work shall be extended with respect to portions of Work first performed after Substantial Completion by the period of time between Substantial Completion and the actual completion of that portion of the Work.~~

~~**§ 12.2.2.3** The one-year period for correction of Work shall not be extended by corrective Work performed by the Contractor pursuant to this Section 12.2.~~

§ 12.2.2.1 If within one year after the date of Substantial Completion of the Work or designated portion thereof, or after the date for commencement of warranties established under Section 9.9.1, or by terms of any applicable special warranty required by the Contract Documents, any of the Work is found to be not in accordance with the requirements of the Contract Documents, the Contractor shall correct it promptly (and any other property damaged or removed in effecting the correction) after receipt of notice from the Owner, Construction Manager or Architect to do so, unless the Owner has previously given the Contractor a written acceptance of such condition. The Owner, Construction Manager or Architect shall give such notice promptly after discovery of the condition. This period of one year shall be extended with respect to portions of Work first performed after Substantial completion by the period of time between Substantial completion and the actual performance of the Work. This obligation under this Subparagraph 12.2.2.1 shall survive acceptance of the Work under the contract and termination of the Contract. The Owner, Construction Manager or Architect shall give such notice promptly after discovery of the condition. The expiration of the above one year or any other specified time period, or any other period prescribed by the law, shall not relieve the Contractor of the obligation form the expense to correct any latent defect in the work or deficiencies which are not readily ascertained, including but not limited to, defective materials and quality of work performed, defects attributable to material substitutions for special materials, substandard performance or otherwise not in compliance with the Contract Documents. Such latent defects or deficiencies shall be corrected as provided in this Paragraph 12.2. Following the correction or replacement of any of the Work, as above specified, the Contractor shall correct any defects or deficiencies in the corrected or replaced materials and workmanship which is found within one year after the date of correction or replacement.

§ 12.2.4 ~~The Contractor shall bear the cost of correcting destroyed or damaged construction of the Owner, Separate Contractors, or other Contractors, whether completed or partially completed, caused by the Contractor's correction or removal of Work that is not in accordance with the requirements of the Contract Documents.~~ If the Contractor fails to correct nonconforming Work within a reasonable time, the Owner may correct it in accordance with Paragraph 2.4. If the Contractor does not proceed with correction of such nonconforming Work within a reasonable time fixed by written notice from the Architect or Construction Manager, the Owner may correct or remove it and store the salvageable materials or equipment all at the Contractor's expense. If the Contractor does not pay costs of such removal and storage within ten (10) days after written notice, the Owner may upon ten (10) additional days' written notice sell such materials and equipment at auction or at private sale and shall account for the proceeds thereof, after deducting costs and damages that should have been borne by the Contractor, the Contract Sum shall be reduced by the deficiency. If payments then or thereafter due the Contractor are not sufficient to cover such amount, the Contractor shall pay the difference to the Owner.

§ 12.2.5 ~~Nothing contained in this Section 12.2 shall be construed to establish a period of limitation with respect to other obligations the Contractor has under the Contract Documents. Establishment of the one-year period for correction of Work as described in Section 12.2.2 relates only to the specific obligation of the Contractor to correct the Work, and has no relationship to the time within which the obligation to comply with the Contract Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Contractor's liability with respect to the Contractor's obligations other than specifically to correct the Work.~~ The Contractor shall bear the cost of correcting destroyed or damaged construction whether completed or partially completed, of the Owner or separate contractors caused by the Contractor's correction or removal of Work which is not in accordance with the requirements of the Contract Documents.

§ 12.2.6 Nothing contained in this Section 12.2 shall be construed to establish a period of limitation with respect to other obligations the Contractor has under the Contract Documents. Establishment of the one-year period for correction of Work as described in Section 12.2.2 relates only to the specific obligation of the Contractor to correct the Work, and has no relationship to the time within which the obligation to comply with the Contract Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Contractor's liability with respect to the Contractor's obligations other than specifically to correct the Work.

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§ 13.4.1 Tests, inspections, and approvals of portions of the Work shall be made as required by the Contract Documents and by applicable laws, statutes, ordinances, codes, rules, and regulations or lawful orders of public authorities. ~~Unless otherwise provided, the Contractor~~ The Owner, Construction Manager or Architect shall make arrangements for such tests, inspections, and approvals with an independent testing laboratory or entity acceptable to the Owner, or with the appropriate public ~~authority, and shall bear all related costs of tests, inspections, and approvals. The Contractor shall give the Construction Manager and Architect timely notice~~ authority. Timely notice shall be given to the Construction Manager and Architect of when and where tests and inspections are to be made so that the Construction Manager and Architect may ~~be present for~~ observe such procedures. The Owner shall bear costs of tests, inspections, or approvals that do not become requirements until after bids are received or negotiations concluded. The Owner shall directly arrange and pay for tests, inspections, or approvals where building codes or applicable laws or regulations so require.

§ 13.4.2 If the Construction Manager, Architect, Owner, or public authorities having jurisdiction determine that portions of the Work require additional testing, inspection, or approval not included under Section 13.4.1, the Construction Manager and Architect will, upon written authorization from the Owner, instruct the Contractor to make arrangements for such additional testing, inspection, or approval, by an entity acceptable to the Owner, and the Contractor shall give ~~timely~~ a minimum of two (2) working days' notice to the Construction Manager and Architect of when and where tests and inspections are to be made so that the Construction Manager and Architect may ~~be present for such procedures. Such~~ observe procedures. The Owner shall bear such costs, except as provided in Section ~~13.4.3, shall be at the Owner's expense.~~13.4.3.

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~~Payments due and unpaid under the Contract Documents shall bear interest from the date payment is due at the rate the parties agree upon in writing or, in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located.~~All payments to the Contractor shall be governed by the Prompt Payment of Local Government Bills, Minnesota Statutes, Section 471.125 ("Prompt Payment Act") and Article 5 of the A132–2019 Agreement on this Project.

§ 13.6 Non-Discrimination

§ 13.6.1 All contracts between the Owner and companies providing goods and services under the Contract Documents shall contain the following equal opportunity and civil right clause:

> "During the performance of this Agreement, the provider agrees to the following: No contractor, material supplier, vendor, or other person shall on the basis of sex, race, creed, color, religion, national origin, age, marital status, sexual orientation, or disability be excluded from full employment rights in, participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program, service, or activity under the provisions of any and all applicable Federal and State laws against discrimination, including the Minnesota Human Rights Act and the Civil Rights Act of 1964."

Upon request, the Contractor shall furnish all information and reports required by the Owner, or by the rules and regulations of investigation to ascertain compliance with all applicable rules and regulations. The Contractor shall also comply with any applicable licensing requirements of the Minnesota Department of Human Services in employment of personnel.

The Contractor acknowledges that the violation of the above-stated paragraph is a misdemeanor pursuant to Minnesota Statutes, Section 181.59.

This Agreement may be cancelled or terminated by the Owner or any other person authorized to grant the contracts for employment under this Agreement, and all money due, or to become due under this Agreement may be forfeited for a second or any subsequent violation of the non-discriminatory terms stated above.

§ 13.6.2 During the completion of the work and all other services required by the Contract Documents, the Contractor agrees that no contractor, material supplier, vendor, or other person shall, on the basis of sex, race, creed, color, religion, national origin, age, marital status, sexual orientation, or disability be excluded from full employment rights in participation in, be denied the benefits of, or be otherwise subjected to discrimination under the provisions of any and all applicable Federal and State laws against discrimination, including the Minnesota Human Rights Act and the

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Civil Rights Act of 1964. Upon request, the Architect, Construction Manager and Contractor shall furnish all information and reports required by the Owner, or by the rules and regulations of investigation to ascertain compliance with all applicable rules and regulations. The Contractor shall also comply with any applicable licensing requirements of the Minnesota Department of Human Services in employment of personnel.

Contractor acknowledges that the violation of the above-states paragraph is a misdemeanor pursuant to Minnesota Statutes Section 181.59.

The Contract Documents may be cancelled or terminated by the Owner or any other person authorized to grant the contracts for employment under this Agreement, and all money due, or to become due under the Agreement may be forfeited for a second or any subsequent violation of the non-discriminatory terms stated above.

§ 13.7 No action or failure to act by the Owner shall constitute a waiver of a right or duty afforded the Owner under the Contract Documents, nor shall such action or failure to act constitute approval of or acquiescence of the Owner in a breach of the Contract Documents, except as may be specifically agreed in writing. None of the approval of any Application for Payment, the making of any payment, the giving of any approval or consent, the use or occupancy of the Work, or any part thereof, the making of final payment, or any other action or inaction on the part of the Owner, Construction Manager or Architect shall constitute a waiver of claims by or rights of the Owner or an acceptance of any Work that is not in accordance with the Contract Documents. The Contractor shall not be relieved from its obligations to perform the Work in accordance with the Contract Documents either by the activities or duties of the representations of the Owner, Construction Manager or Architect, or by inspections, tests, or approvals required or performed by the Owner, Construction Manager or Architect or anyone else.

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§ 14.1.5 No Right to Stop Work for Non-Payment

The Contractor has no right to stop Work as a consequence of non-payment. In the event of any disagreement between the Contractor and Owner involving the Contractor's entitlement to payment, the Contractor's only remedy is to file a Claim in accordance with Article 15. The Contractor must diligently proceed with the Work pending resolution of the Claim. If, however, an Application for Payment has been approved for payment by the Owner, and the Owner fails to make payment within sixty (60) days of the approval for payment by the Owner, the Contractor may upon ten (10) days written notice to the Owner, stop work if payment is not made by the Owner within ten (10) days following the notice.

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§ 14.3.2 The Contract Sum and the Contract Time shall be adjusted for increases or decreases in the cost and time caused by suspension, delay, or interruption under Section 14.3.1. Adjustment of the Contract Sum shall include reasonable profit. No adjustment shall be made to the extent:

...

~~**§ 14.4.3** In case of such termination for the Owner's convenience, the Owner shall pay the Contractor for Work properly executed; costs incurred by reason of the termination, including costs attributable to termination of Subcontracts; and the termination fee, if any, set forth in the Agreement.~~

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§ 15.1.1 Definition. A Claim is a demand or assertion by ~~one of the parties~~ the Contractor seeking, as a matter of right, payment of money, a change in the Contract Time, or other relief with respect to the terms ~~of the Contract. The term "Claim" also includes other disputes and matters in question between the Owner and Contractor arising out~~ of ~~or relating to~~ the Contract. The responsibility to substantiate Claims shall rest with ~~the party making the Claim.~~ the Contractor. Nothing in this paragraph 15.1.1 is intended to apply to or in any way limit the Owner's right to make Claims related to or arising out of the Contract. This Section 15.1.1 does not require the Owner to file a Claim in order to impose liquidated damages in accordance with the Contract Documents.

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§ 15.1.3.1 Claims by ~~either the Owner or~~ Contractor, where the condition giving rise to the Claim is first discovered prior to expiration of the period for correction of the Work set forth in Section 12.2.2, shall be initiated by written notice to the ~~other party~~ Owner and to the Initial Decision Maker with a copy sent to the Construction Manager and Architect, if the Architect is not serving as the Initial Decision Maker. Claims by ~~either party~~ the Contractor under this Section 15.1.3.1 shall be initiated within ~~21~~ ten (10) days after occurrence of the event giving rise to such Claim or within ~~21~~ ten (10) days after the ~~claimant~~ Contractor first recognizes the condition giving rise to the Claim, whichever is later. Any additional Claim made after and relating to the initial Claim has been implemented by Change Order will not be considered unless submitted in a timely manner. As a condition to making a claim for additional costs, the Contractor shall maintain and produce accurate records to substantiate all additional costs actually incurred. If a Claim for actual costs is approved, the Owner shall pay the Contractor actual costs incurred, plus either (a) ten percent (10%) for overhead and profit for work performed by the Contractor, or (b) five percent (5%) overhead and profit for work performed by a Subcontractor, as applicable.

§ 15.1.3.2 Claims by either the Owner or Contractor, where the condition giving rise to the Claim is first discovered after expiration of the period for correction of the Work set forth in Section 12.2.2, shall be initiated by written notice to the other party. In such event, no decision by the Initial Decision Maker is required.

...

§ 15.1.4.1 Pending final resolution of a Claim, except as otherwise agreed in writing or as provided in Section 9.7 and Article 14, the Contractor shall proceed diligently with performance of the Contract and the Owner shall continue to make payments in accordance with the Contract Documents. Subject to Paragraph 15.1.5, no such continuing performance by the Contractor, nor payment by the Owner shall be deemed a waiver of, or to otherwise impair any such Claim.

...

§ 15.1.6.1 If the Contractor wishes to make a Claim for ~~an~~ any increase in the Contract Time, notice as provided in Section 15.1.3 shall be given. The Contractor's Claim shall include an estimate of cost and of probable effect of delay on progress of the Work. In the case of a continuing delay only one Claim is necessary.

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~~**§ 15.1.7 Waiver of Claims for Consequential Damages.** The Contractor and Owner waive Claims against each other for consequential damages arising out of or relating to this Contract. This mutual waiver includes~~

- ~~.1 damages incurred by the Owner for rental expenses, for losses of use, income, profit, financing, business and reputation, and for loss of management or employee productivity or of the services of such persons; and~~
- ~~.2 damages incurred by the Contractor for principal office expenses including the compensation of personnel stationed there, for losses of financing, business and reputation, and for loss of profit except anticipated profit arising directly from the Work.~~

~~This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination in accordance with Article 14. Nothing contained in this Section 15.1.7 shall be deemed to preclude assessment of liquidated damages, when applicable, in accordance with the requirements of the Contract Documents.~~

...

§ 15.2.6 ~~Either party may file for mediation of an initial decision at any time, subject to the terms of Section 15.2.6.1.~~In the event of a Claim against the Contractor, the Owner may, but is not obligated to notify the surety, if any, of the nature and amount of the Claim. If the Claim relates to a possibility of a Contractor's default, the Owner may, but is not obligated to notify the surety and initiate a Claim on the performance bond.

~~**§ 15.2.6.1** Either party may, within 30 days from the date of receipt of an initial decision, demand in writing that the other party file for mediation. If such a demand is made and the party receiving the demand fails to file for mediation~~

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~~within 30 days of receipt thereof, then both parties waive their rights to mediate or pursue binding dispute resolution proceedings with respect to the initial decision.~~

~~§ 15.2.7~~ ~~In the event of a Claim against the Contractor, the Owner may, but is not obligated to, notify the surety, if any, of the nature and amount of the Claim. If the Claim relates to a possibility of a Contractor's default, the Owner may, but is not obligated to, notify the surety and request the surety's assistance in resolving the controversy.~~

~~§ 15.2.8~~ ~~If a Claim relates to or is the subject of a mechanic's lien, the party asserting such Claim may proceed in accordance with applicable law to comply with the lien notice or filing deadlines.~~

§ 15.3.1 ~~Claims, disputes, or other matters in controversy~~ Any claim, dispute or other matter in question or arising out of or related to the ~~Contract, except those waived as provided for in Sections 9.10.4, 9.10.5, and 15.1.7, shall be subject to mediation as a condition precedent to binding dispute resolution.~~Contract shall be subject to mediation. Mediation is not a condition precedent to commencing litigation, but if litigation is commenced before mediation is held, the Parties agree to mediate before any dispositive motions or trial.

§ 15.3.2 The parties shall ~~endeavor to resolve their Claims by mediation which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Mediation Procedures in effect on the date of the Agreement. A request for mediation shall be made in writing, delivered to the other party to the Contract, and filed with the person or entity administering the mediation. The request may be made concurrently with the filing of binding dispute resolution proceedings but, in such event, mediation shall proceed in advance of binding dispute resolution proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order. If an arbitration is stayed pursuant to this Section 15.3.2, the parties may nonetheless proceed to the selection of the arbitrator(s) and agree upon a schedule for later proceedings.~~share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located unless another location is mutually agreed upon. Agreements reached in mediation and ratified by the Owner's Council shall be enforceable as settlement agreements in any court having jurisdiction thereof.

~~§ 15.3.3~~ ~~Either party may, within 30 days from the date that mediation has been concluded without resolution of the dispute or 60 days after mediation has been demanded without resolution of the dispute, demand in writing that the other party file for binding dispute resolution. If such a demand is made and the party receiving the demand fails to file for binding dispute resolution within 60 days after receipt thereof, then both parties waive their rights to binding dispute resolution proceedings with respect to the initial decision.~~

~~§ 15.3.4~~ ~~The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.~~

~~§ 15.4 Arbitration~~

~~§ 15.4.1~~ ~~If the parties have selected arbitration as the method for binding dispute resolution in the Agreement, any Claim subject to, but not resolved by, mediation shall be subject to arbitration which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Arbitration Rules in effect on the date of the Agreement. The Arbitration shall be conducted in the place where the Project is located, unless another location is mutually agreed upon. A demand for arbitration shall be made in writing, delivered to the other party to the Contract, and filed with the person or entity administering the arbitration. The party filing a notice of demand for arbitration must assert in the demand all Claims then known to that party on which arbitration is permitted to be demanded.~~

~~§ 15.4.1.1~~ ~~A demand for arbitration shall be made no earlier than concurrently with the filing of a request for mediation, but in no event shall it be made after the date when the institution of legal or equitable proceedings based on the Claim would be barred by the applicable statute of limitations. For statute of limitations purposes, receipt of a written demand for arbitration by the person or entity administering the arbitration shall constitute the institution of legal or equitable proceedings based on the Claim.~~

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~~**§ 15.4.2** The award rendered by the arbitrator or arbitrators shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.~~

~~**§ 15.4.3** The foregoing agreement to arbitrate and other agreements to arbitrate with an additional person or entity duly consented to by parties to the Agreement, shall be specifically enforceable under applicable law in any court having jurisdiction thereof.~~

~~**§ 15.4.4 Consolidation or Joinder**~~

~~**§ 15.4.4.1** Subject to the rules of the American Arbitration Association or other applicable arbitration rules, either party may consolidate an arbitration conducted under this Agreement with any other arbitration to which it is a party provided that (1) the arbitration agreement governing the other arbitration permits consolidation, (2) the arbitrations to be consolidated substantially involve common questions of law or fact, and (3) the arbitrations employ materially similar procedural rules and methods for selecting arbitrator(s).~~

~~**§ 15.4.4.2** Subject to the rules of the American Arbitration Association or other applicable arbitration rules, either party may include by joinder persons or entities substantially involved in a common question of law or fact whose presence is required if complete relief is to be accorded in arbitration, provided that the party sought to be joined consents in writing to such joinder. Consent to arbitration involving an additional person or entity shall not constitute consent to arbitration of any claim, dispute or other matter in question not described in the written consent.~~

~~**§ 15.4.4.3** The Owner and Contractor grant to any person or entity made a party to an arbitration conducted under this Section 15.4, whether by joinder or consolidation, the same rights of joinder and consolidation as those of the Owner and Contractor under this Agreement.~~

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User Notes: (862216568)

Certification of Document's Authenticity

AIA® Document D401™ – 2003

I, , hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with its associated Additions and Deletions Report and this certification at 15:15:13 CT on 02/03/2025 under Order No. 4104251278 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document A232™ – 2019, General Conditions of the Contract for Construction, Construction Manager as Adviser Edition, other than those additions and deletions shown in the associated Additions and Deletions Report.



(Signed)

Curtis Hartog, Executive Director

(Title)

2/3/2025

(Dated)

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Exhibit B – Project Charter

FY21 North High School Renovations-Bid Pack 4

Work Scope 21-A Fire Suppression

Description

Perform fire suppression in accordance with Work Scope 21-A for the North High School Phase 4 renovations

Contract Sum

The Contract Sum shall be $219,600

Alternates

Item	Price	Status
Alt #1: Health Office	$21,800	rejected
Alt #2: Athletic and Counseling Offices	$11,100	rejected
Alt #3: Electrical panel replacements	$0	accepted
Alt #4: AHU-41 replacement	$400	accepted
Alt #5: Direct digital controls	$7,200	accepted

EXHIBIT C Owner Insurance

Insurance Requirements

1. CONSULTANT'S INSURANCE – to be used with AIA B101-2017, AIA C103-2015, or similar non-contractor consultants:
   The Consultant shall at its own expense maintain in effect at all times during the performance of the Work under the Agreement at least the following coverage and limits of insurance:

   a. Worker's Compensation and Employer's Liability Insurance

      i. Coverage A is statutory.

      ii. Coverage B
      $500,000 Each Accident
      $500,000 Each Employee
      $500,000 Policy Limit (Disease)

   b. Comprehensive General Liability Insurance *

General Aggregate	$1,000,000
Products/Completed Operations Aggregate	$1,000,000
Per Occurrence	$1,000,000
Medical Payments	$10,000

   * The Owner should be named as an additional insured for Comprehensive General Liability Insurance.

   c. Automobile Insurance

Per Occurrence	$1,000,000
PIP	Basic
Underinsured Motorist	$1,000,000
Uninsured Motorist	$1,000,000

   d. Professional Liability Insurance

      i. Per Claim $2,000,000

ii. For projects with an estimated construction Contract Sum of over $10,000,000 or major structural work an aggregate is required as follows:
Aggregate $4,000,000

e. Umbrella Liability Insurance

i. Per Occurrence $2,000,000

ii. For projects with an estimated construction Contract Sum of over $10,000,000 or major structural work an aggregate is required as follows:
Aggregate $2,000,000

f. Manned or Unmanned Aircraft Coverage (if used)

i. Per Claim $1,000,000

ii. Aggregate $1,000,000

For specialty consultants used for commissioning activities, studies, asbestos surveys and security, items A, B, C and F shall apply.

Special Asbestos Abatement Liability Insurance is required for Asbestos Abatement Contractors. The limits are $1,500,000 per claim, for liability arising from the encapsulation, removal, handling, storage, transportation, and disposal of asbestos-containing materials.

2. CONSULTANT'S OBLIGATIONS

Consultant shall not violate or knowingly permit any violation of any conditions or terms of the policies of insurance required to be carried under the terms hereof and shall endeavor to satisfy the requirements of the insurance companies issuing them. In the event Consultant neglects, refuses or fails to provide or maintain any of the insurance required to be carried under the Agreement, or if such insurance is canceled for any reason, the Owner or the Owner's lender(s) shall have the right, but not the duty, to procure or maintain the same.

In the event the Owner or the Owner's lender(s) do procure or maintain such insurance, the Owner or the Owner's lender(s) shall have, in additional to any and all other available remedies, the right to recover from the Consultant (including the right of set-off against sums otherwise due the Consultant) all of the costs associated with procuring or maintaining such insurance.

3. PROFESSIONAL LIABILITY INSURANCE

   a. Professional Liability Coverage of $2,000,000 shall be maintained for one (1) year from the date of Substantial Completion. If the Consultant discontinues its business and if directed by Owner in writing, Consultant shall purchase such insurance in such amount for an extended discovery period beyond the one (1) year after the date of Substantial Completion, with the premium cost to be a reimbursable expense paid by the Owner. The limit of liability for such policy may not be reduced below $2,000,000 without the Owner giving its prior, written consent. All policies of insurance that Consultant is required under the terms of this Exhibit C Owner's Insurance to secure and maintain shall bear the endorsement "Not to be canceled until sixty (60) calendar days after Owner has received a written notice from insurer as evidence by a return receipt of registered or certified mail."

   b. The Owner shall not be responsible for obtaining or paying premiums or other expenses in connection with insurance required to be carried under the Agreement or normally carried by the Consultant's consultants, and the obligation to obtain such insurance and to pay such premiums and other expenses shall be solely that of the Consultant.

   c. The Consultant shall bear all the costs of any and all deductible amounts under any insurance policies required to be carried under the Agreement and shall remain solely and fully liable for the full amount of any claim or item not compensated by insurance (to the extent that any amount resulted from damages that arose out of the Consultant's sole negligence.)

4. COVERAGE
   The coverage's referred to above are set forth in full in the respective policy forms, and the foregoing descriptions of such policies are not intended to be complete.

5. GENERALLY

   a. The Consultant thereby represents and warrants to the Owner that, as of the date of the execution of the Agreement, the Consultant is not aware of any claims or potential claims which have been made, filed or threatened against any of the insurance or for damages covered by any of the insurance required to be carried under the Agreement that would affect the Consultant's ability to provide the insurance coverage required by this agreement.

b. It is understood that the provisions in the Agreement requiring the Consultant to carry insurance shall not be construed as in any manner waiving or restricting the liability of the Consultant as to any obligations imposed under the Agreement, including, but not limited to, obligations imposed under the provisions of Article 11 of the AIA A201-2017 General Conditions.

Insurance requirements for Contractors

1. CONTRACTOR'S INSURANCE – to be used with AIA A101-2017
   The Contractor shall at its own expense maintain in effect at all times during the performance of the Work under the Agreement at least the following coverage and limits of insurance:

   a. Commercial General Liability

      i. General Aggregate $1,500,000

      ii. Products/Completed Operations Aggregate $1,500,000

      iii. Per Occurrence $1,500,000

      The Owner shall be named as additional insured for Commercial General Liability Insurance

   b. Automobile Insurance

      i. Per Occurrence $1,000,000

      ii. PIP Basic

      iii. Underinsured Motorist $1,000,000

      iv. Uninsured Motorist $1,000,000

   c. Workers Compensation

      i. Coverage A is statutory.

      ii. Coverage B $500,000 Each Accident

      iii. $500,000 Each Employee

d. Professional Liability (if the Contractor is hiring professionals)

   i. Per Claim $2,000,000

   For Projects with an estimated construction cost of over $10,000,000 or major structural work, additional Aggregate coverage of $4,000,000 is required.

e. Manned or Unmanned Aircraft Coverage (if used)

   i. Per Claim $1,000,000

   ii. Aggregate $1,000,000

f. Property Insurance

   i. Per Claim $1,000,000

   ii. Aggregate $1,000,000

   This insurance is only required for materials stored offsite and not incorporated into the project at delivery. For material stored on site, no additional insurance is required.

g. Builders “all risk” Insurance

   i. Per Claim $2,000,000

   ii. Aggregate $4,000,000

   This insurance is only required for additions exceeding $10,000,000. Renovations to existing schools are not required to have builders all risk insurance.

h. Umbrella Liability

   i. Aggregate limit $5,000,000

   This insurance is required only for projects larger than $10,000,000 in total construction costs.

Exhibit D – Project Schedule

FY21 North High School Renovations-Bid Pack 4 Work Scope 21-A Fire Suppression

OP#:25-2512

Description

Perform fire suppression in accordance with Work Scope 21-A for the North High School Phase 4 renovations.

Schedule

Start Construction: On or about March 2025 but within 5 days of notice to proceed as directed by the Construction Manager. Please refer to schedule provided in Specifications.

To be completed in 2025-June 2025 to August 2025

Base Bid Level 1 Area E

Base Bid Level 2 Area F, Area G, Area E

Area D Bathrooms March 2025 – May 2025 and September 2025 to December 2025.

Base Bid Level 2 Area E classrooms March 2025-May 2025

Base Bid Area Level 1 Area C – June 2026-August 2026

Base Bid Level 2 Area G – June 2026-August 2026

Bae Bid Level2 Area D – January 2026-August 2026

Alternate #3 – March 2025 through August 2026

Alternate #4 – June 2025-August 2025

Alternate #5 – June 2025-August 2026

Substantial Completion: August 21, 2026.

Major School Days

Recordkeeping Day – March 28, 2025

Spring Break – March 31 – April 4, 2025

Memorial Day – May 26, 2025

Last Day of School – June 6, 2025

Juneteenth – June 19, 2025

Independence Day – July 4, 2025

Last day for Staff – June 30, 2025

Labor Day – September 1, 2025

First Day of School – September 2, 2025

Rosh Hashanah – September 23, 2025
Yom Kippur – October 2, 2025
MEA – October 16-17, 2025
Recordkeeping Day – November 4, 2025
Thanksgiving – November 26-28, 2025
Winter Break – December 22, 2025 to January 2, 2026
Martin Luther King Day – January 19, 2026
Recordkeeping Day – January 23, 2026
Presidents Day – February 16, 2026
Professional Development – February 17, 2026
Eid al-Fitr – March 20, 2026
Recordkeeping Day – March 27, 2026
Memorial Day – May 25, 2026
Professional Development – May 26, 2026
Eid al Adha – May 27, 2026
Juneteenth – June 19, 2026
Independence Day – July 4, 2026
Labor Day – September 7, 2026
First day of School – September 8, 2026

Substantial Completion

The Work will be substantially complete on or before August 21, 2026

MINNEAPOLIS PUBLIC SCHOOLS
Urban Education. Global Citizens.

CONTRACT FOR GOODS – above $50,000

This Contract is entered into between Special School District No. 1, "District", a special school district created and existing under the laws of Minnesota, and Paragon Development Systems, Inc. "Contractor" (collectively "parties") to provide Commvault Backup Infrastructure at Minneapolis Public Schools.

1 TERM OF CONTRACT

1.1 This Contract is effective on March 11, 2025 or the date of the last signature of the parties, whichever is later, and shall remain in effect until February 14, 2026, or until all obligations set forth in this Contract have been satisfactorily fulfilled, or the Contract has been terminated, whichever occurs first. Contractor shall have a continuing obligation, after said Contract period, to comply with any provision of this Contract intended for District's protection or benefit, or that that by its sense and context, is intended to survive the completion, expiration or termination of this Contract.

1.2 Contractor understands that NO WORK SHOULD BEGIN UNDER THIS CONTRACT until all required signatures on this Contract have been obtained and the Contract has been authorized and/or approved by the District's Board. Any work performed by Contractor prior to such time shall be considered as having been performed at Contractor's OWN RISK and as a volunteer.

2 SCOPE OF WORK

2.1 Contractor shall perform all of the services/delivery of goods set forth herein and any exhibits attached hereto as **Exhibit A** ("Scope of Work"). Contractor understands that time is of the essence in this Contract and agrees to meet all milestones indicated in this section, in the Contract herein and any exhibits attached hereto.

3 CONSIDERATION AND TERMS OF PAYMENT

The consideration for all services (and goods if any) performed or supplied by Contractor under this Contract shall be paid by District as described below.

3.1 *Total Obligation*

District's total obligation to Contractor/Vendor under this Contract, including compensation for goods, and/or services, and reimbursable expenses (if applicable), shall not exceed $255,666.66. Contractor/Vendor shall not receive any additional reimbursement for materials or subsistence expenses incurred in the performance of this Contract.

3.2 *Frequency of Invoicing and Terms of Payment*

Subject to the conditions herein, payment shall be made by District within thirty (30) days upon receipt of Contractor's invoice for goods delivered or services rendered pursuant to this Contract. The Contractor's standard invoice shall be submitted after satisfactory completion of services on a monthly basis. District has no obligation to pay for services that are not satisfactorily performed or performed in violation of federal, state or local law, ordinance, rule or regulation. In the case of a dispute about satisfactory performance of services, the parties agree to work in good faith to resolve any disputes. If either party does not dispute an invoice in writing within 180 days of receipt of the invoice, no action challenging the invoice may be taken.

As applicable, for all agreed upon work performed by Contractor or Contractor's personnel in the provision of goods and/or services stipulated herein, District shall pay Contractor at the hourly or per diem rates as set forth in the applicable **Exhibit B**. Payment shall be made to Contractor based on the hours recorded provided such hours are in accordance with the terms of this Contract. Notwithstanding anything to the contrary, and without limitation, District has not promised or guaranteed any minimum amount of work, and Contractor understands and acknowledges same. District has no obligation to pay for overtime or holiday work, nor will it pay premiums for overtime and holidays.

3.3 *Taxes.*

District is exempt from paying Minnesota sales and use taxes on certain purchases, as provided in Minnesota Statute, Section 297A.70. Contractor shall not charge District for such sales and use taxes. Alternatively, Contractor shall be responsible for the payment of any and all sales taxes to the Minnesota Department of Revenue relating to the following taxable items sold pursuant to this Contract; construction materials, leasing of motor vehicles, food and lodging, [See Minnesota Statute 297A.70]. Contractor shall promptly reimburse District for any and all such sales and use taxes paid by District to any governmental authority on behalf of Contractor including penalties and interest with

respect thereto, and including any and all expenses (including attorneys' fees) or damages that result from a failure by Contractor to properly remit or reimburse District for any and all such sales and use taxes provided above.

District may be obligated by state and federal law to withhold state and federal taxes from the consideration stated herein. These taxes may consist of, but are not limited to, the Minnesota state entertainer tax, Minnesota state nonresident withholding tax, federal withholding on payments to foreign nonresident aliens, and federal backup withholding.

4 INSPECTION OF GOODS & REJECTION

4.1 Buyer is entitled to inspect the Goods upon delivery. If the Goods are unacceptable for any reason, Buyer must reject them at the time of delivery up to ten (10) business days from the date of delivery. If Buyer has not rejected the Goods within ten (10) business days from the date of delivery, Buyer shall have waived any right to reject that specific delivery of Goods.

4.2 In the event Buyer rejects the Goods, Buyer shall allow Seller a reasonable time to cure the deficiency. A reasonable time period shall be determined by industry standards for the Goods, as well as the Seller and Buyer.

5 RISK OF LOSS

5.1 Risk of loss will be on the Seller until the time when the Buyer accepts delivery. Seller shall maintain any and all necessary insurance in order to insure the Goods against loss at Seller's own expense.

6 TITLE

6.1 Title to the Goods will remain with the Seller until Buyer accepts delivery.

7 FORCE MAJEURE

7.1 Non-delivery or default of this Agreement due to labor disputes, transportation shortage, delay or shortage of materials to produce the Goods, fires, accidents, Acts of God, or any other causes outside of Seller's control shall be notified to Buyer immediately upon realization that it will not be able to deliver the Goods as promised. Either Party may terminate this Agreement upon such notice.

8 GENERAL TERMS AND CONDITIONS

8.1 The terms and conditions contained in this Contract shall govern and shall take precedence over any different or additional terms and conditions which Contractor may have included in any documents attached to or accompanying this Contract. Any handwritten changes on the face of this document shall be ignored and have no legal effect unless initialed by all parties. If this Agreement was made pursuant to a Request for Proposal (RFP) or Request for Information (RFI), the following order of precedence shall apply: (1) this Contract and its Exhibits, (2) District's RFP or RFI, and (3) Contractor's Response to District's RFP or RFI.

9 AFFIRMATIVE ACTION, EQUAL EMPLOYMENT OPPORTUNITY

9.1 The District is committed to the policy that all persons shall have equal access to its programs, facilities, and employment without regard to race, color, creed, religion, sex, national origin, age, marital status, disability, public assistance status, veteran status, or sexual orientation and is committed to transacting business only with firms who follow these practices. Contractor must apply every good faith effort to ensure implementation of this policy in their practices of employment, upgrade, demotion or transfer, recruitment, or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. As applicable, Contractor shall also develop and have on file for each of its establishments, written Affirmative Action Plans, as may be required by the rules and regulations of the Secretary of Labor. If applicable, Contractor certifies that it has received a certificate of compliance from the Minnesota Commissioner of Human Rights for its affirmative action plan. By accepting this Contract, Contractor certifies that it complies with all applicable federal and state laws as well as District policies related to non-discrimination, equal employment opportunity, and affirmative action.

10 DATA PRIVACY

10.1 Contractor agrees that any information it creates, collects, receives, stores, uses, or disseminates during the course of its performance, which concerns the personal, financial, or other affairs of the District, its Board, officers, employees or students shall be kept confidential and in conformance with all state and federal laws relating to data privacy, including, without limitation, the Minnesota Government Data Practices Act, Minnesota Statute, Chapter 13. Contractor must comply with any applicable requirements as if it were a governmental entity. The remedies in Minn. Stat. § 13.08 apply to the Contractor. The Contractor will report immediately to the District any requests from third parties for information related to this Contract. The District will respond to such data requests. All subcontracts, if allowed, shall contain the same or similar data practices compliance requirements.

10.2 Contractors that provide school-issued devices for student use and directly or indirectly create, receive, or maintain educational data incidental to performing their duties under this Contract shall also sign Exhibit C ("Student Data Privacy"). "School-issued devices," as used herein, refers to hardware or software that is provided to an individual

student for that student's dedicated personal use, and includes devices issued through a one-to-one program.

11 USE OF DISTRICT NAME OR LOGO

11.1 Contractor agrees not to use the name, logo, or any other marks (including, but not limited to, colors and music) owned by or associated with the District or the name of any representative of the District in any sales promotion work or advertising, or any form of publicity, without the written permission of the District.

12 INDEPENDENT CONTRACTOR

12.1 Contractor shall perform its duties hereunder as an independent contractor and not as an employee of the District. Neither Contractor nor any agent or employee of Contractor shall be or shall be deemed to be an agent or employee of the District. Contractor shall pay when due all required employment taxes and income tax withholding, including all federal and state income tax on any monies paid pursuant to this Contract. Contractor acknowledges that Contractor and its employees are not entitled to tax withholding, worker's compensation, unemployment compensation, or any employee benefits, statutory or otherwise. Contractor shall have no authorization, express or implied, to bind District to any agreements, liability, or understanding except as expressly set forth herein. Contractor shall be solely responsible for the acts of Contractor, its employees and agents.

12.2 Contractor shall hold District completely harmless from and against any such contributions, premiums and taxes described above and from all claims and liability pertaining to those or any other item for which Contractor is responsible under this Contract, and from all attorney's fees and other costs incurred by District in contesting or defending against any responsibility therefore which is asserted against District.

13 WORKER HEALTH, SAFETY AND TRAINING

13.1 Contractor shall be solely responsible for the health and safety of its employees and/or self in connection with the work performed under this Contract. Contractor shall make arrangements to ensure the health and safety of all subagents and other persons who may perform work in connection to this Contract. Contractor shall ensure all personnel, subagents and/or self are properly trained and supervised and, when applicable, duly licensed or certified appropriate to the tasks performed under this Contract. Contractor shall comply with federal, state and local occupational safety and health standards, regulations, and rules promulgated pursuant to the Occupational Health and Safety Act that are applicable to the work performed by Contractor. Contractor shall develop and implement an emergency plan and procedures to follow in emergencies.

14 BUREAU OF CITIZENSHIP & IMMIGRATION SERVICES REQUIREMENTS

14.1 Contractor shall comply with all applicable requirements of the BCIS relating to employment including but not limited to confirming nationality for all employees and complying with requirements for employing aliens if appropriate.

15 INSURANCE

15.1 At all times during its performance under this Contract, Contractor shall obtain and keep in force comprehensive general liability insurance, including coverage for death, bodily or personal injury, property damage, liability and automobile coverages, with limits of not less than $1,500,000 each claim and $1,500,000 each occurrence covering claims that arise out of its acts and operations in providing services to the District or at limits established for a municipal corporation by Minnesota Statute Section 466.04. All such certificates evidencing such insurance shall name District as additional insured. Contractor may meet the limits above $1,000,000 per occurrence through umbrella or excess coverage.

15.2 Contractor represents that it has worker's compensation insurance to the extent required by law and agrees to furnish proof of such insurance for worker's compensation and the liability insurance, upon request. Contractor also represents that it has professional liability insurance with limits of not less than $1,500,000 each claim and $1,500,000 each occurrence covering claims that arise out of its acts and operations in providing services to the District, but shall not name the District as an additional insured to the coverage.

15.3 Contractor shall provide all such certificates to District. Contractor shall not cancel or revise any insurance coverage required by this section during the term of this Contract, and shall require its insurer to mail the District a notice if the coverage is cancelled or revised.

16 INDEMNIFICATION

16.1 Contractor agrees to release, defend, indemnify, and hold harmless District, its board, officers, students, employees, and agents from all liability, injuries, claims, damages (including claims of bodily injury, property damage, or negligence), or loss, including costs, expenses, and attorneys' fees, which arise in connection with, in relation to, or as a result of Contractor's negligent acts or omissions or in connection with Contractor's breach of warranties. The foregoing agreement to release, defend, indemnify and hold harmless shall not apply to the extent such liability, injuries, claims, damages, or loss was caused by the intentional, willful, or wanton acts of District. Contractor shall not settle or compromise any claim in which the District has been named a party and for which Contractor must indemnify the District without a signed agreement approved by the District.

17 LIMITATION ON LIABILTY

17.1 In no event shall the District be liable for any indirect, consequential, incidental, lost profits or like expectancy damages arising out of the Contract. District's maximum obligation under this Contract shall not exceed the amount set forth herein.

18 CONFLICT OF INTEREST/CODE OF ETHICS

18.1 Contractor agrees that it will not represent any other party or client which may create a conflict of interest in its representation with the District. Contractor agrees to be bound by the District's Code of Ethics. In particular, Contractor: (i) certifies that it has not paid kickbacks directly or indirectly to any District employee for the purpose of obtaining this or any other District Contract; (ii) agrees to cooperate fully with any investigation involving a possible violation; and (iii) agrees to report any suspected violations to the District. Contractor certifies that it has provided no fees, gifts, gratuities, compensation, or anything of value in violation any applicable laws or District policies.

19 COMPLIANCE WITH LAWS AND DEBARMENT

19.1 Contractor certifies that all goods or services furnished under this Contract shall comply with all applicable federal, state, and local laws and regulations, as well as District policies and procedures, regardless of whether such laws and regulations are specifically set forth in this Contract. Contractor represents that it is not currently debarred or suspended by any federal agency from doing business with the federal or state government. Contractor shall notify District if it becomes debarred or suspended during the term of this Contract. District may immediately terminate this Contract in the event of such termination or suspension and Contractor shall be responsible for any costs incurred by District in connection therewith.

20 TERMINATION

20.1 The District and/or Contractor may terminate this Contract at any time without cause, upon thirty (30) days written notice to the other Party. In the event of such termination, Contractor shall be entitled to payment, calculated on a pro rata or other equitable basis, determined by District in its sole discretion, for work or services satisfactorily performed. In no event shall Contractor be paid for work performed or costs incurred after termination, or for costs incurred by suppliers or subcontractors which reasonably could have been avoided.

20.2 District may terminate this Contract in whole or in part for cause upon seven (7) days written notice if Contractor fails to comply with any material term or condition of this Contract, becomes insolvent or files for bankruptcy protection, or fails to comply in a material way with the requirements of this Contract. Late delivery of goods or services, or delivery of goods or services that are defective or do not conform to the Contract shall, without limitation, be causes allowing District to terminate for cause. If a determination is made that District improperly terminated this Contract for Cause, then such termination shall be deemed to have been for without cause.

20.3 Notwithstanding the above, Contractor shall not be relieved of liability to the District for damages sustained by the District as a result of any breach of this Contract by the contactor. The District, may, in such event, withhold payments due to the Contractor for the purpose of set-off until such time as the exact amount of damages due to the District is determined. The rights or remedies provided here shall not limit the District, in case of any default, error or omissions, by the Contractor, from asserting any other right or remedy allowed by law. Nothing in this Contract shall be construed as a waiver of any right, remedy, liability limit or immunity of the District under law.

21 RETURN OF DATA

21.1 Within fifteen (15) days of the completion or earlier termination of this Contract, or upon earlier request of the District, Contractor shall return all documents, data and other information provided by the District to Contractor, or Contractor's employees or agents in connection with this Contract. Additionally, Contractor, upon the request of the District, shall destroy all copies of such District provided data, documents, or information in Contractor's possession or control, and provide District with proof of such destruction.

22 RECORDS MANAGEMENT AND MAINTENANCE

22.1 District shall have the right to inspect and copy such books, records, and documents (in whatever medium they exist) as well as all accounting procedures and practices of Contractor, its agents, and subcontractors to verify Contractor's performance and all expenses submitted pursuant to the terms of this Contract. Contractor shall make such items available for inspection during normal business hours at Contractor's place of business. Such records may be subject to copy, review and/or audit by District, State Auditor and/or the Comptroller General of the United States, or a duly authorized representative, if federal funds are used for any work under this Contract. All such items shall be retained by Contractor during the term of this Contract and for a period of six (6) years after the delivery of the goods and/or services. Any items relating to a claim arising out of the performance of this Contract shall be retained by Contractor, its agents and subcontractors, if any, until the claim has been resolved.

23 NOTICES/ADMINISTRATION

Except as otherwise provided in this Contract, all notices, requests and other communications that a party is required or elects to deliver shall be in writing and shall be delivered personally, or by facsimile or electronic mail (provided such delivery is confirmed), or by a recognized overnight courier service or by United States mail, first-class, certified or registered, postage prepaid, return receipt requested, to the other parties at the address set forth below or to such other address as such party may designate by notice given pursuant to this section.

Special School District No. 1
Division: IT Services
Attn: Tim Wilson
1250 W Broadway

Minneapolis, MN 55411
Email: tim.wilson@mpls.k12.mn.us

CONTRACTOR

NAME: Paragon Development Systems
Address: 13400 Bishops Lane, Suite 190, Brookfield, Wisconsin 53005
Phone: 262-569-5300
Email: ozubkov@pdsit.net

ACKNOWLEDGMENT

23.1 In signing, Contractor certifies under penalties of perjury (see Section 6109 of the IRS Code for further penalties) that: (1) the taxpayer ID number (TIN) provided to District is correct; (2) it is not subject to back up withholding because (a) it is exempt from such withholding, (b) it has not been notified by the IRS that it is subject to backup withholding as a failure to report all interest or dividends, or (c) the IRS has notified it that it is no longer subject to backup withholding; (3) it is a U.S. person (including a U.S. resident alien); and (4) it has full authority to execute this Contract and perform its obligation under this Contract. Contractor must cross out and initial item (2) and notify District in writing, if Contractor has been notified by the IRS that it is currently subject to backup withholding because of under reporting interest or dividends on its tax return. Contractor must cross out item (3) above if it is not a U.S person for tax purposes or U.S. resident alien.

23.2 Notwithstanding this certification, Contractor hereby acknowledges that District has the right to withhold amounts for federal backup withholding if such withholding is required by written notice from the Internal Revenue Service issued subsequent to the date this Contract is executed.

24 NON-WAIVER

24.1 No waiver by any party of any default or nonperformance shall be deemed a waiver of any subsequent default or nonperformance.

25 ASSIGNMENT

25.1 Contractor may not assign any obligations of this Contract without the prior written consent of District. In the event of any assignment, Contractor shall remain responsible for its performance and that of any assignee under this Contract. This Contract shall be binding upon Contractor, and its successors and assigns, if any. Any assignment attempted to be made in violation of this Contract shall be void. Notwithstanding any notice of assignment, District's tender of payment to Contractor named herein, or to any person reasonably believed by District to be entitled to payment, shall satisfy District's obligation to pay, and

in no event shall District be obligated to pay twice or be liable for any damages due to failure to pay the correct party.

26 CHOICE OF LAW, FORUM SELECTION, ENTIRE CONTRACT AND AMENDMENT

26.1 This Contract shall be construed under Minnesota law (without regard for choice of law considerations). Any action arising out of this Contract shall be heard by a state court in Minnesota. For this purpose, Contractor specifically consents to jurisdiction in Minnesota. This Contract constitutes the entire Contract and understanding of the parties and replaces any prior or contemporaneous agreement, whether written or oral. Any amendments to this Contract shall be in writing and executed by same parties who executed the original Contract, or their successors in office.

27 WARRANTY

27.1 Contractor expressly warrants and guarantees that the services performed under this Contract will be of the highest professional standards and quality. Contractor further represents that all services and goods (if any and as applicable) provided under this Contract: (i) are free from defects in material and workmanship; (ii) are of the quality, size and dimensions ordered; (iii) are fit for the particular needs and purposes of District as may be communicated to Contractor; (iv) comply with the highest warranties and representations expressed by Contractor orally or in any written document provided to or in the possession of District; (v) comply with all applicable laws, codes and regulations (including any published by any national or statewide association or groups); and (vi) are not restricted in any way by patents, copyrights, trade secrets, or any other rights of third parties. If any of the foregoing warranties are breached, Contractor agrees to correct all defects and nonconformities at Contractor's sole expense, to be liable for all direct damages suffered District and any other persons, and to defend, indemnify, and hold harmless District and its Board, officers, students, employees, and agents from any claim asserted by any person resulting in whole or in part from such breach. The foregoing warranties and guarantees shall not be deemed waived by reason of the acceptance of the goods or services or payment by District.

28 SEVERABILITY

28.1 If any provision of this Contract shall be invalid or unenforceable with respect to any party, the remainder of the Contract, or the application of such provision to persons other than those as to which it is held invalid or unenforceable, shall not be affected and each provision of the remainder of the Contract shall be valid and be enforceable to the fullest extent permitted by law.

29 SURVIVABILITY

29.1 The terms, provisions, representations, and warranties contained in this Contract that by their sense and context are intended to survive the performance thereof by any of

the parties hereunder shall so survive the completion of performance and termination of this Contract, including the making of any and all payments hereunder.

[The remainder of this page intentionally left blank.]

SPECIAL SCHOOL DISTRICT NO. 1

Signature: _____

Name: Tom Parent
(Printed)

Title: Senior Operations Officer

Date: _____

CONTRACTOR NAME

Signature: _____

Name: Click or tap here to enter text.
(Printed)

Title: Click or tap here to enter text.

Date: _____

EXHIBIT A: SCOPE OF WORK

Deliverables:

All items as described in Quote # 2336830 - rev 1 of 1

Service Outcome:

As described in Quote # 2336830 - rev 1 of 1

Method of Evaluation

Leadership Evaluation

[The remainder of this page intentionally left blank.]

EXHIBIT B: PAYMENT TERMS

If there are exhibits to describe the payment terms:

Click or tap here to enter text.

[The remainder of this page intentionally left blank.]

EXHIBIT C: STUDENT DATA PRIVACY

As used in this exhibit, the term "educational data" shall have the meaning ascribed to it under the Minnesota Government Data Practices Act ("MGDPA"), Minn. Stat. § 13.32 as amended.

1. Contractor acknowledges that all of the data created, collected, received, stored, used, maintained, or disseminated by Contractor in performing the services described in this Contract is subject to the requirements of the MGDPA, Minn. Stat. ch. 13, and Contractor must comply with those requirements as if it were a government entity. Contractor shall be subject to all civil remedies available under the MGDPA, Minn. Stat. § 13.08 as amended, for any violation of these obligations.

2. No educational data created, received, maintained, or disseminated by Contractor pursuant or incidental to this Contract shall become or be considered property of the Contractor. Any such educational data shall remain the property of the District.

3. If educational data maintained by Contractor pursuant or incidental to performance of this Contract are subject to a breach of security of the data, as that term is defined by the MGDPA, Minn. Stat. § 13.055 as amended, Contractor shall, upon discovering such breach, provide the District with all information necessary for the District to fulfill its obligations under the MGDPA.

4. Contractor shall not sell, share, or disseminate educational data, except as permitted under the MGDPA, Minn. Stat. § 13.32 as amended, or as part of a valid delegation or assignment of this Contract, if the terms of the Contract permit delegation or assignment. Any assignee or delegee must separately execute this Exhibit and is bound by the same terms.

5. Contractor shall not use educational data for any commercial purpose, including but not limited to marketing or advertising to a student or parent.

    a. The term "commercial purpose," does not include providing the specific services agreed upon in this Contract.

    b. Contractor may use deidentified aggregate information for the purpose of improving, maintaining, developing, supporting, or diagnosing the Contractor's site, service, or operation, as long as all direct and indirect identifiers have been removed from the data prior to use.

6. Contractor's employees, officers, agents, and sub-contractors, if applicable, shall only have access to educational data if authorized.

7. Contractor's employees, officers, agents, and sub-contractors, if applicable, shall only be authorized to access educational data if such access is necessary to fulfill their official duties in the performance of this Contract.

8. Unless renewal of the Contract is reasonably anticipated, Contractor shall destroy or return all educational data created, received, or maintained pursuant or incidental to the Contract within 90 days of the expiration of this Contract.

9. Contractor shall abide with all the requirements and restrictions of Minn. Stat. § 13.32, as amended, that pertain to or address technology providers. Contractor shall be considered a "technology provider" for purposes of Section 13.32.

BY SIGNING BELOW, CONTRACTOR ACKNOWLEDGES AND AGREES THAT IT UNDERSTANDS THE TERMS OF THIS EXHIBIT, THAT THESE TERMS ARE PART OF ITS CONTRACT WITH THE DISTRICT, AND THAT IT AGREES TO BE BOUND BY AND ABIDE BY THESE TERMS.

[CONTRACTOR NAME]

_____	_____
Signature	Name
_____	_____
Title	Date

FY21 North High School Renovations-Bid Pack 4
Work Scope 05-B1 Structural Steel

Contract Sum: $234,200

Contractor: Red Cedar Steel Erectors, Inc

Project Name and Number

North High School Phase 3 Work Scope 05-B1
1500 James Avenue
Minneapolis, MN 55411
Minneapolis Public Schools Project Number 21NORTCTE
OP 25-2512

Description

Perform structural steel work in accordance with Work Scope 05-B1 for the North High School Phase 4 renovations.

Contract Sum details

Item	Price	Status
Base Bid	$228,400	accepted
Alt #1: Health Office	$32,800	rejected
Alt #2: Athletic and Counseling Offices	$23,600	rejected
Alt #3: Electrical Panel Replacements	$0	Accepted
Alt #4: AHU-41 Replacement	$5,800	Accepted
Alt #5: Direct Digital Controls	$0	Accepted

Contract Documents

AIA Document A132-2019
AIA Document A132 Exhibit A-2019
Exhibit B – Project Charter
Exhibit C – Owner Insurance
Exhibit D – Project Schedule
AIA Document A232-2019

AIA® Document A132® – 2019

Standard Form of Agreement Between Owner and Contractor, Construction Manager as Adviser Edition

AGREEMENT made as of the first__ day of _February_____ in the year 2025_
(In words, indicate day, month, and year.)

BETWEEN the Owner:
(Name, legal status, address, and other information)

Minneapolis Public Schools Special School District #1
1250 West Broadway Avenue
Minneapolis, MN 55411

and the Contractor:
(Name, legal status, address, and other information)

Red Cedar Steel Erectors
4621 Domain Drive
Menomonie, WI 54751

for the following Project:
(Name, location, and detailed description)

North High School Phase 4 Work Scope 05-B1 Structural Steel
1500 James Avenue
Minneapolis, MN 55411

The Construction Manager:
(Name, legal status, address, and other information)

Kraus-Anderson Construction Company
501 South 8th Street
Minneapolis, MN 55405

The Architect:
(Name, legal status, address, and other information)

LSE Architects
1401 Glenwood Avenue
Minneapolis, MN 55405

The Owner and Contractor agree as follows.

ADDITIONS AND DELETIONS:
The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

This document is intended to be used in conjunction with AIA Documents A232™–2019, General Conditions of the Contract for Construction, Construction Manager as Adviser Edition; B132™–2019, Standard Form of Agreement Between Owner and Architect, Construction Manager as Adviser Edition; and C132™–2019, Standard Form of Agreement Between Owner and Construction Manager as Adviser. AIA Document A232™–2019 is adopted in this document by reference. Do not use with other general conditions unless this document is modified.

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TABLE OF ARTICLES

1 THE CONTRACT DOCUMENTS

2 THE WORK OF THIS CONTRACT

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7 TERMINATION OR SUSPENSION

8 MISCELLANEOUS PROVISIONS

9 ENUMERATION OF CONTRACT DOCUMENTS

EXHIBIT A INSURANCE AND BONDS
EXHIBIT B DETERMINATION OF THE COST OF THE WORK

ARTICLE 1 THE CONTRACT DOCUMENTS

The Contract Documents consist of this Agreement, Conditions of the Contract (General, Supplementary, and other Conditions), Drawings, Specifications, Addenda issued prior to execution of this Agreement, other documents ("Contract" or "Contract Documents") listed in this Agreement, and Modifications issued after execution of this Agreement, all of which form the Contract, and are as fully a part of the Contract as if attached to this Agreement or repeated herein. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations, or agreements, either written or oral. An enumeration of the Contract Documents, other than Modifications, appears in Article 9.

§ 1.2 In the event that there are inconsistencies between any of the Project Contract Documents, all Contract Documents shall be construed together and shall be read with a purpose and intent to provide that the Contractor shall commit to fully complete its Project Work and services with the greater degree of commitment as referenced in the Contract Documents, including the plans and specifications, to work diligently to ensure completion of the Project in a timely and workmanlike manner and at the earliest stated times provided for in Project schedules, as they may be revised, and to ensure that Contractor, and all of its Subcontractors and suppliers complete the Project on schedule and within Project Contract Price, subject to approved change orders.

§ 1.3 Contractor acknowledges that it has had full, fair, and adequate opportunity to review all of the Project bidding and Contract Documents, that it has fully satisfied itself as to the scope and requirements of the Project, that it has fully and fairly investigated all Project site conditions and circumstances and Contract Documents, including any potential difficulties or interferences present in the same, that it has had the opportunity to ask questions during the bidding phase and that it has received adequate answers to any such questions, that it has had the opportunity to attend and fairly participate in all pre-bid conferences and pre-construction conferences, and that it has required the same of all of its Subcontractors.

ARTICLE 2 THE WORK OF THIS CONTRACT

The Contractor shall fully execute the Work described in the Contract Documents, except as specifically indicated in the Contract Documents to be the responsibility of others.

ARTICLE 3 DATE OF COMMENCEMENT AND DATES OF SUBSTANTIAL COMPLETION

§ 3.1 The date of commencement of the Work shall be:
(Check one of the following boxes.)

[ ] The date of this Agreement.

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[X] A date set forth in a notice to proceed issued by the Owner.

[ ] Established as follows:
(Insert a date or a means to determine the date of commencement of the Work.)

If a date of commencement of the Work is not selected, then the date of commencement shall be the date of this Agreement.

§ 3.2 The Contract Time shall be measured from the date of commencement of the Work.

§ 3.3 Substantial Completion of the Project or Portions Thereof
§ 3.3.1 Subject to adjustments of the Contract Time as provided in the Contract Documents, the date of Substantial Completion of the Work of all of the Contractors for the Project will be:
(Insert the date of Substantial Completion of the Work of all Contractors for the Project.)

Defined in EXH-D Project Schedule

§ 3.3.2 Subject to adjustments of the Contract Time as provided in the Contract Documents, if portions of the Work of all of the Contractors for the Project are to be completed prior to Substantial Completion of the entire Work of all of the Contractors for the Project, the Contractors shall achieve Substantial Completion of such portions by the following dates defined in EXH-D Project Schedule. Such portions of the Work not completed as defined in EXH-D Project Schedule shall be subject to liquidated damages as set forth in Article 4.5.

(Table deleted)
(Table deleted)
(Paragraphs deleted)
§ 3.4.3 If the Contractor fails to substantially complete the Work of this Contract, or portions thereof, as provided in this Section 3.4, liquidated damages, if any, shall be assessed as set forth in Section 4.5.

ARTICLE 4 CONTRACT SUM
§ 4.1 The Owner shall pay the Contractor the Contract Sum in current funds for the Contractor's performance of the
(Paragraphs deleted)
Contract as defined in EXH-B Project Charter, subject to additions and deductions as provided in the Contract Documents.
§ 4.2 Stipulated Sum
§ 4.2.1 The Contract Sum shall be two-hundred, thirty-four thousand, two hundred dollars ($ 234,200), subject to additions and deductions as provided in the Contract Documents.

§ 4.2.2 Alternates
§ 4.2.2.1 Alternates, if any, included in the Contract Sum are defined in EXH-B Project Charter.
(Table deleted)
§ 4.2.2.2 Subject to the conditions noted in EXH-B Project Charter, alternates may be accepted by the Owner following execution of this Agreement. Upon acceptance, the Owner shall issue a Modification to this Agreement.
(Paragraphs deleted)
(Table deleted)
§ 4.2.3 Allowances, if any, included in the Contract Sum are defined in EXH-B Project Charter.
(Identify each allowance.)

Item	Price

§ 4.2.4 Unit prices, if any are defined in EXH-B Project Charter.

(Table deleted)

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§ 4.3 Allowances, if any, included in the Contract Sum are defined in EXH-B Project Charter.

(Paragraph deleted)
(Table deleted)
(Paragraphs deleted)
§ 4.4 Unit prices, if any, are defined in EXH-B Project Charter.

(Paragraphs deleted)
(Table deleted)
(Paragraphs deleted)
(Table deleted)
(Paragraphs deleted)
(Table deleted)
(Paragraphs deleted)
(Table deleted)
(Paragraphs deleted)
§ 4.5 Liquidated damages, if any:
(Insert terms and conditions for liquidated damages, if any, to be assessed in accordance with Section 3.4.)

Contractor and Owner recognize that time is of the essence for the Project and the Owner will suffer financial loss if the Work is not completed in the time specified in the Contract Documents. The parties also recognize the delays, expenses, and difficulties involved in proving in a legal proceeding the actual loss suffered by the Owner if the Work is not completed on time. Accordingly, instead of requiring such proof, the Owner and Contractor agree that as liquidated damages for delay (but not as penalty), Contractor shall pay Owner One Thousand Dollars ($1,000.00) per calendar day for each day that expires after the time specified for Substantial Completion in EXH-D Project Schedule until such time the Work is determined to be substantially complete by the Owner.

After Substantial Completion, if Contractor neglects, refuses, or fails to complete the remaining Work within the Contract Time specified in the Contract Documents, the Contractor shall pay the Owner One Thousand Dollars ($1,000.00) per day that expires after the time specified in the Contract Documents for Final Completion and readiness for Final Payment until the Work is completed.

§ 4.6 Other:
(Insert provisions for bonus, cost savings or other incentives, if any, that might result in a change to the Contract Sum.)

None

ARTICLE 5 PAYMENTS

§ 5.1 Progress Payments

§ 5.1.1 Based upon Applications for Payment submitted to the Construction Manager by the Contractor, and Certificates for Payment issued by the Construction Manager and Architect and approval by the Owner's Representative, the Owner shall make progress payments on account of the Contract Sum, to the Contractor, as provided below and elsewhere in the Contract Documents.

§ 5.1.2 The period covered by each Application for Payment shall be one calendar month ending on the last day of the month.

§ 5.1.3 When an Application for Payment is received by the Construction Manager, payment of the amount certified shall be made by the Owner not later than forty-five (45) days after the Construction Manager receives the Application for Payment. Unless expressly otherwise agreed in this Contract, payments and payment disputes shall be governed by the Prompt Payment of Local Government Bills, Minnesota Statutes, Section 471.425 ("Prompt Payment Act").
(Federal, state or local laws may require payment within a certain period of time.)

§ 5.1.4 Progress Payments Where the Contract Sum is Based on a Stipulated Sum

§ 5.1.4.1 Each Application for Payment shall be based on the most recent schedule of values submitted by the Contractor on AIA G702 Application and Certificate for Payment in accordance with the Contract Documents. The schedule of

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values shall allocate the entire Contract Sum among the various portions of the Work. The schedule of values shall be prepared in such form, and supported by such data to substantiate its accuracy, as the Construction Manager and Architect may require. This schedule of values shall be used as a basis for reviewing the Contractor's Applications for Payment.

§ 5.1.4.2 Applications for Payment shall show the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment.

§ 5.1.4.3 In accordance with AIA Document A232™–2019, General Conditions of the Contract for Construction, Construction Manager as Adviser Edition, as modified and subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

§ 5.1.4.3.1 The amount of each progress payment shall first include:

.1 That portion of the Contract Sum properly allocable to completed Work;

.2 That portion of the Contract Sum properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction, or, if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing; and

.3 That portion of Construction Change Directives that the Architect determines, in the Architect's professional judgment, to be reasonably justified.

§ 5.1.4.3.2 The amount of each progress payment shall then be reduced by:

.1 The aggregate of any amounts previously paid by the Owner;

.2 The amount, if any, for Work that remains uncorrected and for which the Architect has previously withheld a Certificate for Payment as provided in Article 9 of AIA Document A232–2019;

.3 Any amount for which the Contractor does not intend to pay a Subcontractor or material supplier, unless the Work has been performed by others the Contractor intends to pay;

.4 For Work performed or defects discovered since the last payment application, any amount for which the Architect may withhold payment, or nullify a Certificate of Payment in whole or in part, as provided in Article 9 of AIA Document A232–2019; and

.5 Retainage withheld pursuant to Section 5.1.7.

(Paragraphs deleted)

§ 5.1.7 Retainage

§ 5.1.7.1 For each progress payment made prior to when the Work of this Contract is substantially complete, the Owner may withhold the following amount, as retainage, from the payment otherwise due:
(Insert a percentage or amount to be withheld as retainage from each Application for Payment. The amount of retainage may be limited by governing law.)

Five Percent (5%)

§ 5.1.7.1.1 The following items are not subject to retainage:
(Insert any items not subject to the withholding of retainage, such as general conditions, insurance, etc.)

For major items installed into the Work, the Contractor may request full payment for the items to ensure prompt delivery and fabrication. Such items shall be recommended by the Architect and approved by the Owner as not requiring retainage. Prompt payment for the items shall be documented by the Contractor to the Owner in the subsequent payment application by submitting a full lien release for the items. Major items may include mechanical units with long lead times, structural systems with long lead times, critical path systems or items, etc. Major items will be discussed and defined by Owner, Architect, Construction Manager and Contractor.

§ 5.1.7.2 Reduction or limitation of retainage, if any, shall be as follows:
(If the retainage established in Section 5.1.7.1 is to be modified prior to when the entire Work of this Contract is substantially complete, including modifications for completion of portions of the Work as provided in Section 3.4.2, insert provisions for such modifications.)

Prior to Substantial Completion and at the discretion of the Owner, retainage may be reduced. If the Work has been fifty percent (50%) completed as determined by the Architect and is satisfactory to the Owner, then ninety percent (90%) of the

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retained amount may be released to the Contractor for completed Work (with ten percent (10%) of the total retained by the Owner).

§ 5.1.7.3 Except as set forth in this Section 5.1.7.3, when the Work of this Contract is substantially complete, the Contractor may submit an Application for Payment that includes the retainage withheld from prior Applications for Payment pursuant to this Section 5.1.7. The Application for Payment submitted when the Work of this Contract is substantially complete shall not include retainage as follows:
(Insert any other conditions for release of retainage when the Work of this Contract is substantially complete, or upon Substantial Completion of the Work of all Contractors on the Project or portions thereof.)

Upon Substantial Completion, additional retainage may be returned to the Contractor as recommended by the Architect and Construction Manager and approved by the Owner to an amount sufficient to satisfactorily complete the Work. Retainage release will comply with Minnesota Statutes, Section 15.72 after Substantial Completion and punch list acceptance by the Owner.

§ 5.2 Final Payment
§ 5.2.1 Final Payment Where the Contract Sum is Based on a Stipulated Sum
§ 5.2.1.1 Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Contractor when

.1 the Contractor has fully performed the Contract except for the Contractor's responsibility to correct Work as provided in Article 12 of AIA Document A232–2019, and to satisfy other requirements, if any, which extend beyond final payment;
.2 a final Certificate for Payment or Project Certificate for Payment has been issued by the Architect; and
.3 all lien waivers and IC134 forms have been delivered to the Owner.

§ 5.2.1.2 The Owner's final payment to the Contractor shall be made no later than forty-five (45) days after the issuance of the Architect's final Certificate for Payment or Project Certificate for Payment, or as follows:

§ 5.2.2 Final Payment Where the Contract Sum is Based on the Cost of the Work with or without a Guaranteed Maximum Price
§ 5.2.2.1 Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Contractor when

.1 the Contractor has fully performed the Contract except for the Contractor's responsibility to correct Work as provided in Article 12 of AIA Document A232–2019, and to satisfy other requirements, if any, which extend beyond final payment;
.2 the Contractor has submitted a final accounting for the Cost of the Work, pursuant to Exhibit B, Determination of the Cost of the Work and a final Application for Payment; and
.3 a final Certificate for Payment or Project Certificate for Payment has been issued by the Architect in accordance with Exhibit B, Determination of the Cost of the Work.

§ 5.2.2.2 The Owner's final payment to the Contractor shall be made no later than 30 days after the issuance of the final Certificate for Payment or Project Certificate for Payment, or as follows:

§ 5.3 Payments due and unpaid under the Contract shall bear interest from the date payment is due at the rate stated below.
(Insert rate of interest agreed upon, if any.)

Zero %

ARTICLE 6 DISPUTE RESOLUTION
§ 6.1 Initial Decision Maker
The Architect will serve as Initial Decision Maker pursuant to Article 15 of AIA Document
(Paragraphs deleted)
A232–2019.

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§ 6.1.1 Mediation

The Owner or the Contractor may request mediation of any Claim submitted to the Initial Decision Maker before the decision becomes final and binding. The mediation shall be governed by the Construction Industry Mediation Rules of the American Arbitration Association in effect at the date of this contract. The request for mediation shall be made in writing by the party requesting mediation and the other party of this contract. The Owner and Contractor shall participate in mediation in good faith. The mediation shall be concluded within 60 days of the request. Mediation is not a condition precedent to commencing litigation. If litigation is commenced, the Owner and Contractor agree to mediate before any dispositive motion or trial.

§ 6.2 Binding Dispute Resolution

For any Claim subject to, but not resolved by, mediation pursuant to Article 15 of AIA Document A232–2019, the method of binding dispute resolution shall be as follows:
(Check the appropriate box.)

[ ] Arbitration pursuant to Article 15 of AIA Document A232–2019.

[X] Litigation in a state or federal court of competent jurisdiction located in Hennepin County, Minnesota.

[ ] Other: *(Specify)*

If the Owner and Contractor do not select a method of binding dispute resolution, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, Claims will be resolved by litigation in a court of competent jurisdiction.

ARTICLE 7 TERMINATION OR SUSPENSION

§ 7.1 Where the Contract Sum is a Stipulated Sum

§ 7.1.1 The Contract may be terminated by the Owner or the Contractor as provided in Article 14 of AIA Document A232–2019.

§ 7.1.1.1 If the Contract is terminated for the Owner's convenience in accordance with Article 14 of AIA Document A232–2019, then the Owner shall pay the Contractor a termination fee as follows:
(Insert the amount of, or method for determining, the fee, if any, payable to the Contractor following a termination for the Owner's convenience.)

Termination fee will be based on the percentage of Work completed and any materials purchased or in production at the time of termination. Said fee and justification shall be provided to the Owner by the Contractor within ten (10) days' notice of the termination.

§ 7.1.2 The Work may be suspended by the Owner as provided in Article 14 of AIA Document A232–2019.

(Paragraphs deleted)

ARTICLE 8 MISCELLANEOUS PROVISIONS

§ 8.1 Where reference is made in this Agreement to a provision of AIA Document A232–2019 or another Contract Document, the reference refers to that provision as amended or supplemented by other provisions of the Contract Documents.

§ 8.2 The Owner's representative:
(Name, address, email address, and other information)

Curtis Hartog, PE, Executive Director
Minneapolis Public Schools, SSD#1
Capital Planning, Construction & Maintenance
1250 West Broadway Avenue, Minneapolis, MN 55411

§ 8.3 The Contractor's representative:

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(Name, address, email address, and other information)

Alex Shoemaker
Estimator
Red Cedar Steel Erectors
4621 Domain Drive
Menomonie, WI 54751

§ 8.4 Neither the Owner's nor the Contractor's representative shall be changed without ten days' prior notice to the other party.

§ 8.5 Record Keeping—Availability and Retention
Pursuant to Minnesota Statutes, Section 16C.05, subd. 5, Contractor agrees that the books, records, documents and accounting procedures and practices of Contractor, that are relevant to the Contract or transaction, are subject to examination by the Owner, the Owner's auditor, and the state auditor for a minimum of six (6) years. Contractor shall maintain such records for a minimum of six (6) years after final payment.

§ 8.6 Data Practices
Pursuant to Minnesota Statutes, Section 13.05, subd. 11, all of the data created, collected, received, stored, used, maintained, or disseminated by Contractor in performing this contract is subject to the requirements of the Minnesota Government Data Practices Act ("MGDPA"), Minnesota Statutes Chapter 13, and Contractor must comply with those requirements as if it were a government entity. The remedies in Minnesota Statutes, Section 13.08 apply to Contractor. Contractor does not have a duty to provide access to public data to the public if the public data are available from the Owner, except as required by the terms of this contract.

§ 8.7 Non-Discrimination
Pursuant to Minnesota Statutes, Section 181.59, the Contractor will take affirmative action to ensure that applicants are selected, and that employees are treated during employment, without regard to their race, color, creed, religion, national origin, sex, sexual orientation, marital status, status with regard to public assistance, membership or activity in a local civil rights commission, disability or age. The Contractor agrees to be bound by the provisions of Minnesota Statutes, Section 181.59, that prohibits certain discriminatory practices and the terms of said section are incorporated into this contract.

§ 8.8 Prompt Payment to Subcontractors
In accordance with the Prompt Payment Act, each Prime Contractor must pay any subcontractor within ten (10) days of the Prime Contractor's receipt of payment from the municipality for undisputed services provided by the subcontractor. The Subcontract must require the Prime Contractor to pay interest of 1-1/2 percent per month or any part of a month to the subcontractor on any undisputed amount not paid on time to the subcontractor. The minimum monthly interest penalty payment for an unpaid balance of $100 or more is $10. For an unpaid balance of less than $100, the Prime Contractor shall pay the actual penalty due to the subcontractor. A subcontractor who prevails in a civil action to collect interest penalties from a Prime Contractor must be awarded its costs and disbursements, including attorney's fees, incurred in bringing the action.

§ 8.9 Prevailing Wage
Contractor agrees that all laborers or mechanics working on the Project shall receive at least the prevailing wage rate in accordance with Minnesota Statutes Section 177.42, *et seq*. Contractor agrees further that it will incorporate any and all necessary contract language in its agreements with any subcontractors to allow Contractor to monitor and enforce the prevailing wage requirement for subcontractors of any tier.

§ 8.5 Insurance and Bonds
§ 8.5.1 The Owner and the Contractor shall purchase and maintain insurance as set forth EXH-C Owner Insurance.

§ 8.5.2 The Contractor shall provide bonds as set forth in AIA Document A132™–2019, Exhibit A, and elsewhere in the Contract Documents.

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§ 8.6 Notice in electronic format, pursuant to Article 1 of AIA Document A232–2019, may be given in accordance with AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, if completed, or as otherwise set forth below:
(If other than in accordance with AIA Document E203–2013, insert requirements for delivering notice in electronic format such as name, title, and email address of the recipient and whether and how the system will be required to generate a read receipt for the transmission.)

email to Owner's representative identified in Section 8.2

§ 8.7 Relationship of the Parties
Where the Contract is based on the Cost of the Work plus the Contractor's Fee, with or without a Guaranteed Maximum Price, the Contractor accepts the relationship of trust and confidence established by this Agreement and covenants with the Owner to cooperate with the Architect and exercise the Contractor's skill and judgment in furthering the interests of the Owner; to furnish efficient business administration and supervision; to furnish at all times an adequate supply of workers and materials; and to perform the Work in an expeditious and economical manner consistent with the Owner's interests. The Owner agrees to furnish and approve, in a timely manner, information required by the Contractor and to make payments to the Contractor in accordance with the requirements of the Contract Documents.

§ 8.8 Other provisions:

Owner prohibits Contractor from using the Work in any marketing material or business development practice. Contractor is prohibited from communication with any news outlet or public without Owner's written approval.

Floor plans, designs, wiring, safety and security measures shall be kept confidential by the Contractor, the Subcontractors, the Sub-Subcontractors (of any tier) during and after completion of the Work.

ARTICLE 9 ENUMERATION OF CONTRACT DOCUMENTS

§ 9.1 This Agreement is comprised of the following documents:

.1 AIA Document A132™–2019, Standard Form of Agreement Between Owner and Contractor, Construction Manager as Adviser Edition

.2 AIA Document A132™–2019, Exhibit A, Insurance and Bonds Exhibit

.3 AIA Document A232™–2019, General Conditions of the Contract for Construction, Construction Manager as Adviser Edition

.4 AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, dated as indicated below:
(Insert the date of the E203-2013 incorporated into this Agreement.)

Not Applicable

.5 Drawings

Number	Title	Date
139	North High School Renovations & CTE Center Vol 1 of 2	November 13, 2024
209	North High School Renovations & CTE Center Vol 2 of 2	November 13, 2024

.6 Specifications

Section	Title	Date	Pages
All Specifications	North High School Renovations and CTE Center Bid Package 4	November 13, 2024	1414

.7 Addenda, if any:

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Number	Date	Pages
1	December 2, 2024	70
2	December 9, 2024	165

Portions of Addenda relating to bidding or proposal requirements are not part of the Contract Documents unless the bidding or proposal requirements are also enumerated in this Article 9.

.8 Other Exhibits:

EXH-B Project Charter
EXH-C Owner Insurance
EXH-D Project Schedule
(Check all boxes that apply and include appropriate information identifying the exhibit where required.)

[ ]
(Paragraphs deleted)
[ ] Supplementary and other Conditions of the Contract:

Document	Title	Date	Pages

.9 Other documents, if any, listed below:
(List here any additional documents that are intended to form part of the Contract Documents. AIA Document A232–2019 provides that the advertisement or invitation to bid, Instructions to Bidders, sample forms, the Contractor's bid or proposal, portions of Addenda relating to bidding or proposal requirements, and other information furnished by the Owner in anticipation of receiving bids or proposals, are not part of the Contract Documents unless enumerated in this Agreement. Any such documents should be listed here only if intended to be part of the Contract Documents.)

Contractors Bid Documents

This Agreement is entered into as of the day and year first written above.

OWNER *(Signature)*	**CONTRACTOR** *(Signature)*
Tom Parent, Sr Operations Officer	Dan Debee - Project Manager
(Printed name and title)	*(Printed name and title)*

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Additions and Deletions Report for

AIA® Document A132® – 2019

This Additions and Deletions Report, as defined on page 1 of the associated document, reproduces below all text the author has added to the standard form AIA document in order to complete it, as well as any text the author may have added to or deleted from the original AIA text. Added text is shown underlined. Deleted text is indicated with a horizontal line through the original AIA text.

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PAGE 1

AGREEMENT made as of the first___day of _February_____in the year 2025_

...

Minneapolis Public Schools Special School District #1
1250 West Broadway Avenue
Minneapolis, MN 55411

...

Red Cedar Steel Erectors
4621 Domain Drive
Menomonie, WI 54751

...

North High School Phase 4 Work Scope 05-B1 Structural Steel
1500 James Avenue
Minneapolis, MN 55411

...

Kraus-Anderson Construction Company
501 South 8th Street
Minneapolis, MN 55405

...

LSE Architects
1401 Glenwood Avenue
Minneapolis, MN 55405

PAGE 2

The Contract Documents consist of this Agreement, Conditions of the Contract (General, Supplementary, and other Conditions), Drawings, Specifications, Addenda issued prior to execution of this Agreement, other documents ("Contract" or "Contract Documents") listed in this Agreement, and Modifications issued after execution of this Agreement, all of which form the Contract, and are as fully a part of the Contract as if attached to this Agreement or repeated herein. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations, or agreements, either written or oral. An enumeration of the Contract Documents, other than Modifications, appears in Article 9.

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§ 1.2 In the event that there are inconsistencies between any of the Project Contract Documents, all Contract Documents shall be construed together and shall be read with a purpose and intent to provide that the Contractor shall commit to fully complete its Project Work and services with the greater degree of commitment as referenced in the Contract Documents, including the plans and specifications, to work diligently to ensure completion of the Project in a timely and workmanlike manner and at the earliest stated times provided for in Project schedules, as they may be revised, and to ensure that Contractor, and all of its Subcontractors and suppliers complete the Project on schedule and within Project Contract Price, subject to approved change orders.

§ 1.3 Contractor acknowledges that it has had full, fair, and adequate opportunity to review all of the Project bidding and Contract Documents, that it has fully satisfied itself as to the scope and requirements of the Project, that it has fully and fairly investigated all Project site conditions and circumstances and Contract Documents, including any potential difficulties or interferences present in the same, that it has had the opportunity to ask questions during the bidding phase and that it has received adequate answers to any such questions, that it has had the opportunity to attend and fairly participate in all pre-bid conferences and pre-construction conferences, and that it has required the same of all of its Subcontractors.

PAGE 3

[**X**] A date set forth in a notice to proceed issued by the Owner.

...

Defined in EXH-D Project Schedule

§ 3.3.2 Subject to adjustments of the Contract Time as provided in the Contract Documents, if portions of the Work of all of the Contractors for the Project are to be completed prior to Substantial Completion of the entire Work of all of the Contractors for the Project, the Contractors shall achieve Substantial Completion of such portions by the following ~~dates:~~dates defined in EXH-D Project Schedule. Such portions of the Work not completed as defined in EXH-D Project Schedule shall be subject to liquidated damages as set forth in Article 4.5.

~~**Portion of Work** **Substantial Completion Date**~~

~~**§ 3.4 When the Work of this Contract, or any Portion Thereof, is Substantially Complete**~~
~~**§ 3.4.1** Subject to adjustments of the Contract Time as provided in the Contract Documents, the Contractor shall substantially complete the entire Work of this Contract:~~
~~*(Check one of the following boxes and complete the necessary information.)*~~

~~[–] Not later than (–) calendar days from the date of commencement of the Work.~~

~~[–] By the following date:~~

~~**§ 3.4.2** Subject to adjustments of the Contract Time as provided in the Contract Documents, if portions of the Work of this Contract are to be substantially complete prior to when the entire Work of this Contract shall be substantially complete, the Contractor shall substantially complete such portions by the following dates:~~

~~**Portion of Work** **Date to be substantially complete**~~

...

§ 4.1 The Owner shall pay the Contractor the Contract Sum in current funds for the Contractor's performance of the ~~Contract. The Contract Sum shall be one of the following:~~
~~*(Check the appropriate box.)*~~

~~[–] Stipulated Sum, in accordance with Section 4.2 below~~

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~~[–] Cost of the Work plus the Contractor's Fee, in accordance with Section 4.3 below~~

~~[–] Cost of the Work plus the Contractor's Fee with a Guaranteed Maximum Price, in accordance with Section 4.4 below~~

~~*(Based on the selection above, complete Section 4.2, 4.3 or 4.4 below.)*~~
Contract as defined in EXH-B Project Charter, subject to additions and deductions as provided in the Contract Documents.

...

§ 4.2.1 The Contract Sum shall be two-hundred, thirty-four thousand, two hundred dollars ($ 234,200), subject to additions and deductions as provided in the Contract Documents.

...

§ 4.2.2.1 Alternates, if any, included in the Contract ~~Sum:~~
Sum are defined in EXH-B Project Charter.

~~Item~~	~~Price~~

§ 4.2.2.2 Subject to the conditions noted ~~below, the following~~ in EXH-B Project Charter, alternates may be accepted by the Owner following execution of this Agreement. Upon acceptance, the Owner shall issue a Modification to this Agreement.
~~*(Insert below each alternate and the conditions that must be met for the Owner to accept the alternate.)*~~

~~Item~~	~~Price~~	~~Conditions for Acceptance~~

§ 4.2.3 Allowances, if any, included in the Contract ~~Sum:~~Sum are defined in EXH-B Project Charter.

...

§ 4.2.4 Unit prices, if ~~any:~~
~~(Identify the item and state the unit price, and quantity limitations, if any, to which the unit price will be applicable.)~~any are defined in EXH-B Project Charter.

~~Item~~	~~Units and Limitations~~	~~Price per Unit ($0.00)~~

§ 4.3 ~~Cost of the Work Plus Contractor's Fee without a Guaranteed Maximum Price~~Allowances, if any, included in the Contract Sum are defined in EXH-B Project Charter.
~~**§ 4.3.1** The Cost of the Work is as defined in Exhibit B, Determination of the Cost of the Work.~~

~~**§ 4.3.2** The Contractor's Fee:~~
~~*(State a lump sum, percentage of Cost of the Work or other provision for determining the Contractor's Fee.)*~~

~~**§ 4.3.3** The method of adjustment of the Contractor's Fee for changes in the Work:~~

~~**§ 4.3.4** Limitations, if any, on a Subcontractor's overhead and profit for increases in the cost of its portion of the Work:~~

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~~§ 4.3.5 Rental rates for Contractor-owned equipment shall not exceed ( ) percent (%) of the standard rental rate paid at the place of the Project.~~

~~§ 4.3.6 Unit prices, if any:~~
~~*(Identify the item and state the unit price and quantity limitations, if any, to which the unit price will be applicable.)*~~

~~Item~~	~~Units and Limitations~~	~~Price per Unit ($0.00)~~

~~§ 4.3.7 The Contractor shall prepare and submit to the Construction Manager, within 14 days of executing this Agreement, a written Control Estimate for the Owner's review and approval. The Control Estimate shall include the items in Section B.1 of Exhibit B, Determination of the Cost of the Work.~~

~~§ 4.4 Cost of the Work Plus Contractor's Fee with a Guaranteed Maximum Price~~Unit prices, if any, are defined in EXH-B Project Charter.
~~§ 4.4.1 The Cost of the Work is as defined in Exhibit B, Determination of the Cost of the Work.~~

~~§ 4.4.2 The Contractor's Fee:~~
~~*(State a lump sum, percentage of Cost of the Work or other provision for determining the Contractor's Fee.)*~~

~~§ 4.4.3 The method of adjustment of the Contractor's Fee for changes in the Work:~~

~~§ 4.4.4 Limitations, if any, on a Subcontractor's overhead and profit for increases in the cost of its portion of the Work:~~

~~§ 4.4.5 Rental rates for Contractor-owned equipment shall not exceed ( ) percent (%) of the standard rental rate paid at the place of the Project.~~

~~§ 4.4.6 Unit Prices, if any:~~
~~*(Identify the item and state the unit price and quantity limitations, if any, to which the unit price will be applicable.)*~~

~~Item~~	~~Units and Limitations~~	~~Price per Unit ($0.00)~~

~~§ 4.4.7 Guaranteed Maximum Price~~
~~§ 4.4.7.1 The Contract Sum is guaranteed by the Contractor not to exceed ($), subject to additions and deductions by Change Order as provided in the Contract Documents. This maximum sum is referred to in the Contract Documents as the Guaranteed Maximum Price. Costs which would cause the Guaranteed Maximum Price to be exceeded shall be paid by the Contractor without reimbursement by the Owner.~~

~~§ 4.4.7.2 Alternates~~
~~§ 4.4.7.2.1 Alternates, if any, included in the Guaranteed Maximum Price:~~

~~Item~~	~~Price~~

~~§ 4.4.7.2.2 Subject to the conditions noted below, the following alternates may be accepted by the Owner following execution of this Agreement. Upon acceptance, the Owner shall issue a Modification to this Agreement.~~
~~*(Insert below each alternate and the conditions that must be met for the Owner to accept the alternate.)*~~

~~Item~~	~~Price~~	~~Conditions for Acceptance~~

~~§ 4.4.7.3 Allowances, if any, included in the Guaranteed Maximum Price:~~
~~*(Identify each allowance.)*~~

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~~Item~~ ~~Price~~

~~§ 4.4.7.4 Assumptions, if any, upon which the Guaranteed Maximum Price is based:~~
~~*(Identify each assumption.)*~~

~~§ 4.4.8 To the extent that the Contract Documents are anticipated to require further development, the Guaranteed Maximum Price includes the costs attributable to such further development consistent with the Contract Documents and reasonably inferable therefrom. Such further development does not include changes in scope, systems, kinds and quality of materials, finishes, or equipment, all of which, if required, shall be incorporated by Change Order.~~

~~§ 4.4.9 The Owner shall authorize preparation of revisions to the Contract Documents that incorporate the agreed-upon assumptions contained in Section 4.4.7.4. The Owner shall promptly furnish such revised Contract Documents to the Contractor. The Contractor shall notify the Owner and Architect of any inconsistencies between the agreed-upon assumptions contained in Section 4.4.7.4 and the revised Contract Documents.~~

PAGE 4

Contractor and Owner recognize that time is of the essence for the Project and the Owner will suffer financial loss if the Work is not completed in the time specified in the Contract Documents. The parties also recognize the delays, expenses, and difficulties involved in proving in a legal proceeding the actual loss suffered by the Owner if the Work is not completed on time. Accordingly, instead of requiring such proof, the Owner and Contractor agree that as liquidated damages for delay (but not as penalty), Contractor shall pay Owner One Thousand Dollars ($1,000.00) per calendar day for each day that expires after the time specified for Substantial Completion in EXH-D Project Schedule until such time the Work is determined to be substantially complete by the Owner.

After Substantial Completion, if Contractor neglects, refuses, or fails to complete the remaining Work within the Contract Time specified in the Contract Documents, the Contractor shall pay the Owner One Thousand Dollars ($1,000.00) per day that expires after the time specified in the Contract Documents for Final Completion and readiness for Final Payment until the Work is completed.

...

None

...

§ 5.1.1 Based upon Applications for Payment submitted to the Construction Manager by the Contractor, and Certificates for Payment issued by the Construction Manager and ~~Architect,~~ Architect and approval by the Owner's Representative, the Owner shall make progress payments on account of the Contract Sum, to the Contractor, as provided below and elsewhere in the Contract Documents.

§ 5.1.2 The period covered by each Application for Payment shall be one calendar month ending on the last day of the ~~month, or as follows:~~
month.

§ 5.1.3 ~~Provided that~~ When an Application for Payment is received by the Construction ~~Manager not later than the day of a month, the Owner shall make payment of the amount certified to the Contractor not later than the day of the month. If an Application for Payment is received by the Construction Manager after the application date fixed above, payment of the amount certified~~ Manager, payment of the amount certified shall be made by the Owner not later than forty-five (45) days after the Construction Manager receives the Application for Payment. Unless expressly otherwise agreed in this Contract, payments and payment disputes shall be governed by the Prompt Payment of Local Government Bills, Minnesota Statutes, Section 471.425 ("Prompt Payment Act").

...

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§ 5.1.4.1 Each Application for Payment shall be based on the most recent schedule of values submitted by the Contractor on AIA G702 Application and Certificate for Payment in accordance with the Contract Documents. The schedule of values shall allocate the entire Contract Sum among the various portions of the Work. The schedule of values shall be prepared in such form, and supported by such data to substantiate its accuracy, as the Construction Manager and Architect may require. This schedule of values shall be used as a basis for reviewing the Contractor's Applications for Payment.
PAGE 5

§ 5.1.4.3 In accordance with AIA Document A232™–2019, General Conditions of the Contract for Construction, Construction Manager as Adviser Edition, as modified and subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

...

~~**§ 5.1.5 Progress Payments Where the Contract Sum is Based on the Cost of the Work without a Guaranteed Maximum Price**~~

~~**§ 5.1.5.1** With each Application for Payment, the Contractor shall submit the cost control information required in Exhibit B, Determination of the Cost of the Work, along with payrolls, petty cash accounts, receipted invoices, or invoices with check vouchers attached, and any other evidence required by the Owner, Construction Manager or Architect to demonstrate that payments already made by the Contractor on account of the Cost of the Work equal or exceed progress payments already received by the Contractor, plus payrolls for the period covered by the present Application for Payment, less that portion of the payments attributable to the Contractor's Fee.~~

~~**§ 5.1.5.2** Applications for Payment shall show the Cost of the Work actually incurred by the Contractor through the end of the period covered by the Application for Payment and for which the Contractor has made or intends to make actual payment prior to the next Application for Payment.~~

~~**§ 5.1.5.3** In accordance with AIA Document A232–2019 and subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:~~

~~**§ 5.1.5.3.1** The amount of each progress payment shall first include:~~

- ~~**.1** The Cost of the Work as described in Exhibit B, Determination of the Cost of the Work;~~
- ~~**.2** That portion of Construction Change Directives that the Architect determines, in the Architect's professional judgment, to be reasonably justified; and~~
- ~~**.3** The Contractor's Fee computed upon the Cost of the Work described in the preceding Section 5.1.5.3.1.1 at the rate stated in Section 4.3.2; or if the Contractor's Fee is stated as a fixed sum in Section 4.3.2 an amount which bears the same ratio to that fixed-sum Fee as the Cost of the Work included in Section 5.1.5.3.1.1 bears to a reasonable estimate of the probable Cost of the Work upon its completion.~~

~~**§ 5.1.5.3.2** The amount of each progress payment shall then be reduced by:~~

- ~~**.1** The aggregate of any amounts previously paid by the Owner;~~
- ~~**.2** The amount, if any, for Work that remains uncorrected and for which the Architect has previously withheld a Certificate for Payment as provided in Article 9 of AIA Document A232–2019;~~
- ~~**.3** Any amount for which the Contractor does not intend to pay a Subcontractor or material supplier, unless the Work has been performed by others the Contractor intends to pay;~~
- ~~**.4** For Work performed or defects discovered since the last payment application, any amount for which the Architect may withhold payment, or nullify a Certificate of Payment in whole or in part, as provided in Article 9 of AIA Document A232–2019;~~
- ~~**.5** The shortfall, if any, indicated by the Contractor in the documentation required by Section 5.1.5.1 to substantiate prior Applications for Payment, or resulting from errors subsequently discovered by the Owner's auditors in such documentation; and~~
- ~~**.6** Retainage withheld pursuant to Section 5.1.7.~~

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§ 5.1.5.4 The Owner, Construction Manager and Contractor shall agree upon a mutually acceptable procedure for review and approval of payments to Subcontractors and the percentage of retainage held on Subcontracts, and the Contractor shall execute subcontracts in accordance with those agreements.

§ 5.1.5.5 In taking action on the Contractor's Applications for Payment, the Construction Manager and Architect shall be entitled to rely on the accuracy and completeness of the information furnished by the Contractor, and such action shall not be deemed to be a representation that (1) the Construction Manager and Architect have made a detailed examination, audit or arithmetic verification of the documentation submitted in accordance with Article 5 or other supporting data; (2) that the Construction Manager and Architect have made exhaustive or continuous on-site inspections; or (3) that the Construction Manager and Architect have made examinations to ascertain how or for what purposes the Contractor has used amounts previously paid on account of the Contract. Such examinations, audits and verifications, if required by the Owner, will be performed by the Owner's auditors acting in the sole interest of the Owner.

§ 5.1.5.6 Except with the Owner's prior approval, the Contractor shall not make advance payments to suppliers for materials or equipment which have not been delivered and stored at the site.

§ 5.1.5.7 If final completion of the Work is materially delayed through no fault of the Contractor, then the Owner shall pay the Contractor any additional amounts in accordance with Article 9 of AIA Document A232–2019.

§ 5.1.6 Progress Payments Where the Contract Sum is Based on the Cost of the Work with a Guaranteed Maximum Price

§ 5.1.6.1 With each Application for Payment, the Contractor shall submit payrolls, petty cash accounts, receipted invoices or invoices with check vouchers attached, and any other evidence required by the Owner, Construction Manager or Architect to demonstrate that payments already made by the Contractor on account of the Cost of the Work equal or exceed progress payments already received by the Contractor plus payrolls for the period covered by the present Application for Payment, less that portion of the progress payments attributable to the Contractor's Fee.

§ 5.1.6.2 Each Application for Payment shall be based on the most recent schedule of values submitted by the Contractor in accordance with the Contract Documents. The schedule of values shall allocate the entire Guaranteed Maximum Price among: (1) the various portions of the Work; (2) any contingency for costs that are included in the Guaranteed Maximum Price but not otherwise allocated to another line item or included in a Change Order; and (3) the Contractor's Fee.

§ 5.1.6.2.1 The schedule of values shall be prepared in such form, and supported by such data to substantiate its accuracy, as the Construction Manager and Architect may require. This schedule of values shall be used as a basis for reviewing the Contractor's Applications for Payment.

§ 5.1.6.2.2 The allocation of the Guaranteed Maximum Price under this Section 5.1.6.2 shall not constitute a separate guaranteed maximum price for the Cost of the Work of each individual line item in the schedule of values.

§ 5.1.6.2.3 When the Contractor allocates costs from a contingency to another line item in the schedule of values, the Contractor shall submit supporting documentation to the Architect and Construction Manager.

§ 5.1.6.3 Applications for Payment shall show the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment. The percentage of completion shall be the lesser of (1) the percentage of that portion of the Work which has actually been completed; or (2) the percentage obtained by dividing (a) the expense that has actually been incurred by the Contractor on account of that portion of the Work and for which the Contractor has made payment or intends to make payment prior to the next Application for Payment by (b) the share of the Guaranteed Maximum Price allocated to that portion of the Work in the schedule of values.

§ 5.1.6.4 In accordance with AIA Document A232–2019, and subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

§ 5.1.6.4.1 The amount of each progress payment shall first include:

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.1 That portion of the Guaranteed Maximum Price properly allocable to completed Work as determined by multiplying the percentage of completion of each portion of the Work by the share of the Guaranteed Maximum Price allocated to that portion of the Work in the most recent schedule of values;

.2 That portion of the Guaranteed Maximum Price properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction or, if approved in writing in advance by the Owner, suitably stored off the site at a location agreed upon in writing;

.3 That portion of Construction Change Directives that the Architect determines, in the Architect's professional judgment, to be reasonably justified; and

.4 The Contractor's Fee, computed upon the Cost of the Work described in the preceding Sections 5.1.6.4.1.1 and 5.1.6.4.1.2 at the rate stated in Section 4.4.2 or, if the Contractor's Fee is stated as a fixed sum in that Section, an amount that bears the same ratio to that fixed-sum fee as the Cost of the Work included in Sections 5.1.6.4.1.1 and 5.1.6.4.1.2 bears to a reasonable estimate of the probable Cost of the Work upon its completion.

§ 5.1.6.4.2 The amount of each progress payment shall then be reduced by:

.1 The aggregate of any amounts previously paid by the Owner;

.2 The amount, if any, for Work that remains uncorrected and for which the Architect has previously withheld a Certificate for Payment as provided in Article 9 of AIA Document A232–2019;

.3 Any amount for which the Contractor does not intend to pay a Subcontractor or material supplier, unless the Work has been performed by others the Contractor intends to pay;

.4 For Work performed or defects discovered since the last payment application, any amount for which the Architect may withhold payment, or nullify a Certificate of Payment in whole or in part, as provided in Article 9 of AIA Document A232–2019;

.5 The shortfall, if any, indicated by the Contractor in the documentation required by Section 5.1.6.1 to substantiate prior Applications for Payment, or resulting from errors subsequently discovered by the Owner's auditors in such documentation; and

.6 Retainage withheld pursuant to Section 5.1.7.

§ 5.1.6.5 The Owner and the Contractor shall agree upon a mutually acceptable procedure for review and approval of payments to Subcontractors and the percentage of retainage held on Subcontracts, and the Contractor shall execute subcontracts in accordance with those agreements.

§ 5.1.6.6 In taking action on the Contractor's Applications for Payment, the Construction Manager and Architect shall be entitled to rely on the accuracy and completeness of the information furnished by the Contractor and such action shall not be deemed to be a representation that (1) the Construction Manager or Architect have made a detailed examination, audit, or arithmetic verification of the documentation submitted in accordance with Section 5.1.6.1 or other supporting data; (2) that the Construction Manager or Architect have made exhaustive or continuous on-site inspections; or (3) that the Construction Manager or Architect have made examinations to ascertain how or for what purposes the Contractor has used amounts previously paid on account of the Contract. Such examinations, audits, and verifications, if required by the Owner, will be performed by the Owner's auditors acting in the sole interest of the Owner.

§ 5.1.6.7 Except with the Owner's prior approval, the Contractor shall not make advance payments to suppliers for materials or equipment which have not been delivered and stored at the site.

§ 5.1.6.8 If final completion of the Work is materially delayed through no fault of the Contractor, then the Owner shall pay the Contractor any additional amounts in accordance with Article 9 of AIA Document A232-2019.

...

Five Percent (5%)

...

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For major items installed into the Work, the Contractor may request full payment for the items to ensure prompt delivery and fabrication. Such items shall be recommended by the Architect and approved by the Owner as not requiring retainage. Prompt payment for the items shall be documented by the Contractor to the Owner in the subsequent payment application by submitting a full lien release for the items. Major items may include mechanical units with long lead times, structural systems with long lead times, critical path systems or items, etc. Major items will be discussed and defined by Owner, Architect, Construction Manager and Contractor.

...

Prior to Substantial Completion and at the discretion of the Owner, retainage may be reduced. If the Work has been fifty percent (50%) completed as determined by the Architect and is satisfactory to the Owner, then ninety percent (90%) of the retained amount may be released to the Contractor for completed Work (with ten percent (10%) of the total retained by the Owner).

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Upon Substantial Completion, additional retainage may be returned to the Contractor as recommended by the Architect and Construction Manager and approved by the Owner to an amount sufficient to satisfactorily complete the Work. Retainage release will comply with Minnesota Statutes, Section 15.72 after Substantial Completion and punch list acceptance by the Owner.

...

.1 the Contractor has fully performed the Contract except for the Contractor's responsibility to correct Work as provided in Article 12 of AIA Document A232–2019, and to satisfy other requirements, if any, which extend beyond final payment; ~~and~~

.2 a final Certificate for Payment or Project Certificate for Payment has been issued by ~~the Architect.~~the Architect; and

.3 all lien waivers and IC134 forms have been delivered to the Owner.

§ 5.2.1.2 The Owner's final payment to the Contractor shall be made no later than ~~30~~ forty-five (45) days after the issuance of the Architect's final Certificate for Payment or Project Certificate for Payment, or as follows:

...

§ 5.3 Payments due and unpaid under the Contract shall bear interest from the date payment is due at the rate stated ~~below, or in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located.~~below.

...

Zero %

...

The Architect will serve as Initial Decision Maker pursuant to Article 15 of AIA Document ~~A232–2019, unless the parties appoint below another individual, not a party to this Agreement, to serve as Initial Decision Maker.~~
~~*(If the parties mutually agree, insert the name, address and other contact information of the Initial Decision Maker, if other than the Architect.)*~~

A232–2019.

§ 6.1.1 Mediation

The Owner or the Contractor may request mediation of any Claim submitted to the Initial Decision Maker before the decision becomes final and binding. The mediation shall be governed by the Construction Industry Mediation Rules of the American Arbitration Association in effect at the date of this contract. The request for mediation shall be made in

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writing by the party requesting mediation and the other party of this contract. The Owner and Contractor shall participate in mediation in good faith. The mediation shall be concluded within 60 days of the request. Mediation is not a condition precedent to commencing litigation. If litigation is commenced, the Owner and Contractor agree to mediate before any dispositive motion or trial.

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[ ] ~~Litigation in a court of competent jurisdiction.~~ [X] Litigation in a state or federal court of competent jurisdiction located in Hennepin County, Minnesota.

...

Termination fee will be based on the percentage of Work completed and any materials purchased or in production at the time of termination. Said fee and justification shall be provided to the Owner by the Contractor within ten (10) days' notice of the termination.

...

~~**§ 7.2 Where the Contract Sum is Based on the Cost of the Work with or without a Guaranteed Maximum Price**~~

~~**§ 7.2.1 Termination**~~

~~**§ 7.2.1.1** The Contract may be terminated by the Owner or the Contractor as provided in Article 14 of AIA Document A232–2019.~~

~~**§ 7.2.1.2 Termination by the Owner for Cause**~~

~~**§ 7.2.1.2.1** If the Owner terminates the Contract for cause as provided in Article 14 of AIA Document A232–2019, the Owner shall then only pay the Contractor an amount as follows:~~

- ~~**.1** Take the Cost of the Work incurred by the Contractor to the date of termination;~~
- ~~**.2** Add the Contractor's Fee, computed upon the Cost of the Work to the date of termination at the rate stated in Section 4.3.2 or 4.4.2, as applicable, or, if the Contractor's Fee is stated as a fixed sum in that Section, an amount that bears the same ratio to that fixed-sum Fee as the Cost of the Work at the time of termination bears to a reasonable estimate of the probable Cost of the Work upon its completion;~~
- ~~**.3** Subtract the aggregate of previous payments made by the Owner; and~~
- ~~**.4** Subtract the costs and damages incurred, or to be incurred, by the Owner under Article 14 of AIA Document A232–2019.~~

~~**§ 7.2.1.2.2** When the Contract Sum is based on the Cost of the Work with a Guaranteed Maximum Price, if the Owner terminates the Contract for cause as provided in Article 14 of AIA Document A232-2019, the amount, if any, to be paid to the Contractor under Article 14 of AIA Document A232-2019 shall not cause the Guaranteed Maximum Price to be exceeded, nor shall it exceed the amount calculated in Section 7.2.1.2.1.~~

~~**§ 7.2.1.2.3** The Owner shall also pay the Contractor fair compensation, either by purchase or rental at the election of the Owner, for any equipment owned by the Contractor that the Owner elects to retain and that is not otherwise included in the Cost of the Work under Section 7.2.1.2.1.1. To the extent that the Owner elects to take legal assignment of subcontracts and purchase orders (including rental agreements), the Contractor shall, as a condition of receiving the payments referred to in this Article 7, execute and deliver all such papers and take all such steps, including the legal assignment of such subcontracts and other contractual rights of the Contractor, as the Owner may require for the purpose of fully vesting in the Owner the rights and benefits of the Contractor under such subcontracts or purchase orders. All Subcontracts, purchase orders and rental agreements entered into by the Contractor will contain provisions allowing for assignment to the Owner as described above.~~

~~**§ 7.2.1.3 Termination by the Owner for Convenience**~~

~~If the Owner terminates the Contract for convenience in accordance with Article 14 of AIA Document A232–2019, then the Owner shall pay the Contractor a termination fee as follows:~~

~~*(Insert the amount of or method for determining the fee, if any, payable to the Contractor following a termination for the Owner's convenience.)*~~

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~~**§ 7.3 Suspension**~~

~~The Work may be suspended by the Owner as provided in Article 14 of AIA Document A232–2019; in such case, the Contract Sum and Contract Time shall be increased as provided in Article 14 of AIA Document A232–2019, except that the term "profit" shall be understood to mean the Contractor's Fee as described in Section 4.3.2 or 4.4.2, as applicable, of this Agreement.~~

...

Curtis Hartog, PE, Executive Director
Minneapolis Public Schools, SSD#1
Capital Planning, Construction & Maintenance
1250 West Broadway Avenue, Minneapolis, MN 55411
PAGE 8

Alex Shoemaker
Estimator
Red Cedar Steel Erectors
4621 Domain Drive
Menomonie, WI 54751

...

§ 8.5 Record Keeping—Availability and Retention

Pursuant to Minnesota Statutes, Section 16C.05, subd. 5, Contractor agrees that the books, records, documents and accounting procedures and practices of Contractor, that are relevant to the Contract or transaction, are subject to examination by the Owner, the Owner's auditor, and the state auditor for a minimum of six (6) years. Contractor shall maintain such records for a minimum of six (6) years after final payment.

§ 8.6 Data Practices

Pursuant to Minnesota Statutes, Section 13.05, subd. 11, all of the data created, collected, received, stored, used, maintained, or disseminated by Contractor in performing this contract is subject to the requirements of the Minnesota Government Data Practices Act ("MGDPA"), Minnesota Statutes Chapter 13, and Contractor must comply with those requirements as if it were a government entity. The remedies in Minnesota Statutes, Section 13.08 apply to Contractor. Contractor does not have a duty to provide access to public data to the public if the public data are available from the Owner, except as required by the terms of this contract.

§ 8.7 Non-Discrimination

Pursuant to Minnesota Statutes, Section 181.59, the Contractor will take affirmative action to ensure that applicants are selected, and that employees are treated during employment, without regard to their race, color, creed, religion, national origin, sex, sexual orientation, marital status, status with regard to public assistance, membership or activity in a local civil rights commission, disability or age. The Contractor agrees to be bound by the provisions of Minnesota Statutes, Section 181.59, that prohibits certain discriminatory practices and the terms of said section are incorporated into this contract.

§ 8.8 Prompt Payment to Subcontractors

In accordance with the Prompt Payment Act, each Prime Contractor must pay any subcontractor within ten (10) days of the Prime Contractor's receipt of payment from the municipality for undisputed services provided by the subcontractor. The Subcontract must require the Prime Contractor to pay interest of 1-1/2 percent per month or any part of a month to the subcontractor on any undisputed amount not paid on time to the subcontractor. The minimum monthly interest penalty payment for an unpaid balance of $100 or more is $10. For an unpaid balance of less than $100, the Prime Contractor shall pay the actual penalty due to the subcontractor. A subcontractor who prevails in a civil action to collect interest penalties from a Prime Contractor must be awarded its costs and disbursements, including attorney's fees, incurred in bringing the action.

§ 8.9 Prevailing Wage

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Contractor agrees that all laborers or mechanics working on the Project shall receive at least the prevailing wage rate in accordance with Minnesota Statutes Section 177.42, *et seq*. Contractor agrees further that it will incorporate any and all necessary contract language in its agreements with any subcontractors to allow Contractor to monitor and enforce the prevailing wage requirement for subcontractors of any tier.

§ 8.5.1 The Owner and the Contractor shall purchase and maintain insurance as set forth ~~in AIA Document A132™–2019, Standard Form of Agreement Between Owner and Contractor, Construction Manager as Adviser Edition, Exhibit A, Insurance and Bonds, and elsewhere in the Contract Documents.~~EXH-C Owner Insurance.

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§ 8.6 Notice in electronic format, pursuant to Article 1 of AIA Document A232–2019, may be given in accordance with ~~a building information modeling exhibit,~~ AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, if completed, or as otherwise set forth below:
(If other than in accordance with ~~a building information modeling exhibit,~~ AIA Document E203–2013, insert requirements for delivering notice in electronic format such as name, title, and email address of the recipient and whether and how the system will be required to generate a read receipt for the transmission.)

email to Owner's representative identified in Section 8.2

...

Owner prohibits Contractor from using the Work in any marketing material or business development practice. Contractor is prohibited from communication with any news outlet or public without Owner's written approval.

Floor plans, designs, wiring, safety and security measures shall be kept confidential by the Contractor, the Subcontractors, the Sub-Subcontractors (of any tier) during and after completion of the Work.

...

.4 ~~Building Information Modeling Exhibit, if completed:~~AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, dated as indicated below:
(Insert the date of the E203-2013 incorporated into this Agreement.)

Not Applicable

...

139		North High School Renovations & CTE Center Vol 1 of 2	November 13, 2024
209		North High School Renovations & CTE Center Vol 2 of 2	November 13, 2024

...

	All Specifications	North High School Renovations and CTE Center Bid Package 4	November 13, 2024	1414

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1	December 2, 2024	70
2	December 9, 2024	165

...

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EXH-B Project Charter
EXH-C Owner Insurance
EXH-D Project Schedule
(Check all boxes that apply and include appropriate information identifying the exhibit where required.)

~~*[ ] AIA Document A132™ 2019, Exhibit B, Determination of the Cost of the Work*~~

[ ] ~~AIA Document E235™ 2019, Sustainable Projects Exhibit, Construction Manager as Adviser Edition, dated as indicated below:~~
~~*(Insert the date of the E235-2019 incorporated into this Agreement.)*~~

~~[ ] The Sustainability Plan:~~

~~Title~~	~~Date~~	~~Pages~~

...

Contractors Bid Documents

...

Tom Parent, Sr Operations Officer

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Certification of Document's Authenticity

AIA® Document D401™ – 2003

I, , hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with its associated Additions and Deletions Report and this certification at 13:56:08 CT on 02/01/2025 under Order No. 4104251278 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document A132™ – 2019, Standard Form of Agreement Between Owner and Contractor, Construction Manager as Adviser Edition, other than those additions and deletions shown in the associated Additions and Deletions Report.



(Signed)

Curtis Hartog, Executive Director

(Title)

2/1/2025

(Dated)

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AIA® Document A132® – 2019 Exhibit A

Insurance and Bonds

This Insurance and Bonds Exhibit is part of the Agreement, between the Owner and the Contractor, dated the _first_ day of _February____ in the year _2025
(In words, indicate day, month, and year.)

for the following **PROJECT**:
(Name and location or address)

North High School Phase 4 Work Scope 05-B1 Structural Steel
1500 James Avenue, Minneapolis, MN 55411

THE OWNER:
(Name, legal status, and address)

Minneapolis Public Schools Special School District #1
1250 West Broadway Avenue
Minneapolis, MN 55411

THE CONTRACTOR:
(Name, legal status, and address)

Red Cedar Steel Erectors
4621 Domain Drive
Menomonie, WI 54751

TABLE OF ARTICLES

A.1 GENERAL

A.2 OWNER'S INSURANCE

A.3 CONTRACTOR'S INSURANCE AND BONDS

A.4 SPECIAL TERMS AND CONDITIONS

ARTICLE A.1 GENERAL

The Owner and Contractor shall purchase and maintain insurance, and provide bonds, as set forth in this Exhibit. As used in this Exhibit, the term General Conditions refers to AIA Document A232™–2019, General Conditions of the Contract for Construction.

ARTICLE A.2 OWNER'S INSURANCE

§ A.2.1 General

Prior to commencement of the Work, the Owner shall secure the insurance, and provide evidence of the coverage, required under this Article A.2 and, upon the Contractor's request, provide a copy of the property insurance policy or policies required by Section A.2.3. The copy of the policy or policies provided shall contain all applicable conditions, definitions, exclusions, and endorsements.

§ A.2.2 Liability Insurance

The Owner shall be responsible for purchasing and maintaining the Owner's usual general liability insurance.

ADDITIONS AND DELETIONS:
The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

This document is intended to be used in conjunction with AIA Document A232™–2019, General Conditions of the Contract for Construction. Article 11 of A232™–2019 contains additional insurance provisions

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§ A.2.3 Required Property Insurance

§ A.2.3.1 Unless this obligation is placed on the Contractor pursuant to Section A.3.3.2.1, the Owner shall purchase and maintain, from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located, property insurance policy form and sufficient to cover the total value of the entire Project on a replacement cost basis. The Owner's property insurance coverage shall be no less than the amount of the initial Contract Sum, plus the value of subsequent Modifications and labor performed and materials or equipment supplied by others. The property insurance shall be maintained until Substantial Completion and thereafter as provided in Section A.2.3.1.3, unless otherwise provided in the Contract Documents or otherwise agreed in writing by the parties to this Agreement. This insurance shall include the interests of the Owner, Contractor, Subcontractors, and Sub-subcontractors in the Project as insureds. This insurance shall include the interests of mortgagees as loss payees.

§ A.2.3.1.1 Causes of Loss. The insurance required by this Section A.2.3.1 shall provide coverage for direct physical loss or damage, and shall not exclude the risks of fire, explosion, theft, vandalism, malicious mischief, collapse, earthquake, flood, or windstorm. The insurance shall also provide coverage for ensuing loss or resulting damage from error, omission, or deficiency in construction methods, design, specifications, workmanship, or materials. Sub-limits, if any, are as follows:
(Indicate below the cause of loss and any applicable sub-limit.)

Causes of Loss	Sub-Limit

§ A.2.3.1.2 Specific Required Coverages. The insurance required by this Section A.2.3.1 shall provide coverage for loss or damage to false work and other temporary structures, and to building systems from testing and startup. The insurance shall also cover debris removal, including demolition occasioned by enforcement of any applicable legal requirements, and reasonable compensation for the Architect's, Construction Manager's, and Contractor's services and expenses required as a result of such insured loss, including claim preparation expenses. Sub-limits, if any, are as follows:
(Indicate below type of coverage and any applicable sub-limit for specific required coverages.)

Coverage	Sub-Limit

§ A.2.3.1.3 Unless the parties agree otherwise, upon Substantial Completion, the Owner shall continue the insurance required by Section A.2.3.1 or, if necessary, replace the insurance policy required under Section A.2.3.1 with property insurance written for the total value of the Project that shall remain in effect until expiration of the period for correction of the Work set forth in Section 12.2.2 of the General Conditions.

§ A.2.3.1.4 Deductibles and Self-Insured Retentions. If the insurance required by this Section A.2.3 is subject to deductibles or self-insured retentions, the Owner shall be responsible for all loss not covered because of such deductibles or retentions.

§ A.2.3.2 Occupancy or Use Prior to Substantial Completion. The Owner's occupancy or use of any completed or partially completed portion of the Work prior to Substantial Completion shall not commence until the insurance company or companies providing the insurance under Section A.2.3.1 have consented in writing to the continuance of coverage. The Owner and the Contractor shall take no action with respect to partial occupancy or use that would cause cancellation, lapse, or reduction of insurance, unless they agree otherwise in writing.

§ A.2.3.3 Insurance for Existing Structures

If the Work involves remodeling an existing structure or constructing an addition to an existing structure, the Owner shall purchase and maintain, until the expiration of the period for correction of Work as set forth in Section 12.2.2 of the General Conditions, "all-risks" property insurance, on a replacement cost basis, protecting the existing structure against direct physical loss or damage from the causes of loss identified in Section A.2.3.1, notwithstanding the undertaking of the Work. The Owner shall be responsible for all co-insurance penalties.

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§ A.2.4 Optional Extended Property Insurance.
The Owner shall purchase and maintain the insurance selected and described below.
(Select the types of insurance the Owner is required to purchase and maintain by placing an X in the box(es) next to the description(s) of selected insurance. For each type of insurance selected, indicate applicable limits of coverage or other conditions in the fill point below the selected item.)

[ ] **§ A.2.4.1 Loss of Use, Business Interruption, and Delay in Completion Insurance**, to reimburse the Owner for loss of use of the Owner's property, or the inability to conduct normal operations due to a covered cause of loss.

[ ] **§ A.2.4.2 Ordinance or Law Insurance**, for the reasonable and necessary costs to satisfy the minimum requirements of the enforcement of any law or ordinance regulating the demolition, construction, repair, replacement or use of the Project.

[ ] **§ A.2.4.3 Expediting Cost Insurance**, for the reasonable and necessary costs for the temporary repair of damage to insured property, and to expedite the permanent repair or replacement of the damaged property.

[ ] **§ A.2.4.4 Extra Expense Insurance**, to provide reimbursement of the reasonable and necessary excess costs incurred during the period of restoration or repair of the damaged property that are over and above the total costs that would normally have been incurred during the same period of time had no loss or damage occurred.

[ ] **§ A.2.4.5 Civil Authority Insurance**, for losses or costs arising from an order of a civil authority prohibiting access to the Project, provided such order is the direct result of physical damage covered under the required property insurance.

[ ] **§ A.2.4.6 Ingress/Egress Insurance**, for loss due to the necessary interruption of the insured's business due to physical prevention of ingress to, or egress from, the Project as a direct result of physical damage.

[ ] **§ A.2.4.7 Soft Costs Insurance**, to reimburse the Owner for costs due to the delay of completion of the Work, arising out of physical loss or damage covered by the required property insurance: including construction loan fees; leasing and marketing expenses; additional fees, including those of architects, engineers, consultants, attorneys and accountants, needed for the completion of the construction, repairs, or reconstruction; and carrying costs such as property taxes, building permits, additional interest on loans, realty taxes, and insurance premiums over and above normal expenses.

§ A.2.5 Other Optional Insurance.
The Owner shall purchase and maintain the insurance selected below.
(Select the types of insurance the Owner is required to purchase and maintain by placing an X in the box(es) next to the description(s) of selected insurance.)

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[ ] **§ A.2.5.1 Cyber Security Insurance** for loss to the Owner due to data security and privacy breach, including costs of investigating a potential or actual breach of confidential or private information. *(Indicate applicable limits of coverage or other conditions in the fill point below.)*

[ ] **§ A.2.5.2 Other Insurance**
(List below any other insurance coverage to be provided by the Owner and any applicable limits.)

Coverage	Limits

ARTICLE A.3 CONTRACTOR'S INSURANCE AND BONDS

§ A.3.1 General

§ A.3.1.1 Certificates of Insurance. The Contractor shall provide certificates of insurance acceptable to the Owner evidencing compliance with the requirements in this Article A.3 at the following times: (1) prior to commencement of the Work; (2) upon renewal or replacement of each required policy of insurance; and (3) upon the Owner's written request. An additional certificate evidencing continuation of commercial liability coverage, including coverage for completed operations, shall be submitted with the final Application for Payment and thereafter upon renewal or replacement of such coverage until the expiration of the periods required by Section A.3.2.1 and Section A.3.3.1. The certificates will show the Owner as an additional insured on the Contractor's Commercial General Liability and excess or umbrella liability policy or policies.

§ A.3.1.2 Deductibles and Self-Insured Retentions. The Contractor shall disclose to the Owner any deductible or self-insured retentions applicable to any insurance required to be provided by the Contractor.

§ A.3.1.3 Additional Insured Obligations. To the fullest extent permitted by law, the Contractor shall cause the commercial general liability coverage to include (1) the Owner, the Architect and the Architect's consultants, and the Construction Manager and the Construction Manager's consultants, as additional insureds for claims caused in whole or in part by the Contractor's negligent acts or omissions during the Contractor's operations; and (2) the Owner as an additional insured for claims caused in whole or in part by the Contractor's negligent acts or omissions for which loss occurs during completed operations. The additional insured coverage shall be primary and non-contributory to any of the Owner's general liability insurance policies and shall apply to both ongoing and completed operations. To the extent commercially available, the additional insured coverage shall be no less than that provided by Insurance Services Office, Inc. (ISO) forms CG 20 10 07 04, CG 20 37 07 04, and, with respect to the Architect and the Architect's consultants, and the Construction Manager and the Construction Manager's consultants, CG 20 32 07 04.

§ A.3.2 Contractor's Required Insurance Coverage

§ A.3.2.1 The Contractor shall purchase and maintain the types and limits of insurance as defined in EXH-C Owner Insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The Contractor shall maintain the required insurance until the expiration of the period for correction of Work as set forth in Section 12.2.2 of the General Conditions, unless a different duration is stated below:
(If the Contractor is required to maintain insurance for a duration other than the expiration of the period for correction of Work, state the duration.)

§ A.3.2.2 Commercial General Liability

§ A.3.2.2.1 Commercial General Liability insurance for the Project written on an occurrence form with policy limits as defined in EXH-C Owner Insurance providing coverage for claims including

.1 damages because of bodily injury, sickness or disease, including occupational sickness or disease, and death of any person;
.2 personal injury and advertising injury;
.3 damages because of physical damage to or destruction of tangible property, including the loss of use of such property;
.4 bodily injury or property damage arising out of completed operations; and

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.5 the Contractor's indemnity obligations under Section 3.18 of the General Conditions.

§ A.3.2.2.2 The Contractor's Commercial General Liability policy under this Section A.3.2.2 shall not contain an exclusion or restriction of coverage for the following:

.1 Claims by one insured against another insured, if the exclusion or restriction is based solely on the fact that the claimant is an insured, and there would otherwise be coverage for the claim.

.2 Claims for property damage to the Contractor's Work arising out of the products-completed operations hazard where the damaged Work or the Work out of which the damage arises was performed by a Subcontractor.

.3 Claims for bodily injury other than to employees of the insured.

.4 Claims for indemnity under Section 3.18 of the General Conditions arising out of injury to employees of the insured.

.5 Claims or loss excluded under a prior work endorsement or other similar exclusionary language.

.6 Claims or loss due to physical damage under a prior injury endorsement or similar exclusionary language.

.7 Claims related to residential, multi-family, or other habitational projects, if the Work is to be performed on such a project.

.8 Claims related to roofing, if the Work involves roofing.

.9 Claims related to exterior insulation finish systems (EIFS), synthetic stucco or similar exterior coatings or surfaces, if the Work involves such coatings or surfaces.

.10 Claims related to earth subsidence or movement, where the Work involves such hazards.

.11 Claims related to explosion, collapse and underground hazards, where the Work involves such hazards.

§ A.3.2.3 Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Contractor, with policy limits as defined in EXH-C Owner Insurance.

§ A.3.2.4 The Contractor may achieve the required limits and coverage for Commercial General Liability and Automobile Liability through a combination of primary and excess or umbrella liability insurance, provided such primary and excess or umbrella insurance policies result in the same or greater coverage as the coverages required under Section A.3.2.2 and A.3.2.3, and in no event shall any excess or umbrella liability insurance provide narrower coverage than the primary policy. The excess policy shall not require the exhaustion of the underlying limits only through the actual payment by the underlying insurers. Umbrella coverage as defined in EXH-C Owner Insurance.

§ A.3.2.5 Workers' Compensation at statutory limits for Coverage A as defined in EXH-C Owner Insurance.

§ A.3.2.6 Employers' Liability Coverage B as defined in EXH-C Owner Insurance.

§ A.3.2.7 If the Contractor is required to furnish professional services as part of the Work, the Contractor shall procure Professional Liability insurance covering performance of the professional services, with policy limits as defined in EXH-C Owner Insurance.

§ A.3.2.8 Insurance for the use or operation of manned or unmanned aircraft, if the Work requires such activities, with policy limits as defined in EXH-C Owner Insurance.

(Paragraphs deleted)

§ A.3.3 Contractor's Other Insurance Coverage

§ A.3.3.1 Insurance selected and described in this Section A.3.3 shall be purchased from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The Contractor shall maintain the required insurance until the expiration of the period for correction of Work as set forth in Section 12.2.2 of the General Conditions, unless a different duration is stated below:

(If the Contractor is required to maintain any of the types of insurance selected below for a duration other than the expiration of the period for correction of Work, state the duration.)

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If Professional Liability insurance is required as part of the Contract, the Contractor shall maintain coverage for one year beyond the date of Substantial Completion.

§ A.3.3.2 The Contractor shall purchase and maintain the types and limits of insurance as defined in EXH-C Owner Insurance.

(Paragraphs deleted)

§ A.3.4 Performance Bond and Payment Bond

The Contractor shall provide surety bonds, from a company or companies lawfully authorized to issue surety bonds in the jurisdiction where the Project is located, as follows:
(Specify type and penal sum of bonds.)

Type	Penal Sum ($0.00)
Payment Bond	$234,200
Performance Bond	$234,200

Payment and Performance Bonds shall be AIA Document A312™, Payment Bond and Performance Bond, or contain provisions identical to AIA Document A312™, current as of the date of this Agreement.

ARTICLE A.4 SPECIAL TERMS AND CONDITIONS

Special terms and conditions that modify this Insurance and Bonds Exhibit, if any, are as follows:

None

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Additions and Deletions Report for

AIA® Document A132® – 2019 Exhibit A

This Additions and Deletions Report, as defined on page 1 of the associated document, reproduces below all text the author has added to the standard form AIA document in order to complete it, as well as any text the author may have added to or deleted from the original AIA text. Added text is shown underlined. Deleted text is indicated with a horizontal line through the original AIA text.

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PAGE 1

This Insurance and Bonds Exhibit is part of the Agreement, between the Owner and the Contractor, dated the _first_ day of _February_____in the year _2025

...

North High School Phase 4 Work Scope 05-B1 Structural Steel
1500 James Avenue, Minneapolis, MN 55411

...

Minneapolis Public Schools Special School District #1
1250 West Broadway Avenue
Minneapolis, MN 55411

...

Red Cedar Steel Erectors
4621 Domain Drive
Menomonie, WI 54751

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§ A.2.3.1 Unless this obligation is placed on the Contractor pursuant to Section A.3.3.2.1, the Owner shall purchase and maintain, from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located, property insurance ~~written on a builder's risk "all-risks" completed value or equivalent~~ policy form and sufficient to cover the total value of the entire Project on a replacement cost basis. The Owner's property insurance coverage shall be no less than the amount of the initial Contract Sum, plus the value of subsequent Modifications and labor performed and materials or equipment supplied by others. The property insurance shall be maintained until Substantial Completion and thereafter as provided in Section A.2.3.1.3, unless otherwise provided in the Contract Documents or otherwise agreed in writing by the parties to this Agreement. This insurance shall include the interests of the Owner, Contractor, Subcontractors, and Sub-subcontractors in the Project as insureds. This insurance shall include the interests of mortgagees as loss payees.

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§ A.3.2.1 The Contractor shall purchase and maintain the ~~following~~ types and limits of insurance as defined in EXH-C Owner Insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The Contractor shall maintain the required insurance until the expiration of the period for correction of Work as set forth in Section 12.2.2 of the General Conditions, unless a different duration is stated below:

...

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§ A.3.2.2.1 Commercial General Liability insurance for the Project written on an occurrence form with policy limits ~~of not less than ($) each occurrence, ($) general aggregate, and ($) aggregate for products-completed operations hazard,~~ as defined in EXH-C Owner Insurance providing coverage for claims including

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§ A.3.2.3 Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Contractor, with policy limits ~~of not less than ($) per accident, for bodily injury, death of any person, and property damage arising out of the ownership, maintenance and use of those motor vehicles along with any other statutorily required automobile coverage.~~as defined in EXH-C Owner Insurance.

§ A.3.2.4 The Contractor may achieve the required limits and coverage for Commercial General Liability and Automobile Liability through a combination of primary and excess or umbrella liability insurance, provided such primary and excess or umbrella insurance policies result in the same or greater coverage as the coverages required under Section A.3.2.2 and A.3.2.3, and in no event shall any excess or umbrella liability insurance provide narrower coverage than the primary policy. The excess policy shall not require the exhaustion of the underlying limits only through the actual payment by the underlying insurers. Umbrella coverage as defined in EXH-C Owner Insurance.

§ A.3.2.5 Workers' Compensation at statutory ~~limits.~~limits for Coverage A as defined in EXH-C Owner Insurance.

§ A.3.2.6 Employers' Liability ~~with policy limits not less than ($) each accident, ($) each employee, and ($) policy limit.~~Coverage B as defined in EXH-C Owner Insurance.

§ A.3.2.7 ~~Jones Act, and the Longshore & Harbor Workers' Compensation Act, as required, if the Work involves hazards arising from work on or near navigable waterways, including vessels and docks~~ If the Contractor is required to furnish professional services as part of the Work, the Contractor shall procure Professional Liability insurance covering performance of the professional services, with policy limits as defined in EXH-C Owner Insurance.

§ A.3.2.8 ~~If the Contractor is required to furnish professional services as part of the Work, the Contractor shall procure Professional Liability insurance covering performance of the professional services, with policy limits of not less than ($) per claim and ($) in the aggregate.~~Insurance for the use or operation of manned or unmanned aircraft, if the Work requires such activities, with policy limits as defined in EXH-C Owner Insurance.

§ A.3.2.9 ~~If the Work involves the transport, dissemination, use, or release of pollutants, the Contractor shall procure Pollution Liability insurance, with policy limits of not less than ($) per claim and ($) in the aggregate.~~

§ A.3.2.10 ~~Coverage under Sections A.3.2.8 and A.3.2.9 may be procured through a Combined Professional Liability and Pollution Liability insurance policy, with combined policy limits of not less than ($) per claim and ($) in the aggregate.~~

§ A.3.2.11 ~~Insurance for maritime liability risks associated with the operation of a vessel, if the Work requires such activities, with policy limits of not less than ($) per claim and ($) in the aggregate.~~

§ A.3.2.12 ~~Insurance for the use or operation of manned or unmanned aircraft, if the Work requires such activities, with policy limits of not less than ($) per claim and ($) in the aggregate.~~

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If Professional Liability insurance is required as part of the Contract, the Contractor shall maintain coverage for one year beyond the date of Substantial Completion.

§ A.3.3.2 The Contractor shall purchase and maintain the ~~following~~ types and limits of insurance ~~in accordance with Section A.3.3.1.~~as defined in EXH-C Owner Insurance.

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~~*(Select the types of insurance the Contractor is required to purchase and maintain by placing an X in the box(es) next to the description(s) of selected insurance. Where policy limits are provided, include the policy limit in the appropriate fill point.)*~~

~~[–] **§ A.3.3.2.1** If there is only one Contractor performing the Work on the Project, property insurance of the same type and scope satisfying the requirements identified in Section A.2.3, which, if selected in this section A.3.3.2.1, relieves the Owner of the responsibility to purchase and maintain such insurance except insurance required by Section A.2.3.1.3 and Section A.2.3.3. The Contractor shall comply with all obligations of the Owner under Section A.2.3 except to the extent provided below. The Contractor shall disclose to the Owner the amount of any deductible, and the Owner shall be responsible for losses within the deductible. Upon request, the Contractor shall provide the Owner with a copy of the property insurance policy or policies required. The Owner shall adjust and settle the loss with the insurer and be the trustee of the proceeds of the property insurance in accordance with Article 11 of the General Conditions unless otherwise set forth below:~~
~~*(Where the Contractor's obligation to provide property insurance differs from the Owner's obligations as described under Section A.2.3, indicate such differences in the space below. Additionally, if a party other than the Owner will be responsible for adjusting and settling a loss with the insurer and acting as the trustee of the proceeds of property insurance in accordance with Article 11 of the General Conditions, indicate the responsible party below.)*~~

~~[–] **§ A.3.3.2.2 Railroad Protective Liability Insurance**, with policy limits of not less than ($) per claim and ($) in the aggregate, for Work within fifty (50) feet of railroad property.~~

~~[–] **§ A.3.3.2.3 Asbestos Abatement Liability Insurance**, with policy limits of not less than ($) per claim and ($) in the aggregate, for liability arising from the encapsulation, removal, handling, storage, transportation, and disposal of asbestos-containing materials.~~

~~[–] **§ A.3.3.2.4** Insurance for physical damage to property while it is in storage and in transit to the construction site on an "all-risks" completed value form.~~

~~[–] **§ A.3.3.2.5** Property insurance on an "all-risks" completed value form, covering property owned by the Contractor and used on the Project, including scaffolding and other equipment.~~

~~[–] **§ A.3.3.2.6 Other Insurance**~~
~~*(List below any other insurance coverage to be provided by the Contractor and any applicable limits.)*~~

~~**Coverage**~~	~~**Limits**~~

§ A.3.4 Performance Bond and Payment Bond

...

Payment Bond	$234,200
Performance Bond	$234,200

...

None

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AIA® Document A232® – 2019

General Conditions of the Contract for Construction, *Construction Manager as Adviser Edition*

for the following PROJECT:
(Name, and location or address)

North High School Phase 4 Work Scope 05-B1 Structural Steel
1500 James Avenue, Minneapolis, MN 55411

THE CONSTRUCTION MANAGER:
(Name, legal status, and address)

Kraus-Anderson Construction Company
501 South 8th Street, Minneapolis, MN 55404

THE OWNER:
(Name, legal status, and address)

Minneapolis Public Schools Special School District #1
1250 West Broadway Avenue
Minneapolis, MN 55411

THE ARCHITECT:
(Name, legal status, and address)

LSE Architects 1401 Glenwood Avenue
Minneapolis, MN 55405

ADDITIONS AND DELETIONS:
The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

This document is intended to be used in conjunction with AIA Documents A132™–2019, Standard Form of Agreement Between Owner and Contractor, Construction Manager as Adviser Edition; B132™–2019, Standard Form of Agreement Between Owner and Architect, Construction Manager as Adviser Edition; and C132™–2019, Standard Form of Agreement Between Owner and Construction Manager as Adviser.

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ARTICLE 1 GENERAL PROVISIONS

§ 1.1 Basic Definitions

§ 1.1.1 The Contract Documents. The Contract Documents are enumerated in the Agreement between the Owner and Contractor (hereinafter the Agreement) and consist of the Agreement, Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, Addenda issued prior to execution of the Contract, other documents listed in the Agreement, and Modifications issued after execution of the Contract. A Modification is (1) a written amendment to the Contract signed by both parties, (2) a Change Order, (3) a Construction Change Directive, or (4) a written order for a minor change in the Work issued by the Architect. Unless specifically enumerated in the Agreement, the Contract Documents do not include the advertisement or invitation to bid, Instructions to Bidders, sample forms, other information furnished by the Owner in anticipation of receiving bids or proposals, the Contractor's bid or proposal, or portions of addenda relating to bidding or proposal requirements.

§ 1.1.1.1 Notwithstanding the foregoing, it is understood and agreed that the Owner is an intended third-party beneficiary of all contracts between the Contractor and Subcontractors or suppliers who provide labor and/or materials for the Work.

§ 1.1.2 The Contract. The Contract Documents form the Contract for Construction. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations, or agreements, either written or oral. The Contract may be amended or modified only by a Modification. The Contract Documents shall not be construed to create a contractual relationship of any kind (1) between the Contractor and the Architect or the Architect's consultants, (2) between the Owner and the Construction Manager or the Construction Manager's consultants, (3) between the Owner and the Architect or the Architect's consultants, (4) between the Contractor and the Construction Manager or the Construction Manager's consultants, (5) between the Owner and a Subcontractor or Sub-subcontractor (6) between the Construction Manager and the Architect, or (7) between any persons or entities other than the Owner and Contractor. The Construction Manager and Architect shall, however, be entitled to performance and enforcement of obligations under the Contract intended to facilitate performance of their duties.

§ 1.1.3 The Work. The term "Work" means the construction and services required by the Contract Documents, whether completed or partially completed, and includes all other labor, materials, equipment, and services provided or to be provided by the Contractor to fulfill the Contractor's obligations. The Work may constitute the whole or a part of the Project.

§ 1.1.4 The Project. The Project is the total construction of which the Work performed under the Contract Documents may be the whole or a part and which may include construction by other Contractors, and by the Owner's own forces and Separate Contractors.

§ 1.1.5 Contractors. Contractors are persons or entities, other than the Contractor or Separate Contractors, who perform Work under contracts with the Owner that are administered by the Architect and Construction Manager.

§ 1.1.6 Separate Contractors. Separate Contractors are persons or entities who perform construction under separate contracts with the Owner not administered by the Architect and Construction Manager.

§ 1.1.7 The Drawings. The Drawings are the graphic and pictorial portions of the Contract Documents showing the design, location and dimensions of the Work, generally including plans, elevations, sections, details, schedules, and diagrams.

§ 1.1.8 The Specifications. The Specifications are that portion of the Contract Documents consisting of the written requirements for materials, equipment, systems, standards and workmanship for the Work, and performance of related services.

§ 1.1.9 Instruments of Service. Instruments of Service are representations, in any medium of expression now known or later developed, of the tangible and intangible creative work performed by the Architect and the Architect's consultants under their respective professional services agreements. Instruments of Service may include, without limitation, studies, surveys, models, sketches, drawings, specifications, and other similar materials.

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§ 1.1.10 Initial Decision Maker. The Initial Decision Maker is the person identified in the Agreement to render initial decisions on Claims in accordance with Section 15.2. The Architect will serve as the Initial Decision Maker pursuant to Section 15.2 of AIA Document A232–2019.

§ 1.2 Correlation and Intent of the Contract Documents

§ 1.2.1 The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work by the Contractor. The Contract Documents are complementary, and what is required by one shall be as binding as if required by all; performance by the Contractor shall be required only to the extent consistent with the Contract Documents and reasonably inferable from them as being necessary to produce the intended results.

§ 1.2.1.1 The invalidity of any provision of the Contract Documents shall not invalidate the Contract or its remaining provisions. In such case the Contract Documents shall be construed, to the fullest extent permitted by law, to give effect to the parties' intentions and purposes in executing the Contract.

§ 1.2.2 Organization of the Specifications into divisions, sections and articles, and arrangement of Drawings shall not control the Contractor in dividing the Work among Subcontractors or in establishing the extent of Work to be performed by any trade.

§ 1.2.3 Unless otherwise stated in the Contract Documents, words that have well-known technical or construction industry meanings are used in the Contract Documents in accordance with such recognized meanings.

§ 1.3 Capitalization

Terms capitalized in these General Conditions include those that are (1) specifically defined, (2) the titles of numbered articles, or (3) the titles of other documents published by the American Institute of Architects.

§ 1.4 Interpretation

In the interest of brevity the Contract Documents frequently omit modifying words such as "all" and "any" and articles such as "the" and "an," but the fact that a modifier or an article is absent from one statement and appears in another is not intended to affect the interpretation of either statement.

§ 1.4.1 In the case of inconsistency between Drawings and Specifications or within Contract Documents not clarified by Addenda, the better quality or greater quantity of Work shall be provided in accordance with the Architect's interpretation.

§ 1.5 Ownership and Use of Drawings, Specifications, and Other Instruments of Service

§ 1.5.1 The Architect and the Architect's consultants shall be deemed the authors and owners of their respective Instruments of Service, including the Drawings and Specifications, and retain all common law, statutory, and other reserved rights in their Instruments of Service, including copyrights. The Contractor, Subcontractors, sub-subcontractors, and suppliers shall not own or claim a copyright in the Instruments of Service. Submittal or distribution to meet official regulatory requirements or for other purposes in connection with the Project is not to be construed as publication in derogation of the Architect's or Architect's consultants' reserved rights. The Owner retains rights to the Instruments of Service pursuant to Article 7 of AIA Document B101-2017.

§ 1.5.2 The Contractor, Subcontractors, Sub-subcontractors, and suppliers are authorized to use and reproduce the Instruments of Service provided to them, subject to any protocols established pursuant to Sections 1.7 and 1.8, solely and exclusively for execution of the Work. All copies made under this authorization shall bear the copyright notice, if any, shown on the Instruments of Service. The Contractor, Subcontractors, Sub-subcontractors, and suppliers may not use the Instruments of Service on other projects or for additions to the Project outside the scope of the Work without the specific written consent of the Owner, Architect, and the Architect's consultants.

§ 1.5.3 The Architect shall furnish to the Contractor a version of the Instruments of Service in electronic form for the sole purpose of the construction of the Project for which the Instruments of Service were created.

§ 1.6 Notice

§ 1.6.1 Except as otherwise provided in Section 1.6.2, where the Contract Documents require one party to notify or give notice to the other party, such notice shall be provided in writing to the designated representative of the party to

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whom the notice is addressed and shall be deemed to have been duly served if delivered in person, by mail, by courier, or by electronic transmission if a method for electronic transmission is set forth in the Agreement.

§ 1.6.2 Notice of Claims as provided in Section 15.1.3 shall be provided in writing and shall be deemed to have been duly served only if delivered to the designated representative of the party to whom the notice is addressed by certified or registered mail, or by courier providing proof of delivery.

§ 1.7 Digital Data Use and Transmission

The parties shall agree upon protocols governing the transmission and use of Instruments of Service or any other information or documentation in digital form. The parties may use AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit or other form, to establish the protocols for the development, use, transmission, and exchange of digital data.

§ 1.8 Building Information Models Use and Reliance

Any use of, or reliance on, all or a portion of a building information model without agreement to protocols governing the use of, and reliance on, the information contained in the model and without having those protocols set forth in AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, and the requisite AIA Document G202™–2013, Project Building Information Modeling Protocol Form or other form, shall be at the using or relying party's sole risk and without liability to the other party and its contractors or consultants, the authors of, or contributors to, the building information model, and each of their agents and employees.

ARTICLE 2 OWNER

§ 2.1 General

§ 2.1.1 The Owner is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The Owner shall designate in writing a representative who shall have express authority to bind the Owner with respect to all matters requiring the Owner's approval or authorization in accordance with Owner's Delegation of Authority Policy, a copy of which will be provided at Contractor's request. Except as otherwise provided in Section 4.2.1, the Construction Manager and the Architect do not have such authority. The term "Owner" means the Owner or the Owner's authorized representative.

(Paragraph deleted)

§ 2.2 Evidence of the Owner's Financial Arrangements

§ 2.2.1 Prior to commencement of the Work, and upon written request by the Contractor, the Owner shall furnish to the Contractor reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Contract. The Contractor shall have no obligation to commence the Work until the Owner provides such evidence. If commencement of the Work is delayed under this Section 2.2.1, the Contract Time shall be extended appropriately.

§ 2.2.2 Following commencement of the Work and upon written request by the Contractor, the Owner shall furnish to the Contractor reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Contract only if (1) the Owner fails to make payments to the Contractor as the Contract Documents require; (2) the Contractor identifies in writing a reasonable concern regarding the Owner's ability to make payment when due; or (3) a change in the Work materially changes the Contract Sum. If the Owner fails to provide such evidence, as required, within fourteen days of the Contractor's request, the Contractor may immediately stop the Work and, in that event, shall notify the Owner that the Work has stopped. However, if the request is made because a change in the Work materially changes the Contract Sum under (3) above, the Contractor may immediately stop only that portion of the Work affected by the change until reasonable evidence is provided. If the Work is stopped under this Section 2.2.2, the Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable costs of shutdown, delay and start-up, plus interest as provided in the Contract Documents.

§ 2.2.3 After the Owner furnishes evidence of financial arrangements under this Section 2.2, the Owner shall not materially vary such financial arrangements without prior notice to the Contractor.

§ 2.2.4 Where the Owner has designated information furnished under this Section 2.2 as "confidential," the Contractor shall keep the information confidential and shall not disclose it to any other person. However, the Contractor may disclose "confidential" information, after seven (7) days' notice to the Owner, where disclosure is required by law, including a subpoena or other form of compulsory legal process issued by a court or governmental entity, or by court

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or arbitrator(s) order. The Contractor may also disclose "confidential" information to its employees, consultants, sureties, Subcontractors and their employees, Sub-subcontractors, and others who need to know the content of such information solely and exclusively for the Project and who agree to maintain the confidentiality of such information.

§ 2.3 Information and Services Required of the Owner

§ 2.3.1 Except for permits and fees that are the responsibility of the Contractor under the Contract Documents, including those required under Section 3.7.1, the Owner shall secure and pay for necessary approvals, easements, assessments and charges required for construction, use or occupancy of permanent structures or for permanent changes in existing facilities. Unless otherwise provided under the Contract Documents, the Owner, assisted by the Construction Manager, shall secure and pay for the building permit.

§ 2.3.2 The Owner shall retain an architect lawfully licensed to practice architecture, or an entity lawfully practicing architecture, in the jurisdiction where the Project is located. That person or entity is identified as the Architect in the Agreement and is referred to throughout the Contract Documents as if singular in number.

§ 2.3.3 The Owner shall retain a construction manager adviser lawfully practicing construction management in the jurisdiction where the Project is located. That person or entity is identified as the Construction Manager in the Agreement and is referred to throughout the Contract Documents as if singular in number.

§ 2.3.4 If the employment of the Construction Manager or Architect terminates, the Owner shall employ a successor construction manager or architect to whom the Contractor has no reasonable objection and whose status under the Contract Documents shall be that of the Construction Manager or Architect, respectively.

§ 2.3.5 If requested by the Contractor and reasonably required for the Project, the Owner shall furnish surveys describing physical characteristics, legal limitations and utility locations for the site of the Project, and a written legal description of the site. The Contractor shall exercise proper precautions relating to the safe performance of the Work.

§ 2.3.6 The Owner shall furnish information or services required of the Owner by the Contract Documents with reasonable promptness. The Owner shall also furnish any other information or services under the Owner's control and relevant to the Contractor's performance of the Work with reasonable promptness after receiving the Contractor's written request for such information or services. The Contractor is responsible for the timeliness of, or interference caused by, Subcontractors, Sub-subcontractors (of any tier), and others directly or indirectly under contract to the Contractor.

§ 2.3.7 Unless otherwise provided in the Contract Documents, the Owner shall furnish to the Contractor one copy of the Contract Documents for purposes of making reproductions pursuant to Section 1.5.2.

§ 2.3.8 The Owner shall forward all communications to the Contractor through the Construction Manager. Other communication shall be made as set forth in Section 4.2.6.

§ 2.4 Owner's Right to Stop the Work

If the Contractor fails to correct Work that is not in accordance with the requirements of the Contract Documents as required by Section 12.2 or repeatedly fails to carry out Work in accordance with the Contract Documents, the Owner may issue a written order to the Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, the right of the Owner to stop the Work shall not give rise to a duty on the part of the Owner to exercise this right for the benefit of the Contractor or any other person or entity, except to the extent required by Section 6.1.3.

§ 2.5 Owner's Right to Carry Out the Work

If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within a three-business-day (3) period after receipt of notice from the Owner to commence and continue correction of such default or neglect with diligence and promptness, the Owner may, without prejudice to other remedies the Owner may have, correct such default or neglect. Such action by the Owner and amounts charged to the Contractor are both subject to review by the Construction Manager and prior approval of the Architect, and the Construction Manager or Architect may, pursuant to Section 9.5.1, withhold or nullify a Certificate for Payment in whole or in part, to the extent reasonably necessary to reimburse the Owner for the reasonable cost of correcting such deficiencies, including Owner's expenses and compensation for the Construction Manager's and Architect's and their respective consultants'

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additional services and expenses made necessary by such default, neglect, or failure. If current and future payments are not sufficient to cover such amounts, the Contractor shall pay the difference to the Owner within ten (10) days following written request for payment delivered by the Owner to the Contractor. If the Contractor disagrees with the actions of the Owner or the Architect, or the amounts claimed as costs to the Owner, the Contractor may file a Claim pursuant to Article 15.

ARTICLE 3 CONTRACTOR

§ 3.1 General

§ 3.1.1 The Contractor is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The Contractor shall be lawfully licensed, if required in the jurisdiction where the Project is located. The Contractor shall designate in writing a representative who shall have express authority to bind the Contractor with respect to all matters under this Contract. The term "Contractor" means the Contractor or the Contractor's authorized representative.

§ 3.1.2 The Contractor shall perform the Work in accordance with the Contract Documents.

§ 3.1.3 The Contractor shall hire a professional utilities locator to investigate and verify all private utility locations prior to excavation and cutting into of existing Work. The Contractor is responsible for locating, terminating, and reinstallation of all private utilities. Private site utilities may not be in the Drawings and Project Manual and as such, verification of private utilities is the sole responsibility of the Contractor. Costs associated with moving and repairing of unknown and undocumented utilities will be by appropriate Change Order. The Contractor shall comply with Gopher State One Call, or other public utility service locator to locate all public utilities prior to any work on the site. This shall not relieve Contractor from obligations under Article 3.

§ 3.1.4 The Contractor shall not be relieved of its obligations to perform the Work in accordance with the Contract Documents either by activities or duties of the Construction Manager or Architect in their administration of the Contract, or by tests, inspections or approvals required or performed by persons or entities other than the Contractor.

§ 3.2 Review of Contract Documents and Field Conditions by Contractor

§ 3.2.1 The Contractor shall carefully study and compare the Contract Documents with each other and with information furnished by the Owner pursuant to Section 2.2.3, and shall immediately report to the Architect and Construction Manager errors, inconsistencies, or omissions discovered. The Contractor shall not be liable to the Owner or Architect for damage resulting from errors, inconsistencies, or omissions in the Contract Document unless the Contractor recognized such error, inconsistency, or omission and knowingly failed to report it to the Architect. If the Contractor performs any construction activity knowing or believing it involves a recognized error, inconsistency, or omission in the Contract Documents without such notice to the Architect, the Contractor shall assume full responsibility for such performance and shall bear the attributable costs for correction and shall bear responsibility for any additional costs, delays, and damages resulting from such failure to immediately report any such errors, inconsistencies, or omissions which the Contractor may discover. By executing the Contract, the Contractor represents that the Contractor has reviewed and understands the Contract Documents, has visited the Site and is familiar with local conditions under which the Work is to be performed, has correlated personal observations with the requirements of the Contract Documents, and has notified the Architect of and obtained clarification of any discrepancies which have become apparent during the bidding or proposal period.

§ 3.2.1.1 The Contractor shall take field measurements and verify field conditions and shall carefully compare such field measurements and conditions and other information known to the Contractor with the Contract Documents before commencing activities. Errors, inconsistencies, or omissions discovered shall be reported to the Architect immediately in writing.

§ 3.2.1.2 The Contractor shall carefully study and compare the Contract Documents with existing conditions at the job site and shall immediately report in writing to the Architect any error, inconsistency, or omission which the Contractor may discover or any materials, systems, procedures, or methods of construction, either shown on the Drawings or specified, which the Contractor has reason to believe are incorrect, inadequate, obsolete, unsuitable for the purpose intended or which the Contractor has reason to believe would constitute or result in a violation of the Contractor's warranty under Section 3.5 or applicable law. The Contractor shall not proceed with any work in such areas until written instructions are received from the Architect.

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§ 3.2.2 The Contractor shall perform the Work in accordance with the Contract Documents and submittals accepted pursuant to Section 3.12.

§ 3.2.3 The Owner shall be entitled to deduct from the Contract Sum amounts paid to the Architect for the Architect to evaluate and respond to the Contractor's requests for interpretation or information where such information was available to the Contractor from a careful study and comparison of the Contract Documents, Filed Conditions, Owner Provided Information, Contractor Prepared Coordination Drawings, or prior Project Correspondence or Documentation.

§ 3.2.4 If the Contractor believes that any portions of the Contract Documents do not comply with applicable laws, statutes, ordinances, building codes, and rules and regulations, or any orders by code enforcement officials or the Owner or its designees acting in the capacity of building code inspectors or Referenced Standards, the Contractor must promptly notify the Owner and the Architect of the non-compliance as provided in Section 3.2.6 and request direction before proceeding with the affected Work.

§ 3.2.5 The Contractor must promptly notify the Owner and the Architect in writing of any apparent errors, inconsistencies, omissions, ambiguities, construction impracticalities or code violations discovered as a result of the Contractor's review of the Contract Documents including any differences between actual and indicated dimensions, locations and descriptions, and must give the Owner and the Architect timely notice in writing of same and of any corrections, clarifications, additional Drawings or Specifications, or other information required to define the Work in greater detail or to permit the proper progress of the Work. The Contractor must provide similar notice with respect to any variance between its review of the Site and physical data and Site conditions observed.

§ 3.2.6 If the Contractor performs any Work involving an apparent error, inconsistency, ambiguity, construction impracticality, omission or code violation in the Contract Documents of which the Contractor is aware, or which could reasonably have been discovered by the review required by Section 3.2, without prompt written notice to the Owner and the Architect and request for correction, clarification or additional information, as appropriate, the Contractor does so at its own risk and expense and all Claims relating thereafter are specifically waived.

§ 3.3 Supervision and Construction Procedures

§ 3.3.1 The Contractor shall supervise and direct the Work, using the Contractor's best skill and attention. The Contractor shall be solely responsible for, and have control over, construction means, methods, techniques, sequences, and procedures, and for coordinating all portions of the Work under the Contract. If the Contract Documents give specific instructions concerning construction means, methods, techniques, sequences, or procedures, the Contractor shall evaluate the jobsite safety thereof and shall be solely responsible for the jobsite safety of such means, methods, techniques, sequences, or procedures. If the Contractor determines that such means, methods, techniques, sequences or procedures may not be safe, the Contractor shall give timely notice to the Owner, the Construction Manager, and the Architect, and shall propose alternative means, methods, techniques, sequences, or procedures. The Architect shall evaluate the proposed alternative solely for conformance with the design intent for the completed construction. The Construction Manager shall review the proposed alternative for sequencing, constructability, and coordination impacts on the other Contractors. Unless the Architect or the Construction Manager objects to the Contractor's proposed alternative, the Contractor shall perform the Work using its alternative means, methods, techniques, sequences, or procedures.

§ 3.3.2 The Contractor shall be responsible to the Owner for acts and omissions of the Contractor's employees, Subcontractors and their agents and employees, and other persons or entities performing portions of the Work for, or on behalf of, the Contractor or any of its Subcontractors.

§ 3.3.3 The Contractor shall be responsible for inspection of portions of the Project already performed to determine that such portions are in proper condition to receive subsequent Work.

§ 3.3.4 The Contractor shall at all times staff the Project adequately to allow the Project to be managed and completed in a timely and professional manner. The Contractor shall have competent supervision on the job during work hours and readily available at all times upon call.

§ 3.3.5 The Contractor shall at all times make reasonable provisions to protect any Work performed by any separate contractors, adjacent property, and the existing building (if any) from damage due to the Work or due to the weather.

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§ 3.3.6 The Owner or its approved representative (heretofore referred to as Owner's Representative) shall have access to the Work site and all Work. No supervision or inspection by the Owner or the Owner's Representative, nor the authority to act, nor any other actions taken by the Owner's Representative shall relieve the Contractor of any of its obligations under the Contract Documents or give rise to any duty on the part of the Owner.

§ 3.3.7 The Contract shall take appropriate precautions to ensure that the Work does not materially disrupt any ongoing operation by the Owner at the Project (if any) except to the extent any such disruption is a necessary result of performing a particular portion of the Work, in which case the Contractor shall provide the Owner with reasonable advanced written notice and shall take all commercially reasonable measures to minimize the impact on the Owner and the Owner's operations.

§ 3.4 Labor and Materials

§ 3.4.1 Unless otherwise provided in the Contract Documents, the Contractor shall provide and pay for labor, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation, and other facilities and services necessary for proper execution and completion of the Work, whether temporary or permanent and whether or not incorporated or to be incorporated in the Work. Should the Contract Documents require Work to be performed after regular working hours or should the Contractor elect to perform Work after regular working hours, the additional cost of such Work shall be borne by the Contractor.

§ 3.4.2 Except in the case of minor changes in the Work approved by the Architect in accordance with Section 3.12.8 or ordered by the Architect in accordance with Section 7.4, the Contractor may make substitutions only with the consent of the Owner, after evaluation by the Architect, in consultation with the Construction Manager, and in accordance with a Change Order or Construction Change Directive.

§ 3.4.3 The Contractor shall enforce strict discipline and good order among the Contractor's employees and other persons carrying out the Work. The Contractor shall not permit employment of unfit persons or persons not properly skilled in tasks assigned to them.

§ 3.4.4 The Contractor shall be responsible for all additional costs incurred to incorporate into the Project substitute materials, products, or equipment approved by Owner during the bidding period.

§ 3.4.5 In the event of a Change related to substitute or additional materials, and which shall comply with Article 7, the Contractor shall exercise reasonable efforts, consistent with the provisions of the Contract Documents to obtain the maximum available case discounts on all materials, provided that, in doing so, the Contractor shall not accept or use materials for incorporation into the Project which are of a type or quality not reasonably contemplated under the terms of the Contract Documents.

§ 3.4.6 After award of the Contract, a request for substitution of a material, product, or piece of equipment at no change in the Contract Sum will not be approved by the Owner or the Architect, unless the specified item is no longer manufactured, the specified item is unavailable as a result of an act of government such as a declaration of a national emergency, or delivery of the specified items is substantially delayed as a result of labor disputes affecting the manufacturer, unusual delay in transportation, or any other cause beyond control of the Contractor or a Subcontractor or material supplier which the Architect determines justified the delay. Requests will not be approved where the delay in delivery results from failure to promptly place subcontracts and material orders. Requests for substitution shall be submitted in writing to the Architect and shall clearly describe the proposed substitution, state the reason for the unavailability of a specified item and be accompanied by such additional data and information as may be necessary in the discretion of the Owner and the Architect to establish the acceptability of the proposed substitute.

§ 3.4.7 The Owner shall be entitled to deduct from the Contract Sum amounts paid to the Architect to evaluate the Contractor's proposed Substitutions and for changes made to the Contract Documents as a result of Owner's acceptance of such Substitutions.

§ 3.5 Warranty

§ 3.5.1 The Contractor warrants to the Owner, Construction Manager, and Architect that materials and equipment furnished under the Contract will be of good quality and new unless the Contract Documents require or permit otherwise. The Contractor further warrants that the Work will conform to the requirements of the Contract Documents

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and will be free from defects, except for those inherent in the quality of the Work the Contract Documents require or permit. Work, materials, or equipment not conforming to these requirements may be considered defective. The Contractor's warranty excludes remedy for damage or defect caused by abuse, alterations to the Work not executed by the Contractor, improper or insufficient maintenance, improper operation, or normal wear and tear and normal usage. If required by the Construction Manager or Architect, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment.

§ 3.5.2 All material, equipment, or other special warranties required by the Contract Documents shall be issued in the name of the Owner, or shall be transferable to the Owner, and shall commence in accordance with Section 9.8.4. The Contractor shall arrange for the Owner to have the benefit of and right to enforce all warranties by Subcontractors, Sub-subcontractors, suppliers, and manufacturers.

§ 3.5.3 Manufacturers' warranties and warranties by other shall not relieve the Contractor of any of its responsibilities.

§ 3.5.4 The Contractor's general warranty and any additional or special warranties are not limited by the Contractor's obligations to specifically correct defective or nonconforming Work as provided in Article 12, nor are they limited by any other remedies provided in the Contract Documents. The Contractor shall also be liable for any damage to property or persons (including death) including consequential and direct damages relating to any breach of the Contractor's general warranty or any additional or special warranties required by the Contract Documents.

§ 3.5.5 The Contractor must furnish all special warranties required by the Contract Documents to the Owner no later than Substantial Completion. The Owner may require additional special warranties in connection with the approval of "Or-Equals" or Substitutions, Allowance items, Work that is defective or nonconforming, or the acceptance of nonconforming Work pursuant to Article 12.

§ 3.6 Taxes

The Contractor shall pay sales, consumer, use and similar taxes for the Work or portions thereof provided by the Contractor that are legally enacted when bids are received or negotiations concluded, whether or not yet effective or merely scheduled to go into effect.

§ 3.7 Permits, Fees, Notices, and Compliance with Laws

§ 3.7.1 Unless otherwise provided in the Contract Documents, the Owner, assisted by the Construction Manager, shall secure and pay for the building permit. The Contractor shall secure and pay for other permits, fees, licenses, and inspections by government agencies necessary for proper execution and completion of the Work that are customarily secured after execution of the Contract and legally required at the time bids are received or negotiations concluded. The Contractor shall be responsible for the Sewer Access (SAC) and Water Access (WAC) fees for the Project. The Contractor shall pay the SAC/WAC costs to the authorities having jurisdiction from the Allowance in the Base Bid for such charges as defined in the Construction Documents.

§ 3.7.2 The Contractor shall comply with and give notices required by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities applicable to performance of the Work.

§ 3.7.3 If the Contractor performs Work knowing or believing it to be contrary to applicable laws, statutes, ordinances, building codes, rules and regulations, or lawful orders of public authorities, without such notice to the Architect and Owner, the Contractor shall assume full responsibility for such Work and shall bear the attributable costs, delays, and damages resulting from such failure to immediately notify the Architect and Owner of any such violation..

§ 3.7.4 Concealed or Unknown Conditions. If the Contractor encounters conditions at the site that are (1) subsurface or otherwise concealed physical conditions that differ materially from those indicated in the Contract Documents or (2) unknown physical conditions of an unusual nature that differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents, the Contractor shall promptly provide notice to the Owner, Construction Manager, and the Architect before conditions are disturbed and in no event later than ten (10) days after first observance of the conditions. The Architect and Construction Manager will promptly investigate such conditions and, if the Architect, in consultation with the Construction Manager, determines that they differ materially and cause an increase or decrease in the Contractor's cost of, or time required for, performance of any part of the Work, will recommend that an equitable adjustment be made in the Contract Sum or Contract Time, or both. If the Architect, in consultation with the Construction Manager,

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determines that the conditions at the site are not materially different from those indicated in the Contract Documents and that no change in the terms of the Contract is justified, the Architect shall promptly notify the Owner, Construction Manager, and Contractor, stating the reasons. If the Owner or Contractor disputes the Architect's determination or recommendation, either party may submit a Claim as provided in Article 15.

§ 3.7.5 If, in the course of the Work, the Contractor encounters human remains or recognizes the existence of burial markers, archaeological sites or wetlands not indicated in the Contract Documents, the Contractor shall immediately suspend any operations that would affect them and shall notify the Owner, Construction Manager, and Architect. Upon receipt of such notice, the Owner shall promptly take any action necessary to obtain governmental authorization required to resume the operations. The Contractor shall continue to suspend such operations until otherwise instructed by the Owner but shall continue with all other operations that do not affect those remains or features. Requests for adjustments in the Contract Sum and Contract Time arising from the existence of such remains or features may be made as provided in Article 15.

§ 3.8 Allowances

§ 3.8.1 The Contractor shall include in the Contract Sum all allowances stated in the Contract Documents. Items covered by allowances shall be supplied for such amounts and by such persons or entities as the Owner may direct, but the Contractor shall not be required to employ persons or entities to whom the Contractor has reasonable objection.

§ 3.8.2 Unless otherwise provided in the Contract Documents:

- **.1** allowances shall cover the cost to the Contractor of materials and equipment delivered at the site and all required taxes, less applicable trade discounts;
- **.2** Contractor's costs for unloading and handling at the site, labor, installation costs, overhead, profit, and other expenses contemplated for stated allowance amounts shall be included in the Contract Sum but not in the allowances; and
- **.3** whenever costs are more than or less than allowances, the Contract Sum shall be adjusted accordingly by Change Order. The amount of the Change Order shall reflect (1) the difference between actual costs and the allowances under Section 3.8.2.1 and (2) changes in Contractor's costs under Section 3.8.2.2.

§ 3.8.3 Materials and equipment under an allowance shall be selected by the Owner with reasonable promptness.

§ 3.9 Superintendent

§ 3.9.1 The Contractor shall employ a competent superintendent and necessary assistants who shall be in attendance at the Project site during performance of the Work, including that performed by all Subcontractors. The superintendent shall represent the Contractor, and communications given to the superintendent shall be as binding as if given to the Contractor. Important communications including and not limited to communications regarding design changes, alterations, substitutions, clarifications, cost changes, etc. shall be confirmed in writing by the Contractor. Other communications shall be similarly confirmed on written request in each case.

§ 3.9.2 The Contractor, as soon as practicable after award of the Contract, shall notify the Owner and Architect, through the Construction Manager, of the name and qualifications of a proposed superintendent. Within 14 days of receipt of the information, the Construction Manager may notify the Contractor, stating whether the Owner, the Construction Manager, or the Architect (1) has reasonable objection to the proposed superintendent or (2) require additional time for review. Failure of the Construction Manager to provide notice within the 14-day period shall constitute notice of no reasonable objection.

§ 3.9.3 The Contractor shall not employ a proposed superintendent or any other management personnel to whom the Owner, Construction Manager, or Architect has made reasonable and timely objection. The Contractor shall not change the superintendent without the Owner's consent, which shall not unreasonably be withheld or delayed.

§ 3.9.4 If requested by the Owner, the Contractor shall replace the superintendent at no additional cost to the Owner. No other change in this position shall be made without notice to and written consent of the Owner.

§ 3.10 Contractor's Construction and Submittal Schedules

§ 3.10.1 The Contractor, promptly after being awarded the Contract, shall submit for the Owner's and Architect's information, and the Construction Manager's use in developing the Project schedule, a Contractor's construction schedule for the Work. The schedule shall contain detail appropriate for the Project, including (1) the date of

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commencement of the Work, interim schedule milestone dates, critical path schedule milestones, major construction milestones, including and not limited to Civil, Demolition, Structural, Mechanical, Electrical, and Plumbing, and the date of Substantial Completion; (2) an apportionment of the Work by construction activity; and (3) the time required for completion of each portion of the Work. The schedule shall provide for the orderly progression of the Work to completion and shall not exceed time limits current under the Contract Documents. The schedule shall be revised at appropriate intervals as required by the conditions of the Work and Project. The Contractor shall cooperate with the Construction Manager in scheduling and performing the Contractor's Work to avoid conflict with, and as to cause no delay in, the work or activities of other Contractors, or the construction or operations of the Owner's own forces or Separate Contractors.

§ 3.10.2 The Contractor, promptly after being awarded the Contract and thereafter as necessary to maintain a current submittal schedule, shall submit a submittal schedule for the Construction Manager's and Architect's approval. The Architect and Construction Manager's approval shall not be unreasonably delayed or withheld. The submittal schedule shall (1) be coordinated with the Contractor's construction schedule, and (2) allow the Construction Manager and Architect reasonable time to review submittals. If the Contractor fails to submit a submittal schedule, or fails to provide submittals in accordance with the approved submittal schedule, the Contractor shall not be entitled to any increase in Contract Sum or extension of Contract Time based on the time required for review of submittals.

§ 3.10.3 The Contractor shall participate with other Contractors, the Construction Manager, and the Owner in reviewing and coordinating all schedules for incorporation into the Project schedule that is prepared by the Construction Manager. The Contractor shall make revisions to the construction schedule and submittal schedule as deemed necessary by the Construction Manager to conform to the Project schedule.

§ 3.10.4 The Contractor shall perform the Work in general accordance with the most recent schedules submitted to and accepted in writing by the Owner, Construction Manager, and Architect, and incorporated into the approved Project schedule.

§ 3.11 Documents and Samples at the Site

§ 3.11.1 The Contractor shall make available, at the Project site, one record copy of the Contract Documents, including Change Orders, Construction Change Directives, and other Modifications, in good order and updated daily to indicate field changes and selections made during construction, and in addition accepted and approved Shop Drawings, Product Data, Samples, and similar required submittals. These shall be in electronic form or paper copy, available to the Construction Manager, Architect, and Owner as required to complete routine inspections by Architect, Construction Manager and Owner prior to any approval of payments to the Contractor, and delivered to the Construction Manager for submittal to the Owner upon completion of the Work. The Architect and Contractor must verify that all "as-built" Drawings, Specifications, Addenda, Change Orders, and other Modifications are up-to-date before Contractor's Application for Payment is acceptable and before the Owner incurs any duty to pay Contractor in accordance with the Contract. The record documents shall be a separate set of documents labeled "Record Documents" and used only for record purposes and kept clean and undamaged.

§ 3.11.2 No review or receipt of such records by the Architect or Owner shall be considered a waiver of any deviation from the Contract Documents or approved shop drawings, or any way relieve the Contractor from its responsibility to perform the Work in accordance with the Contract Documents.

§ 3.12 Shop Drawings, Product Data, and Samples

§ 3.12.1 Shop Drawings are drawings, diagrams, schedules, and other data specially prepared for the Work by the Contractor or a Subcontractor, Sub-subcontractor, manufacturer, supplier, or distributor to illustrate some portion of the Work.

§ 3.12.2 Product Data are illustrations, standard schedules, performance charts, instructions, brochures, diagrams, and other information furnished by the Contractor to illustrate materials or equipment for some portion of the Work.

§ 3.12.3 Samples are physical examples that illustrate materials, equipment, or workmanship, and establish standards by which the Work will be judged.

§ 3.12.4 Shop Drawings, Product Data, Samples, and similar submittals are not Contract Documents. Their purpose is to demonstrate how the Contractor proposes to conform to the information given and the design concept expressed in the Contract Documents for those portions of the Work for which the Contract Documents require submittals. Review

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by the Architect and Construction Manager is subject to the limitations of Sections 4.2.10 through 4.2.12. Informational submittals upon which the Construction Manager and Architect are not expected to take responsive action may be so identified in the Contract Documents. Submittals that are not required by the Contract Documents may be returned by the Construction Manager or Architect without action.

§ 3.12.5 The Contractor shall review for compliance with the Contract Documents, approve, and submit to the Construction Manager, Shop Drawings, Product Data, Samples, and similar submittals required by the Contract Documents, in accordance with the Project submittal schedule approved by the Construction Manager and Architect or, in the absence of an approved Project submittal schedule, with reasonable promptness and in such sequence as to cause no delay in the Work or in the activities of other Contractors, Separate Contractors, or the Owner's own forces. The Contractor shall cooperate with the Construction Manager in the coordination of the Contractor's Shop Drawings, Product Data, Samples, and similar submittals with related documents submitted by other Contractors. The Contractor must provide the Owner and the Architect with copies of all submittals made to regulatory agencies.

§ 3.12.6 By submitting Shop Drawings, Product Data, Samples, and similar submittals, the Contractor represents to the Owner, Construction Manager, and Architect, that the Contractor has (1) reviewed and approved them, (2) determined and verified materials, field measurements and field construction criteria related thereto, or will do so, and (3) checked and coordinated the information contained within such submittals with the requirements of the Work and of the Contract Documents.

§ 3.12.7 The Contractor shall perform no portion of the Work for which the Contract Documents require submittal and review of Shop Drawings, Product Data, Samples, or similar submittals, until the respective submittal has been reviewed and accepted by the Architect. The Contractor must correct at its cost, and without any adjustment in Contract Time, any Work the correction of which is required due to the Contractor's failure to obtain approval of a submittal required to have been obtained prior to proceeding with the Work, including, but not limited to, correction of any conflicts in the Work resulting from such failure.

§ 3.12.8 The Work shall be in accordance with accepted submittals except that the Contractor shall not be relieved of responsibility for deviations from the requirements of the Contract Documents by the Architect's acceptance of Shop Drawings, Product Data, Samples, or similar submittals, unless the Contractor has specifically notified the Construction Manager and Architect of such deviation at the time of submittal and (1) the Architect has given written acceptance to the specific deviation as a minor change in the Work, or (2) a Change Order or Construction Change Directive has been issued authorizing the deviation. The Contractor shall not be relieved of responsibility for errors or omissions in Shop Drawings, Product Data, Samples, or similar submittals, by the Architect's acceptance thereof.

§ 3.12.9 The Contractor shall direct specific attention, in writing or on resubmitted Shop Drawings, Product Data, Samples, or similar submittals, to revisions other than those requested by the Construction Manager and Architect on previous submittals. In the absence of such notice, the Architect's acceptance of a resubmission shall not apply to such revisions.

§ 3.12.10 The Contractor shall not be required to provide professional services that constitute the practice of architecture or engineering unless such services are specifically required by the Contract Documents for a portion of the Work or unless the Contractor needs to provide such services in order to carry out the Contractor's responsibilities for construction means, methods, techniques, sequences, and procedures. The Contractor shall not be required to provide professional services in violation of applicable law.

§ 3.12.10.1 If professional design services or certifications by a design professional related to systems, materials, or equipment are specifically required of the Contractor by the Contract Documents, the Owner and the Architect will specify all performance and design criteria that such services must satisfy. The Contractor shall be entitled to rely upon the adequacy and accuracy of the performance and design criteria provided in the Contract Documents. The Contractor shall cause such services or certifications to be provided by an appropriately licensed design professional, whose signature and seal shall appear on all drawings, calculations, specifications, certifications, Shop Drawings, and other submittals prepared by such professional. Shop Drawings, and other submittals related to the Work, designed or certified by such professional, if prepared by others, shall bear such professional's written approval when submitted to the Architect. The Owner, the Architect, and the Construction Manager shall be entitled to rely upon the adequacy and accuracy of the services, certifications, and approvals performed or provided by such design professionals, provided the Owner and Architect have specified to the Contractor the performance and design criteria that such services must

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satisfy. Pursuant to this Section 3.12.10, the Architect will review and approve or take other appropriate action on submittals only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Construction Manager shall review submittals for sequencing, constructability, and coordination impacts on other Contractors.

§ 3.12.10.2 If the Contract Documents require the Contractor's design professional to certify that the Work has been performed in accordance with the design criteria, the Contractor shall furnish such certifications to the Construction Manager and Architect at the time and in the form specified by the Architect.

§ 3.13 Use of Site

§ 3.13.1 The Contractor shall confine operations at the site to areas permitted by applicable laws, statutes, ordinances, codes, rules and regulations, lawful orders of public authorities, and the Contract Documents and shall not unreasonably encumber the site with materials or equipment.

§ 3.13.2 The Contractor shall coordinate the Contractor's operations with, and secure the approval of, the Construction Manager before using any portion of the site.

§ 3.13.3 Except as may be specifically provided in the Contract Documents, the Contractor shall provide all necessary temporary facilities, including power, water, sanitation, scaffolding, storage, and security. If Owner makes any such facilities available to Contractor, it is without representation or warranty as to their adequacy for Contractor's use, and Contractor shall indemnify, defend, and hold Owner harmless from and against any claims arising out of Contractor's use of such facilities.

§ 3.14 Cutting and Patching

§ 3.14.1 The Contractor shall be responsible for cutting, fitting, or patching required to complete the Work or to make its parts fit together properly. All areas requiring cutting, fitting, or patching shall be restored to the condition existing prior to the cutting, fitting, or patching, unless otherwise required by the Contract Documents.

§ 3.14.2 The Contractor shall not damage or endanger a portion of the Work or fully or partially completed construction of the Owner, Separate Contractors, or of other Contractors by cutting, patching, or otherwise altering such construction, or by excavation. The Contractor shall not cut or otherwise alter construction by the Owner, Separate Contractors, or by other Contractors except with written consent of the Construction Manager, Owner, and such other Contractors or Separate Contractors. Consent shall not be unreasonably withheld. The Contractor shall hire a professional utilities locator to verify locations of all public and private utilities prior to initiating any cutting work. The Contractor shall not unreasonably withhold, from the Separate Contractors, other Contractors, or the Owner, its consent to cutting or otherwise altering the Work.

§ 3.15 Cleaning Up

§ 3.15.1 The Contractor shall keep the premises and surrounding area continuously free from accumulation of waste materials and rubbish caused by operations under the Contract. At completion of the Work, the Contractor shall remove from and about the Project waste materials, rubbish, Contractor-generated waste materials, the Contractor's generated hazardous waste materials, the Contractor's tools, construction equipment, machinery, and surplus materials from and about the Project.

§ 3.15.2 If the Contractor fails to clean up as provided in the Contract Documents, the Owner, or Construction Manager with the Owner's approval, may do so and the Owner shall be entitled to reimbursement from the Contractor.

§ 3.16 Access to Work

The Contractor shall provide the Owner, Construction Manager, and Architect with access to the Work in preparation and progress wherever located.

§ 3.17 Royalties, Patents and Copyrights

The Contractor shall pay all royalties and license fees. The Contractor shall defend suits or claims for infringement of copyrights and patent rights and shall hold the Owner, Construction Manager, and Architect harmless from loss on account thereof, but shall not be responsible for defense or loss when a particular design, process, or product of a particular manufacturer or manufacturers is required by the Contract Documents, or where the copyright violations are contained in Drawings, Specifications, or other documents prepared by the Owner, Architect, or Construction

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Manager. However, if an infringement of a copyright or patent is discovered by, or made known to, the Contractor, the Contractor shall be responsible for the loss unless the information is promptly furnished to the Architect through the Construction Manager.

§ 3.18 Indemnification

§ 3.18.1 To the fullest extent permitted by law, the Contractor shall indemnify, defend and hold harmless the Owner, Construction Manager, Architect, Construction Manager's and Architect's consultants, and agents and employees of any of them from and against claims, damages, losses, and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), but only to the extent caused by the negligent acts or omissions of the Contractor, a Subcontractor, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss, or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity which would otherwise exist as to a party or person described in this Section 3.18. The Contractor, furthermore, agrees to obtain, maintain, and pay for such general liability coverage and endorsements (including product and completed operations coverage) as will ensure the provisions of this Section 3.18.1. The Contractor agrees to reimburse the Owner, its agents and employees for all costs and disbursements, including attorneys' fees, paid or incurred to enforce the provisions of this Section 3.18.1.

§ 3.18.2 In claims against any person or entity indemnified under this Section 3.18 by an employee of the Contractor, a Subcontractor, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, the indemnification obligation under Section 3.18.1 shall not be limited by a limitation on amount or type of damages, compensation, or benefits payable by or for the Contractor or a Subcontractor under workers' compensation acts, disability benefit acts, or other employee benefit acts.

§ 3.18.3 To the fullest extent permitted by law and without limiting any other indemnification obligations of the Contractor, except to the extent caused by the uncured failure of the Owner to make payment when due and owing, the Contractor shall indemnify and defend the Owner, its officers, directors, assigns, lenders, agents, and employees from any liens, charges (including attorneys' fees) or encumbrances (including but not limited to mechanic's and materialmen's liens or bond claims) arising out of or in connection with the performance of the Work by Contractor, its Subcontractors, or its material suppliers. Upon request of the Owner, the Contractor shall within sixty (60) days remove any liens filed against the Owner or its property. If the Contractor fails to do so, the Owner is authorized by the Contractor to remove or satisfy any such liens, and the Contractor shall pay to the Owner all costs and damages incurred by the Owner to do so, including attorneys' fees.

ARTICLE 4 ARCHITECT AND CONSTRUCTION MANAGER

§ 4.1 General

§ 4.1.1 The Architect is the person or entity retained by the Owner pursuant to Section 2.3.2 and identified as such in the Agreement.

§ 4.1.2 The Construction Manager is the person or entity retained by the Owner pursuant to Section 2.3.3 and identified as such in the Agreement.

§ 4.1.3 Duties, responsibilities, and limitations of authority of the Construction Manager and Architect as set forth in the Contract Documents shall not be restricted, modified, or extended without written consent of the Owner, Construction Manager, Architect, and Contractor. Consent shall not be unreasonably withheld.

§ 4.2 Administration of the Contract

§ 4.2.1 The Construction Manager and Architect will provide administration of the Contract as described in the Contract Documents and will be the Owner's consultants (1) during construction; (2) until final payment is due; and (3) with the Owner's concurrence, from time to time during the correction period described in Section 12.2. The Architect and Construction Manager will advise and consult with the Owner. The Construction Manager and Architect will have authority to act on behalf of the Owner only to the extent provided in the Contract Documents, unless otherwise modified in writing in accordance with other provisions of the Contract.

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§ 4.2.2 The Architect will visit the site at intervals appropriate to the stage of construction, or as otherwise agreed with the Owner, to become generally familiar with the progress and quality of the Work completed, to endeavor to guard the Owner against defects and deficiencies in the Work, and to determine in general if the Work is being performed in a manner indicating that the Work, when completed, will be in accordance with the Contract Documents. However, the Architect will not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. On the basis of the site visits, the Architect will keep the Owner and the Construction Manager reasonably informed about the progress and quality of the portion of the Work completed, and promptly report to the Owner and Construction Manager known deviations from the Contract Documents and defects and deficiencies observed in the Work.

§ 4.2.2.2 The Contractor shall reimburse the Owner for compensation paid to the Architect for additional site visits made necessary by fault, neglect, or request of the Contractor.

§ 4.2.3 The Construction Manager shall provide one or more representatives who shall be in attendance at the Project site whenever the Work is being performed. The Construction Manager will determine in general if the Work observed is being performed in accordance with the Contract Documents, will keep the Owner and Architect reasonably informed of the progress of the Work, and will promptly report to the Owner and Architect known deviations from the Contract Documents and the most recent Project schedule, and defects and deficiencies observed in the Work.

§ 4.2.4 The Construction Manager will schedule and coordinate the activities of the Contractor and other Contractors in accordance with the latest approved Project schedule.

§ 4.2.5 The Construction Manager, except to the extent required by Section 4.2.4, and Architect will not have control over, charge of, or responsibility for, the construction means, methods, techniques, sequences or procedures, or for the safety precautions and programs in connection with the Work, since these are solely the Contractor's rights and responsibilities under the Contract Documents, and neither will be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. Neither the Construction Manager nor the Architect will have control over or charge of, or be responsible for acts or omissions of, the Contractor, Subcontractors, or their agents or employees, or of any other persons or entities performing portions of the Work.

§ 4.2.6 Communications. The Owner shall communicate with the Contractor and the Construction Manager's consultants through the Construction Manager about matters arising out of or relating to the Contract Documents. The Owner and Construction Manager shall include the Architect in all communications that relate to or affect the Architect's services or professional responsibilities. The Owner shall promptly notify the Architect of the substance of any direct communications between the Owner and the Construction Manager otherwise relating to the Project. Communications by and with the Architect's consultants shall be through the Architect. Communications by and with Subcontractors and suppliers shall be through the Contractor. Communications by and with other Contractors shall be through the Construction Manager. Communications by and with the Owner's own forces and Separate Contractors shall be through the Owner unless otherwise provided. The Contract Documents may specify other communication protocols. The Owner may require the Architect, Construction Manager and the Contractor to comply with Owner requirements in regards to public communications and site signage.

§ 4.2.7 The Construction Manager and Architect will review and certify all Applications for Payment by the Contractor, in accordance with the provisions of Article 9.

§ 4.2.8 The Architect and Construction Manager have authority to reject Work that does not conform to the Contract Documents, and will notify each other about the rejection. Whenever the Construction Manager considers it necessary or advisable for implementation of the intent of the Contract Documents, the Construction Manager will have authority to require additional inspection or testing of the Work in accordance with Sections 13.4.2 and 13.4.3, upon written authorization of the Owner, whether or not the Work is fabricated, installed or completed. The foregoing authority of the Construction Manager will be subject to the provisions of Sections 4.2.18 through 4.2.20 inclusive, with respect to interpretations and decisions of the Architect. However, neither the Architect's nor the Construction Manager's authority to act under this Section 4.2.8 nor a decision made by either of them in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect or the Construction Manager to the Contractor, Subcontractors, suppliers, their agents or employees, or other persons performing any of the Work.

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§ 4.2.9 Utilizing the submittal schedule provided by the Contractor, the Construction Manager shall prepare, and revise as necessary, a Project submittal schedule incorporating information from other Contractors, the Owner, Owner's consultants, Owner's Separate Contractors and vendors, governmental agencies, and participants in the Project under the management of the Construction Manager. The Project submittal schedule and any revisions shall be submitted to the Architect for approval.

§ 4.2.10 The Construction Manager will receive and promptly review for conformance with the submittal requirements of the Contract Documents, all submittals from the Contractor such as Shop Drawings, Product Data, and Samples. Where there are other Contractors, the Construction Manager will also check and coordinate the information contained within each submittal received from the Contractor and other Contractors, and transmit to the Architect those recommended for approval. By submitting Shop Drawings, Product Data, Samples, and similar submittals, the Construction Manager represents to the Owner and Architect that the Construction Manager has reviewed and recommended them for approval. The Construction Manager's actions will be taken in accordance with the Project submittal schedule approved by the Architect or, in the absence of an approved Project submittal schedule, with reasonable promptness while allowing sufficient time to permit adequate review by the Architect.

§ 4.2.11 The Architect will, and the Owner may, review and approve, or take other appropriate action upon, the Contractor's submittals such as Shop Drawings, Product Data, and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Architect's or Owner's action will be taken with such reasonable promptness as to cause no delay in the Work or in the activities of the Owner, Contractor or separate contractors, while allowing sufficient time in the Architect's professional judgment to permit adequate review. Upon the Architect's or the Owner's completed review, the Architect shall transmit its submittal review to the Construction Manager.

§ 4.2.12 Review of the Contractor's submittals by the Construction Manager and Architect is not conducted for the purpose of determining the accuracy and completeness of other details such as dimensions and quantities, or for substantiating instructions for installation or performance of equipment or systems, all of which remain the responsibility of the Contractor as required by the Contract Documents. The Construction Manager and Architect's review of the Contractor's submittals shall not relieve the Contractor of the obligations under Sections 3.3, 3.5, and 3.12. The Construction Manager and Architect's review shall not constitute approval of safety precautions or of any construction means, methods, techniques, sequences, or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

§ 4.2.13 The Construction Manager will prepare Change Orders and Construction Change Directives.

§ 4.2.14 The Construction Manager and the Architect will take appropriate action on Change Orders or Construction Change Directives in accordance with Article 7, and the Architect will have authority to order minor changes in the Work as provided in Section 7.4. The Architect, in consultation with the Construction Manager, will investigate and make determinations and recommendations regarding concealed and unknown conditions as provided in Section 3.7.4.

§ 4.2.15 Utilizing the documents provided by the Contractor, the Construction Manager will maintain at the site for the Owner one copy of all Contract Documents, approved Shop Drawings, Product Data, Samples, and similar required submittals, in good order and marked currently to record all changes and selections made during construction. These will be available to the Architect and the Contractor, and will be delivered to the Owner upon completion of the Project.

§ 4.2.16 The Construction Manager will assist the Architect in conducting inspections to determine the date or dates of Substantial Completion and the date of final completion; issue Certificates of Substantial Completion in conjunction with the Architect pursuant to Section 9.8; and receive and forward to the Owner written warranties and related documents required by the Contract and assembled by the Contractor pursuant to Section 9.10. The Construction Manager will forward to the Architect a final Application and Certificate for Payment or final Project Application and Project Certificate for Payment upon the Contractor's compliance with the requirements of the Contract Documents.

§ 4.2.17 If the Owner and Architect agree, the Architect will provide one or more Project representatives to assist in carrying out the Architect's responsibilities at the site. The Owner shall notify the Construction Manager of any change in the duties, responsibilities and limitations of authority of the Project representatives.

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§ 4.2.18 The Architect will interpret and decide matters concerning performance under the requirements of, the Contract Documents on written request of the Construction Manager, Owner, or Contractor through the Construction Manager. The Architect's response to such requests will be made with reasonable promptness and within any time limits agreed upon. If no agreement is made concerning the time within which interpretations required of the Architect shall be furnished in compliance with this Section 4.2.18, then delay shall not be recognized on account of failure by the Architect to furnish such interpretations until fifteen (15) days after written request is made to them.

§ 4.2.19 Architect's decisions on matters relating to aesthetic effect will be final if consistent with the intent expressed in the Contract Documents.

§ 4.2.20 Architect will review and respond to requests for information about the Contract Documents. The Architect's response to such requests will be made in writing within any time limits agreed upon or otherwise with reasonable promptness. If appropriate, the Architect will prepare and issue supplemental Drawings and Specifications in response to the requests for information.

(Paragraph deleted)

ARTICLE 5 SUBCONTRACTORS

§ 5.1 Definitions

§ 5.1.1 A Subcontractor is a person or entity who has a direct contract with the Contractor to perform a portion of the Work at the site. The term "Subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Subcontractor or an authorized representative of the Subcontractor. The term "Subcontractor" does not include other Contractors or Separate Contractors or the subcontractors of other Contractors or Separate Contractors.

§ 5.1.2 A Sub-subcontractor is a person or entity who has a direct or indirect contract with a Subcontractor to perform a portion of the Work at the site. The term "Sub-subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Sub-subcontractor or an authorized representative of the Sub-subcontractor.

§ 5.2 Award of Subcontracts and Other Contracts for Portions of the Work

§ 5.2.1 Unless otherwise stated in the Contract Documents, the Contractor, as soon as practicable after award of the Contract, shall notify in writing the Construction Manager, for review by the Owner, Construction Manager and Architect, of the persons or entities proposed for each principal portion of the Work, including those who are to furnish materials or equipment fabricated to a special design. Within 14 days of receipt of the information, the Construction Manager may notify the Contractor whether the Owner, the Construction Manager or the Architect (1) has reasonable objection to any such proposed person or entity or, (2) requires additional time for review. Failure of the Construction Manager to provide notice within the 14-day period shall constitute notice of no reasonable objection. The Contractor shall not employ any Subcontractor or use any material to which the Architect, Construction Manager or Owner may object. Prior to the employment of any Subcontractor, the Contractor must obtain the Owner's approval of such Subcontractor for the designated portion of the Work.

§ 5.2.2 The Contractor shall not contract with a proposed person or entity to whom the Owner, Construction Manager or Architect has made reasonable and timely objection. The Contractor shall not be required to contract with anyone to whom the Contractor has made reasonable objection.

§ 5.2.3 If the Owner, Construction Manager or Architect has reasonable objection to a person or entity proposed by the Contractor, the Contractor shall propose another to whom the Owner, Construction Manager or Architect has no reasonable objection. The Contract Sum shall be increased or decreased by the difference in cost occasioned by such change, and an appropriate Change Order shall be issued. However, no increase in the Contract Sum or Contract Time shall be allowed for such change unless the Contractor has acted promptly and responsively in submitting names as required. Notwithstanding the foregoing, the Contractor shall have a continuing duty to the Owner, Construction Manager and Architect to find and propose such persons or entities as shall not result in material increase in the Contract Sum, or a material decrease in the quality of Work contemplated under the Contract Documents.

§ 5.2.4 The Contractor shall not substitute a Subcontractor, person, or entity for one previously selected if the Owner, Construction Manager or Architect makes reasonable objection to such substitution. Any proposed substitution of a Subcontractor, person, or entity for one previously selected shall be made in a separate writing to the Owner, Construction Manager and Architect. No substitution shall be deemed approved/accepted without written

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confirmation from the Owner, Construction Manager and Architect. Neither acceptance of, nor objection to a Subcontractor or Sub-subcontractor, material supplier, or other person or organization by the Owner, Construction Manager and Architect shall limit the responsibility of the Contractor to furnish materials, products, equipment, and services in conformance with the requirements of the Contract Documents.

§ 5.3 Subcontractual Relations

§ 5.3.1 By appropriate written agreement, the Contractor shall require each Subcontractor, to the extent of the Work to be performed by the Subcontractor, to be bound to the Contractor by terms of the Contract Documents, and to assume toward the Contractor all the obligations and responsibilities, including the responsibility for safety of the Subcontractor's Work, that the Contractor, by these Contract Documents, assumes toward the Owner, Construction Manager and Architect. Each subcontract agreement shall preserve and protect the rights of the Owner, Construction Manager and Architect under the Contract Documents with respect to the Work to be performed by the Subcontractor so that subcontracting thereof will not prejudice such rights, and shall allow to the Subcontractor, unless specifically provided otherwise in the subcontract agreement, the benefit of all rights, remedies, and redress against the Contractor that the Contractor, by the Contract Documents, has against the Owner. Where appropriate, the Contractor shall require each Subcontractor to enter into similar agreements with Sub-subcontractors. The Contractor shall make available to each proposed Subcontractor, prior to the execution of the subcontract agreement, copies of the Contract Documents to which the Subcontractor will be bound, and, upon written request of the Subcontractor, identify to the Subcontractor terms and conditions of the proposed subcontract agreement that may be at variance with the Contract Documents. Subcontractors shall similarly make copies of applicable portions of such documents available to their respective proposed Sub-subcontractors.

§ 5.3.2 The Contractor is responsible for the performance of, the actions of, the timeliness of, or interference caused by, Subcontractors, Sub-subcontractors (of any tier), and others directly or indirectly under contract to the Contractor.

§ 5.4 Contingent Assignment of Subcontracts

§ 5.4.1 Each subcontract agreement for a portion of the Work is assigned by the Contractor to the Owner, provided that

.1 assignment is effective only after termination of the Contract by the Owner for cause pursuant to Section 14.2 and only for those subcontract agreements that the Owner accepts by notifying the Subcontractor and Contractor; and

.2 assignment is subject to the prior rights of the surety, if any, obligated under bond relating to the Contract.

When the Owner accepts the assignment of a subcontract agreement, the Owner assumes the Contractor's rights and obligations under the subcontract.

§ 5.4.2 Upon such assignment, if the Work has been suspended for more than 30 days, the Subcontractor's compensation shall be equitably adjusted for increases in cost resulting from the suspension.

§ 5.4.3 Upon assignment to the Owner under this Section 5.4, the Owner may further assign the subcontract to a successor Contractor or other entity. If the Owner assigns the subcontract to a successor Contractor or other entity, the Owner shall nevertheless remain legally responsible for all of the successor Contractor's obligations under the subcontract.

ARTICLE 6 CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTORS

§ 6.1 Owner's Right to Perform Construction with Own Forces and to Award Other Contracts

§ 6.1.1 The Owner reserves the right to perform construction or operations related to the Project with the Owner's own forces, and with Separate Contractors retained under Conditions of the Contract substantially similar to those of this Contract, including those provisions of the Conditions of the Contract related to insurance and waiver of subrogation.

§ 6.1.2 When the Owner performs construction or operations with the Owner's own forces or Separate Contractors, the Owner shall provide for coordination of such forces and Separate Contractors with the Work of the Contractor, who shall cooperate with them.

§ 6.1.3 Unless otherwise provided in the Contract Documents, when the Owner performs construction or operations related to the Project with the Owner's own forces or with Separate Contractors, the Owner or its Separate Contractors

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shall have the same obligations and rights that the Contractor has under the Conditions of the Contract, including, without excluding others, those stated in Article 3, this Article 6, and Articles 10, 11, and 12.

§ 6.2 Mutual Responsibility

§ 6.2.1 The Contractor shall afford the Owner's own forces, Separate Contractors, Construction Manager and other Contractors reasonable opportunity for introduction and storage of their materials and equipment and performance of their activities, and shall connect and coordinate the Contractor's construction and operations with theirs as required by the Contract Documents.

§ 6.2.2 If part of the Contractor's Work depends for proper execution or results upon construction or operations by the Owner's own forces, Separate Contractors or other Contractors, the Contractor shall, prior to proceeding with that portion of the Work, promptly notify the Construction Manager and Architect of apparent discrepancies or defects in the construction or operations by the Owner or Separate Contractor or other Contractors that would render it unsuitable for proper execution and results of the Contractor's Work. Failure of the Contractor to notify the Construction Manager and the Architect of apparent discrepancies or defects prior to proceeding with the Work shall constitute an acknowledgment that the Owner's or Separate Contractor's or other Contractors' completed or partially completed construction is fit and proper to receive the Contractor's Work. The Contractor shall not be responsible for discrepancies or defects in the construction or operations by the Owner or Separate Contractors or other Contractors that are not reasonably discoverable.

§ 6.2.3 Costs caused by delays or by improperly timed activities or defective construction shall be borne by the party responsible therefor.

§ 6.2.4 The Contractor shall promptly remedy damage that the Contractor wrongfully causes to completed or partially completed construction, or to property of the Owner, Separate Contractors, or other Contractors as provided in Section 10.2.5.

§ 6.2.5 Claims and other disputes and matters in question between the Contractor and a separate contractor shall be subject to the provisions of Article 15 provided the separate contractor has reciprocal obligations.

§ 6.2.6 The Owner, Separate Contractors, and other Contractors shall have the same responsibilities for cutting and patching as are described for the Contractor in Section 3.14.

§ 6.3 Owner's Right to Clean Up

If a dispute arises among the Contractor, Separate Contractors, other Contractors, and the Owner as to the responsibility under their respective contracts for maintaining the premises and surrounding area free from waste materials and rubbish as described in Section 3.15, the Owner may clean up allocate the cost among those responsible as the Architect determines to be just..

ARTICLE 7 CHANGES IN THE WORK

§ 7.1 General

§ 7.1.1 Changes in the Work may be accomplished after execution of the Contract, and without invalidating the Contract, by Change Order, Construction Change Directive or order for a minor change in the Work, subject to the limitations stated in this Article 7 and elsewhere in the Contract Documents.

§ 7.1.2 A Change Order shall be based upon agreement among the Owner, Construction Manager, Architect and Contractor. A Construction Change Directive requires agreement by the Owner, Construction Manager and Architect and may or may not be agreed to by the Contractor.

§ 7.1.3 Changes in the Work shall be performed under applicable provisions of the Contract Documents. The Contractor shall proceed promptly with changes in the Work, unless otherwise provided in the Change Order, Construction Change Directive, or order for a minor change in the Work.

§ 7.1.4 The amount of credit to be allowed by the Contractor to the Owner for any deletion or change which results in a net decrease in the Contract Sum will be the amount of the actual net cost as confirmed by the Architect after consultation with the Owner and Construction Manager. When both additions and credits covering related Work or

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substitutions are involved in any one change, the allowance for both overhead and profit shall be figured on the basis of the net increase or decrease, if any, with respect to that change.

§ 7.1.5 In Section 7.3.6, the allowance for the combined overhead and profit included in the total cost to the Owner shall be based on the following schedule:

.1 For the Contractor, for Work performed by the Contractor's own forces, ten percent (10%) of the cost;

.2 For the Contractor, for Work performed by the Contractor's Subcontractor, five percent (5%) of the amount due the Subcontractor;

.3 For each Subcontractor or Sub-subcontractor involved for Work performed by the Subcontractor's or Sub-subcontractor's own forces, ten percent (10%) of the cost;

.4 For each Subcontractor for Work performed by the Subcontractor's Sub-subcontractor, five percent (5%) of the amount due the Subcontractor;

.5 Costs to which overhead and profit is to be applied shall be determined in accordance with Section 7.3.6;

.6 In order to facilitate checking of quotations for extras or credits, all proposals, expect those so minor that their propriety can be seen by inspection, shall be accompanied by a complete itemization of costs, including labor, materials and subcontracts. Labor and materials shall be itemized in the manner prescribed above. Where major cost items are subcontracts, they shall be itemized also. In no case will a change involving over $500 be approved without such itemization.

§ 7.2 Change Orders and Change Proposals

§ 7.2.1 A Change Order is a written instrument prepared by the Construction Manager and signed by the Owner, Construction Manager, Architect, and Contractor, stating their agreement upon all of the following:

.1 The change in the Work;

.2 The amount of the adjustment, if any, in the Contract Sum; and

.3 The extent of the adjustment, if any, in the Contract Time.

§ 7.2.2 Change Order shall be prepared on AIA Document G731.

§ 7.2.3 The Contractor must submit Change Proposals covering a contemplated Change Order within ten (10) days after request of the Owner, or the Architect or within ten (10) days of the event, or Contractor's discovery of a condition, whichever is earlier, giving rise to the Contractor's claim for a change in the Contract Sum or Contract Time. No increase in the Contract Sum or extension of the Contract Time will be allowed the Contractor for the cost or time involved in making Change Proposals. Change Proposals will define or confirm in detail the Work which is proposed to be added, deleted, or changed and must include any adjustment which the Contractor believes to be necessary in (i) the Contract Sum, or (ii) the Contract Time. Any proposed adjustment must include detailed documentation including, but not limited to: cost, properly itemized and supported by sufficient substantiating data to permit evaluation including cost of labor, materials, supplies and equipment, rental cost of machinery and equipment, additional bond cost, plus a fixed fee for profit and overhead (which includes office overhead and Site-specific overhead and general conditions) of ten percent (10%) if the Work is performed by the Contractor, or five percent (5%) if the Work is performed by a Subcontractor or Sub-subcontractor. The Subcontractor's or Sub-subcontractor's overhead and profit in turn must not exceed a total aggregate of ten percent (10%). Change Proposals will be binding upon the Contractor and may be accepted or rejected by the Owner in its discretion. The Owner may, at its option, instruct the Contractor through a Construction Change Directive to proceed with the Work involved in the Change Proposal in accordance with Section 7.3 without accepting the Change Proposal in its entirety.

§ 7.2.4 If the Owner determines that a Change Proposal is appropriate, the Architect will prepare and submit a request for a Change Order or Contract Amendment providing for an appropriate adjustment in the Contract Sum or Contract Time, or both, for further action by the Owner. No such change is effective until the Owner and Architect sign the Change Order.

§ 7.3 Construction Change Directives

§ 7.3.1 A Construction Change Directive is a written order prepared by the Construction Manager and signed by the Owner, Construction Manager and Architect, directing a change in the Work prior to agreement on adjustment, if any, in the Contract Sum or Contract Time, or both. The Owner may by Construction Change Directive, without

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invalidating the Contract, order changes in the Work within the general scope of the Contract consisting of additions, deletions, or other revisions, the Contract Sum and Contract Time being adjusted accordingly.

§ 7.3.2 A Construction Change Directive shall be used in the absence of total agreement on the terms of a Change Order.

§ 7.3.3 If the Construction Change Directive provides for an adjustment to the Contract Sum, the adjustment shall be based on one of the following methods:

.1 Mutual acceptance of a lump sum properly itemized and supported by sufficient substantiating data to permit evaluation;

.2 Unit prices stated in the Contract Documents or subsequently agreed upon;

.3 Cost to be determined in a manner agreed upon by the parties and a mutually acceptable fixed or percentage fee; or

.4 As provided in Section 7.3.4.

§ 7.3.4 If the Contractor does not respond promptly or disagrees with the method for adjustment in the Contract Sum, the Owner and the Construction Manager shall determine the adjustment on the basis of reasonable expenditures and savings of those performing the Work attributable to the change, including, in case of an increase in the Contract Sum, an amount for overhead and profit as set forth in the Agreement, or if no such amount is set forth in the Agreement, a reasonable amount. In such case, and also under Section 7.3.3.3, the Contractor shall keep and present, in such form as the Construction Manager may prescribe, an itemized accounting together with appropriate supporting data. Unless otherwise provided in the Contract Documents, costs for the purposes of this Section 7.3.4 shall be limited to the following:

.1 Costs of labor, including applicable payroll taxes, fringe benefits required by agreement or custom, workers' compensation insurance, and other employee costs approved by the Construction Manager and Architect;

.2 Costs of materials, supplies, and equipment, including cost of transportation, whether incorporated or consumed;

.3 Rental costs of machinery and equipment, exclusive of hand tools, whether rented from the Contractor or others (at rates approved by the Owner);

.4 Costs of premiums for all bonds and insurance, permit fees, and sales, use, or similar taxes, directly related to the change; and

.5 Costs of supervision and field office personnel directly attributable to the change.

§ 7.3.5 If the Contractor disagrees with the adjustment in the Contract Time, the Contractor may make a Claim in accordance with applicable provisions of Article 15.

§ 7.3.6 Upon receipt of a Construction Change Directive, the Contractor shall promptly proceed with the change in the Work involved and advise the Construction Manager of the Contractor's agreement or disagreement with the method, if any, provided in the Construction Change Directive for determining the proposed adjustment in the Contract Sum or Contract Time.

§ 7.3.7 A Construction Change Directive signed by the Contractor indicates the Contractor's agreement therewith, including adjustment in Contract Sum and Contract Time or the method for determining them. Such agreement shall be effective immediately.

§ 7.3.8 The amount of credit to be allowed by the Contractor to the Owner for a deletion or change that results in a net decrease in the Contract Sum shall be actual net cost as confirmed by the Construction Manager and Architect. When both additions and credits covering related Work or substitutions are involved in a change, the allowance for overhead and profit shall be figured on the basis of net increase, if any, with respect to that change.

§ 7.3.9 Pending final determination of the total cost of a Construction Change Directive to the Owner, the Contractor may request payment for Work completed under the Construction Change Directive in Applications for Payment up to and not exceeding $25,000. The Construction Manager and Architect will make an interim determination for purposes of monthly certification for payment for those costs and certify for payment the amount that the Construction Manager and Architect determine to be reasonably justified. The interim determination of cost shall adjust the Contract Sum on

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the same basis as a Change Order, subject to the right of either party to disagree and assert a Claim in accordance with Article 15.

§ 7.3.10 When the Owner and Contractor agree with a determination made by the Construction Manager and Architect concerning the adjustments in the Contract Sum and Contract Time, or otherwise reach agreement upon the adjustments, such agreement shall be effective immediately and the Construction Manager shall prepare a Change Order. Change Orders may be issued for all or any part of a Construction Change Directive.

§ 7.4 Minor Changes in the Work

The Architect may order minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. The Architect's order for minor changes shall be in writing and approved by the Owner. If the Contractor believes that the proposed minor change in the Work will affect the Contract Sum or Contract Time, the Contractor shall notify the Construction Manager and shall not proceed to implement the change in the Work. If the Contractor performs the Work set forth in the Architect's order for a minor change without prior notice to the Construction Manager that such change will affect the Contract Sum or Contract Time, the Contractor waives any adjustment to the Contract Sum or extension of the Contract Time.

ARTICLE 8 TIME

§ 8.1 Definitions

§ 8.1.1 Unless otherwise provided, Contract Time is the period of time, including authorized adjustments, allotted in the Contract Documents for Substantial Completion of the Work.

§ 8.1.2 The date of commencement of the Work is the date established in the Agreement. The date shall not be postponed by the failure to act of the Contractor or of persons or entities for whom the Contractor is responsible.

§ 8.1.3 The date of Substantial Completion is the date certified by the Architect in accordance with Section 9.8.

§ 8.1.4 The term "day" shall mean calendar day of 24 hours beginning at 12:00 midnight. Calendar days as stated in the Contract Documents, shall include all days of a seven (7) day week including Saturdays, Sundays, and holidays. The term "Milestone Date" is, in each instance, the date established in the Contract Documents for the Substantial completion of all or a designated portion of the Work.

§ 8.2 Progress and Completion

§ 8.2.1 Time limits stated in the Contract Documents are of the essence of the Contract. By executing the Agreement, the Contractor confirms that the Contract Time is a reasonable period for performing the Work.

§ 8.2.2 The Contractor shall not knowingly, except by agreement or instruction of the Owner in writing, commence the Work prior to the effective date of insurance required to be furnished by the Contractor and Owner.

§ 8.2.3 The Contractor shall proceed expeditiously with adequate forces and shall achieve Substantial Completion within the Contract Time and shall achieve specific contractual Milestone Dates (if any), Substantial Completion and final Completion within the time stated in the Contract Documents.

§ 8.2.4 Contractor understands and agrees that all Work must be performed in an orderly and closely coordinated sequence so that the dates for Substantial Completion, Final Completion, and Milestone Dates (if any) may be met by the Contractor.

§ 8.2.5 Timely final completion of the Project is of critical importance to the Owner. The Contractor agrees that it shall substantially complete all Work under the Contract documents within the time established herein and that it shall finally complete the Work in the detail required and in the time required by the Contract Documents.

§ 8.2.6 To the extent that the Contract Documents contain or provide for specific contractual Milestone Dates in addition to Final and Substantial Completion dates, such dates shall be adhered to and shall be the last acceptable dates for those milestones and completions, unless modified by the Owner.

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§ 8.2.7 Notwithstanding anything to the contrary contained in the Contract Documents, in the event that any Contractor fails, or appears likely, in the reasonable opinion of the Owner and Construction Manager, to fail to complete a critical portion of their Work on time or to complete any dates for Substantial Completion, Final Completion, or Milestone Dates as evidenced by the latest update of the CPM Schedule Report, the Owner shall have the right to select and require Contractor's performance under any or all of the following operations:

.1 Require the Contractor to substantiate their capability to get back on schedule within two (2) days;

.2 Require the Contractor, at no additional cost to the Owner, to increase their work force, work overtime and/or extra shifts and do whatever else is required by the Owner until the Contractor gets back on schedule as established by the CPM Schedule Report (including any updates thereto);

.3 Withhold progress payments or portions thereof until such time as the contractor returns to schedule, but only related to Substantial Completion or Final Completion;

.4 Contact or visit the factory, plant, or distribution center whose production or delivery schedule may be critical to the scheduled completion of a portion of the contract work and expedite such production delivery at Contractor's expense; or

.5 Require the Contractor to complete, in detail, and submit weekly a Short Interval Schedule (SIS) showing: (1) planning for the next two weeks; (2) work completed for the previous week; (3) sufficient detail to evaluate daily milestone (if any) and manpower/equipment loading, and shall identify/tie into the monthly updated CPM Schedule Report.

Any costs incurred by the Contractor in fulfilling the option(s) selected by the Owner shall be at the Contractor's expense.

§ 8.3 Delays and Extensions of Time

§ 8.3.1 If the Contractor is delayed at any time in the progress of the Work by (1) an act or neglect of the Owner, Architect, Construction Manager, or an employee of any of them, or of the Owner's own forces, Separate Contractors, or other Contractors; (2) by changes ordered in the Work; (3) by labor disputes, fire, unusual delay in deliveries, unavoidable casualties, adverse weather conditions documented in accordance with Section 15.1.6.2, or other causes beyond the Contractor's control; or (4) by other causes that the Contractor asserts and the Architect, based on the recommendation of the Construction Manager, determines justify delay, then subject to the conditions hereinafter set forth, the Contract Time shall be extended by Change Order for such reasonable time as the Architect may determine. Requests for extensions of time for causes enumerated above will be considered by the Architect subject to the following:

.1 Only those conditions enumerated above over which the Contractor has no control will be considered. The burden of proof to substantiate the claim for an extension shall rest with the Contractor, including evidence that the cause was beyond their control. It shall be deemed the Contractor has control over the supply of labor, materials, equipment, methods, techniques, and over their Subcontractors and suppliers;

.2 In the event of Changes in the Work, any consideration for a time extension will be made only at the time of authorizing the changes, and no later than when the Change Order is prepared, and only if the Change Order significantly affects the time and progress of the entire Work. For changes which do not affect the entire Work, time extension may be granted only for the area, phase, unit, or element affected by the change, if due to a valid reason for a time extension;

.3 Any unusual delay in deliveries will not be considered unless it is solely due to transportation issues wholly outside of Contractor's, Subcontractor's, Sub-subcontractor's or Supplier's control. An extension of time will not be granted for delays in deliveries where said delivery was not properly scheduled or when orders were not promptly and properly placed;

.4 With respect to a claim for an extension of time as a result of climatic conditions, the Contractor shall recognize the location of the site and the existence, as normal, or variations from "average" conditions. Foul weather in itself will not be a valid reason for a time extension. Requests for time extensions because of delay resulting from weather extremes will not be considered unless a substantial variation from usual weather conditions occurs for a significant period of time, during phases of the Work when operation necessarily were suspended to a significant degree when they would otherwise have been in progress. In considering the time extension, the weather conditions both before and after the period in which the delay is claimed will be evaluated with credit given to Owner for unseasonably favorable weather;

.5 Delays resulting from a labor dispute will not result in a time extension of a longer period than the dispute, plus a reasonable time for mobilization if justified and necessary as approved by the

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Architect, and may be less depending on the impact of the dispute, including what operations were suspended or curtailed;

.6 No time extension will be granted as a result of improper scheduling or for failure to have shop drawings or samples submitted in ample time for review under a reasonable and agreed upon schedule; or

.7 Delays by Subcontractors or suppliers will not be considered justification for a time extension, except for the same valid reasons and conditions enumerated under Section 8.3.1.

§ 8.3.2 Claims relating to time shall be made in accordance with applicable provisions of Article 15.

§ 8.3.3 This Section 8.3 does not preclude recovery of damages for delay by either party under other provisions of the Contract Documents.

§ 8.3.4 The Contractor shall be responsible for all Owner incurred costs associated with a Contractor related to delay in completion of the Project. These costs may include, but are not limited to, Owner staff overtime, Consultant additional fees, additional testing, and/or additional rental or storage costs. A Change Order or Construction Change Directive will be issued to cover these costs. If a Change Order is not agreed to by the Contractor, the Owner, after presenting documentation to the Contractor, may deduct these amounts without a Change Order from the Contract Sum.

ARTICLE 9 PAYMENTS AND COMPLETION

§ 9.1 Contract Sum

§ 9.1.1 The Contract Sum is stated in the Agreement and, including authorized adjustments, is the total amount payable by the Owner to the Contractor for performance of the Work under the Contract Documents.

§ 9.1.2 If unit prices are stated in the Contract Documents or subsequently agreed upon, and if quantities originally contemplated are materially changed so that application of such unit prices to the actual quantities causes substantial inequity to the Owner or Contractor, the applicable unit prices shall be equitably adjusted.

§ 9.2 Schedule of Values

Before the first Application for Payment, the Contractor shall submit to the Architect and Construction Manager a schedule of values allocated to various portions of the Work, prepared in the form, and supported by the data to substantiate its accuracy, required by the Construction Manager and the Architect. The schedule, unless objected to by the Construction Manager or Architect, shall be used as a basis for reviewing the Contractor's Applications for Payment. The Construction Manager shall forward to the Architect the Contractor's schedule of values. Any changes to the schedule of values shall be submitted to the Construction Manager and supported by such data to substantiate its accuracy as the Construction Manager and the Architect may require, and unless objected to by the Construction Manager or the Architect, shall be used as a basis for reviewing the Contractor's subsequent Applications for Payment. The Contractor, after receipt of Notice to Proceed, shall meet with the Owner, Construction Manager and the Architect for the purpose of reviewing the Project CPM Schedule and the Contract Schedule of Values. The Contractor shall develop a CPM Schedule for completing their portion of the Work, in conjunction with all other Contractors or Bid Packages, at the Pre-Construction Meeting(s). The Schedule of Values is to be broken down into specification sections and by labor and materials.

§ 9.3 Applications for Payment

§ 9.3.1 At least fifteen days before the date established for each progress payment, the Contractor shall submit to the Construction Manager an itemized Application for Payment for operations completed in accordance with the Schedule of Values. Such application shall be notarized and supported by all data substantiating the Contractor's right to payment that the Owner, Construction Manager or Architect require, such as copies of requisitions, and releases of waivers of lien from Subcontractors and material suppliers, and reflecting retainage if provided for elsewhere in the Contract Documents. The form of Application for Payment shall be a notarized AIA Document G732–2019, Application and Certificate for Payment, supported by AIA Document G703–1992, Continuation Sheet.

§ 9.3.1.1 As provided in Section 7.3.9, such applications may include requests for payment on account of changes in the Work that have been properly authorized by Construction Change Directives, or by interim determinations of the Construction Manager and Architect, but not yet included in Change Orders.

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§ 9.3.1.2 Such applications shall not include requests for payment of amounts the Contractor does not intend to pay a Subcontractor or supplier because of a dispute or other reason, unless such Work has been performed by others whom the Contractor intends to pay.

§ 9.3.1.3 Following certification of the Application for Payment by the Architect and Construction Manager, the Owner shall pay ninety-five percent (95%) of its value, retaining five percent (5%) until Final Completion.

§ 9.3.1.4 Contractor shall provide lien waivers for itself for the current payment application and for Subcontractors, Sub-subcontractors, and suppliers for the previous payment application before the Contractor has earned or has the right to receive payment for the specific items of work or materials covered by the lien waivers. All lien waivers shall be provided in the form required by the Owner. This Section 9.3.1.4 shall not limit other obligations of the Contractor contained elsewhere to provide lien waivers.

§ 9.3.2 Unless otherwise provided in the Contract Documents, payments shall be made on account of materials and equipment delivered and suitably stored at the site for subsequent incorporation in the Work. If approved in advance by the Owner, payment may similarly be made for materials and equipment suitably stored off the site at a location agreed upon in writing. Payment for materials and equipment stored on or off the site shall be conditioned upon compliance by the Contractor with procedures satisfactory to the Owner to establish the Owner's title to such materials and equipment or otherwise protect the Owner's interest, and shall include the costs of applicable insurance, storage, and transportation to the site, for such materials and equipment stored off the site.

§ 9.3.3 The Contractor warrants that title to all Work covered by an Application for Payment will pass to the Owner no later than the time of payment. The Contractor further warrants that upon submittal of an Application for Payment all Work for which Certificates for Payment have been previously issued and payments received from the Owner shall, to the best of the Contractor's knowledge, information, and belief, be free and clear of liens, claims, security interests, or encumbrances, in favor of the Contractor, Subcontractors, suppliers, or other persons or entities that provided labor, materials and equipment relating to the Work.

§ 9.3.4 In each Application for Payment, the Contractor shall certify as follows:

> "That there are no known mechanics' or materialmen's liens or stop notice claims outstanding by the application or any of its subcontractors of any tier, or any of the applicant's or subcontractor's material suppliers, or laborers at the date of this application, that all due and payable bills with respect to the Work have been paid or are included in the amount requested in current application, and that, except for such bills, not paid by Owner, but so included, there is no known basis for the filing of any mechanics' or materialmen's liens or stop notice claims on the Work, and that waivers from Contractor, its subcontractors of any tier, or any of the applicant's or subcontractor's material suppliers and laborers have been obtained in such form as to constitute an effective waiver of liens or stop notice claims, under the laws of the State of Minnesota to the extent of payments made by Owner to Contractor."

Notwithstanding the foregoing Section 9.3.4, Contractor acknowledges its obligation to provide a Payment Bond in accordance with the Contract Documents, and that Contractor's failure to pay any of its Subcontractors, Sub-subcontractors, suppliers, or laborers will be resolved through a claim under the Payment Bond.

§ 9.4 Certificates for Payment

§ 9.4.1 Where there is only one Contractor, the Construction Manager will, within seven days after the Construction Manager's receipt of the Contractor's Application for Payment, review the Application, certify the amount the Construction Manager determines is due the Contractor, and forward the Contractor's Application and Certificate for Payment to the Architect. Within seven days after the Architect receives the Contractor's Application for Payment from the Construction Manager, the Architect will either (1) issue to the Owner a Certificate for Payment, in the full amount of the Application for Payment, with a copy to the Construction Manager; or (2) issue to the Owner a Certificate for Payment for such amount as the Architect determines is properly due, and notify the Construction Manager and Owner of the Architect's reasons for withholding certification in part as provided in Section 9.5.1; or (3) withhold certification of the entire Application for Payment, and notify the Construction Manager and Owner of the Architect's reason for withholding certification in whole as provided in Section 9.5.1. The Construction Manager will promptly forward to the Contractor the Architect's notice of withholding certification.

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§ 9.4.2 Where there is more than one Contractor performing portions of the Project, the Construction Manager will, within seven days after the Construction Manager receives all of the Contractors' Applications for Payment: (1) review the Applications and certify the amount the Construction Manager determines is due each of the Contractors; (2) prepare a Summary of Contractors' Applications for Payment by combining information from each Contractor's application with information from similar applications for progress payments from the other Contractors; (3) prepare a Project Application and Certificate for Payment; (4) certify the amount the Construction Manager determines is due all Contractors; and (5) forward the Summary of Contractors' Applications for Payment and Project Application and Certificate for Payment to the Architect.

§ 9.4.2.1 Within seven days after the Architect receives the Project Application and Project Certificate for Payment and the Summary of Contractors' Applications for Payment from the Construction Manager, the Architect will either (1) issue to the Owner a Project Certificate for Payment, with a copy to the Construction Manager; or (2) issue to the Owner a Project Certificate for Payment for such amount as the Architect determines is properly due, and notify the Construction Manager and Owner of the Architect's reasons for withholding certification in part as provided in Section 9.5.1; or (3) withhold certification of the entire Project Application for Payment, and notify the Construction Manager and Owner of the Architect's reason for withholding certification in whole as provided in Section 9.5.1. The Construction Manager will promptly forward the Architect's notice of withholding certification to the Contractors.

§ 9.4.3 The Construction Manager's certification of an Application for Payment or, in the case of more than one Contractor, a Project Application and Certificate for Payment, shall be based upon the Construction Manager's evaluation of the Work and the data in the Application or Applications for Payment. The Construction Manager's certification will constitute a representation that, to the best of the Construction Manager's knowledge, information, and belief, the Work has progressed to the point indicated, the quality of the Work is in accordance with the Contract Documents, and that the Contractor is, or Contractors are, entitled to payment in the amount certified.

§ 9.4.4 The Architect's issuance of a Certificate for Payment or, in the case of more than one Contractor, Project Application and Certificate for Payment, shall be based upon the Architect's evaluation of the Work, the recommendation of the Construction Manager, and data in the Application for Payment or Project Application for Payment. The Architect's certification will constitute a representation that, to the best of the Architect's knowledge, information, and belief, the Work has progressed to the point indicated, the quality of the Work is in accordance with the Contract Documents, and that the Contractor is, or Contractors are, entitled to payment in the amount certified.

§ 9.4.5 The representations made pursuant to Sections 9.4.3 and 9.4.4 are subject to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, to results of subsequent tests and inspections, to correction of minor deviations from the Contract Documents prior to completion, and to specific qualifications expressed by the Construction Manager or Architect.

§ 9.4.6 The issuance of a Certificate for Payment or a Project Certificate for Payment will not be a representation that the Construction Manager or Architect has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work; (2) reviewed construction means, methods, techniques, sequences, or procedures; (3) reviewed copies of requisitions received from Subcontractors and suppliers and other data requested by the Owner to substantiate the Contractor's right to payment; or (4) made examination to ascertain how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

§ 9.5 Decisions to Withhold Certification

§ 9.5.1 The Construction Manager or Architect may withhold a Certificate for Payment or Project Certificate for Payment in whole or in part, to the extent reasonably necessary to protect the Owner, if in the Construction Manager's or Architect's opinion the representations to the Owner required by Section 9.4.3 and 9.4.4 cannot be made. If the Construction Manager or Architect is unable to certify payment in the amount of the Application, the Construction Manager will notify the Contractor and Owner as provided in Section 9.4.1 and 9.4.2. If the Contractor, Construction Manager and Architect cannot agree on a revised amount, the Architect will promptly issue a Certificate for Payment or a Project Certificate for Payment for the amount for which the Architect is able to make such representations to the Owner. The Construction Manager or Architect may also withhold a Certificate for Payment or, because of subsequently discovered evidence, may nullify the whole or a part of a Certificate for Payment or Project Certificate for Payment previously issued, to such extent as may be necessary in the Construction Manager's or Architect's opinion to protect the Owner from loss for which the Contractor is responsible, including loss resulting from the acts and omissions described in Section 3.3.2 because of

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.1 defective Work not remedied;
.2 third party claims filed or reasonable evidence indicating probable filing of such claims, unless security acceptable to the Owner is provided by the Contractor;
.3 failure of the Contractor to make payments properly to Subcontractors or suppliers for labor, materials or equipment;
.4 reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Sum;
.5 damage to the Owner or a Separate Contractor or other Contractor;
.6 reasonable evidence that the Work will not be completed within the Contract Time, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay; or
.7 repeated failure to carry out the Work in accordance with the Contract Documents.

§ 9.5.2 When either party disputes the Architect's decision regarding a Certificate for Payment under Section 9.5.1, in whole or in part, that party may submit a Claim in accordance with Article 15.

§ 9.5.3 When the reasons for withholding certification are removed, certification will be made for amounts previously withheld.

§ 9.5.4 If the Architect or Construction Manager withholds certification for payment under Section 9.5.1, the Owner may, at its sole option, issue joint checks to the Contractor and to any Subcontractor or supplier to whom the Contractor failed to make payment for Work properly performed or material or equipment suitably delivered. If the Owner makes payments by joint check, the Owner shall notify the Architect and the Construction Manager, and both will reflect such payment on the next Certificate for Payment.

§ 9.6 Progress Payments

§ 9.6.1 After the Architect has issued a Certificate for Payment or Project Certificate for Payment, the Owner shall make payment within thirty (30) days of receipt by Owner of Certificate of Payment in the manner and within the time provided in the Contract Documents, and shall so notify the Construction Manager and Architect.

§ 9.6.2 The Contractor shall pay each Subcontractor, no later than seven days after receipt of payment from the Owner, the amount to which the Subcontractor is entitled, reflecting percentages actually retained from payments to the Contractor on account of the Subcontractor's portion of the Work. The Contractor shall, by appropriate agreement with each Subcontractor, require each Subcontractor to make payments to Sub-subcontractors in a similar manner. Per Minnesota Statutes, Section 471.425, within ten (10) days of Contractor's receipt of payment from Owner, the Contractor must pay any Subcontractor for any undisputed services provided by the Subcontractor. The Contractor shall pay interest of one and one-half percent (1-1/2%) per month, or any part of a month, to the Subcontractor on any undisputed amount not paid on time to the subcontractor. The minimum monthly interest penalty payment for an unpaid balance of $100 or more is $10.00. For an unpaid balance of less than $100, the Contractor shall pay the actual interest penalty due to the Subcontractor. Contractor is advised that by reason of Minnesota Statutes, Section 471.425, subd. 4a, if a Subcontractor prevails in a civil action to collect interest penalties from a prime contractor, the Subcontractor must be awarded its costs and disbursements, including attorneys' fees incurred in bringing the action.

§ 9.6.3 The Construction Manager will, on request, furnish to a Subcontractor, if practicable, information regarding percentages of completion or amounts applied for by the Contractor and action taken thereon by the Owner, Construction Manager and Architect on account of portions of the Work done by such Subcontractor.

§ 9.6.4 The Owner has the right to request written evidence from the Contractor that the Contractor has properly paid Subcontractors and suppliers amounts paid by the Owner to the Contractor for subcontracted Work. If the Contractor fails to furnish such evidence within seven days, the Owner shall have the right to contact Subcontractors and suppliers to ascertain whether they have been properly paid. Neither the Owner, Construction Manager nor Architect shall have an obligation to pay, or to see to the payment of money to, a Subcontractor or supplier, except as may otherwise be required by law.

§ 9.6.5 The Contractor's payments to material and equipment suppliers shall be treated in a manner similar to that provided in Sections 9.6.2, 9.6.3 and 9.6.4.

§ 9.6.6 A Certificate for Payment, a progress payment, or partial or entire use or occupancy of the Project by the Owner shall not constitute acceptance of Work not in accordance with the Contract Documents.

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§ 9.6.7 Unless the Contractor provides the Owner with a payment bond in the full penal sum of the Contract Sum, payments received by the Contractor for Work properly performed by Subcontractors or provided by suppliers shall be held by the Contractor for those Subcontractors or suppliers who performed Work or furnished materials, or both, under contract with the Contractor for which payment was made by the Owner. Nothing contained herein shall require money to be placed in a separate account and not commingled with money of the Contractor, create any fiduciary liability or tort liability on the part of the Contractor for breach of trust, or entitle any person or entity to an award of punitive damages against the Contractor for breach of the requirements of this provision.

§ 9.6.8 Provided the Owner has fulfilled its payment obligations under the Contract Documents, the Contractor shall defend and indemnify the Owner from all loss, liability, damage or expense, including reasonable attorney's fees and litigation expenses, arising out of any lien claim or other claim for payment by any Subcontractor or supplier of any tier. Upon receipt of notice of a lien claim or other claim for payment, the Owner shall notify the Contractor. If approved by the applicable court, when required, the Contractor may substitute a surety bond for the property against which the lien or other claim for payment has been asserted.

§ 9.7 Failure of Payment

If the Construction Manager and Architect do not issue a Certificate for Payment or a Project Certificate for Payment, through no fault of the Contractor, within fourteen days after the Construction Manager's receipt of the Contractor's Application for Payment, or if the Owner does not pay the Contractor within thirty (30) days after the date established in the Contract Documents, the amount certified by the Construction Manager and Architect then the Contractor may, upon ten (10) additional days' notice to the Owner, Construction Manager and Architect, stop the Work until payment of the amount owing has been received. The Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable costs of shutdown, delay and start-up which shall be accomplished as provided in Article 7.

§ 9.8 Substantial Completion

§ 9.8.1 Substantial Completion is the stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Contract Documents so the Owner can occupy or utilize the Work for its intended use and when the Architect issues a Certificate of Substantial Completion.

§ 9.8.2 When the Contractor considers that the Work, or a portion thereof which the Owner agrees to accept separately, is substantially complete, the Contractor shall notify the Construction Manager, and the Contractor and Construction Manager shall jointly prepare and submit to the Architect a comprehensive list of items to be completed or corrected. The Contractor shall proceed promptly to complete and correct items on the list. Failure to include an item on such list does not alter the responsibility of the Contractor to complete all Work in accordance with the Contract Documents. Upon receipt of the Contractor's list, the Architect, assisted by the Construction Manager, will make an inspection to determine whether the Work or designated portion thereof is substantially complete. If the Architect's inspection discloses any item, whether or not included on the Contractor's list, which is not in accordance with the requirements of the Contract documents, the Contractor shall, before issuance of the Certificate of Substantial Completion, complete or correct such item, upon notification by the Architect. The Contractor shall then submit a request for another inspection by the Architect, assisted by the Construction Manager, to determine Substantial Completion. When the Work or designated portion thereof is substantially complete, the Architect will prepare a Certificate of Substantial Completion which shall establish the date of Substantial Completion, shall establish responsibilities of the Owner and Contractor for security, maintenance, heat, utilities, damage to the Work and insurance, and shall fix the time within which the Contractor shall finish all items on the list accompanying the Certificate. Warranties required by the Contract Document shall commence on the date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion.

§ 9.8.3 Upon receipt of the list, the Architect, assisted by the Construction Manager, will make an inspection to determine whether the Work or designated portion thereof is substantially complete. If the Architect's inspection discloses any item, whether or not included on the list, which is not sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work or designated portion thereof for its intended use, the Contractor shall, before issuance of the Certificate of Substantial Completion, complete or correct such item upon notification by the Architect. In such case, the Contractor shall then submit a request for another inspection by the Architect, assisted by the Construction Manager, to determine Substantial Completion.

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§ 9.8.4 When the Architect, assisted by the Construction Manager, determines that the Work of all of the Contractors, or designated portion thereof, is substantially complete, the Construction Manager will prepare, and the Construction Manager and Architect shall execute, a Certificate of Substantial Completion that shall establish the date of Substantial Completion; establish responsibilities of the Owner and Contractor for security, maintenance, heat, utilities, damage to the Work and insurance; and fix the time within which the Contractor shall finish all items on the list accompanying the Certificate. Warranties required by the Contract Documents shall commence on the date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion.

§ 9.8.5 The Certificate of Substantial Completion shall be submitted to the Owner and Contractor for their written acceptance of responsibilities assigned to them in the Certificate. Upon such acceptance, and consent of surety if any, the Owner shall make payment of retainage applying to the Work or designated portion thereof. Such payment shall be adjusted for Work that is incomplete or not in accordance with the requirements of the Contract Documents.

§ 9.8.6 Upon Substantial completion of the Work or designated portion thereof and upon application by the Contractor and certification by the Architect, the Owner shall make payment, reflecting adjustment in retainage, pursuant to Minnesota Statutes, Section 15.72, for such Work or portion thereof as provided in the Contract Documents.

§ 9.8.7 The Architect, assisted by the Construction Manager, shall make one (1) inspection for Substantial Completion and Final Completion in accordance with the AIA Document B101–2017 Owner Architect Agreement. If additional inspections are required due to the Contractor's failure to complete previously listed corrective or uncompleted work, the Architect's expense for conducting such re-inspections and related time in processing, reviewing, and revision of requirements shall be charged to the Contractor and such payment shall be accomplished by a deductive Change Order to the Contractor.

§ 9.9 Partial Occupancy or Use

§ 9.9.1 The Owner may occupy or use any completed or partially completed portion of the Work at any stage when such portion is designated by separate agreement with the Contractor, provided such occupancy or use is consented to by the insurer and authorized by public authorities having jurisdiction over the Project. Such partial occupancy or use may commence whether or not the portion is substantially complete, provided the Owner and Contractor have accepted in writing the responsibilities assigned to each of them for payments, retainage if any, security, maintenance, heat, utilities, damage to the Work and insurance, and have agreed in writing concerning the period for correction of the Work and commencement of warranties required by the Contract Documents. When the Contractor considers a portion substantially complete, the Contractor and Construction Manager shall jointly prepare and submit a list to the Architect as provided under Section 9.8.2. Consent of the Contractor to partial occupancy or use shall not be unreasonably withheld. The stage of the progress of the Work shall be determined by written agreement between the Owner and Contractor or, if no agreement is reached, by decision of the Architect after consultation with the Construction Manager.

§ 9.9.2 Immediately prior to such partial occupancy or use, the Owner, Construction Manager, Contractor, and Architect shall jointly inspect the area to be occupied or portion of the Work to be used in order to determine and record the condition of the Work.

§ 9.9.3 Unless otherwise agreed upon, partial occupancy or use of a portion or portions of the Work shall not constitute acceptance of Work not complying with the requirements of the Contract Documents.

§ 9.10 Final Completion and Final Payment

§ 9.10.1 Upon completion of the Work, the Contractor shall forward to the Construction Manager a notice that the Work is ready for final inspection and acceptance, and shall also forward to the Construction Manager a final Contractor's Application for Payment. Upon receipt, the Construction Manager shall perform an inspection to confirm the completion of Work of the Contractor. The Construction Manager shall make recommendations to the Architect when the Work of all of the Contractors is ready for final inspection, and shall then forward the Contractors' notices and Application for Payment or Project Application for Payment, to the Architect, who will promptly make such inspection. When the Architect finds the Work acceptable under the Contract Documents and the Contract fully performed, the Construction Manager and Architect will promptly issue a final Certificate for Payment or Project Certificate for Payment stating that to the best of their knowledge, information and belief, and on the basis of their observations, on-site visits and inspections, the Work has been completed in accordance with the Contract Documents

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and that the entire balance found to be due the Contractor and noted in the final Certificate is due and payable. The Construction Manager's and Architect's final Certificate for Payment or Project Certificate for Payment will constitute a further representation that conditions listed in Section 9.10.2 as precedent to the Contractor's being entitled to final payment have been fulfilled.

§ 9.10.2 Neither final payment nor any remaining retained percentage shall become due until the Contractor submits to the Architect through the Construction Manager (1) an affidavit that payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which the Owner or the Owner's property might be responsible or encumbered (less amounts withheld by Owner) have been paid or otherwise satisfied, (2) a certificate evidencing that insurance required by the Contract Documents to remain in force after final payment is currently in effect and will not be cancelled or allowed to expire until at least (60) days' prior written notice has been given to the Owner, (3) a written statement that the Contractor knows of no reason that the insurance will not be renewable to cover the period required by the Contract Documents, (4) consent of surety, if any, to final payment (5) documentation of any special warranties, such as manufacturers' warranties or specific Subcontractor warranties, including a summary listing all applicable warranties both standard and extended, itemized by specification section and included at the front of the Operation and Maintenance manuals, and (6) other data establishing payment or satisfaction of obligations, such as receipts and releases and waivers of liens, claims, security interests, or encumbrances arising out of the Contract, to the extent and in such form as may be designated by the Owner. If a Subcontractor refuses to furnish a release or waiver required by the Owner, the Contractor may furnish a bond satisfactory to the Owner to indemnify the Owner against such lien, claim, security interest, or encumbrance. If a lien, claim, security interest, or encumbrance remains unsatisfied after payments are made, the Contractor shall refund to the Owner all money that the Owner may be compelled to pay in discharging the lien, claim, security interest, or encumbrance, including all costs and reasonable attorneys' fees.

§ 9.10.3 If, after Substantial Completion of the Work, final completion thereof is materially delayed through no fault of the Contractor or by issuance of Change Orders affecting final completion, and the Construction Manager and Architect so confirm, the Owner shall, upon application by the Contractor and certification by the Construction Manager and Architect, and without terminating the Contract, make payment of the balance due for that portion of the Work fully completed, corrected, and accepted. If the remaining balance for Work not fully completed or corrected is less than retainage stipulated in the Contract Documents, and if bonds have been furnished, the written consent of the surety to payment of the balance due for that portion of the Work fully completed and accepted shall be submitted by the Contractor to the Architect through the Construction Manager prior to certification of such payment. Such payment shall be made under terms and conditions governing final payment, except that it shall not constitute a waiver of Claims.

§ 9.10.4 The making of final payment shall constitute a waiver of Claims by the Owner except those arising from

- **.1** liens, Claims, security interests, or encumbrances arising out of the Contract and unsettled;
- **.2** failure of the Work to comply with the requirements of the Contract Documents;
- **.3** terms of special warranties required by the Contract Documents; or
- **.4** audits performed by the Owner, if permitted by the Contract Documents, after final payment.

§ 9.10.5 Acceptance of final payment by the Contractor, a Subcontractor, or a supplier, shall constitute a waiver of claims by that payee except those previously made in writing and identified by that payee as unsettled at the time of final Application for Payment.

§ 9.11 Damages for Delay

§ 9.11.1 The Contractor shall be responsible for damages incurred by the Owner and any other separate contractors for delay resulting from the Contractor's failure to complete the Work within the contract Time or resulting from the progress of the Work failing to substantially conform to the Project Construction Schedule. These damages are not included in liquidated damages and represent additional direct costs incurred by the Owner for the delay. These damages may include Owner incurred costs for temporary classrooms, temporary facilities, moving of programs, etc.

ARTICLE 10 PROTECTION OF PERSONS AND PROPERTY

§ 10.1 Safety Precautions and Programs

§ 10.1.1 The Contractor shall be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the performance of the Contract. The Contractor shall submit the Contractor's safety program to the Construction Manager for review and coordination with the safety programs of other Contractors. The Construction Manager's responsibilities for review and coordination of safety programs shall not extend to direct control over or charge of the acts or omissions of the Contractors, Subcontractors, agents or employees of the

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Contractors or Subcontractors, or any other persons performing portions of the Work and not directly employed by the Construction Manager.

§ 10.1.2 The Contractor shall comply with all applicable laws and regulations. Notwithstanding any language to the contrary, the Owner shall not have any responsibility for job site inspections or safety recommendations. Any inspections or observations by the Owner, Construction Manager or the Architect are solely for the benefit of the Owner and shall not create any duties or obligations to anyone else.

§ 10.2 Safety of Persons and Property

§ 10.2.1 The Contractor shall take reasonable precautions for safety of, and shall provide reasonable protection to prevent damage, injury, or loss to

- **.1** employees on the Work and other persons who may be affected thereby;
- **.2** the Work and materials and equipment to be incorporated therein, whether in storage on or off the site, under care, custody, or control of the Contractor, a Subcontractor, or a Sub-subcontractor;
- **.3** other property at the site or adjacent thereto, such as trees, shrubs, lawns, walks, pavements, roadways, structures, and utilities not designated for removal, relocation, or replacement in the course of construction; and
- **.4** construction or operations by the Owner, Separate Contractors, or other Contractors.

§ 10.2.2 The Contractor shall comply with, and give notices required by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities, bearing on safety of persons or property or their protection from damage, injury, or loss.

§ 10.2.3 The Contractor shall implement, erect, and maintain, as required by existing conditions and performance of the Contract, reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards; promulgating safety regulations; and notifying the owners and users of adjacent sites and utilities of the safeguards.

§ 10.2.4 When use or storage of explosives or other hazardous materials or equipment or unusual methods are necessary for execution of the Work, the Contractor shall exercise utmost care and carry on such activities under supervision of properly qualified personnel.

§ 10.2.5 The Contractor shall promptly remedy damage and loss (other than damage or loss insured under property insurance required by the Contract Documents) to property referred to in Sections 10.2.1.2, 10.2.1.3 and 10.2.1.4 caused in whole or in part by the Contractor, a Subcontractor, a Sub-subcontractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable and for which the Contractor is responsible under Sections 10.2.1.2, 10.2.1.3 and 10.2.1.4. The Contractor may make a Claim for the cost to remedy the damage or loss to the extent such damage or loss is attributable to acts or omissions of the Owner, Construction Manager or Architect or anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable, and not attributable to the fault or negligence of the Contractor. The foregoing obligations of the Contractor are in addition to the Contractor's obligations under Section 3.18.

§ 10.2.6 The Contractor shall designate a responsible member of the Contractor's organization at the site whose duty shall be the prevention of accidents. This person shall be the Contractor's superintendent unless otherwise designated by the Contractor in writing to the Owner, Construction Manager and Architect.

§ 10.2.7 The Contractor shall not permit any part of the construction or site to be loaded so as to cause damage or create an unsafe condition.

§ 10.2.8 Injury or Damage to Person or Property

If either party suffers injury or damages to person or property because of an act or omission of the other party, of any of the other party's employees or agents, or of others for whose acts such party is legally responsible, notice of the injury or damage, whether or not insured, shall be given to the other party within a reasonable time not exceeding ten (10) days after first observance. The notice shall provide sufficient detail to enable the other party to investigate the matter. If a Claim for additional cost or time related to this Claim is to be asserted, it shall be filed as provided in Sections 15.1.4 and 15.1.5.

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§ 10.3 Hazardous Materials

§ 10.3.1 In the event the Contractor encounters on the site material reasonably believed to be asbestos or polychlorinated biphenyl (PCB) which has not been rendered harmless, the Contractor shall immediately stop Work in the area affected and report the condition to the Owner, Construction Manager and Architect in writing. The Work in the affected area shall not thereafter be resumed except by written agreement of the Owner and Contractor if in fact the material is asbestos or polychlorinated biphenyl (PCB) and has not been rendered harmless. The Work in the affected area shall be resumed in the absence of asbestos or polychlorinated biphenyl (PCB), or when it has been rendered harmless, by written agreement of the Owner and Contractor.

.1 Except where otherwise stated in the Contract Documents, no hazardous material work of any nature shall be performed by the Contractor pursuant to this Contract.

.2 The term "hazardous materials" includes, but is not limited to, asbestos, toxic chemicals, acids, alkalis, irritants, contaminants, or other pollutants, together with any other waste, material, substance, pollutants, or contaminant, all or a portion of which is or would be designated as hazardous waste or substance under applicable local, state, or federal laws, ordinances, codes, rules, or regulations.

§ 10.3.2 To the fullest extent permitted by law, the Owner shall indemnify and hold harmless the Contractor, Construction Manager, Architect, their consultants, and agents and employees of any of them from and against claims, damages, losses, and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work on Owner's property if in fact the material is asbestos or polychlorinated biphenyl (PCB) and has not been rendered harmless, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), including loss of use resulting therefrom, but only to the extent caused in whole or in part by negligent acts or omissions of the Owner, anyone directly or indirectly employed by the Owner, or anyone for whose acts the Owner may be liable, regardless of whether or not such claim, damage, loss, or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity which would otherwise exist as to a party or person described in this Subparagraph 10.3.2.

§ 10.3.3 If reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a material or substance encountered on the site by the contractor, the Contractor shall, upon recognizing the condition, immediately stop Work on Owner's property and report the condition to the Owner, Construction Manager and Architect in writing. The Owner, Construction Manager, Contractor, and Architect shall then proceed in the same manner described in Subparagraph 10.3.1.

(Paragraph deleted)

§ 10.3.5 The Contractor shall reimburse the Owner for the cost and expense the Owner incurs (1) for remediation of hazardous materials or substances the Contractor brings to the site and negligently handles, or (2) where the Contractor fails to perform its obligations under Section 10.3.1, except to the extent that the cost and expense are due to the Owner's fault or negligence. Owner shall be responsible for obtaining the services of a licensed laboratory to verify a presence or absence of the material or substance reported by the Contractor and, in the event such material or substance is found to be present, to verify that it has been rendered harmless.

§ 10.3.6 Regulations concerning the availability of information and employee training in the use and handling of "hazardous substances" and "harmful physical agents", as set forth in the Employee Right-to-Know Act of 1983, Minnesota Statutes, Sections 182.65 to 182.676 are incorporated herein by reference as if fully set forth herein.

§ 10.3.7 The Contractor shall furnish three Material Safety Data Sheets to the Owner for each material used in the Work that is classified by the Employee Right-to-Know Act of 1983 as a "hazardous substance" or a "harmful physical agent."

§ 10.3.8 The Contractor shall label, in generally accepted and/or standardized fashion, all containers on the work site containing "hazardous substances" or as "harmful physical agents." This shall include factory containers and all subsequent containers used in the Work.

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§ 10.4 Emergencies

In an emergency affecting safety of persons or property, the Contractor shall act to prevent threatened damage, injury, or loss. Additional compensation or extension of time claimed by the Contractor on account of an emergency shall be determined as provided in Article 15 and Article 7.

ARTICLE 11 INSURANCE AND BONDS

§ 11.1 Contractor's Insurance and Bonds

§ 11.1.1 The Contractor shall purchase and maintain insurance of the types and limits of liability, containing the endorsements, and subject to the terms and conditions, as described in the Agreement, in EXH-C Owner Insurance or elsewhere in the Contract Documents. The Contractor shall purchase and maintain the required insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located and which carry a Best's rating of A- or higher or are otherwise acceptable to the Owner. The Owner, Construction Manager and Construction Manager's consultants, and the Architect and Architect's consultants, shall be named as additional insureds under the Contractor's commercial general liability policy or as otherwise described in the Contract Documents.

§ 11.1.2 The Contractor shall provide surety bonds of the types, for such penal sums, and subject to such terms and conditions as required by the Contract Documents. The Contractor shall purchase and maintain the required bonds from a company or companies lawfully authorized to issue surety bonds in the jurisdiction where the Project is located.

§ 11.1.3 Upon the request of any person or entity appearing to be a potential beneficiary of bonds covering payment of obligations arising under the Contract, the Contractor shall promptly furnish a copy of the bonds or shall authorize a copy to be furnished. The Contractor shall furnish Certificates of Insurance acceptable to the Owner which shall specifically set forth evidence of all coverage required by Article 11 and EXH-C Owner Insurance and shall be filed with the Owner and Construction Manager prior to commencement of the Work and thereafter upon renewal or replacement of each required policy of insurance.

The Contractor shall not allow insurance required by this Agreement to lapse, be canceled, reduced in limits or coverage, non-renewed, or materially changed or have restrictive modifications added during the life of this Agreement, including the periods of required coverage. The Contractor shall furnish to the Owner and Construction Manager copies of any endorsements that are subsequently issued amending coverage and limits.

If any of the foregoing insurance coverages are required to remain in force after final payment and are reasonably available, all additional certificates evidencing continuation of such coverage shall be submitted with the final Application for Payment. Information concerning reduction of coverage shall be furnished by the Contractor with reasonable promptness in accordance with the Contractor's information and belief.

§ 11.1.3.1 Acceptable insurance certificates are AIA Document G705, CICC of Minnesota Form 701, and/or ACORD form of the American Insurance Institute.

Failure of the Owner to collect certificates does not void the requirements to obtain insurance.

The acceptance of any certificate of insurance by the Owner shall not relieve or decrease the liability of the Contractor hereunder. It is to be understood the Owner, Construction Manager and Architect do not in any way represent that the insurance specified in these articles are sufficient or adequate to protect the Contractor's interest or liabilities, but are merely minimum requirements.

The Contractor shall furnish to the Owner copies of any endorsements that are subsequently issued amending coverage and limits.

§ 11.1.4 In the event the Contractor fails to procure or maintain any insurance coverage required under this Agreement, the Owner may purchase such coverage and deduct the cost thereof from any monies due to the Contractor, or terminate this Agreement under Paragraph 14.2. The Contractor shall be liable to the Owner for providing all coverage, defense, and payments that would have been provided by any insurance that the Contractor failed to procure and maintain as required by the Contract Documents.

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§ 11.1.5 Compliance by the Contractor with the foregoing insurance requirements shall not relieve it from liability for amounts in excess of the limits of insurance.

§ 11.1.6 The Contractor and any of its Subcontractors, Sub-subcontractors, agents and employees, and any separate contractors described in Article 6, if any, and any of their subcontractors, sub-subcontractors, agents and employees shall waive any of their subrogation rights on their Workers Compensation Policy in favor of the Owner, Construction Manager and Architect. The policies shall provide such waivers of subrogation by endorsement or otherwise. A waiver of subrogation shall be effective as to a person or entity even though that person or entity would otherwise have a duty of indemnification, contractual, or otherwise, did not pay the insurance premium directly or indirectly, and whether or not the person or entity had an insurable interest.

§ 11.2 Owner's Insurance

§ 11.2.1 The Owner shall purchase and maintain insurance of the types and limits of liability, containing the endorsements, and subject to the terms and conditions, as described in the Agreement or elsewhere in the Contract Documents. The Owner shall purchase and maintain the required insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The Owner may self-insure and maintain the Owner's usual liability insurance. Optionally, the Owner may purchase and maintain other insurance for self-protection against claims which may arise from operations under the Contract. The Contractor shall not be responsible for purchasing and maintaining this optional Owner's liability insurance unless specifically required by the Contract Documents.

§ 11.2.2 Failure to Purchase Required Property Insurance. If the Owner fails to purchase and maintain the required property insurance, with all of the coverages and in the amounts described in the Agreement or elsewhere in the Contract Documents, the Owner shall inform both the Contractor and the Construction Manager, separately and in writing, prior to commencement of the Work. Upon receipt of notice from the Owner, the Contractor may delay commencement of the Work and may obtain insurance that will protect the interests of the Contractor, Subcontractors, and Sub-Subcontractors in the Work. When the failure to provide coverage has been cured or resolved, the Contract Sum and Contract Time shall be equitably adjusted. In the event the Owner fails to procure coverage, the Owner waives all rights against the Contractor, Subcontractors, and Sub-subcontractors to the extent the loss to the Owner would have been covered by the insurance to have been procured by the Owner. The cost of the insurance shall be charged to the Owner by a Change Order. If the Owner does not provide written notice, and the Contractor is damaged by the failure or neglect of the Owner to purchase or maintain the required insurance, the Owner shall reimburse the Contractor for all reasonable costs and damages attributable thereto.

§ 11.2.3 Notice of Cancellation or Expiration of Owner's Required Property Insurance. Within three (3) business days of the date the Owner becomes aware of an impending or actual cancellation or expiration of any property insurance required by the Contract Documents, the Owner shall provide notice directly to the Contractor, and separately to the Construction Manager, of such impending or actual cancellation or expiration. Unless the lapse in coverage arises from an act or omission of the Contractor: (1) the Contractor, upon receipt of notice from the Owner, shall have the right to stop the Work until the lapse in coverage has been cured by the procurement of replacement coverage by either the Owner or the Contractor; (2) the Contract Time and Contract Sum shall be equitably adjusted; and (3) the Owner waives all rights against the Contractor, Subcontractors, and Sub-subcontractors to the extent any loss to the Owner would have been covered by the insurance had it not expired or been cancelled. If the Contractor purchases replacement coverage, the cost of the insurance shall be charged to the Owner by an appropriate Change Order. The furnishing of notice by the Owner shall not relieve the Owner of any contractual obligation to provide required insurance.

§ 11.3 Waivers of Subrogation

§ 11.3.1 The Owner and Contractor waive all rights against (1) each other and any of their subcontractors, sub-subcontractors, agents, and employees, each of the other; (2) the Construction Manager and Construction Manager's consultants; (3) the Architect and Architect's consultants; (4) other Contractors and any of their subcontractors, sub-subcontractors, agents, and employees; and (5) Separate Contractors, if any, and any of their subcontractors, sub-subcontractors, agents, and employees, for damages caused by fire, or other causes of loss, to the extent those losses are covered by property insurance required by the Agreement or other property insurance applicable to the Project, except such rights as they have to proceeds of such insurance. The Owner or Contractor, as appropriate, shall require similar written waivers in favor of the individuals and entities identified above from the Construction Manager, Construction Manager's consultants, Architect, Architect's consultants, other Contractors,

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Separate Contractors, subcontractors, and sub-subcontractors. The policies of insurance purchased and maintained by each person or entity agreeing to waive claims pursuant to this Section 11.3.1 shall not prohibit this waiver of subrogation. This waiver of subrogation shall be effective as to a person or entity (1) even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, (2) even though that person or entity did not pay the insurance premium directly or indirectly, or (3) whether or not the person or entity had an insurable interest in the damaged property.

(Paragraph deleted)

§ 11.4 Loss of Use, Business Interruption, and Delay in Completion Insurance

The Owner, at the Owner's option, may purchase and maintain insurance that will protect the Owner against loss of use of the Owner's property, or the inability to conduct normal operations, due to fire or other causes of loss. The Owner waives all rights of action against the Contractor, Architect, and Construction Manager for loss of use of the Owner's property, due to fire or other hazards however caused.

§ 11.5 Adjustment and Settlement of Insured Loss

§ 11.5.1 A loss insured under the property insurance required by the Agreement shall be adjusted by the Owner as fiduciary and made payable to the Owner as fiduciary for the insureds, as their interests may appear, subject to requirements of any applicable mortgagee clause and of Section 11.5.2. The Owner shall pay the Construction Manager, Architect and Contractor their just shares of insurance proceeds received by the Owner, and by appropriate agreements the Construction Manager, Architect and Contractor shall make payments to their consultants and Subcontractors in similar manner.

§ 11.5.2 Prior to settlement of an insured loss, the Owner shall notify the Contractor of the terms of the proposed settlement as well as the proposed allocation of the insurance proceeds. The Contractor shall have 14 days from receipt of notice to object to the proposed settlement or allocation of the proceeds. If the Contractor does not object, the Owner shall settle the loss and the Contractor shall be bound by the settlement and allocation. Upon receipt, the Owner shall make the appropriate distributions. Thereafter, if no other agreement is made or the Owner does not terminate the Contract for convenience, the Owner and Contractor shall execute a Change Order for reconstruction of the damaged or destroyed Work in the amount allocated for that purpose. If the Contractor timely objects to either the terms of the proposed settlement or the allocation of the proceeds, the Owner may proceed to settle the insured loss, and any dispute between the Owner and Contractor arising out of the settlement or allocation of the proceeds shall be resolved pursuant to Article 15. Pending resolution of any dispute, the Owner may issue a Construction Change Directive for the reconstruction of the damaged or destroyed Work.

§ 11.6 Bonds

§ 11.6.1 Contractor shall furnish a Performance Bond and a Payment Bond to the Owner in the amount of one hundred percent (100%) of the Contract Sum and issued by a Surety Company authorized to do business in the State of Minnesota, rated "A" or better, and approved by the Owner. The Performance Bond shall be in accordance with Minnesota Statutory requirements, and shall be in the form included in the Project Manual. The Bonds shall allow for any additions or deductions to the Contract Sum.

§ 11.6.2 In order to be acceptable as a surety, Contractor's bonding company bust hold a "Certificate of Authority acceptable to the U.S. Treasury Department and be listed in the Department's current publication of "Bond Qualifiers" with underwriting limitations not less than ten percent (10%) above the Contract Sum.

§ 11.6.3 The surety of the Bonds shall be by a corporate surety company authorized to do business in the state in which Work is being performed under this Contract and acceptable to the Owner. The conditions of the bonds shall meet requirements of the statutes of the state where Work is being performed and all other applicable provisions of state law.

§ 11.6.4 The Contractor shall furnish two (2) originals of the Bonds to the Owner, with copies to the Architect and Construction Manager, within ten (10) days after notification of award and before execution of the Contract. Failure to do so shall constitute a violation of terms of the proposal and provide grounds for forfeiture of bid security.

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ARTICLE 12 UNCOVERING AND CORRECTION OF WORK

§ 12.1 Uncovering of Work

§ 12.1.1 If a portion of the Work is covered contrary to the Construction Manager's or Architect's request or to requirements specifically expressed in the Contract Documents, it must, if requested in writing by either, be uncovered for their examination and be replaced at the Contractor's expense without change in the Contract Time.

§ 12.1.2 If a portion of the Work has been covered that the Construction Manager or Architect has not specifically requested to examine prior to its being covered, the Construction Manager or Architect may request to see such Work and it shall be uncovered by the Contractor. If such Work is in accordance with the Contract Documents, the Contractor shall be entitled to an equitable adjustment to the Contract Sum and Contract Time as may be appropriate. If such Work is not in accordance with the Contract Documents, the costs of uncovering the Work, and the cost of correction, shall be at the Contractor's expense.

§ 12.2 Correction of Work

§ 12.2.1 Before Substantial Completion

The Contractor shall promptly correct Work rejected by the Construction Manager or Architect or failing to conform to the requirements of the Contract Documents, discovered before Substantial Completion, and whether or not fabricated, installed or completed. The Contractor shall bear costs of correcting such rejected Work, including additional testing and inspections, the cost of uncovering and replacement, and compensation for the Construction Manager's and Architect's services and expenses made necessary thereby.

§ 12.2.2 After Substantial Completion

(Paragraphs deleted)

§ 12.2.2.1 If within one year after the date of Substantial Completion of the Work or designated portion thereof, or after the date for commencement of warranties established under Section 9.9.1, or by terms of any applicable special warranty required by the Contract Documents, any of the Work is found to be not in accordance with the requirements of the Contract Documents, the Contractor shall correct it promptly (and any other property damaged or removed in effecting the correction) after receipt of notice from the Owner, Construction Manager or Architect to do so, unless the Owner has previously given the Contractor a written acceptance of such condition. The Owner, Construction Manager or Architect shall give such notice promptly after discovery of the condition. This period of one year shall be extended with respect to portions of Work first performed after Substantial completion by the period of time between Substantial completion and the actual performance of the Work. This obligation under this Subparagraph 12.2.2.1 shall survive acceptance of the Work under the contract and termination of the Contract. The Owner, Construction Manager or Architect shall give such notice promptly after discovery of the condition. The expiration of the above one year or any other specified time period, or any other period prescribed by the law, shall not relieve the Contractor of the obligation form the expense to correct any latent defect in the work or deficiencies which are not readily ascertained, including but not limited to, defective materials and quality of work performed, defects attributable to material substitutions for special materials, substandard performance or otherwise not in compliance with the Contract Documents. Such latent defects or deficiencies shall be corrected as provided in this Paragraph 12.2. Following the correction or replacement of any of the Work, as above specified, the Contractor shall correct any defects or deficiencies in the corrected or replaced materials and workmanship which is found within one year after the date of correction or replacement.

§ 12.2.3 The Contractor shall remove from the site portions of the Work that are not in accordance with the requirements of the Contract Documents and are neither corrected by the Contractor nor accepted by the Owner.

§ 12.2.4 If the Contractor fails to correct nonconforming Work within a reasonable time, the Owner may correct it in accordance with Paragraph 2.4. If the Contractor does not proceed with correction of such nonconforming Work within a reasonable time fixed by written notice from the Architect or Construction Manager, the Owner may correct or remove it and store the salvageable materials or equipment all at the Contractor's expense. If the Contractor does not pay costs of such removal and storage within ten (10) days after written notice, the Owner may upon ten (10) additional days' written notice sell such materials and equipment at auction or at private sale and shall account for the proceeds thereof, after deducting costs and damages that should have been borne by the Contractor, the Contract Sum shall be reduced by the deficiency. If payments then or thereafter due the Contractor are not sufficient to cover such amount, the Contractor shall pay the difference to the Owner.

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§ 12.2.5 The Contractor shall bear the cost of correcting destroyed or damaged construction whether completed or partially completed, of the Owner or separate contractors caused by the Contractor's correction or removal of Work which is not in accordance with the requirements of the Contract Documents.

§ 12.2.6 Nothing contained in this Section 12.2 shall be construed to establish a period of limitation with respect to other obligations the Contractor has under the Contract Documents. Establishment of the one-year period for correction of Work as described in Section 12.2.2 relates only to the specific obligation of the Contractor to correct the Work, and has no relationship to the time within which the obligation to comply with the Contract Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Contractor's liability with respect to the Contractor's obligations other than specifically to correct the Work.

§ 12.3 Acceptance of Nonconforming Work

If the Owner prefers to accept Work that is not in accordance with the requirements of the Contract Documents, the Owner may do so instead of requiring its removal and correction, in which case the Contract Sum will be reduced as appropriate and equitable. Such adjustment shall be effected whether or not final payment has been made.

ARTICLE 13 MISCELLANEOUS PROVISIONS

§ 13.1 Governing Law

The Contract shall be governed by the law of the place where the Project is located excluding that jurisdiction's choice of law rules. If the parties have selected arbitration as the method of binding dispute resolution, the Federal Arbitration Act shall govern Section 15.4.

§ 13.2 Successors and Assigns

§ 13.2.1 The Owner and Contractor respectively bind themselves, their partners, successors, assigns, and legal representatives to covenants, agreements, and obligations contained in the Contract Documents. Except as provided in Section 13.2.2, neither party to the Contract shall assign the Contract as a whole without written consent of the other. If either party attempts to make an assignment without such consent, that party shall nevertheless remain legally responsible for all obligations under the Contract.

§ 13.2.2 The Owner may, without consent of the Contractor, assign the Contract to a lender providing construction financing for the Project, if the lender assumes the Owner's rights and obligations under the Contract Documents. The Contractor shall execute all consents reasonably required to facilitate the assignment.

§ 13.3 Rights and Remedies

§ 13.3.1 Duties and obligations imposed by the Contract Documents and rights and remedies available thereunder shall be in addition to and not a limitation of duties, obligations, rights, and remedies otherwise imposed or available by law.

§ 13.3.2 No action or failure to act by the Owner, Construction Manager, Architect, or Contractor shall constitute a waiver of a right or duty afforded them under the Contract, nor shall such action or failure to act constitute approval of or acquiescence in a breach thereunder, except as may be specifically agreed upon in writing.

§ 13.4 Tests and Inspections

§ 13.4.1 Tests, inspections, and approvals of portions of the Work shall be made as required by the Contract Documents and by applicable laws, statutes, ordinances, codes, rules, and regulations or lawful orders of public authorities. The Owner, Construction Manager or Architect shall make arrangements for such tests, inspections, and approvals with an independent testing laboratory or entity acceptable to the Owner, or with the appropriate public authority. Timely notice shall be given to the Construction Manager and Architect of when and where tests and inspections are to be made so that the Construction Manager and Architect may observe such procedures. The Owner shall bear costs of tests, inspections, or approvals that do not become requirements until after bids are received or negotiations concluded. The Owner shall directly arrange and pay for tests, inspections, or approvals where building codes or applicable laws or regulations so require.

§ 13.4.2 If the Construction Manager, Architect, Owner, or public authorities having jurisdiction determine that portions of the Work require additional testing, inspection, or approval not included under Section 13.4.1, the Construction Manager and Architect will, upon written authorization from the Owner, instruct the Contractor to make arrangements for such additional testing, inspection, or approval, by an entity acceptable to the Owner, and the

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Contractor shall give a minimum of two (2) working days' notice to the Construction Manager and Architect of when and where tests and inspections are to be made so that the Construction Manager and Architect may observe procedures. The Owner shall bear such costs, except as provided in Section 13.4.3.

§ 13.4.3 If procedures for testing, inspection, or approval under Sections 13.4.1 and 13.4.2 reveal failure of the portions of the Work to comply with requirements established by the Contract Documents, all costs made necessary by such failure, including those of repeated procedures and compensation for the Construction Manager's and Architect's services and expenses, shall be at the Contractor's expense.

§ 13.4.4 Required certificates of testing, inspection, or approval shall, unless otherwise required by the Contract Documents, be secured by the Contractor and promptly delivered to the Construction Manager for transmittal to the Architect.

§ 13.4.5 If the Construction Manager or Architect is to observe tests, inspections, or approvals required by the Contract Documents, the Construction Manager or Architect will do so promptly and, where practicable, at the normal place of testing.

§ 13.4.6 Tests or inspections conducted pursuant to the Contract Documents shall be made promptly to avoid unreasonable delay in the Work.

§ 13.5 Interest

All payments to the Contractor shall be governed by the Prompt Payment of Local Government Bills, Minnesota Statutes, Section 471.125 ("Prompt Payment Act") and Article 5 of the A132–2019 Agreement on this Project.

§ 13.6 Non-Discrimination

§ 13.6.1 All contracts between the Owner and companies providing goods and services under the Contract Documents shall contain the following equal opportunity and civil right clause:

> "During the performance of this Agreement, the provider agrees to the following: No contractor, material supplier, vendor, or other person shall on the basis of sex, race, creed, color, religion, national origin, age, marital status, sexual orientation, or disability be excluded from full employment rights in, participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program, service, or activity under the provisions of any and all applicable Federal and State laws against discrimination, including the Minnesota Human Rights Act and the Civil Rights Act of 1964."

Upon request, the Contractor shall furnish all information and reports required by the Owner, or by the rules and regulations of investigation to ascertain compliance with all applicable rules and regulations. The Contractor shall also comply with any applicable licensing requirements of the Minnesota Department of Human Services in employment of personnel.

The Contractor acknowledges that the violation of the above-stated paragraph is a misdemeanor pursuant to Minnesota Statutes, Section 181.59.

This Agreement may be cancelled or terminated by the Owner or any other person authorized to grant the contracts for employment under this Agreement, and all money due, or to become due under this Agreement may be forfeited for a second or any subsequent violation of the non-discriminatory terms stated above.

§ 13.6.2 During the completion of the work and all other services required by the Contract Documents, the Contractor agrees that no contractor, material supplier, vendor, or other person shall, on the basis of sex, race, creed, color, religion, national origin, age, marital status, sexual orientation, or disability be excluded from full employment rights in participation in, be denied the benefits of, or be otherwise subjected to discrimination under the provisions of any and all applicable Federal and State laws against discrimination, including the Minnesota Human Rights Act and the Civil Rights Act of 1964. Upon request, the Architect, Construction Manager and Contractor shall furnish all information and reports required by the Owner, or by the rules and regulations of investigation to ascertain compliance with all applicable rules and regulations. The Contractor shall also comply with any applicable licensing requirements of the Minnesota Department of Human Services in employment of personnel.

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Contractor acknowledges that the violation of the above-states paragraph is a misdemeanor pursuant to Minnesota Statutes Section 181.59.

The Contract Documents may be cancelled or terminated by the Owner or any other person authorized to grant the contracts for employment under this Agreement, and all money due, or to become due under the Agreement may be forfeited for a second or any subsequent violation of the non-discriminatory terms stated above.

§ 13.7 No action or failure to act by the Owner shall constitute a waiver of a right or duty afforded the Owner under the Contract Documents, nor shall such action or failure to act constitute approval of or acquiescence of the Owner in a breach of the Contract Documents, except as may be specifically agreed in writing. None of the approval of any Application for Payment, the making of any payment, the giving of any approval or consent, the use or occupancy of the Work, or any part thereof, the making of final payment, or any other action or inaction on the part of the Owner, Construction Manager or Architect shall constitute a waiver of claims by or rights of the Owner or an acceptance of any Work that is not in accordance with the Contract Documents. The Contractor shall not be relieved from its obligations to perform the Work in accordance with the Contract Documents either by the activities or duties of the representations of the Owner, Construction Manager or Architect, or by inspections, tests, or approvals required or performed by the Owner, Construction Manager or Architect or anyone else.

ARTICLE 14 TERMINATION OR SUSPENSION OF THE CONTRACT

§ 14.1 Termination by the Contractor

§ 14.1.1 The Contractor may terminate the Contract if the Work is stopped for a period of 30 consecutive days through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, their agents or employees, or any other persons or entities performing portions of the Work, for any of the following reasons:

.1 Issuance of an order of a court or other public authority having jurisdiction that requires all Work to be stopped;

.2 An act of government, such as a declaration of national emergency, that requires all Work to be stopped;

.3 Because the Construction Manager has not certified or the Architect has not issued a Certificate for Payment and has not notified the Contractor of the reason for withholding certification as provided in Section 9.4, or because the Owner has not made payment on a Certificate for Payment within the time stated in the Contract Documents; or

.4 The Owner has failed to furnish to the Contractor reasonable evidence as required by Section 2.2.

§ 14.1.2 The Contractor may terminate the Contract if, through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, their agents or employees, or any other persons or entities performing portions of the Work, repeated suspensions, delays, or interruptions of the entire Work by the Owner as described in Section 14.3, constitute in the aggregate more than 100 percent of the total number of days scheduled for completion, or 120 days in any 365-day period, whichever is less.

§ 14.1.3 If one of the reasons described in Section 14.1.1 or 14.1.2 exists, the Contractor may, upon seven days' notice to the Owner, Construction Manager and Architect, terminate the Contract and recover from the Owner payment for Work executed, as well as reasonable overhead and profit on Work not executed, and costs incurred by reason of such termination.

§ 14.1.4 If the Work is stopped for a period of 60 consecutive days through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, or their agents or employees, or any other persons performing portions of the Work because the Owner has repeatedly failed to fulfill the Owner's obligations under the Contract Documents with respect to matters important to the progress of the Work, the Contractor may, upon seven additional days' notice to the Owner, Construction Manager and Architect, terminate the Contract and recover from the Owner as provided in Section 14.1.3.

§ 14.1.5 No Right to Stop Work for Non-Payment

The Contractor has no right to stop Work as a consequence of non-payment. In the event of any disagreement between the Contractor and Owner involving the Contractor's entitlement to payment, the Contractor's only remedy is to file a Claim in accordance with Article 15. The Contractor must diligently proceed with the Work pending resolution of the Claim. If, however, an Application for Payment has been approved for payment by the Owner, and the Owner fails to make payment within sixty (60) days of the approval for payment by the Owner, the Contractor may upon ten (10)

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days written notice to the Owner, stop work if payment is not made by the Owner within ten (10) days following the notice.

§ 14.2 Termination by the Owner for Cause

§ 14.2.1 The Owner may terminate the Contract if the Contractor

.1 repeatedly refuses or fails to supply enough properly skilled workers or proper materials;

.2 fails to make payment to Subcontractors or suppliers in accordance with the respective agreements between the Contractor and the Subcontractors or suppliers;

.3 repeatedly disregards applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of a public authority; or

.4 otherwise is guilty of substantial breach of a provision of the Contract Documents.

§ 14.2.2 When any of the reasons described in Section 14.2.1 exist, after consultation with the Construction Manager, and upon certification by the Architect that sufficient cause exists to justify such action, the Owner may, without prejudice to any other rights or remedies of the Owner and after giving the Contractor and the Contractor's surety, if any, seven days' notice, terminate employment of the Contractor and may, subject to any prior rights of the surety:

.1 Exclude the Contractor from the site and take possession of all materials, equipment, tools, and construction equipment and machinery thereon owned by the Contractor;

.2 Accept assignment of subcontracts pursuant to Section 5.4; and

.3 Finish the Work by whatever reasonable method the Owner may deem expedient. Upon written request of the Contractor, the Owner shall furnish to the Contractor a detailed accounting of the costs incurred by the Owner in finishing the Work.

§ 14.2.3 When the Owner terminates the Contract for one of the reasons stated in Section 14.2.1, the Contractor shall not be entitled to receive further payment until the Work is finished.

§ 14.2.4 If the unpaid balance of the Contract Sum exceeds costs of finishing the Work, including compensation for the Construction Manager's and Architect's services and expenses made necessary thereby, and other damages incurred by the Owner and not expressly waived, such excess shall be paid to the Contractor. If such costs and damages exceed the unpaid balance, the Contractor shall pay the difference to the Owner. The amount to be paid to the Contractor or Owner, as the case may be, shall, upon application, be certified by the Initial Decision Maker after consultation with the Construction Manager, and this obligation for payment shall survive termination of the Contract.

§ 14.3 Suspension by the Owner for Convenience

§ 14.3.1 The Owner may, without cause, order the Contractor in writing to suspend, delay or interrupt the Work, in whole or in part for such period of time as the Owner may determine.

§ 14.3.2 The Contract Sum and the Contract Time shall be adjusted for increases or decreases in the cost and time caused by suspension, delay, or interruption under Section 14.3.1. Adjustment of the Contract Sum shall include reasonable profit. No adjustment shall be made to the extent:

.1 that performance is, was, or would have been, so suspended, delayed, or interrupted, by another cause for which the Contractor is responsible; or

.2 that an equitable adjustment is made or denied under another provision of this Contract.

§ 14.4 Termination by the Owner for Convenience

§ 14.4.1 The Owner may, at any time, terminate the Contract for the Owner's convenience and without cause.

§ 14.4.2 Upon receipt of notice from the Owner of such termination for the Owner's convenience, the Contractor shall

.1 cease operations as directed by the Owner in the notice;

.2 take actions necessary, or that the Owner may direct, for the protection and preservation of the Work; and

.3 except for Work directed to be performed prior to the effective date of termination stated in the notice, terminate all existing subcontracts and purchase orders and enter into no further subcontracts and purchase orders.

(Paragraph deleted)

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ARTICLE 15 CLAIMS AND DISPUTES

§ 15.1 Claims

§ 15.1.1 Definition. A Claim is a demand or assertion by the Contractor seeking, as a matter of right, payment of money, a change in the Contract Time, or other relief with respect to the terms of the Contract. The responsibility to substantiate Claims shall rest with the Contractor. Nothing in this paragraph 15.1.1 is intended to apply to or in any way limit the Owner's right to make Claims related to or arising out of the Contract. This Section 15.1.1 does not require the Owner to file a Claim in order to impose liquidated damages in accordance with the Contract Documents.

§ 15.1.2 Time Limits on Claims

The Owner and Contractor shall commence all Claims and causes of action against the other and arising out of or related to the Contract, whether in contract, tort, breach of warranty or otherwise, in accordance with the requirements of the binding dispute resolution method selected in the Agreement and within the period specified by applicable law, but in any case not more than 10 years after the date of Substantial Completion of the Work. The Owner and Contractor waive all Claims and causes of action not commenced in accordance with this Section 15.1.2.

§ 15.1.3 Notice of Claims

§ 15.1.3.1 Claims by Contractor, where the condition giving rise to the Claim is first discovered prior to expiration of the period for correction of the Work set forth in Section 12.2.2, shall be initiated by written notice to the Owner and to the Initial Decision Maker with a copy sent to the Construction Manager and Architect, if the Architect is not serving as the Initial Decision Maker. Claims by the Contractor under this Section 15.1.3.1 shall be initiated within ten (10) days after occurrence of the event giving rise to such Claim or within ten (10) days after the Contractor first recognizes the condition giving rise to the Claim, whichever is later. Any additional Claim made after and relating to the initial Claim has been implemented by Change Order will not be considered unless submitted in a timely manner. As a condition to making a claim for additional costs, the Contractor shall maintain and produce accurate records to substantiate all additional costs actually incurred. If a Claim for actual costs is approved, the Owner shall pay the Contractor actual costs incurred, plus either (a) ten percent (10%) for overhead and profit for work performed by the Contractor, or (b) five percent (5%) overhead and profit for work performed by a Subcontractor, as applicable.

§ 15.1.3.2 Claims by either the Owner or Contractor, where the condition giving rise to the Claim is first discovered after expiration of the period for correction of the Work set forth in Section 12.2.2, shall be initiated by written notice to the other party. In such event, no decision by the Initial Decision Maker is required.

§ 15.1.4 Continuing Contract Performance

§ 15.1.4.1 Pending final resolution of a Claim, except as otherwise agreed in writing or as provided in Section 9.7 and Article 14, the Contractor shall proceed diligently with performance of the Contract and the Owner shall continue to make payments in accordance with the Contract Documents. Subject to Paragraph 15.1.5, no such continuing performance by the Contractor, nor payment by the Owner shall be deemed a waiver of, or to otherwise impair any such Claim.

§ 15.1.4.2 The Contract Sum and Contract Time shall be adjusted in accordance with the Initial Decision Maker's decision, subject to the right of either party to proceed in accordance with this Article 15. The Architect will issue Certificates for Payment in accordance with the decision of the Initial Decision Maker.

§ 15.1.5 Claims for Additional Cost. If the Contractor wishes to make a Claim for an increase in the Contract Sum, notice as provided in Section 15.1.3 shall be given before proceeding to execute the portion of the Work that is the subject of the Claim. Prior notice is not required for Claims relating to an emergency endangering life or property arising under Section 10.4.

§ 15.1.6 Claims for Additional Time

§ 15.1.6.1 If the Contractor wishes to make a Claim for any increase in the Contract Time, notice as provided in Section 15.1.3 shall be given. The Contractor's Claim shall include an estimate of cost and of probable effect of delay on progress of the Work. In the case of a continuing delay only one Claim is necessary.

§ 15.1.6.2 If adverse weather conditions are the basis for a Claim for additional time, such Claim shall be documented by data substantiating that weather conditions were abnormal for the period of time, could not have been reasonably anticipated and had an adverse effect on the scheduled construction.

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(Paragraphs deleted)

§ 15.2 Initial Decision

§ 15.2.1 Claims, excluding those where the condition giving rise to the Claim is first discovered after expiration of the period for correction of the Work set forth in Section 12.2.2 or arising under Sections 10.3, 10.4, and 11.5, shall be referred to the Initial Decision Maker for initial decision. The Architect will serve as the Initial Decision Maker, unless otherwise indicated in the Agreement. Except for those Claims excluded by this Section 15.2.1, an initial decision shall be required as a condition precedent to mediation of any Claim. If an initial decision has not been rendered within 30 days after the Claim has been referred to the Initial Decision Maker, the party asserting the Claim may demand mediation and binding dispute resolution without a decision having been rendered. Unless the Initial Decision Maker and all affected parties agree, the Initial Decision Maker will not decide disputes between the Contractor and persons or entities other than the Owner.

§ 15.2.2 The Initial Decision Maker will review Claims and within ten days of the receipt of a Claim take one or more of the following actions: (1) request additional supporting data from the claimant or a response with supporting data from the other party, (2) reject the Claim in whole or in part, (3) approve the Claim, (4) suggest a compromise, or (5) advise the parties that the Initial Decision Maker is unable to resolve the Claim if the Initial Decision Maker lacks sufficient information to evaluate the merits of the Claim or if the Initial Decision Maker concludes that, in the Initial Decision Maker's sole discretion, it would be inappropriate for the Initial Decision Maker to resolve the Claim.

§ 15.2.3 In evaluating Claims, the Initial Decision Maker may, but shall not be obligated to, consult with or seek information from either party or from persons with special knowledge or expertise who may assist the Initial Decision Maker in rendering a decision. The Initial Decision Maker may request the Owner to authorize retention of such persons at the Owner's expense.

§ 15.2.4 If the Initial Decision Maker requests a party to provide a response to a Claim or to furnish additional supporting data, such party shall respond, within ten days after receipt of the request, and shall either (1) provide a response on the requested supporting data, (2) advise the Initial Decision Maker when the response or supporting data will be furnished, or (3) advise the Initial Decision Maker that no supporting data will be furnished. Upon receipt of the response or supporting data, if any, the Initial Decision Maker will either reject or approve the Claim in whole or in part.

§ 15.2.5 The Initial Decision Maker will render an initial decision approving or rejecting the Claim, or indicating that the Initial Decision Maker is unable to resolve the Claim. This initial decision shall (1) be in writing; (2) state the reasons therefor; and (3) notify the parties, the Construction Manager, and the Architect, if the Architect is not serving as the Initial Decision Maker, of any change in the Contract Sum or Contract Time or both. The initial decision shall be final and binding on the parties but subject to mediation and, if the parties fail to resolve their dispute through mediation, to binding dispute resolution.

§ 15.2.6 In the event of a Claim against the Contractor, the Owner may, but is not obligated to notify the surety, if any, of the nature and amount of the Claim. If the Claim relates to a possibility of a Contractor's default, the Owner may, but is not obligated to notify the surety and initiate a Claim on the performance bond.

(Paragraphs deleted)

§ 15.3 Mediation

§ 15.3.1 Any claim, dispute or other matter in question or arising out of or related to the Contract shall be subject to mediation. Mediation is not a condition precedent to commencing litigation, but if litigation is commenced before mediation is held, the Parties agree to mediate before any dispositive motions or trial.

§ 15.3.2 The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located unless another location is mutually agreed upon. Agreements reached in mediation and ratified by the Owner's Council shall be enforceable as settlement agreements in any court having jurisdiction thereof.

(Paragraphs deleted)

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Additions and Deletions Report for
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PAGE 1

North High School Phase 4 Work Scope 05-B1 Structural Steel
1500 James Avenue, Minneapolis, MN 55411

...

Kraus-Anderson Construction Company
501 South 8th Street, Minneapolis, MN 55404

...

Minneapolis Public Schools Special School District #1
1250 West Broadway Avenue
Minneapolis, MN 55411

...

LSE Architects 1401 Glenwood Avenue
Minneapolis, MN 55405

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§ 1.1.1.1 Notwithstanding the foregoing, it is understood and agreed that the Owner is an intended third-party beneficiary of all contracts between the Contractor and Subcontractors or suppliers who provide labor and/or materials for the Work.

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§ 1.1.10 Initial Decision Maker. The Initial Decision Maker is the person identified in the Agreement to render initial decisions on Claims in accordance with Section 15.2. The ~~Initial Decision Maker shall not show partiality to the Owner or Contractor and shall not be liable for results of interpretations or decisions rendered in good faith.~~Architect will serve as the Initial Decision Maker pursuant to Section 15.2 of AIA Document A232–2019.

...

§ 1.2.1 The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work by the Contractor. The Contract Documents are complementary, and what is required by one shall be as binding as if required by all; performance by the Contractor shall be required only to the extent consistent with the Contract Documents and reasonably inferable from them as being necessary to produce the ~~indicated~~ intended results.

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§ 1.2.1.1 The invalidity of any provision of the Contract Documents shall not invalidate the Contract or its remaining provisions. ~~If it is determined that any provision of the Contract Documents violates any law, or is otherwise invalid or unenforceable, then that provision shall be revised to the extent necessary to make that provision legal and enforceable.~~ In such case the Contract Documents shall be construed, to the fullest extent permitted by law, to give effect to the parties' intentions and purposes in executing the Contract.

...

§ 1.4.1 In the case of inconsistency between Drawings and Specifications or within Contract Documents not clarified by Addenda, the better quality or greater quantity of Work shall be provided in accordance with the Architect's interpretation.

§ 1.5.1 The Architect and the Architect's consultants shall be deemed the authors and owners of their respective Instruments of Service, including the Drawings and Specifications, and retain all common law, statutory, and other reserved rights in their Instruments of Service, including copyrights. The Contractor, Subcontractors, sub-subcontractors, and suppliers shall not own or claim a copyright in the Instruments of Service. Submittal or distribution to meet official regulatory requirements or for other purposes in connection with the Project is not to be construed as publication in derogation of the Architect's or Architect's consultants' reserved rights. The Owner retains rights to the Instruments of Service pursuant to Article 7 of AIA Document B101-2017.

...

§ 1.5.3 The Architect shall furnish to the Contractor a version of the Instruments of Service in electronic form for the sole purpose of the construction of the Project for which the Instruments of Service were created.

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The parties shall agree upon ~~written~~ protocols governing the transmission and use ~~of, and reliance on,~~ of Instruments of Service or any other information or documentation in digital form. The parties may use AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit or other form, to establish the protocols for the development, use, transmission, and exchange of digital data.

...

Any use of, or reliance on, all or a portion of a building information model without agreement to ~~written~~ protocols governing the use of, and reliance on, the information contained in the model and without having those protocols set forth in AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, and the requisite AIA Document G202™–2013, Project Building Information Modeling Protocol Form or other form, shall be at the using or relying party's sole risk and without liability to the other party and its contractors or consultants, the authors of, or contributors to, the building information model, and each of their agents and employees.

...

§ 2.1.1 The Owner is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The Owner shall designate in writing a representative who shall have express authority to bind the Owner with respect to all matters requiring the Owner's approval or ~~authorization.~~ authorization in accordance with Owner's Delegation of Authority Policy, a copy of which will be provided at Contractor's request. Except as otherwise provided in Section 4.2.1, the Construction Manager and the Architect do not have such authority. The term "Owner" means the Owner or the Owner's authorized representative.

~~**§ 2.1.2** The Owner shall furnish to the Contractor, within fifteen days after receipt of a written request, information necessary and relevant for the Contractor to evaluate, give notice of, or enforce mechanic's lien rights. Such information shall include a correct statement of the record legal title to the property on which the Project is located, usually referred to as the site, and the Owner's interest therein.~~

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§ 2.3.5 ~~The~~ If requested by the Contractor and reasonably required for the Project, the Owner shall furnish surveys describing physical characteristics, legal limitations and utility locations for the site of the Project, and a written legal description of the site. The Contractor ~~shall be entitled to rely on the accuracy of information furnished by the Owner but~~ shall exercise proper precautions relating to the safe performance of the Work.

§ 2.3.6 The Owner shall furnish information or services required of the Owner by the Contract Documents with reasonable promptness. The Owner shall also furnish any other information or services under the Owner's control and relevant to the Contractor's performance of the Work with reasonable promptness after receiving the Contractor's written request for such information or services. The Contractor is responsible for the timeliness of, or interference caused by, Subcontractors, Sub-subcontractors (of any tier), and others directly or indirectly under contract to the Contractor.

...

If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within a ~~ten-day~~ three-business-day (3) period after receipt of notice from the Owner to commence and continue correction of such default or neglect with diligence and promptness, the Owner may, without prejudice to other remedies the Owner may have, correct such default or neglect. Such action by the Owner and amounts charged to the Contractor are both subject to review by the Construction Manager and prior approval of the Architect, and the Construction Manager or Architect may, pursuant to Section 9.5.1, withhold or nullify a Certificate for Payment in whole or in part, to the extent reasonably necessary to reimburse the Owner for the reasonable cost of correcting such deficiencies, including Owner's expenses and compensation for the Construction Manager's and Architect's and their respective consultants' additional services and expenses made necessary by such default, neglect, or failure. If current and future payments are not sufficient to cover such amounts, the Contractor shall pay the difference to the ~~Owner.~~ Owner within ten (10) days following written request for payment delivered by the Owner to the Contractor. If the Contractor disagrees with the actions of the Owner or the Architect, or the amounts claimed as costs to the Owner, the Contractor may file a Claim pursuant to Article 15.

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§ 3.1.3 The Contractor shall ~~not be relieved of its obligations to perform the Work in accordance with the Contract Documents either by activities or duties of the Construction Manager or Architect in their administration of the Contract, or by tests, inspections or approvals required or performed by persons or entities other than the Contractor.~~hire a professional utilities locator to investigate and verify all private utility locations prior to excavation and cutting into of existing Work. The Contractor is responsible for locating, terminating, and reinstallation of all private utilities. Private site utilities may not be in the Drawings and Project Manual and as such, verification of private utilities is the sole responsibility of the Contractor. Costs associated with moving and repairing of unknown and undocumented utilities will be by appropriate Change Order. The Contractor shall comply with Gopher State One Call, or other public utility service locator to locate all public utilities prior to any work on the site. This shall not relieve Contractor from obligations under Article 3.

§ 3.1.4 The Contractor shall not be relieved of its obligations to perform the Work in accordance with the Contract Documents either by activities or duties of the Construction Manager or Architect in their administration of the Contract, or by tests, inspections or approvals required or performed by persons or entities other than the Contractor.

...

§ 3.2.1 ~~Execution of the Contract by the Contractor is a representation that the Contractor has visited the site, become generally~~ The Contractor shall carefully study and compare the Contract Documents with each other and with information furnished by the Owner pursuant to Section 2.2.3, and shall immediately report to the Architect and Construction Manager errors, inconsistencies, or omissions discovered. The Contractor shall not be liable to the Owner or Architect for damage resulting from errors, inconsistencies, or omissions in the Contract Document unless the Contractor recognized such error, inconsistency, or omission and knowingly failed to report it to the Architect. If the Contractor performs any construction activity knowing or believing it involves a recognized error, inconsistency, or omission in the Contract Documents without such notice to the Architect, the Contractor shall assume full responsibility for such performance and shall bear the attributable costs for correction and shall bear responsibility for any additional costs, delays, and damages resulting from such failure to immediately report any such errors,

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inconsistencies, or omissions which the Contractor may discover. By executing the Contract, the Contractor represents that the Contractor has reviewed and understands the Contract Documents, has visited the Site and is familiar with local conditions under which the Work is to be performed, ~~and correlated personal observations with requirements of the Contract Documents.~~has correlated personal observations with the requirements of the Contract Documents, and has notified the Architect of and obtained clarification of any discrepancies which have become apparent during the bidding or proposal period.

§ 3.2.1.1 The Contractor shall take field measurements and verify field conditions and shall carefully compare such field measurements and conditions and other information known to the Contractor with the Contract Documents before commencing activities. Errors, inconsistencies, or omissions discovered shall be reported to the Architect immediately in writing.

§ 3.2.1.2 The Contractor shall carefully study and compare the Contract Documents with existing conditions at the job site and shall immediately report in writing to the Architect any error, inconsistency, or omission which the Contractor may discover or any materials, systems, procedures, or methods of construction, either shown on the Drawings or specified, which the Contractor has reason to believe are incorrect, inadequate, obsolete, unsuitable for the purpose intended or which the Contractor has reason to believe would constitute or result in a violation of the Contractor's warranty under Section 3.5 or applicable law. The Contractor shall not proceed with any work in such areas until written instructions are received from the Architect.

§ 3.2.2 ~~Because the Contract Documents are complementary, the Contractor shall, before starting each portion of the Work, carefully study and compare the various Contract Documents relative to that portion of the Work, as well as the information furnished by the Owner pursuant to Section 2.3.5, shall take field measurements of any existing conditions related to that portion of the Work, and shall observe any conditions at the site affecting it. These obligations are for the purpose of facilitating coordination and construction by the Contractor and are not for the purpose of discovering errors, omissions, or inconsistencies in the Contract Documents; however, the Contractor shall promptly report to the Construction Manager and Architect any errors, inconsistencies or omissions discovered by or made known to the Contractor as a request for information submitted to the Construction Manager in such form as the Construction Manager and Architect may require. It is recognized that the Contractor's review is made in the Contractor's capacity as a contractor and not as a licensed design professional, unless otherwise specifically provided in the Contract Documents.~~The Contractor shall perform the Work in accordance with the Contract Documents and submittals accepted pursuant to Section 3.12.

§ 3.2.3 The ~~Contractor is not required to ascertain that the Contract Documents are in accordance with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, but the Contractor shall promptly report to the Construction Manager and Architect any nonconformity discovered by or made known to the Contractor as a request for information submitted to Construction Manager in such form as the Construction Manager and Architect may require.~~Owner shall be entitled to deduct from the Contract Sum amounts paid to the Architect for the Architect to evaluate and respond to the Contractor's requests for interpretation or information where such information was available to the Contractor from a careful study and comparison of the Contract Documents, Filed Conditions, Owner Provided Information, Contractor Prepared Coordination Drawings, or prior Project Correspondence or Documentation.

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§ 3.2.4 If the Contractor believes that ~~additional cost or time is involved because of clarifications or instructions the Architect issues in response to the Contractor's notices or requests for information pursuant to Sections 3.2.2 or 3.2.3, the Contractor shall submit Claims as provided in Article 15. If the Contractor fails to perform the obligations of Sections 3.2.2 or 3.2.3, the Contractor shall pay such costs and damages to the Owner, subject to section 15.1.7, as would have been avoided if the Contractor had performed such obligations. If the Contractor performs those obligations, the Contractor shall not be liable to the Owner or Architect for damages resulting from errors, inconsistencies or omissions in the Contract Documents, for differences between field measurements or conditions and the Contract Documents, or for nonconformities of the Contract Documents to applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities.~~any portions of the Contract Documents do not comply with applicable laws, statutes, ordinances, building codes, and rules and regulations, or any orders by code enforcement officials or the Owner or its designees acting in the capacity of building code inspectors or Referenced Standards, the Contractor must promptly notify the Owner and the Architect of the non-compliance as provided in Section 3.2.6 and request direction before proceeding with the affected Work.

§ 3.2.5 The Contractor must promptly notify the Owner and the Architect in writing of any apparent errors, inconsistencies, omissions, ambiguities, construction impracticalities or code violations discovered as a result of the Contractor's review of the Contract Documents including any differences between actual and indicated dimensions, locations and descriptions, and must give the Owner and the Architect timely notice in writing of same and of any corrections, clarifications, additional Drawings or Specifications, or other information required to define the Work in greater detail or to permit the proper progress of the Work. The Contractor must provide similar notice with respect to any variance between its review of the Site and physical data and Site conditions observed.

§ 3.2.6 If the Contractor performs any Work involving an apparent error, inconsistency, ambiguity, construction impracticality, omission or code violation in the Contract Documents of which the Contractor is aware, or which could reasonably have been discovered by the review required by Section 3.2, without prompt written notice to the Owner and the Architect and request for correction, clarification or additional information, as appropriate, the Contractor does so at its own risk and expense and all Claims relating thereafter are specifically waived.

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§ 3.3.4 The Contractor shall at all times staff the Project adequately to allow the Project to be managed and completed in a timely and professional manner. The Contractor shall have competent supervision on the job during work hours and readily available at all times upon call.

§ 3.3.5 The Contractor shall at all times make reasonable provisions to protect any Work performed by any separate contractors, adjacent property, and the existing building (if any) from damage due to the Work or due to the weather.

§ 3.3.6 The Owner or its approved representative (heretofore referred to as Owner's Representative) shall have access to the Work site and all Work. No supervision or inspection by the Owner or the Owner's Representative, nor the authority to act, nor any other actions taken by the Owner's Representative shall relieve the Contractor of any of its obligations under the Contract Documents or give rise to any duty on the part of the Owner.

§ 3.3.7 The Contract shall take appropriate precautions to ensure that the Work does not materially disrupt any ongoing operation by the Owner at the Project (if any) except to the extent any such disruption is a necessary result of performing a particular portion of the Work, in which case the Contractor shall provide the Owner with reasonable advanced written notice and shall take all commercially reasonable measures to minimize the impact on the Owner and the Owner's operations.

§ 3.4.1 Unless otherwise provided in the Contract Documents, the Contractor shall provide and pay for labor, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation, and other facilities and services necessary for proper execution and completion of the Work, whether temporary or permanent and whether or not incorporated or to be incorporated in the Work. Should the Contract Documents require Work to be performed after regular working hours or should the Contractor elect to perform Work after regular working hours, the additional cost of such Work shall be borne by the Contractor.

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§ 3.4.4 The Contractor shall be responsible for all additional costs incurred to incorporate into the Project substitute materials, products, or equipment approved by Owner during the bidding period.

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§ 3.4.5 In the event of a Change related to substitute or additional materials, and which shall comply with Article 7, the Contractor shall exercise reasonable efforts, consistent with the provisions of the Contract Documents to obtain the maximum available case discounts on all materials, provided that, in doing so, the Contractor shall not accept or use materials for incorporation into the Project which are of a type or quality not reasonably contemplated under the terms of the Contract Documents.

§ 3.4.6 After award of the Contract, a request for substitution of a material, product, or piece of equipment at no change in the Contract Sum will not be approved by the Owner or the Architect, unless the specified item is no longer manufactured, the specified item is unavailable as a result of an act of government such as a declaration of a national emergency, or delivery of the specified items is substantially delayed as a result of labor disputes affecting the manufacturer, unusual delay in transportation, or any other cause beyond control of the Contractor or a Subcontractor or material supplier which the Architect determines justified the delay. Requests will not be approved where the delay in delivery results from failure to promptly place subcontracts and material orders. Requests for substitution shall be submitted in writing to the Architect and shall clearly describe the proposed substitution, state the reason for the unavailability of a specified item and be accompanied by such additional data and information as may be necessary in the discretion of the Owner and the Architect to establish the acceptability of the proposed substitute.

§ 3.4.7 The Owner shall be entitled to deduct from the Contract Sum amounts paid to the Architect to evaluate the Contractor's proposed Substitutions and for changes made to the Contract Documents as a result of Owner's acceptance of such Substitutions.

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§ 3.5.2 All material, equipment, or other special warranties required by the Contract Documents shall be issued in the name of the Owner, or shall be transferable to the Owner, and shall commence in accordance with Section 9.8.4. The Contractor shall arrange for the Owner to have the benefit of and right to enforce all warranties by Subcontractors, Sub-subcontractors, suppliers, and manufacturers.

§ 3.5.3 Manufacturers' warranties and warranties by other shall not relieve the Contractor of any of its responsibilities.

§ 3.5.4 The Contractor's general warranty and any additional or special warranties are not limited by the Contractor's obligations to specifically correct defective or nonconforming Work as provided in Article 12, nor are they limited by any other remedies provided in the Contract Documents. The Contractor shall also be liable for any damage to property or persons (including death) including consequential and direct damages relating to any breach of the Contractor's general warranty or any additional or special warranties required by the Contract Documents.

§ 3.5.5 The Contractor must furnish all special warranties required by the Contract Documents to the Owner no later than Substantial Completion. The Owner may require additional special warranties in connection with the approval of "Or-Equals" or Substitutions, Allowance items, Work that is defective or nonconforming, or the acceptance of nonconforming Work pursuant to Article 12.

...

§ 3.7.1 Unless otherwise provided in the Contract Documents, the Owner, assisted by the Construction Manager, shall secure and pay for the building permit. The Contractor shall secure and pay for other permits, fees, licenses, and inspections by government agencies necessary for proper execution and completion of the Work that are customarily secured after execution of the Contract and legally required at the time bids are received or negotiations concluded. The Contractor shall be responsible for the Sewer Access (SAC) and Water Access (WAC) fees for the Project. The Contractor shall pay the SAC/WAC costs to the authorities having jurisdiction from the Allowance in the Base Bid for such charges as defined in the Construction Documents.

...

§ 3.7.3 If the Contractor performs Work knowing or believing it to be contrary to applicable laws, statutes, ordinances, building codes, rules and regulations, or lawful orders of public authorities, without such notice to the Architect and Owner, the Contractor shall assume ~~appropriate~~ full responsibility for such Work and shall bear the ~~costs attributable~~

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~~to correction.~~attributable costs, delays, and damages resulting from such failure to immediately notify the Architect and Owner of any such violation..

§ 3.7.4 Concealed or Unknown Conditions. If the Contractor encounters conditions at the site that are (1) subsurface or otherwise concealed physical conditions that differ materially from those indicated in the Contract Documents or (2) unknown physical conditions of an unusual nature that differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents, the Contractor shall promptly provide notice to the Owner, Construction Manager, and the Architect before conditions are disturbed and in no event later than ~~14~~ ten (10) days after first observance of the conditions. The Architect and Construction Manager will promptly investigate such conditions and, if the Architect, in consultation with the Construction Manager, determines that they differ materially and cause an increase or decrease in the Contractor's cost of, or time required for, performance of any part of the Work, will recommend that an equitable adjustment be made in the Contract Sum or Contract Time, or both. If the Architect, in consultation with the Construction Manager, determines that the conditions at the site are not materially different from those indicated in the Contract Documents and that no change in the terms of the Contract is justified, the Architect shall promptly notify the Owner, Construction Manager, and Contractor, stating the reasons. If the Owner or Contractor disputes the Architect's determination or recommendation, either party may submit a Claim as provided in Article 15.

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§ 3.9.1 The Contractor shall employ a competent superintendent and necessary assistants who shall be in attendance at the Project site during performance of the ~~Work.~~ Work, including that performed by all Subcontractors. The superintendent shall represent the Contractor, and communications given to the superintendent shall be as binding as if given to the Contractor. Important communications including and not limited to communications regarding design changes, alterations, substitutions, clarifications, cost changes, etc. shall be confirmed in writing by the Contractor. Other communications shall be similarly confirmed on written request in each case.

...

§ 3.9.3 The Contractor shall not employ a proposed superintendent or any other management personnel to whom the Owner, Construction Manager, or Architect has made reasonable and timely objection. The Contractor shall not change the superintendent without the Owner's consent, which shall not unreasonably be withheld or delayed.

§ 3.9.4 If requested by the Owner, the Contractor shall replace the superintendent at no additional cost to the Owner. No other change in this position shall be made without notice to and written consent of the Owner.

...

§ 3.10.1 The Contractor, promptly after being awarded the Contract, shall submit for the Owner's and Architect's information, and the Construction Manager's use in developing the Project schedule, a Contractor's construction schedule for the Work. The schedule shall contain detail appropriate for the Project, including (1) the date of commencement of the Work, interim schedule milestone dates, critical path schedule milestones, major construction milestones, including and not limited to Civil, Demolition, Structural, Mechanical, Electrical, and Plumbing, and the date of Substantial Completion; (2) an apportionment of the Work by construction activity; and (3) the time required for completion of each portion of the Work. The schedule shall provide for the orderly progression of the Work to completion and shall not exceed time limits current under the Contract Documents. The schedule shall be revised at appropriate intervals as required by the conditions of the Work and Project. The Contractor shall cooperate with the Construction Manager in scheduling and performing the Contractor's Work to avoid conflict with, and as to cause no delay in, the work or activities of other Contractors, or the construction or operations of the Owner's own forces or Separate Contractors.

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§ 3.10.4 The Contractor shall perform the Work in general accordance with the most recent schedules submitted to and accepted in writing by the Owner, Construction Manager, and Architect, and incorporated into the approved Project schedule.

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~~The Contractor shall make available, at the Project site, the Contract Documents, including Change Orders, Construction Change Directives, and other Modifications, in good order and marked currently to indicate field changes and selections made during construction, and the approved Shop Drawings, Product Data, Samples, and similar required submittals. These shall be in electronic form or paper copy, available to the Construction Manager, Architect, and Owner, and delivered to the Construction Manager for submittal to the Owner upon completion of the Work as a record of the Work as constructed.~~**§ 3.11.1** The Contractor shall make available, at the Project site, one record copy of the Contract Documents, including Change Orders, Construction Change Directives, and other Modifications, in good order and updated daily to indicate field changes and selections made during construction, and in addition accepted and approved Shop Drawings, Product Data, Samples, and similar required submittals. These shall be in electronic form or paper copy, available to the Construction Manager, Architect, and Owner as required to complete routine inspections by Architect, Construction Manager and Owner prior to any approval of payments to the Contractor, and delivered to the Construction Manager for submittal to the Owner upon completion of the Work. The Architect and Contractor must verify that all "as-built" Drawings, Specifications, Addenda, Change Orders, and other Modifications are up-to-date before Contractor's Application for Payment is acceptable and before the Owner incurs any duty to pay Contractor in accordance with the Contract. The record documents shall be a separate set of documents labeled "Record Documents" and used only for record purposes and kept clean and undamaged.

§ 3.11.2 No review or receipt of such records by the Architect or Owner shall be considered a waiver of any deviation from the Contract Documents or approved shop drawings, or any way relieve the Contractor from its responsibility to perform the Work in accordance with the Contract Documents.

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§ 3.12.5 The Contractor shall review for compliance with the Contract Documents, approve, and submit to the Construction Manager, Shop Drawings, Product Data, Samples, and similar submittals required by the Contract Documents, in accordance with the Project submittal schedule approved by the Construction Manager and Architect or, in the absence of an approved Project submittal schedule, with reasonable promptness and in such sequence as to cause no delay in the Work or in the activities of other Contractors, Separate Contractors, or the Owner's own forces. The Contractor shall cooperate with the Construction Manager in the coordination of the Contractor's Shop Drawings, Product Data, Samples, and similar submittals with related documents submitted by other Contractors. The Contractor must provide the Owner and the Architect with copies of all submittals made to regulatory agencies.

...

§ 3.12.7 The Contractor shall perform no portion of the Work for which the Contract Documents require submittal and review of Shop Drawings, Product Data, Samples, or similar submittals, until the respective submittal has been reviewed and ~~approved by the Architect.~~accepted by the Architect. The Contractor must correct at its cost, and without any adjustment in Contract Time, any Work the correction of which is required due to the Contractor's failure to obtain approval of a submittal required to have been obtained prior to proceeding with the Work, including, but not limited to, correction of any conflicts in the Work resulting from such failure.

§ 3.12.8 The Work shall be in accordance with ~~approved~~ accepted submittals except that the Contractor shall not be relieved of responsibility for deviations from the requirements of the Contract Documents by the Architect's ~~approval~~ acceptance of Shop Drawings, Product Data, Samples, or similar submittals, unless the Contractor has specifically notified the Construction Manager and Architect of such deviation at the time of submittal and (1) the Architect has given written ~~approval~~ acceptance to the specific deviation as a minor change in the Work, or (2) a Change Order or Construction Change Directive has been issued authorizing the deviation. The Contractor shall not be relieved of responsibility for errors or omissions in Shop Drawings, Product Data, Samples, or similar submittals, by the Architect's ~~approval~~ acceptance thereof.

§ 3.12.9 The Contractor shall direct specific attention, in writing or on resubmitted Shop Drawings, Product Data, Samples, or similar submittals, to revisions other than those requested by the Construction Manager and Architect on previous submittals. In the absence of such notice, the Architect's ~~approval~~ acceptance of a resubmission shall not apply to such revisions.

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§ 3.13.3 Except as may be specifically provided in the Contract Documents, the Contractor shall provide all necessary temporary facilities, including power, water, sanitation, scaffolding, storage, and security. If Owner makes any such

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facilities available to Contractor, it is without representation or warranty as to their adequacy for Contractor's use, and Contractor shall indemnify, defend, and hold Owner harmless from and against any claims arising out of Contractor's use of such facilities.

...

§ 3.14.2 The Contractor shall not damage or endanger a portion of the Work or fully or partially completed construction of the Owner, Separate Contractors, or of other Contractors by cutting, patching, or otherwise altering such construction, or by excavation. The Contractor shall not cut or otherwise alter construction by the Owner, Separate Contractors, or by other Contractors except with written consent of the Construction Manager, Owner, and such other Contractors or Separate Contractors. Consent shall not be unreasonably withheld. The Contractor shall hire a professional utilities locator to verify locations of all public and private utilities prior to initiating any cutting work. The Contractor shall not unreasonably withhold, from the Separate Contractors, other Contractors, or the Owner, its consent to cutting or otherwise altering the Work.

...

§ 3.15.1 The Contractor shall keep the premises and surrounding area continuously free from accumulation of waste materials and rubbish caused by operations under the Contract. At completion of the Work, the Contractor shall remove from and about the Project waste materials, rubbish, Contractor-generated waste materials, the Contractor's generated hazardous waste materials, the Contractor's tools, construction equipment, machinery, and surplus materials from and about the Project.

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§ 3.18.1 To the fullest extent permitted by law, the Contractor shall ~~indemnify~~ indemnify, defend and hold harmless the Owner, Construction Manager, Architect, Construction Manager's and Architect's consultants, and agents and employees of any of them from and against claims, damages, losses, and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), but only to the extent caused by the negligent acts or omissions of the Contractor, a Subcontractor, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss, or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity ~~that~~ which would otherwise exist as to a party or person described in this Section 3.18. The Contractor, furthermore, agrees to obtain, maintain, and pay for such general liability coverage and endorsements (including product and completed operations coverage) as will ensure the provisions of this Section 3.18.1. The Contractor agrees to reimburse the Owner, its agents and employees for all costs and disbursements, including attorneys' fees, paid or incurred to enforce the provisions of this Section 3.18.1.

...

§ 3.18.3 To the fullest extent permitted by law and without limiting any other indemnification obligations of the Contractor, except to the extent caused by the uncured failure of the Owner to make payment when due and owing, the Contractor shall indemnify and defend the Owner, its officers, directors, assigns, lenders, agents, and employees from any liens, charges (including attorneys' fees) or encumbrances (including but not limited to mechanic's and materialmen's liens or bond claims) arising out of or in connection with the performance of the Work by Contractor, its Subcontractors, or its material suppliers. Upon request of the Owner, the Contractor shall within sixty (60) days remove any liens filed against the Owner or its property. If the Contractor fails to do so, the Owner is authorized by the Contractor to remove or satisfy any such liens, and the Contractor shall pay to the Owner all costs and damages incurred by the Owner to do so, including attorneys' fees.

...

§ 4.2.1 The Construction Manager and Architect will provide administration of the Contract as described in the Contract Documents and will be the Owner's ~~representatives during construction until the date the Architect issues the final Certificate for Payment.~~ consultants (1) during construction; (2) until final payment is due; and (3) with the

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Owner's concurrence, from time to time during the correction period described in Section 12.2. The Architect and Construction Manager will advise and consult with the Owner. The Construction Manager and Architect will have authority to act on behalf of the Owner only to the extent provided in the Contract ~~Documents.~~Documents, unless otherwise modified in writing in accordance with other provisions of the Contract.

§ 4.2.2 The Architect will visit the site at intervals appropriate to the stage of construction, or as otherwise agreed with the Owner, to become generally familiar with the progress and quality of the ~~portion of the Work completed,~~ Work completed, to endeavor to guard the Owner against defects and deficiencies in the Work, and to determine in general if the Work ~~observed~~ is being performed in a manner indicating that the Work, when ~~fully~~ completed, will be in accordance with the Contract Documents. However, the Architect will not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. On the basis of the site visits, the Architect will keep the Owner and the Construction Manager reasonably informed about the progress and quality of the portion of the Work completed, and promptly report to the Owner and Construction Manager known deviations from the Contract Documents and defects and deficiencies observed in the Work.

§ 4.2.2.2 The Contractor shall reimburse the Owner for compensation paid to the Architect for additional site visits made necessary by fault, neglect, or request of the Contractor.
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§ 4.2.6 Communications. The Owner shall communicate with the Contractor and the Construction Manager's consultants through the Construction Manager about matters arising out of or relating to the Contract Documents. The Owner and Construction Manager shall include the Architect in all communications that relate to or affect the Architect's services or professional responsibilities. The Owner shall promptly notify the Architect of the substance of any direct communications between the Owner and the Construction Manager otherwise relating to the Project. Communications by and with the Architect's consultants shall be through the Architect. Communications by and with Subcontractors and suppliers shall be through the Contractor. Communications by and with other Contractors shall be through the Construction Manager. Communications by and with the Owner's own forces and Separate Contractors shall be through the ~~Owner.~~ Owner unless otherwise provided. The Contract Documents may specify other communication protocols. The Owner may require the Architect, Construction Manager and the Contractor to comply with Owner requirements in regards to public communications and site signage.

...

§ 4.2.8 The Architect and Construction Manager have authority to reject Work that does not conform to the Contract Documents, and will notify each other about the rejection. Whenever the Construction Manager considers it necessary or ~~advisable,~~ advisable for implementation of the intent of the Contract Documents, the Construction Manager will have authority to require additional inspection or testing of the Work in accordance with Sections 13.4.2 and 13.4.3, upon written authorization of the Owner, whether or not the Work is fabricated, installed or completed. The foregoing authority of the Construction Manager will be subject to the provisions of Sections 4.2.18 through 4.2.20 inclusive, with respect to interpretations and decisions of the Architect. However, neither the Architect's nor the Construction Manager's authority to act under this Section 4.2.8 nor a decision made by either of them in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect or the Construction Manager to the Contractor, Subcontractors, suppliers, their agents or employees, or other persons performing any of the Work.
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§ 4.2.11 The Architect ~~will~~ will, and the Owner may, review and approve, or take other appropriate action upon, the Contractor's submittals such as Shop Drawings, Product Data, and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Architect's ~~action will be taken in accordance with the submittal schedule approved by the Architect or, in the absence of an approved submittal schedule, with reasonable promptness~~ or Owner's action will be taken with such reasonable promptness as to cause no delay in the Work or in the activities of the Owner, Contractor or separate contractors, while allowing sufficient time in the Architect's professional judgment to permit adequate review. Upon the Architect's or the Owner's completed review, the Architect shall transmit its submittal review to the Construction Manager.
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§ 4.2.18 The Architect will interpret and decide matters concerning performance ~~under, and~~ under the requirements of, the Contract Documents on written request of the Construction Manager, Owner, or Contractor through the Construction Manager. The Architect's response to such requests will be made ~~in writing within any time limits agreed upon or otherwise with reasonable promptness.~~ with reasonable promptness and within any time limits agreed upon. If no agreement is made concerning the time within which interpretations required of the Architect shall be furnished in compliance with this Section 4.2.18, then delay shall not be recognized on account of failure by the Architect to furnish such interpretations until fifteen (15) days after written request is made to them.

§ 4.2.19 ~~Interpretations and decisions of the Architect will be consistent with the intent of, and reasonably inferable from, the Contract Documents and will be in writing or in the form of drawings. When making such interpretations and decisions, the Architect will endeavor to secure faithful performance by both Owner and Contractor, will not show partiality to either, and will not be liable for results of interpretations or decisions so rendered in good faith.~~Architect's decisions on matters relating to aesthetic effect will be final if consistent with the intent expressed in the Contract Documents.

§ 4.2.20 ~~The Architect's decisions on matters relating to aesthetic effect will be final if consistent with the intent expressed in the Contract Documents.~~Architect will review and respond to requests for information about the Contract Documents. The Architect's response to such requests will be made in writing within any time limits agreed upon or otherwise with reasonable promptness. If appropriate, the Architect will prepare and issue supplemental Drawings and Specifications in response to the requests for information.

~~**§ 4.2.21** The Construction Manager will receive and review requests for information from the Contractor, and forward each request for information to the Architect, with the Construction Manager's recommendation. The Architect will review and respond in writing, through the Construction Manager, to requests for information about the Contract Documents. The Construction Manager's recommendation and the Architect's response to each request will be made in writing within any time limits agreed upon or otherwise with reasonable promptness. If appropriate, the Architect will prepare and issue supplemental Drawings and Specifications in response to the requests for information.~~

...

§ 5.2.1 Unless otherwise stated in the Contract Documents, the Contractor, as soon as practicable after award of the Contract, shall notify in writing the Construction Manager, for review by the Owner, Construction Manager and Architect, of the persons or entities proposed for each principal portion of the Work, including those who are to furnish materials or equipment fabricated to a special design. Within 14 days of receipt of the information, the Construction Manager may notify the Contractor whether the Owner, the Construction Manager or the Architect (1) has reasonable objection to any such proposed person or entity or, (2) requires additional time for review. Failure of the Construction Manager to provide notice within the 14-day period shall constitute notice of no reasonable objection. The Contractor shall not employ any Subcontractor or use any material to which the Architect, Construction Manager or Owner may object. Prior to the employment of any Subcontractor, the Contractor must obtain the Owner's approval of such Subcontractor for the designated portion of the Work.

...

§ 5.2.3 If the Owner, Construction Manager or Architect has reasonable objection to a person or entity proposed by the Contractor, the Contractor shall propose another to whom the Owner, Construction Manager or Architect has no reasonable objection. ~~If the proposed but rejected Subcontractor was reasonably capable of performing the Work, the Contract Sum and Contract Time~~ The Contract Sum shall be increased or decreased by the ~~difference, if any,~~ difference in cost occasioned by such change, and an appropriate Change Order shall be ~~issued before commencement of the substitute Subcontractor's Work.~~ issued. However, no increase in the Contract Sum or Contract Time shall be allowed for such change unless the Contractor has acted promptly and responsively in submitting names as required. Notwithstanding the foregoing, the Contractor shall have a continuing duty to the Owner, Construction Manager and Architect to find and propose such persons or entities as shall not result in material increase in the Contract Sum, or a material decrease in the quality of Work contemplated under the Contract Documents.

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§ 5.2.4 The Contractor shall not substitute a Subcontractor, person, or entity for one previously selected if the Owner, Construction Manager or Architect makes reasonable objection to such substitution. Any proposed substitution of a Subcontractor, person, or entity for one previously selected shall be made in a separate writing to the Owner, Construction Manager and Architect. No substitution shall be deemed approved/accepted without written confirmation from the Owner, Construction Manager and Architect. Neither acceptance of, nor objection to a Subcontractor or Sub-subcontractor, material supplier, or other person or organization by the Owner, Construction Manager and Architect shall limit the responsibility of the Contractor to furnish materials, products, equipment, and services in conformance with the requirements of the Contract Documents.

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~~By appropriate written agreement, the Contractor shall require each Subcontractor, to the extent of the Work to be performed by the Subcontractor, to be bound to the Contractor by terms of the Contract Documents, and to assume toward the Contractor all the obligations and responsibilities, including the responsibility for safety of the Subcontractor's Work, that the Contractor, by these Contract Documents, assumes toward the Owner, Construction Manager and Architect. Each subcontract agreement shall preserve and protect the rights of the Owner, Construction Manager and Architect under the Contract Documents with respect to the Work to be performed by the Subcontractor so that subcontracting thereof will not prejudice such rights, and shall allow to the Subcontractor, unless specifically provided otherwise in the subcontract agreement, the benefit of all rights, remedies, and redress against the Contractor that the Contractor, by the Contract Documents, has against the Owner. Where appropriate, the Contractor shall require each Subcontractor to enter into similar agreements with Sub-subcontractors. The Contractor shall make available to each proposed Subcontractor, prior to the execution of the subcontract agreement, copies of the Contract Documents to which the Subcontractor will be bound, and, upon written request of the Subcontractor, identify to the Subcontractor terms and conditions of the proposed subcontract agreement that may be at variance with the Contract Documents. Subcontractors will similarly make copies of applicable portions of such documents available to their respective proposed Sub-subcontractors.~~**§ 5.3.1** By appropriate written agreement, the Contractor shall require each Subcontractor, to the extent of the Work to be performed by the Subcontractor, to be bound to the Contractor by terms of the Contract Documents, and to assume toward the Contractor all the obligations and responsibilities, including the responsibility for safety of the Subcontractor's Work, that the Contractor, by these Contract Documents, assumes toward the Owner, Construction Manager and Architect. Each subcontract agreement shall preserve and protect the rights of the Owner, Construction Manager and Architect under the Contract Documents with respect to the Work to be performed by the Subcontractor so that subcontracting thereof will not prejudice such rights, and shall allow to the Subcontractor, unless specifically provided otherwise in the subcontract agreement, the benefit of all rights, remedies, and redress against the Contractor that the Contractor, by the Contract Documents, has against the Owner. Where appropriate, the Contractor shall require each Subcontractor to enter into similar agreements with Sub-subcontractors. The Contractor shall make available to each proposed Subcontractor, prior to the execution of the subcontract agreement, copies of the Contract Documents to which the Subcontractor will be bound, and, upon written request of the Subcontractor, identify to the Subcontractor terms and conditions of the proposed subcontract agreement that may be at variance with the Contract Documents. Subcontractors shall similarly make copies of applicable portions of such documents available to their respective proposed Sub-subcontractors.

§ 5.3.2 The Contractor is responsible for the performance of, the actions of, the timeliness of, or interference caused by, Subcontractors, Sub-subcontractors (of any tier), and others directly or indirectly under contract to the Contractor.

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§ 6.2.2 If part of the Contractor's Work depends for proper execution or results upon construction or operations by the Owner's own forces, Separate Contractors or other Contractors, the Contractor shall, prior to proceeding with that portion of the Work, promptly notify the Construction Manager and Architect of apparent discrepancies or defects in the construction or operations by the Owner or Separate Contractor or other Contractors that would render it unsuitable for proper execution and results of the Contractor's Work. Failure of the Contractor to notify the Construction Manager and the Architect of apparent discrepancies or defects prior to proceeding with the Work shall constitute an acknowledgment that the Owner's or Separate Contractor's or other Contractors' completed or partially completed construction is fit and proper to receive the Contractor's Work. The Contractor shall not be responsible for discrepancies or defects in the construction or operations by the Owner or Separate Contractors or other Contractors that are not ~~apparent.~~reasonably discoverable.

§ 6.2.3 ~~The Contractor shall reimburse the Owner for costs the Owner incurs, including costs that are payable to a Separate Contractors or to other Contractors, because of the Contractor's delays, improperly timed activities or~~

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~~defective construction. The Owner shall be responsible to the Contractor for costs the Contractor incurs because of delays, improperly timed activities, damage to the Work or defective construction by the Owner's own forces, Separate Contractors, or other Contractors.~~Costs caused by delays or by improperly timed activities or defective construction shall be borne by the party responsible therefor.

...

§ 6.2.5 ~~The Owner, Separate Contractors, and other Contractors shall have the same responsibilities for cutting and patching as are described for the Contractor in Section 3.14.~~Claims and other disputes and matters in question between the Contractor and a separate contractor shall be subject to the provisions of Article 15 provided the separate contractor has reciprocal obligations.

§ 6.2.6 The Owner, Separate Contractors, and other Contractors shall have the same responsibilities for cutting and patching as are described for the Contractor in Section 3.14.

...

If a dispute arises among the Contractor, Separate Contractors, other Contractors, and the Owner as to the responsibility under their respective contracts for maintaining the premises and surrounding area free from waste materials and ~~rubbish, the Owner may clean up and the Construction Manager, with notice to the Architect, will allocate the cost among those responsible.~~rubbish as described in Section 3.15, the Owner may clean up allocate the cost among those responsible as the Architect determines to be just..

...

§ 7.1.2 A Change Order shall be based upon agreement among the Owner, Construction Manager, Architect and Contractor. A Construction Change Directive requires agreement by the Owner, Construction Manager and Architect and may or may not be agreed to by the Contractor. ~~An order for a minor change in the Work may be issued by the Architect alone.~~

...

§ 7.1.4 The amount of credit to be allowed by the Contractor to the Owner for any deletion or change which results in a net decrease in the Contract Sum will be the amount of the actual net cost as confirmed by the Architect after consultation with the Owner and Construction Manager. When both additions and credits covering related Work or substitutions are involved in any one change, the allowance for both overhead and profit shall be figured on the basis of the net increase or decrease, if any, with respect to that change.

§ 7.1.5 In Section 7.3.6, the allowance for the combined overhead and profit included in the total cost to the Owner shall be based on the following schedule:

.1 For the Contractor, for Work performed by the Contractor's own forces, ten percent (10%) of the cost;

.2 For the Contractor, for Work performed by the Contractor's Subcontractor, five percent (5%) of the amount due the Subcontractor;

.3 For each Subcontractor or Sub-subcontractor involved for Work performed by the Subcontractor's or Sub-subcontractor's own forces, ten percent (10%) of the cost;

.4 For each Subcontractor for Work performed by the Subcontractor's Sub-subcontractor, five percent (5%) of the amount due the Subcontractor;

.5 Costs to which overhead and profit is to be applied shall be determined in accordance with Section 7.3.6;

.6 In order to facilitate checking of quotations for extras or credits, all proposals, expect those so minor that their propriety can be seen by inspection, shall be accompanied by a complete itemization of costs, including labor, materials and subcontracts. Labor and materials shall be itemized in the manner prescribed above. Where major cost items are subcontracts, they shall be itemized also. In no case will a change involving over $500 be approved without such itemization.

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§ 7.2 Change Orders and Change Proposals

~~A Change Order is a written instrument prepared by the Construction Manager and signed by the Owner, Construction Manager, Architect, and Contractor, stating their agreement upon all of the following:~~**§ 7.2.1** A Change Order is a written instrument prepared by the Construction Manager and signed by the Owner, Construction Manager, Architect, and Contractor, stating their agreement upon all of the following:

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.3 The extent of the adjustment, if any, in the Contract Time.

§ 7.2.2 Change Order shall be prepared on AIA Document G731.

§ 7.2.3 The Contractor must submit Change Proposals covering a contemplated Change Order within ten (10) days after request of the Owner, or the Architect or within ten (10) days of the event, or Contractor's discovery of a condition, whichever is earlier, giving rise to the Contractor's claim for a change in the Contract Sum or Contract Time. No increase in the Contract Sum or extension of the Contract Time will be allowed the Contractor for the cost or time involved in making Change Proposals. Change Proposals will define or confirm in detail the Work which is proposed to be added, deleted, or changed and must include any adjustment which the Contractor believes to be necessary in (i) the Contract Sum, or (ii) the Contract Time. Any proposed adjustment must include detailed documentation including, but not limited to: cost, properly itemized and supported by sufficient substantiating data to permit evaluation including cost of labor, materials, supplies and equipment, rental cost of machinery and equipment, additional bond cost, plus a fixed fee for profit and overhead (which includes office overhead and Site-specific overhead and general conditions) of ten percent (10%) if the Work is performed by the Contractor, or five percent (5%) if the Work is performed by a Subcontractor or Sub-subcontractor. The Subcontractor's or Sub-subcontractor's overhead and profit in turn must not exceed a total aggregate of ten percent (10%). Change Proposals will be binding upon the Contractor and may be accepted or rejected by the Owner in its discretion. The Owner may, at its option, instruct the Contractor through a Construction Change Directive to proceed with the Work involved in the Change Proposal in accordance with Section 7.3 without accepting the Change Proposal in its entirety.

§ 7.2.4 If the Owner determines that a Change Proposal is appropriate, the Architect will prepare and submit a request for a Change Order or Contract Amendment providing for an appropriate adjustment in the Contract Sum or Contract Time, or both, for further action by the Owner. No such change is effective until the Owner and Architect sign the Change Order.

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§ 7.3.4 If the Contractor does not respond promptly or disagrees with the method for adjustment in the Contract Sum, the Owner and the Construction Manager shall determine the adjustment on the basis of reasonable expenditures and savings of those performing the Work attributable to the change, including, in case of an increase in the Contract Sum, an amount for overhead and profit as set forth in the Agreement, or if no such amount is set forth in the Agreement, a reasonable amount. In such case, and also under Section 7.3.3.3, the Contractor shall keep and present, in such form as the Construction Manager may prescribe, an itemized accounting together with appropriate supporting data. Unless otherwise provided in the Contract Documents, costs for the purposes of this Section 7.3.4 shall be limited to the following:

...

.3 Rental costs of machinery and equipment, exclusive of hand tools, whether rented from the Contractor or ~~others;~~others (at rates approved by the Owner);

...

§ 7.3.7 A Construction Change Directive signed by the Contractor indicates the Contractor's agreement therewith, including adjustment in Contract Sum and Contract Time or the method for determining them. Such agreement shall be effective ~~immediately and shall be recorded as a Change Order.~~immediately.

...

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§ 7.3.9 Pending final determination of the total cost of a Construction Change Directive to the Owner, the Contractor may request payment for Work completed under the Construction Change Directive in Applications for ~~Payment.~~ Payment up to and not exceeding $25,000. The Construction Manager and Architect will make an interim determination for purposes of monthly certification for payment for those costs and certify for payment the amount that the Construction Manager and Architect determine to be reasonably justified. The interim determination of cost shall adjust the Contract Sum on the same basis as a Change Order, subject to the right of either party to disagree and assert a Claim in accordance with Article 15.

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The Architect may order minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. The Architect's order for minor changes shall be in ~~writing.~~ writing and approved by the Owner. If the Contractor believes that the proposed minor change in the Work will affect the Contract Sum or Contract Time, the Contractor shall notify the Construction Manager and shall not proceed to implement the change in the Work. If the Contractor performs the Work set forth in the Architect's order for a minor change without prior notice to the Construction Manager that such change will affect the Contract Sum or Contract Time, the Contractor waives any adjustment to the Contract Sum or extension of the Contract Time.

...

§ 8.1.2 The date of commencement of the Work is the date established in the Agreement. The date shall not be postponed by the failure to act of the Contractor or of persons or entities for whom the Contractor is responsible.

...

§ 8.1.4 The term "day" ~~as used in the Contract Documents shall mean calendar day unless otherwise specifically defined.~~shall mean calendar day of 24 hours beginning at 12:00 midnight. Calendar days as stated in the Contract Documents, shall include all days of a seven (7) day week including Saturdays, Sundays, and holidays. The term "Milestone Date" is, in each instance, the date established in the Contract Documents for the Substantial completion of all or a designated portion of the Work.

...

§ 8.2.3 The Contractor shall proceed expeditiously with adequate forces and shall achieve Substantial Completion within the Contract ~~Time.~~Time and shall achieve specific contractual Milestone Dates (if any), Substantial Completion and final Completion within the time stated in the Contract Documents.

§ 8.2.4 Contractor understands and agrees that all Work must be performed in an orderly and closely coordinated sequence so that the dates for Substantial Completion, Final Completion, and Milestone Dates (if any) may be met by the Contractor.

§ 8.2.5 Timely final completion of the Project is of critical importance to the Owner. The Contractor agrees that it shall substantially complete all Work under the Contract documents within the time established herein and that it shall finally complete the Work in the detail required and in the time required by the Contract Documents.

§ 8.2.6 To the extent that the Contract Documents contain or provide for specific contractual Milestone Dates in addition to Final and Substantial Completion dates, such dates shall be adhered to and shall be the last acceptable dates for those milestones and completions, unless modified by the Owner.

§ 8.2.7 Notwithstanding anything to the contrary contained in the Contract Documents, in the event that any Contractor fails, or appears likely, in the reasonable opinion of the Owner and Construction Manager, to fail to complete a critical portion of their Work on time or to complete any dates for Substantial Completion, Final Completion, or Milestone Dates as evidenced by the latest update of the CPM Schedule Report, the Owner shall have the right to select and require Contractor's performance under any or all of the following operations:

.1 Require the Contractor to substantiate their capability to get back on schedule within two (2) days;

.2 Require the Contractor, at no additional cost to the Owner, to increase their work force, work overtime and/or extra shifts and do whatever else is required by the Owner until the Contractor gets

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back on schedule as established by the CPM Schedule Report (including any updates thereto);

.3 Withhold progress payments or portions thereof until such time as the contractor returns to schedule, but only related to Substantial Completion or Final Completion;

.4 Contact or visit the factory, plant, or distribution center whose production or delivery schedule may be critical to the scheduled completion of a portion of the contract work and expedite such production delivery at Contractor's expense; or

.5 Require the Contractor to complete, in detail, and submit weekly a Short Interval Schedule (SIS) showing: (1) planning for the next two weeks; (2) work completed for the previous week; (3) sufficient detail to evaluate daily milestone (if any) and manpower/equipment loading, and shall identify/tie into the monthly updated CPM Schedule Report.

Any costs incurred by the Contractor in fulfilling the option(s) selected by the Owner shall be at the Contractor's expense.

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§ 8.3.1 If the Contractor is delayed at any time in the ~~commencement or~~ progress of the Work by (1) an act or neglect of the Owner, Architect, Construction Manager, or an employee of any of them, or of the Owner's own forces, Separate Contractors, or other Contractors; (2) by changes ordered in the Work; (3) by labor disputes, fire, unusual delay in deliveries, unavoidable casualties, adverse weather conditions documented in accordance with Section 15.1.6.2, or other causes beyond the Contractor's control; ~~(4) by delay authorized by the Owner pending mediation and binding dispute resolution; or (5)~~ or (4) by other causes that the Contractor asserts and the Architect, based on the recommendation of the Construction Manager, determines justify delay, then subject to the conditions hereinafter set forth, the Contract Time shall be extended by Change Order for such reasonable time as the Architect may determine. Requests for extensions of time for causes enumerated above will be considered by the Architect subject to the following:

.1 Only those conditions enumerated above over which the Contractor has no control will be considered. The burden of proof to substantiate the claim for an extension shall rest with the Contractor, including evidence that the cause was beyond their control. It shall be deemed the Contractor has control over the supply of labor, materials, equipment, methods, techniques, and over their Subcontractors and suppliers;

.2 In the event of Changes in the Work, any consideration for a time extension will be made only at the time of authorizing the changes, and no later than when the Change Order is prepared, and only if the Change Order significantly affects the time and progress of the entire Work. For changes which do not affect the entire Work, time extension may be granted only for the area, phase, unit, or element affected by the change, if due to a valid reason for a time extension;

.3 Any unusual delay in deliveries will not be considered unless it is solely due to transportation issues wholly outside of Contractor's, Subcontractor's, Sub-subcontractor's or Supplier's control. An extension of time will not be granted for delays in deliveries where said delivery was not properly scheduled or when orders were not promptly and properly placed;

.4 With respect to a claim for an extension of time as a result of climatic conditions, the Contractor shall recognize the location of the site and the existence, as normal, or variations from "average" conditions. Foul weather in itself will not be a valid reason for a time extension. Requests for time extensions because of delay resulting from weather extremes will not be considered unless a substantial variation from usual weather conditions occurs for a significant period of time, during phases of the Work when operation necessarily were suspended to a significant degree when they would otherwise have been in progress. In considering the time extension, the weather conditions both before and after the period in which the delay is claimed will be evaluated with credit given to Owner for unseasonably favorable weather;

.5 Delays resulting from a labor dispute will not result in a time extension of a longer period than the dispute, plus a reasonable time for mobilization if justified and necessary as approved by the Architect, and may be less depending on the impact of the dispute, including what operations were suspended or curtailed;

.6 No time extension will be granted as a result of improper scheduling or for failure to have shop drawings or samples submitted in ample time for review under a reasonable and agreed upon schedule; or

.7 Delays by Subcontractors or suppliers will not be considered justification for a time extension, except for the same valid reasons and conditions enumerated under Section 8.3.1.

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§ 8.3.4 The Contractor shall be responsible for all Owner incurred costs associated with a Contractor related to delay in completion of the Project. These costs may include, but are not limited to, Owner staff overtime, Consultant additional fees, additional testing, and/or additional rental or storage costs. A Change Order or Construction Change Directive will be issued to cover these costs. If a Change Order is not agreed to by the Contractor, the Owner, after presenting documentation to the Contractor, may deduct these amounts without a Change Order from the Contract Sum.

...

~~Where the Contract is based on a stipulated sum or Guaranteed Maximum Price, the Contractor shall submit a schedule of values to the Construction Manager, before the first Application for Payment, allocating the entire Contract Sum to the various portions of the Work. The schedule of values shall be~~ Before the first Application for Payment, the Contractor shall submit to the Architect and Construction Manager a schedule of values allocated to various portions of the Work, prepared in the form, and supported by the data to substantiate its accuracy, required by the Construction Manager and the Architect. ~~This~~ The schedule, unless objected to by the Construction Manager or Architect, shall be used as a basis for reviewing the Contractor's Applications for Payment. The Construction Manager shall forward to the Architect the Contractor's schedule of values. Any changes to the schedule of values shall be submitted to the Construction Manager and supported by such data to substantiate its accuracy as the Construction Manager and the Architect may require, and unless objected to by the Construction Manager or the Architect, shall be used as a basis for reviewing the Contractor's subsequent Applications for Payment. The Contractor, after receipt of Notice to Proceed, shall meet with the Owner, Construction Manager and the Architect for the purpose of reviewing the Project CPM Schedule and the Contract Schedule of Values. The Contractor shall develop a CPM Schedule for completing their portion of the Work, in conjunction with all other Contractors or Bid Packages, at the Pre-Construction Meeting(s). The Schedule of Values is to be broken down into specification sections and by labor and materials.

...

§ 9.3.1 At least fifteen days before the date established for each progress payment, the Contractor shall submit to the Construction Manager an itemized Application for Payment ~~prepared in accordance with the schedule of values, if required under Section 9.2, for completed portions of the Work. The application shall be notarized, if required,~~ for operations completed in accordance with the Schedule of Values. Such application shall be notarized and supported by all data substantiating the Contractor's right to payment that the Owner, Construction Manager or Architect require, such as copies of requisitions, and releases of waivers of lien from Subcontractors and ~~suppliers, and shall reflect retainage if provided for in the Contract Documents.~~material suppliers, and reflecting retainage if provided for elsewhere in the Contract Documents. The form of Application for Payment shall be a notarized AIA Document G732–2019, Application and Certificate for Payment, supported by AIA Document G703–1992, Continuation Sheet.

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§ 9.3.1.2 ~~Applications for Payment~~ Such applications shall not include requests for payment ~~for portions of the Work for which the~~ of amounts the Contractor does not intend to pay a Subcontractor ~~or supplier,~~ or supplier because of a dispute or other reason, unless such Work has been performed by others whom the Contractor intends to pay.

§ 9.3.1.3 Following certification of the Application for Payment by the Architect and Construction Manager, the Owner shall pay ninety-five percent (95%) of its value, retaining five percent (5%) until Final Completion.

§ 9.3.1.4 Contractor shall provide lien waivers for itself for the current payment application and for Subcontractors, Sub-subcontractors, and suppliers for the previous payment application before the Contractor has earned or has the right to receive payment for the specific items of work or materials covered by the lien waivers. All lien waivers shall be provided in the form required by the Owner. This Section 9.3.1.4 shall not limit other obligations of the Contractor contained elsewhere to provide lien waivers.

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§ 9.3.4 In each Application for Payment, the Contractor shall certify as follows:

"That there are no known mechanics' or materialmen's liens or stop notice claims outstanding by the application or any of its subcontractors of any tier, or any of the applicant's or subcontractor's material suppliers, or laborers at the date of this application, that all due and payable bills with respect to the Work have been paid or are included in the amount requested in current application, and that, except for such bills, not paid by Owner, but so included, there is no known basis for the filing of any mechanics' or materialmen's liens or stop notice claims on the Work, and that waivers from Contractor, its subcontractors of any tier, or any of the applicant's or subcontractor's material suppliers and laborers have been obtained in such form as to constitute an effective waiver of liens or stop notice claims, under the laws of the State of Minnesota to the extent of payments made by Owner to Contractor."

Notwithstanding the foregoing Section 9.3.4, Contractor acknowledges its obligation to provide a Payment Bond in accordance with the Contract Documents, and that Contractor's failure to pay any of its Subcontractors, Sub-subcontractors, suppliers, or laborers will be resolved through a claim under the Payment Bond.

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§ 9.6.1 After the Architect has issued a Certificate for Payment or Project Certificate for Payment, the Owner shall make payment within thirty (30) days of receipt by Owner of Certificate of Payment in the manner and within the time provided in the Contract Documents, and shall so notify the Construction Manager and Architect.

§ 9.6.2 The Contractor shall pay each Subcontractor, no later than seven days after receipt of payment from the Owner, the amount to which the Subcontractor is entitled, reflecting percentages actually retained from payments to the Contractor on account of the Subcontractor's portion of the Work. The Contractor shall, by appropriate agreement with each Subcontractor, require each Subcontractor to make payments to Sub-subcontractors in a similar manner. Per Minnesota Statutes, Section 471.425, within ten (10) days of Contractor's receipt of payment from Owner, the Contractor must pay any Subcontractor for any undisputed services provided by the Subcontractor. The Contractor shall pay interest of one and one-half percent (1-1/2%) per month, or any part of a month, to the Subcontractor on any undisputed amount not paid on time to the subcontractor. The minimum monthly interest penalty payment for an unpaid balance of $100 or more is $10.00. For an unpaid balance of less than $100, the Contractor shall pay the actual interest penalty due to the Subcontractor. Contractor is advised that by reason of Minnesota Statutes, Section 471.425, subd. 4a, if a Subcontractor prevails in a civil action to collect interest penalties from a prime contractor, the Subcontractor must be awarded its costs and disbursements, including attorneys' fees incurred in bringing the action.

...

§ 9.6.5 The Contractor's payments to material and equipment suppliers shall be treated in a manner similar to that provided in Sections 9.6.2, 9.6.3 and 9.6.4.

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If the Construction Manager and Architect do not issue a Certificate for Payment or a Project Certificate for Payment, through no fault of the Contractor, within fourteen days after the Construction Manager's receipt of the Contractor's Application for Payment, or if the Owner does not pay the Contractor within ~~seven~~ thirty (30) days after the date established in the Contract Documents, the amount certified by the Construction Manager and Architect ~~or awarded by binding dispute resolution,~~ then the Contractor may, upon ~~seven~~ ten (10) additional days' notice to the Owner, Construction Manager and Architect, stop the Work until payment of the amount owing has been received. The Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable costs of shutdown, delay and ~~start-up, plus interest as provided for in the Contract Documents.~~start-up which shall be accomplished as provided in Article 7.

...

§ 9.8.1 Substantial Completion is the stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Contract Documents so the Owner can occupy or utilize the Work for its intended ~~use.~~use and when the Architect issues a Certificate of Substantial Completion.

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§ 9.8.2 When the Contractor considers that the Work, or a portion thereof which the Owner agrees to accept separately, is substantially complete, the Contractor shall notify the Construction Manager, and the Contractor and Construction Manager shall jointly prepare and submit to the Architect a comprehensive list of items to be completed or ~~corrected prior to final payment.~~ corrected. The Contractor shall proceed promptly to complete and correct items on the list. Failure to include an item on such list does not alter the responsibility of the Contractor to complete all Work in accordance with the Contract Documents. Upon receipt of the Contractor's list, the Architect, assisted by the Construction Manager, will make an inspection to determine whether the Work or designated portion thereof is substantially complete. If the Architect's inspection discloses any item, whether or not included on the Contractor's list, which is not in accordance with the requirements of the Contract documents, the Contractor shall, before issuance of the Certificate of Substantial Completion, complete or correct such item, upon notification by the Architect. The Contractor shall then submit a request for another inspection by the Architect, assisted by the Construction Manager, to determine Substantial Completion. When the Work or designated portion thereof is substantially complete, the Architect will prepare a Certificate of Substantial Completion which shall establish the date of Substantial Completion, shall establish responsibilities of the Owner and Contractor for security, maintenance, heat, utilities, damage to the Work and insurance, and shall fix the time within which the Contractor shall finish all items on the list accompanying the Certificate. Warranties required by the Contract Document shall commence on the date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion.

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§ 9.8.6 Upon Substantial completion of the Work or designated portion thereof and upon application by the Contractor and certification by the Architect, the Owner shall make payment, reflecting adjustment in retainage, pursuant to Minnesota Statutes, Section 15.72, for such Work or portion thereof as provided in the Contract Documents.

§ 9.8.7 The Architect, assisted by the Construction Manager, shall make one (1) inspection for Substantial Completion and Final Completion in accordance with the AIA Document B101–2017 Owner Architect Agreement. If additional inspections are required due to the Contractor's failure to complete previously listed corrective or uncompleted work, the Architect's expense for conducting such re-inspections and related time in processing, reviewing, and revision of requirements shall be charged to the Contractor and such payment shall be accomplished by a deductive Change Order to the Contractor.

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§ 9.10.1 Upon completion of the Work, the Contractor shall forward to the Construction Manager a notice that the Work is ready for final inspection and acceptance, and shall also forward to the Construction Manager a final Contractor's Application for Payment. Upon receipt, the Construction Manager shall perform an inspection to confirm the completion of Work of the Contractor. The Construction Manager shall make recommendations to the Architect when the Work of all of the Contractors is ready for final inspection, and shall then forward the Contractors' notices and Application for Payment or Project Application for Payment, to the Architect, who will promptly make such inspection. When the Architect finds the Work acceptable under the Contract Documents and the Contract fully performed, the Construction Manager and Architect will promptly issue a final Certificate for Payment or Project Certificate for Payment stating that to the best of their knowledge, information and belief, and on the basis of their observations, on-site visits and inspections, the Work has been completed in accordance with the Contract Documents and that the entire balance found to be due the Contractor and noted in the final Certificate is due and payable. The Construction Manager's and Architect's final Certificate for Payment or Project Certificate for Payment will constitute a further representation that conditions listed in Section 9.10.2 as precedent to the Contractor's being entitled to final payment have been fulfilled.

§ 9.10.2 Neither final payment nor any remaining retained percentage shall become due until the Contractor submits to the Architect through the Construction Manager (1) an affidavit that payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which the Owner or the Owner's property might be responsible or encumbered (less amounts withheld by Owner) have been paid or otherwise satisfied, (2) a certificate evidencing that insurance required by the Contract Documents to remain in force after final payment is currently in ~~effect,~~ effect and will not be cancelled or allowed to expire until at least (60) days' prior written notice has been given to the Owner, (3) a written statement that the Contractor knows of no reason that the insurance will not be renewable to cover the period required by the Contract Documents, (4) consent of surety, if any, to final payment (5) documentation of any special

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warranties, such as manufacturers' warranties or specific Subcontractor warranties, ~~and (6), if required by the Owner,~~ including a summary listing all applicable warranties both standard and extended, itemized by specification section and included at the front of the Operation and Maintenance manuals, and (6) other data establishing payment or satisfaction of obligations, such as receipts and releases and waivers of liens, claims, security interests, or encumbrances arising out of the Contract, to the extent and in such form as may be designated by the Owner. If a Subcontractor refuses to furnish a release or waiver required by the Owner, the Contractor may furnish a bond satisfactory to the Owner to indemnify the Owner against such lien, claim, security interest, or encumbrance. If a lien, claim, security interest, or encumbrance remains unsatisfied after payments are made, the Contractor shall refund to the Owner all money that the Owner may be compelled to pay in discharging the lien, claim, security interest, or encumbrance, including all costs and reasonable attorneys' fees.

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§ 9.11 Damages for Delay

§ 9.11.1 The Contractor shall be responsible for damages incurred by the Owner and any other separate contractors for delay resulting from the Contractor's failure to complete the Work within the contract Time or resulting from the progress of the Work failing to substantially conform to the Project Construction Schedule. These damages are not included in liquidated damages and represent additional direct costs incurred by the Owner for the delay. These damages may include Owner incurred costs for temporary classrooms, temporary facilities, moving of programs, etc.

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~~The Contractor shall be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the performance of the Contract. The Contractor shall submit the Contractor's safety program to the Construction Manager for review and coordination with the safety programs of other Contractors. The Construction Manager's responsibilities for review and coordination of safety programs shall not extend to direct control over or charge of the acts or omissions of the Contractors, Subcontractors, agents or employees of the Contractors or Subcontractors, or any other persons performing portions of the Work and not directly employed by the Construction Manager.~~**§ 10.1.1** The Contractor shall be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the performance of the Contract. The Contractor shall submit the Contractor's safety program to the Construction Manager for review and coordination with the safety programs of other Contractors. The Construction Manager's responsibilities for review and coordination of safety programs shall not extend to direct control over or charge of the acts or omissions of the Contractors, Subcontractors, agents or employees of the Contractors or Subcontractors, or any other persons performing portions of the Work and not directly employed by the Construction Manager.

§ 10.1.2 The Contractor shall comply with all applicable laws and regulations. Notwithstanding any language to the contrary, the Owner shall not have any responsibility for job site inspections or safety recommendations. Any inspections or observations by the Owner, Construction Manager or the Architect are solely for the benefit of the Owner and shall not create any duties or obligations to anyone else.

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If either party suffers injury or ~~damage~~ damages to person or property because of an act or omission of the other party, of any of the other party's employees or agents, or of others for whose acts such party is legally responsible, notice of the injury or damage, whether or not insured, shall be given to the other party within a reasonable time not exceeding ~~21~~ ten (10) days after ~~discovery.~~ first observance. The notice shall provide sufficient detail to enable the other party to investigate the matter. If a Claim for additional cost or time related to this Claim is to be asserted, it shall be filed as provided in Sections 15.1.4 and 15.1.5.

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§ 10.3.1 ~~The Contractor is responsible for compliance with any requirements included in the Contract Documents regarding hazardous materials or substances. If the Contractor encounters a hazardous material or substance not addressed in the Contract Documents and if reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a material or substance, including but not limited to asbestos or polychlorinated biphenyl (PCB), encountered on the site by the Contractor, the Contractor shall, upon recognizing the condition, immediately stop Work in the affected area and notify~~ In the event the Contractor encounters on the site material reasonably believed to be asbestos or polychlorinated biphenyl (PCB) which has not been rendered harmless,

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the Contractor shall immediately stop Work in the area affected and report the condition to the Owner, Construction Manager and Architect ~~of the condition.~~in writing. The Work in the affected area shall not thereafter be resumed except by written agreement of the Owner and Contractor if in fact the material is asbestos or polychlorinated biphenyl (PCB) and has not been rendered harmless. The Work in the affected area shall be resumed in the absence of asbestos or polychlorinated biphenyl (PCB), or when it has been rendered harmless, by written agreement of the Owner and Contractor.

.1 Except where otherwise stated in the Contract Documents, no hazardous material work of any nature shall be performed by the Contractor pursuant to this Contract.

.2 The term "hazardous materials" includes, but is not limited to, asbestos, toxic chemicals, acids, alkalis, irritants, contaminants, or other pollutants, together with any other waste, material, substance, pollutants, or contaminant, all or a portion of which is or would be designated as hazardous waste or substance under applicable local, state, or federal laws, ordinances, codes, rules, or regulations.

§ 10.3.2 ~~Upon receipt of the Contractor's notice, the Owner shall obtain the services of a licensed laboratory to verify the presence or absence of the material or substance reported by the Contractor and, in the event such material or substance is found to be present, to cause it to be rendered harmless. Unless otherwise required by the Contract Documents, the Owner shall furnish in writing to the Contractor, Construction Manager and Architect the names and qualifications of persons or entities who are to perform tests verifying the presence or absence of the material or substance or who are to perform the task of removal or safe containment of the material or substance. The Contractor, the Construction Manager and the Architect will promptly reply to the Owner in writing stating whether or not any of them has reasonable objection to the persons or entities proposed by the Owner. If the Contractor, Construction Manager or Architect has an objection to a person or entity proposed by the Owner, the Owner shall propose another to whom the Contractor, the Construction Manager and the Architect have no reasonable objection. When the material or substance has been rendered harmless, Work in the affected area shall resume upon written agreement of the Owner and Contractor. By Change Order, the Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable additional costs of shutdown, delay, and start-up.~~To the fullest extent permitted by law, the Owner shall indemnify and hold harmless the Contractor, Construction Manager, Architect, their consultants, and agents and employees of any of them from and against claims, damages, losses, and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work on Owner's property if in fact the material is asbestos or polychlorinated biphenyl (PCB) and has not been rendered harmless, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), including loss of use resulting therefrom, but only to the extent caused in whole or in part by negligent acts or omissions of the Owner, anyone directly or indirectly employed by the Owner, or anyone for whose acts the Owner may be liable, regardless of whether or not such claim, damage, loss, or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity which would otherwise exist as to a party or person described in this Subparagraph 10.3.2.

§ 10.3.3 ~~To the fullest extent permitted by law, the Owner shall indemnify and hold harmless the Contractor, Subcontractors, Construction Manager, Architect, their consultants, and agents and employees of any of them from and against claims, damages, losses, and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work in the affected area if in fact the material or substance presents the risk of bodily injury or death as described in Section 10.3.1 and has not been rendered harmless, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), except to the extent that such damage, loss, or expense is due to the fault or negligence of the party seeking indemnity.~~If reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a material or substance encountered on the site by the contractor, the Contractor shall, upon recognizing the condition, immediately stop Work on Owner's property and report the condition to the Owner, Construction Manager and Architect in writing. The Owner, Construction Manager, Contractor, and Architect shall then proceed in the same manner described in Subparagraph 10.3.1.

§ 10.3.4 ~~The Owner shall not be responsible under this Section 10.3 for hazardous materials or substances the Contractor brings to the site unless such materials or substances are required by the Contract Documents. The Owner shall be responsible for hazardous materials or substances required by the Contract Documents, except to the extent of the Contractor's fault or negligence in the use and handling of such materials or substances.~~

§ 10.3.5 The Contractor shall reimburse the Owner for the cost and expense the Owner incurs (1) for remediation of hazardous materials or substances the Contractor brings to the site and negligently handles, or (2) where the

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Contractor fails to perform its obligations under Section 10.3.1, except to the extent that the cost and expense are due to the Owner's fault or negligence. Owner shall be responsible for obtaining the services of a licensed laboratory to verify a presence or absence of the material or substance reported by the Contractor and, in the event such material or substance is found to be present, to verify that it has been rendered harmless.

§ 10.3.6 ~~If, without negligence on the part of the Contractor, the Contractor is held liable by a government agency for the cost of remediation of a hazardous material or substance solely by reason of performing Work as required by the Contract Documents, the Owner shall reimburse the Contractor for all cost and expense thereby incurred.~~Regulations concerning the availability of information and employee training in the use and handling of "hazardous substances" and "harmful physical agents", as set forth in the Employee Right-to-Know Act of 1983, Minnesota Statutes, Sections 182.65 to 182.676 are incorporated herein by reference as if fully set forth herein.

§ 10.3.7 The Contractor shall furnish three Material Safety Data Sheets to the Owner for each material used in the Work that is classified by the Employee Right-to-Know Act of 1983 as a "hazardous substance" or a "harmful physical agent."

§ 10.3.8 The Contractor shall label, in generally accepted and/or standardized fashion, all containers on the work site containing "hazardous substances" or as "harmful physical agents." This shall include factory containers and all subsequent containers used in the Work.

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In an emergency affecting safety of persons or property, the Contractor shall ~~act, at the Contractor's discretion,~~ act to prevent threatened damage, injury, or loss. Additional compensation or extension of time claimed by the Contractor on account of an emergency shall be determined as provided in Article 15 and Article 7.

...

§ 11.1.1 The Contractor shall purchase and maintain insurance of the types and limits of liability, containing the endorsements, and subject to the terms and conditions, as described in the ~~Agreement~~ Agreement, in EXH-C Owner Insurance or elsewhere in the Contract Documents. The Contractor shall purchase and maintain the required insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is ~~located.~~ located and which carry a Best's rating of A- or higher or are otherwise acceptable to the Owner. The Owner, Construction Manager and Construction Manager's consultants, and the Architect and Architect's consultants, shall be named as additional insureds under the Contractor's commercial general liability policy or as otherwise described in the Contract Documents.

...

§ 11.1.3 Upon the request of any person or entity appearing to be a potential beneficiary of bonds covering payment of obligations arising under the Contract, the Contractor shall promptly furnish a copy of the bonds or shall authorize a copy to be furnished. The Contractor shall furnish Certificates of Insurance acceptable to the Owner which shall specifically set forth evidence of all coverage required by Article 11 and EXH-C Owner Insurance and shall be filed with the Owner and Construction Manager prior to commencement of the Work and thereafter upon renewal or replacement of each required policy of insurance.

The Contractor shall not allow insurance required by this Agreement to lapse, be canceled, reduced in limits or coverage, non-renewed, or materially changed or have restrictive modifications added during the life of this Agreement, including the periods of required coverage. The Contractor shall furnish to the Owner and Construction Manager copies of any endorsements that are subsequently issued amending coverage and limits.

If any of the foregoing insurance coverages are required to remain in force after final payment and are reasonably available, all additional certificates evidencing continuation of such coverage shall be submitted with the final Application for Payment. Information concerning reduction of coverage shall be furnished by the Contractor with reasonable promptness in accordance with the Contractor's information and belief.

§ 11.1.3.1 Acceptable insurance certificates are AIA Document G705, CICC of Minnesota Form 701, and/or ACORD form of the American Insurance Institute.

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Failure of the Owner to collect certificates does not void the requirements to obtain insurance.

The acceptance of any certificate of insurance by the Owner shall not relieve or decrease the liability of the Contractor hereunder. It is to be understood the Owner, Construction Manager and Architect do not in any way represent that the insurance specified in these articles are sufficient or adequate to protect the Contractor's interest or liabilities, but are merely minimum requirements.

The Contractor shall furnish to the Owner copies of any endorsements that are subsequently issued amending coverage and limits.

§ 11.1.4 ~~Notice of Cancellation or Expiration of Contractor's Required Insurance.~~ ~~Within three (3) business days of the date the Contractor becomes aware of an impending or actual cancellation or expiration of any insurance required by the Contract Documents, the Contractor shall provide notice directly to the Owner, and separately to the Construction Manager, of such impending or actual cancellation or expiration. Upon receipt of notice from the Contractor, the Owner shall, unless the lapse in coverage arises from an act or omission of the Owner, have the right to stop the Work until the lapse in coverage has been cured by the procurement of replacement coverage by the Contractor. The furnishing of notice by the Contractor shall not relieve the Contractor of any contractual obligation to provide any required coverage.~~In the event the Contractor fails to procure or maintain any insurance coverage required under this Agreement, the Owner may purchase such coverage and deduct the cost thereof from any monies due to the Contractor, or terminate this Agreement under Paragraph 14.2. The Contractor shall be liable to the Owner for providing all coverage, defense, and payments that would have been provided by any insurance that the Contractor failed to procure and maintain as required by the Contract Documents.

§ 11.1.5 Compliance by the Contractor with the foregoing insurance requirements shall not relieve it from liability for amounts in excess of the limits of insurance.

§ 11.1.6 The Contractor and any of its Subcontractors, Sub-subcontractors, agents and employees, and any separate contractors described in Article 6, if any, and any of their subcontractors, sub-subcontractors, agents and employees shall waive any of their subrogation rights on their Workers Compensation Policy in favor of the Owner, Construction Manager and Architect. The policies shall provide such waivers of subrogation by endorsement or otherwise. A waiver of subrogation shall be effective as to a person or entity even though that person or entity would otherwise have a duty of indemnification, contractual, or otherwise, did not pay the insurance premium directly or indirectly, and whether or not the person or entity had an insurable interest.
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§ 11.2.1 The Owner shall purchase and maintain insurance of the types and limits of liability, containing the endorsements, and subject to the terms and conditions, as described in the Agreement or elsewhere in the Contract Documents. The Owner shall purchase and maintain the required insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The Owner may self-insure and maintain the Owner's usual liability insurance. Optionally, the Owner may purchase and maintain other insurance for self-protection against claims which may arise from operations under the Contract. The Contractor shall not be responsible for purchasing and maintaining this optional Owner's liability insurance unless specifically required by the Contract Documents.
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~~§ 11.3.2~~ ~~If during the Project construction period the Owner insures properties, real or personal or both, at or adjacent to the site by property insurance under policies separate from those insuring the Project, or if after final payment property insurance is to be provided on the completed Project through a policy or policies other than those insuring the Project during the construction period, to the extent permissible by such policies, the Owner waives all rights in accordance with the terms of Section 11.3.1 for damages caused by fire or other causes of loss covered by this separate property insurance.~~

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§ 11.5.2 Prior to settlement of an insured loss, the Owner shall notify the Contractor of the terms of the proposed settlement as well as the proposed allocation of the insurance proceeds. The Contractor shall have 14 days from receipt of notice to object to the proposed settlement or allocation of the proceeds. If the Contractor does not object, the Owner shall settle the loss and the Contractor shall be bound by the settlement and allocation. Upon receipt, the Owner shall ~~deposit the insurance proceeds in a separate account and~~ make the appropriate distributions. Thereafter, if no other agreement is made or the Owner does not terminate the Contract for convenience, the Owner and Contractor shall execute a Change Order for reconstruction of the damaged or destroyed Work in the amount allocated for that purpose. If the Contractor timely objects to either the terms of the proposed settlement or the allocation of the proceeds, the Owner may proceed to settle the insured loss, and any dispute between the Owner and Contractor arising out of the settlement or allocation of the proceeds shall be resolved pursuant to Article 15. Pending resolution of any dispute, the Owner may issue a Construction Change Directive for the reconstruction of the damaged or destroyed Work.

§ 11.6 Bonds

§ 11.6.1 Contractor shall furnish a Performance Bond and a Payment Bond to the Owner in the amount of one hundred percent (100%) of the Contract Sum and issued by a Surety Company authorized to do business in the State of Minnesota, rated "A" or better, and approved by the Owner. The Performance Bond shall be in accordance with Minnesota Statutory requirements, and shall be in the form included in the Project Manual. The Bonds shall allow for any additions or deductions to the Contract Sum.

§ 11.6.2 In order to be acceptable as a surety, Contractor's bonding company bust hold a "Certificate of Authority acceptable to the U.S. Treasury Department and be listed in the Department's current publication of "Bond Qualifiers" with underwriting limitations not less than ten percent (10%) above the Contract Sum.

§ 11.6.3 The surety of the Bonds shall be by a corporate surety company authorized to do business in the state in which Work is being performed under this Contract and acceptable to the Owner. The conditions of the bonds shall meet requirements of the statutes of the state where Work is being performed and all other applicable provisions of state law.

§ 11.6.4 The Contractor shall furnish two (2) originals of the Bonds to the Owner, with copies to the Architect and Construction Manager, within ten (10) days after notification of award and before execution of the Contract. Failure to do so shall constitute a violation of terms of the proposal and provide grounds for forfeiture of bid security.

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The Contractor shall promptly correct Work rejected by the Construction Manager or Architect or failing to conform to the requirements of the Contract Documents, discovered before Substantial Completion, and whether or not fabricated, installed or completed. ~~Costs~~ The Contractor shall bear costs of correcting such rejected Work, including additional testing and inspections, the cost of uncovering and replacement, and compensation for the Construction Manager's and Architect's services and expenses made necessary ~~thereby, shall be at the Contractor's expense.~~thereby.

...

~~**§ 12.2.2.1** In addition to the Contractor's obligations under Section 3.5, if, within one year after the date of Substantial Completion of the Work or designated portion thereof, or after the date for commencement of warranties established under Section 9.9.1, or by terms of any applicable special warranty required by the Contract Documents, any of the Work is found to be not in accordance with the requirements of the Contract Documents, the Contractor shall correct it promptly after receipt of notice from the Owner to do so, unless the Owner has previously given the Contractor a written acceptance of such condition. The Owner shall give such notice promptly after discovery of the condition. During the one-year period for correction of Work, if the Owner fails to notify the Contractor and give the Contractor an opportunity to make the correction, the Owner waives the rights to require correction by the Contractor and to make a claim for breach of warranty. If the Contractor fails to correct nonconforming Work within a reasonable time during that period after receipt of notice from the Owner, Construction Manager or Architect, the Owner may correct it in accordance with Section 2.5.~~

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~~**§ 12.2.2.2** The one-year period for correction of Work shall be extended with respect to portions of Work first performed after Substantial Completion by the period of time between Substantial Completion and the actual completion of that portion of the Work.~~

~~**§ 12.2.2.3** The one-year period for correction of Work shall not be extended by corrective Work performed by the Contractor pursuant to this Section 12.2.~~

§ 12.2.2.1 If within one year after the date of Substantial Completion of the Work or designated portion thereof, or after the date for commencement of warranties established under Section 9.9.1, or by terms of any applicable special warranty required by the Contract Documents, any of the Work is found to be not in accordance with the requirements of the Contract Documents, the Contractor shall correct it promptly (and any other property damaged or removed in effecting the correction) after receipt of notice from the Owner, Construction Manager or Architect to do so, unless the Owner has previously given the Contractor a written acceptance of such condition. The Owner, Construction Manager or Architect shall give such notice promptly after discovery of the condition. This period of one year shall be extended with respect to portions of Work first performed after Substantial completion by the period of time between Substantial completion and the actual performance of the Work. This obligation under this Subparagraph 12.2.2.1 shall survive acceptance of the Work under the contract and termination of the Contract. The Owner, Construction Manager or Architect shall give such notice promptly after discovery of the condition. The expiration of the above one year or any other specified time period, or any other period prescribed by the law, shall not relieve the Contractor of the obligation form the expense to correct any latent defect in the work or deficiencies which are not readily ascertained, including but not limited to, defective materials and quality of work performed, defects attributable to material substitutions for special materials, substandard performance or otherwise not in compliance with the Contract Documents. Such latent defects or deficiencies shall be corrected as provided in this Paragraph 12.2. Following the correction or replacement of any of the Work, as above specified, the Contractor shall correct any defects or deficiencies in the corrected or replaced materials and workmanship which is found within one year after the date of correction or replacement.

§ 12.2.4 ~~The Contractor shall bear the cost of correcting destroyed or damaged construction of the Owner, Separate Contractors, or other Contractors, whether completed or partially completed, caused by the Contractor's correction or removal of Work that is not in accordance with the requirements of the Contract Documents.~~ If the Contractor fails to correct nonconforming Work within a reasonable time, the Owner may correct it in accordance with Paragraph 2.4. If the Contractor does not proceed with correction of such nonconforming Work within a reasonable time fixed by written notice from the Architect or Construction Manager, the Owner may correct or remove it and store the salvageable materials or equipment all at the Contractor's expense. If the Contractor does not pay costs of such removal and storage within ten (10) days after written notice, the Owner may upon ten (10) additional days' written notice sell such materials and equipment at auction or at private sale and shall account for the proceeds thereof, after deducting costs and damages that should have been borne by the Contractor, the Contract Sum shall be reduced by the deficiency. If payments then or thereafter due the Contractor are not sufficient to cover such amount, the Contractor shall pay the difference to the Owner.

§ 12.2.5 ~~Nothing contained in this Section 12.2 shall be construed to establish a period of limitation with respect to other obligations the Contractor has under the Contract Documents. Establishment of the one-year period for correction of Work as described in Section 12.2.2 relates only to the specific obligation of the Contractor to correct the Work, and has no relationship to the time within which the obligation to comply with the Contract Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Contractor's liability with respect to the Contractor's obligations other than specifically to correct the Work.~~ The Contractor shall bear the cost of correcting destroyed or damaged construction whether completed or partially completed, of the Owner or separate contractors caused by the Contractor's correction or removal of Work which is not in accordance with the requirements of the Contract Documents.

§ 12.2.6 Nothing contained in this Section 12.2 shall be construed to establish a period of limitation with respect to other obligations the Contractor has under the Contract Documents. Establishment of the one-year period for correction of Work as described in Section 12.2.2 relates only to the specific obligation of the Contractor to correct the Work, and has no relationship to the time within which the obligation to comply with the Contract Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Contractor's liability with respect to the Contractor's obligations other than specifically to correct the Work.

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§ 13.4.1 Tests, inspections, and approvals of portions of the Work shall be made as required by the Contract Documents and by applicable laws, statutes, ordinances, codes, rules, and regulations or lawful orders of public authorities. ~~Unless otherwise provided, the Contractor~~ The Owner, Construction Manager or Architect shall make arrangements for such tests, inspections, and approvals with an independent testing laboratory or entity acceptable to the Owner, or with the appropriate public ~~authority, and shall bear all related costs of tests, inspections, and approvals. The Contractor shall give the Construction Manager and Architect timely notice~~ authority. Timely notice shall be given to the Construction Manager and Architect of when and where tests and inspections are to be made so that the Construction Manager and Architect may ~~be present for~~ observe such procedures. The Owner shall bear costs of tests, inspections, or approvals that do not become requirements until after bids are received or negotiations concluded. The Owner shall directly arrange and pay for tests, inspections, or approvals where building codes or applicable laws or regulations so require.

§ 13.4.2 If the Construction Manager, Architect, Owner, or public authorities having jurisdiction determine that portions of the Work require additional testing, inspection, or approval not included under Section 13.4.1, the Construction Manager and Architect will, upon written authorization from the Owner, instruct the Contractor to make arrangements for such additional testing, inspection, or approval, by an entity acceptable to the Owner, and the Contractor shall give ~~timely~~ a minimum of two (2) working days' notice to the Construction Manager and Architect of when and where tests and inspections are to be made so that the Construction Manager and Architect may ~~be present for such procedures. Such~~ observe procedures. The Owner shall bear such costs, except as provided in Section ~~13.4.3, shall be at the Owner's expense.~~13.4.3.

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~~Payments due and unpaid under the Contract Documents shall bear interest from the date payment is due at the rate the parties agree upon in writing or, in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located.~~All payments to the Contractor shall be governed by the Prompt Payment of Local Government Bills, Minnesota Statutes, Section 471.125 ("Prompt Payment Act") and Article 5 of the A132–2019 Agreement on this Project.

§ 13.6 Non-Discrimination

§ 13.6.1 All contracts between the Owner and companies providing goods and services under the Contract Documents shall contain the following equal opportunity and civil right clause:

> "During the performance of this Agreement, the provider agrees to the following: No contractor, material supplier, vendor, or other person shall on the basis of sex, race, creed, color, religion, national origin, age, marital status, sexual orientation, or disability be excluded from full employment rights in, participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program, service, or activity under the provisions of any and all applicable Federal and State laws against discrimination, including the Minnesota Human Rights Act and the Civil Rights Act of 1964."

Upon request, the Contractor shall furnish all information and reports required by the Owner, or by the rules and regulations of investigation to ascertain compliance with all applicable rules and regulations. The Contractor shall also comply with any applicable licensing requirements of the Minnesota Department of Human Services in employment of personnel.

The Contractor acknowledges that the violation of the above-stated paragraph is a misdemeanor pursuant to Minnesota Statutes, Section 181.59.

This Agreement may be cancelled or terminated by the Owner or any other person authorized to grant the contracts for employment under this Agreement, and all money due, or to become due under this Agreement may be forfeited for a second or any subsequent violation of the non-discriminatory terms stated above.

§ 13.6.2 During the completion of the work and all other services required by the Contract Documents, the Contractor agrees that no contractor, material supplier, vendor, or other person shall, on the basis of sex, race, creed, color, religion, national origin, age, marital status, sexual orientation, or disability be excluded from full employment rights in participation in, be denied the benefits of, or be otherwise subjected to discrimination under the provisions of any and all applicable Federal and State laws against discrimination, including the Minnesota Human Rights Act and the

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Civil Rights Act of 1964. Upon request, the Architect, Construction Manager and Contractor shall furnish all information and reports required by the Owner, or by the rules and regulations of investigation to ascertain compliance with all applicable rules and regulations. The Contractor shall also comply with any applicable licensing requirements of the Minnesota Department of Human Services in employment of personnel.

Contractor acknowledges that the violation of the above-states paragraph is a misdemeanor pursuant to Minnesota Statutes Section 181.59.

The Contract Documents may be cancelled or terminated by the Owner or any other person authorized to grant the contracts for employment under this Agreement, and all money due, or to become due under the Agreement may be forfeited for a second or any subsequent violation of the non-discriminatory terms stated above.

§ 13.7 No action or failure to act by the Owner shall constitute a waiver of a right or duty afforded the Owner under the Contract Documents, nor shall such action or failure to act constitute approval of or acquiescence of the Owner in a breach of the Contract Documents, except as may be specifically agreed in writing. None of the approval of any Application for Payment, the making of any payment, the giving of any approval or consent, the use or occupancy of the Work, or any part thereof, the making of final payment, or any other action or inaction on the part of the Owner, Construction Manager or Architect shall constitute a waiver of claims by or rights of the Owner or an acceptance of any Work that is not in accordance with the Contract Documents. The Contractor shall not be relieved from its obligations to perform the Work in accordance with the Contract Documents either by the activities or duties of the representations of the Owner, Construction Manager or Architect, or by inspections, tests, or approvals required or performed by the Owner, Construction Manager or Architect or anyone else.

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§ 14.1.5 No Right to Stop Work for Non-Payment

The Contractor has no right to stop Work as a consequence of non-payment. In the event of any disagreement between the Contractor and Owner involving the Contractor's entitlement to payment, the Contractor's only remedy is to file a Claim in accordance with Article 15. The Contractor must diligently proceed with the Work pending resolution of the Claim. If, however, an Application for Payment has been approved for payment by the Owner, and the Owner fails to make payment within sixty (60) days of the approval for payment by the Owner, the Contractor may upon ten (10) days written notice to the Owner, stop work if payment is not made by the Owner within ten (10) days following the notice.

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§ 14.3.2 The Contract Sum and the Contract Time shall be adjusted for increases or decreases in the cost and time caused by suspension, delay, or interruption under Section 14.3.1. Adjustment of the Contract Sum shall include reasonable profit. No adjustment shall be made to the extent:

...

~~**§ 14.4.3** In case of such termination for the Owner's convenience, the Owner shall pay the Contractor for Work properly executed; costs incurred by reason of the termination, including costs attributable to termination of Subcontracts; and the termination fee, if any, set forth in the Agreement.~~

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§ 15.1.1 Definition. A Claim is a demand or assertion by ~~one of the parties~~ the Contractor seeking, as a matter of right, payment of money, a change in the Contract Time, or other relief with respect to the terms ~~of the Contract. The term "Claim" also includes other disputes and matters in question between the Owner and Contractor arising out~~ of ~~or relating to~~ the Contract. The responsibility to substantiate Claims shall rest with ~~the party making the Claim.~~ the Contractor. Nothing in this paragraph 15.1.1 is intended to apply to or in any way limit the Owner's right to make Claims related to or arising out of the Contract. This Section 15.1.1 does not require the Owner to file a Claim in order to impose liquidated damages in accordance with the Contract Documents.

...

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§ 15.1.3.1 Claims by ~~either the Owner or~~ Contractor, where the condition giving rise to the Claim is first discovered prior to expiration of the period for correction of the Work set forth in Section 12.2.2, shall be initiated by written notice to the ~~other party~~ Owner and to the Initial Decision Maker with a copy sent to the Construction Manager and Architect, if the Architect is not serving as the Initial Decision Maker. Claims by ~~either party~~ the Contractor under this Section 15.1.3.1 shall be initiated within ~~21~~ ten (10) days after occurrence of the event giving rise to such Claim or within ~~21~~ ten (10) days after the ~~claimant~~ Contractor first recognizes the condition giving rise to the Claim, whichever is later. Any additional Claim made after and relating to the initial Claim has been implemented by Change Order will not be considered unless submitted in a timely manner. As a condition to making a claim for additional costs, the Contractor shall maintain and produce accurate records to substantiate all additional costs actually incurred. If a Claim for actual costs is approved, the Owner shall pay the Contractor actual costs incurred, plus either (a) ten percent (10%) for overhead and profit for work performed by the Contractor, or (b) five percent (5%) overhead and profit for work performed by a Subcontractor, as applicable.

§ 15.1.3.2 Claims by either the Owner or Contractor, where the condition giving rise to the Claim is first discovered after expiration of the period for correction of the Work set forth in Section 12.2.2, shall be initiated by written notice to the other party. In such event, no decision by the Initial Decision Maker is required.

...

§ 15.1.4.1 Pending final resolution of a Claim, except as otherwise agreed in writing or as provided in Section 9.7 and Article 14, the Contractor shall proceed diligently with performance of the Contract and the Owner shall continue to make payments in accordance with the Contract Documents. Subject to Paragraph 15.1.5, no such continuing performance by the Contractor, nor payment by the Owner shall be deemed a waiver of, or to otherwise impair any such Claim.

...

§ 15.1.6.1 If the Contractor wishes to make a Claim for ~~an~~ any increase in the Contract Time, notice as provided in Section 15.1.3 shall be given. The Contractor's Claim shall include an estimate of cost and of probable effect of delay on progress of the Work. In the case of a continuing delay only one Claim is necessary.
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~~**§ 15.1.7 Waiver of Claims for Consequential Damages.** The Contractor and Owner waive Claims against each other for consequential damages arising out of or relating to this Contract. This mutual waiver includes~~

- ~~.1 damages incurred by the Owner for rental expenses, for losses of use, income, profit, financing, business and reputation, and for loss of management or employee productivity or of the services of such persons; and~~
- ~~.2 damages incurred by the Contractor for principal office expenses including the compensation of personnel stationed there, for losses of financing, business and reputation, and for loss of profit except anticipated profit arising directly from the Work.~~

~~This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination in accordance with Article 14. Nothing contained in this Section 15.1.7 shall be deemed to preclude assessment of liquidated damages, when applicable, in accordance with the requirements of the Contract Documents.~~

...

§ 15.2.6 ~~Either party may file for mediation of an initial decision at any time, subject to the terms of Section 15.2.6.1.~~In the event of a Claim against the Contractor, the Owner may, but is not obligated to notify the surety, if any, of the nature and amount of the Claim. If the Claim relates to a possibility of a Contractor's default, the Owner may, but is not obligated to notify the surety and initiate a Claim on the performance bond.

~~**§ 15.2.6.1** Either party may, within 30 days from the date of receipt of an initial decision, demand in writing that the other party file for mediation. If such a demand is made and the party receiving the demand fails to file for mediation~~

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~~within 30 days of receipt thereof, then both parties waive their rights to mediate or pursue binding dispute resolution proceedings with respect to the initial decision.~~

~~**§ 15.2.7** In the event of a Claim against the Contractor, the Owner may, but is not obligated to, notify the surety, if any, of the nature and amount of the Claim. If the Claim relates to a possibility of a Contractor's default, the Owner may, but is not obligated to, notify the surety and request the surety's assistance in resolving the controversy.~~

~~**§ 15.2.8** If a Claim relates to or is the subject of a mechanic's lien, the party asserting such Claim may proceed in accordance with applicable law to comply with the lien notice or filing deadlines.~~

§ 15.3.1 ~~Claims, disputes, or other matters in controversy~~ Any claim, dispute or other matter in question or arising out of or related to the ~~Contract, except those waived as provided for in Sections 9.10.4, 9.10.5, and 15.1.7, shall be subject to mediation as a condition precedent to binding dispute resolution.~~Contract shall be subject to mediation. Mediation is not a condition precedent to commencing litigation, but if litigation is commenced before mediation is held, the Parties agree to mediate before any dispositive motions or trial.

§ 15.3.2 The parties shall ~~endeavor to resolve their Claims by mediation which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Mediation Procedures in effect on the date of the Agreement. A request for mediation shall be made in writing, delivered to the other party to the Contract, and filed with the person or entity administering the mediation. The request may be made concurrently with the filing of binding dispute resolution proceedings but, in such event, mediation shall proceed in advance of binding dispute resolution proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order. If an arbitration is stayed pursuant to this Section 15.3.2, the parties may nonetheless proceed to the selection of the arbitrator(s) and agree upon a schedule for later proceedings.~~share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located unless another location is mutually agreed upon. Agreements reached in mediation and ratified by the Owner's Council shall be enforceable as settlement agreements in any court having jurisdiction thereof.

~~**§ 15.3.3** Either party may, within 30 days from the date that mediation has been concluded without resolution of the dispute or 60 days after mediation has been demanded without resolution of the dispute, demand in writing that the other party file for binding dispute resolution. If such a demand is made and the party receiving the demand fails to file for binding dispute resolution within 60 days after receipt thereof, then both parties waive their rights to binding dispute resolution proceedings with respect to the initial decision.~~

~~**§ 15.3.4** The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.~~

~~**§ 15.4 Arbitration**~~

~~**§ 15.4.1** If the parties have selected arbitration as the method for binding dispute resolution in the Agreement, any Claim subject to, but not resolved by, mediation shall be subject to arbitration which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Arbitration Rules in effect on the date of the Agreement. The Arbitration shall be conducted in the place where the Project is located, unless another location is mutually agreed upon. A demand for arbitration shall be made in writing, delivered to the other party to the Contract, and filed with the person or entity administering the arbitration. The party filing a notice of demand for arbitration must assert in the demand all Claims then known to that party on which arbitration is permitted to be demanded.~~

~~**§ 15.4.1.1** A demand for arbitration shall be made no earlier than concurrently with the filing of a request for mediation, but in no event shall it be made after the date when the institution of legal or equitable proceedings based on the Claim would be barred by the applicable statute of limitations. For statute of limitations purposes, receipt of a written demand for arbitration by the person or entity administering the arbitration shall constitute the institution of legal or equitable proceedings based on the Claim.~~

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~~**§ 15.4.2** The award rendered by the arbitrator or arbitrators shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.~~

~~**§ 15.4.3** The foregoing agreement to arbitrate and other agreements to arbitrate with an additional person or entity duly consented to by parties to the Agreement, shall be specifically enforceable under applicable law in any court having jurisdiction thereof.~~

~~**§ 15.4.4 Consolidation or Joinder**~~

~~**§ 15.4.4.1** Subject to the rules of the American Arbitration Association or other applicable arbitration rules, either party may consolidate an arbitration conducted under this Agreement with any other arbitration to which it is a party provided that (1) the arbitration agreement governing the other arbitration permits consolidation, (2) the arbitrations to be consolidated substantially involve common questions of law or fact, and (3) the arbitrations employ materially similar procedural rules and methods for selecting arbitrator(s).~~

~~**§ 15.4.4.2** Subject to the rules of the American Arbitration Association or other applicable arbitration rules, either party may include by joinder persons or entities substantially involved in a common question of law or fact whose presence is required if complete relief is to be accorded in arbitration, provided that the party sought to be joined consents in writing to such joinder. Consent to arbitration involving an additional person or entity shall not constitute consent to arbitration of any claim, dispute or other matter in question not described in the written consent.~~

~~**§ 15.4.4.3** The Owner and Contractor grant to any person or entity made a party to an arbitration conducted under this Section 15.4, whether by joinder or consolidation, the same rights of joinder and consolidation as those of the Owner and Contractor under this Agreement.~~

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Certification of Document's Authenticity

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I, , hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with its associated Additions and Deletions Report and this certification at 13:58:16 CT on 02/01/2025 under Order No. 4104251278 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document A232™ – 2019, General Conditions of the Contract for Construction, Construction Manager as Adviser Edition, other than those additions and deletions shown in the associated Additions and Deletions Report.



(Signed)

Curtis Hartog, Executive Director

(Title)

2/1/2025

(Dated)

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Exhibit B – Project Charter

FY21 North High School Renovations-Bid Pack 4

Work Scope 05-B1 Structural Steel

Description

Perform structural steel work in accordance with Work Scope 05-B1 for the North High School Phase 4 renovations

Contract Sum

The Contract Sum shall be $234,200.00

Alternates

Item	Price	Status
Alt #1: Health Office	$32,800	rejected
Alt #2: Athletic and Counseling Offices	$23,600	rejected
Alt #3: Electrical panel replacements	$0	accepted
Alt #4: AHU-41 replacement	$5,800	accepted
Alt #5: Direct digital controls	$0	accepted

EXHIBIT C Owner Insurance

Insurance Requirements

1. CONSULTANT'S INSURANCE – to be used with AIA B101-2017, AIA C103-2015, or similar non-contractor consultants:
   The Consultant shall at its own expense maintain in effect at all times during the performance of the Work under the Agreement at least the following coverage and limits of insurance:

   a. Worker's Compensation and Employer's Liability Insurance

      i. Coverage A is statutory.

      ii. Coverage B
      $500,000 Each Accident
      $500,000 Each Employee
      $500,000 Policy Limit (Disease)

   b. Comprehensive General Liability Insurance *

General Aggregate	$1,000,000
Products/Completed Operations Aggregate	$1,000,000
Per Occurrence	$1,000,000
Medical Payments	$10,000

   * The Owner should be named as an additional insured for Comprehensive General Liability Insurance.

   c. Automobile Insurance

Per Occurrence	$1,000,000
PIP	Basic
Underinsured Motorist	$1,000,000
Uninsured Motorist	$1,000,000

   d. Professional Liability Insurance

      i. Per Claim $2,000,000

ii. For projects with an estimated construction Contract Sum of over $10,000,000 or major structural work an aggregate is required as follows:
Aggregate $4,000,000

e. Umbrella Liability Insurance

i. Per Occurrence $2,000,000

ii. For projects with an estimated construction Contract Sum of over $10,000,000 or major structural work an aggregate is required as follows:
Aggregate $2,000,000

f. Manned or Unmanned Aircraft Coverage (if used)

i. Per Claim $1,000,000

ii. Aggregate $1,000,000

For specialty consultants used for commissioning activities, studies, asbestos surveys and security, items A, B, C and F shall apply.

Special Asbestos Abatement Liability Insurance is required for Asbestos Abatement Contractors. The limits are $1,500,000 per claim, for liability arising from the encapsulation, removal, handling, storage, transportation, and disposal of asbestos-containing materials.

2. CONSULTANT'S OBLIGATIONS

Consultant shall not violate or knowingly permit any violation of any conditions or terms of the policies of insurance required to be carried under the terms hereof and shall endeavor to satisfy the requirements of the insurance companies issuing them. In the event Consultant neglects, refuses or fails to provide or maintain any of the insurance required to be carried under the Agreement, or if such insurance is canceled for any reason, the Owner or the Owner's lender(s) shall have the right, but not the duty, to procure or maintain the same.

In the event the Owner or the Owner's lender(s) do procure or maintain such insurance, the Owner or the Owner's lender(s) shall have, in additional to any and all other available remedies, the right to recover from the Consultant (including the right of set-off against sums otherwise due the Consultant) all of the costs associated with procuring or maintaining such insurance.

3. PROFESSIONAL LIABILITY INSURANCE

   a. Professional Liability Coverage of $2,000,000 shall be maintained for one (1) year from the date of Substantial Completion. If the Consultant discontinues its business and if directed by Owner in writing, Consultant shall purchase such insurance in such amount for an extended discovery period beyond the one (1) year after the date of Substantial Completion, with the premium cost to be a reimbursable expense paid by the Owner. The limit of liability for such policy may not be reduced below $2,000,000 without the Owner giving its prior, written consent. All policies of insurance that Consultant is required under the terms of this Exhibit C Owner's Insurance to secure and maintain shall bear the endorsement "Not to be canceled until sixty (60) calendar days after Owner has received a written notice from insurer as evidence by a return receipt of registered or certified mail."

   b. The Owner shall not be responsible for obtaining or paying premiums or other expenses in connection with insurance required to be carried under the Agreement or normally carried by the Consultant's consultants, and the obligation to obtain such insurance and to pay such premiums and other expenses shall be solely that of the Consultant.

   c. The Consultant shall bear all the costs of any and all deductible amounts under any insurance policies required to be carried under the Agreement and shall remain solely and fully liable for the full amount of any claim or item not compensated by insurance (to the extent that any amount resulted from damages that arose out of the Consultant's sole negligence.)

4. COVERAGE
   The coverage's referred to above are set forth in full in the respective policy forms, and the foregoing descriptions of such policies are not intended to be complete.

5. GENERALLY

   a. The Consultant thereby represents and warrants to the Owner that, as of the date of the execution of the Agreement, the Consultant is not aware of any claims or potential claims which have been made, filed or threatened against any of the insurance or for damages covered by any of the insurance required to be carried under the Agreement that would affect the Consultant's ability to provide the insurance coverage required by this agreement.

b. It is understood that the provisions in the Agreement requiring the Consultant to carry insurance shall not be construed as in any manner waiving or restricting the liability of the Consultant as to any obligations imposed under the Agreement, including, but not limited to, obligations imposed under the provisions of Article 11 of the AIA A201-2017 General Conditions.

Insurance requirements for Contractors

1. CONTRACTOR'S INSURANCE – to be used with AIA A101-2017
   The Contractor shall at its own expense maintain in effect at all times during the performance of the Work under the Agreement at least the following coverage and limits of insurance:

   a. Commercial General Liability

      i. General Aggregate $1,500,000

      ii. Products/Completed Operations Aggregate $1,500,000

      iii. Per Occurrence $1,500,000

      The Owner shall be named as additional insured for Commercial General Liability Insurance

   b. Automobile Insurance

      i. Per Occurrence $1,000,000

      ii. PIP Basic

      iii. Underinsured Motorist $1,000,000

      iv. Uninsured Motorist $1,000,000

   c. Workers Compensation

      i. Coverage A is statutory.

      ii. Coverage B $500,000 Each Accident

      iii. $500,000 Each Employee

d. Professional Liability (if the Contractor is hiring professionals)

   i. Per Claim $2,000,000

   For Projects with an estimated construction cost of over $10,000,000 or major structural work, additional Aggregate coverage of $4,000,000 is required.

e. Manned or Unmanned Aircraft Coverage (if used)

   i. Per Claim $1,000,000

   ii. Aggregate $1,000,000

f. Property Insurance

   i. Per Claim $1,000,000

   ii. Aggregate $1,000,000

   This insurance is only required for materials stored offsite and not incorporated into the project at delivery. For material stored on site, no additional insurance is required.

g. Builders “all risk” Insurance

   i. Per Claim $2,000,000

   ii. Aggregate $4,000,000

   This insurance is only required for additions exceeding $10,000,000. Renovations to existing schools are not required to have builders all risk insurance.

h. Umbrella Liability

   i. Aggregate limit $5,000,000

   This insurance is required only for projects larger than $10,000,000 in total construction costs.

Exhibit D – Project Schedule

FY21 North High School Renovations-Bid Pack 4 Work Scope 05-B1 Structural Steel

OP#:25-2512

Description

Perform structural steel work in accordance with Work Scope 05-B1 for the North High School Phase 4 renovations.

Schedule

Start Construction: On or about March 2025 but within 5 days of notice to proceed as directed by the Construction Manager. Please refer to schedule provided in Specifications.

To be completed in 2025-June 2025 to August 2025

Base Bid Level 1 Area E

Base Bid Level 2 Area F, Area G, Area E

Area D Bathrooms March 2025 – May 2025 and September 2025 to December 2025.

Base Bid Level 2 Area E classrooms March 2025-May 2025

Base Bid Area Level 1 Area C – June 2026-August 2026

Base Bid Level 2 Area G – June 2026-August 2026

Bae Bid Level2 Area D – January 2026-August 2026

Alternate #3 – March 2025 through August 2026

Alternate #4 – June 2025-August 2025

Alternate #5 – June 2025-August 2026

Substantial Completion: August 21, 2026.

Major School Days

Recordkeeping Day – March 28, 2025

Spring Break – March 31 – April 4, 2025

Memorial Day – May 26, 2025

Last Day of School – June 6, 2025

Juneteenth – June 19, 2025

Independence Day – July 4, 2025

Last day for Staff – June 30, 2025

Labor Day – September 1, 2025

First Day of School – September 2, 2025

Rosh Hashanah – September 23, 2025
Yom Kippur – October 2, 2025
MEA – October 16-17, 2025
Recordkeeping Day – November 4, 2025
Thanksgiving – November 26-28, 2025
Winter Break – December 22, 2025 to January 2, 2026
Martin Luther King Day – January 19, 2026
Recordkeeping Day – January 23, 2026
Presidents Day – February 16, 2026
Professional Development – February 17, 2026
Eid al-Fitr – March 20, 2026
Recordkeeping Day – March 27, 2026
Memorial Day – May 25, 2026
Professional Development – May 26, 2026
Eid al Adha – May 27, 2026
Juneteenth – June 19, 2026
Independence Day – July 4, 2026
Labor Day – September 7, 2026
First day of School – September 8, 2026

Substantial Completion

The Work will be substantially complete on or before August 21, 2026

MINNEAPOLIS PUBLIC SCHOOLS
Urban Education. Global Citizens.

CONTRACT FOR SERVICES – $25,000 above

This Contract is entered into between Special School District No. 1, "District", a special school district created and existing under the laws of Minnesota, and Scholastic Inc. "Contractor" (collectively "parties") to provide student self-selected summer reading 5-book packs to elementary sites.

TERM OF CONTRACT

1.1 This Contract is effective on 3/17/2025 or the date of the last signature of the parties, whichever is later, and shall remain in effect until 6/6/2025, or until all obligations set forth in this Contract have been satisfactorily fulfilled, or the Contract has been terminated, whichever occurs first. Contractor shall have a continuing obligation, after said Contract period, to comply with any provision of this Contract intended for District's protection or benefit, or that that by its sense and context, is intended to survive the completion, expiration or termination of this Contract.

1.2 Contractor understands that NO WORK SHOULD BEGIN UNDER THIS CONTRACT until all required signatures on this Contract have been obtained and the Contract has been authorized and/or approved by the District's Board. Any work performed by Contractor prior to such time shall be considered as having been performed at Contractor's OWN RISK and as a volunteer.

2 SCOPE OF WORK

2.1 Contractor shall perform all of the services set forth herein and any exhibits attached hereto as **Exhibit A** ("Scope of Work"). Contractor understands that time is of the essence in this Contract and agrees to meet all milestones indicated in this section, in the Contract herein and any exhibits attached hereto.

3 CONSIDERATION AND TERMS OF PAYMENT

The consideration for all services (and goods if any) performed or supplied by Contractor under this Contract shall be paid by District as described below.

3.1 ***Total Obligation***

District's total obligation to Contractor under this Contract, including compensation for goods, services, and reimbursable expenses shall not exceed $557,841.83. Contractor shall

not receive any additional reimbursement for materials or subsistence expenses incurred in the performance of this Contract.

3.2 ***Frequency of Invoicing and Terms of Payment***

Subject to the conditions herein, payment shall be made by District within thirty (30) days upon receipt of Contractor's invoice for goods delivered or services rendered pursuant to this Contract. The Contractor's standard invoice shall be submitted after satisfactory completion of services on a monthly basis. District has no obligation to pay for services that are not satisfactorily performed or performed in violation of federal, state or local law, ordinance, rule or regulation. In the case of a dispute about satisfactory performance of services, the parties agree to work in good faith to resolve any disputes. If either party does not dispute an invoice in writing within 180 days of receipt of the invoice, no action challenging the invoice may be taken.

As applicable, for all agreed upon work performed by Contractor or Contractor's personnel in the provision of goods and/or services stipulated herein, District shall pay Contractor at the hourly or per diem rates as set forth in the applicable **Exhibit B**. Payment shall be made to Contractor based on the hours recorded provided such hours are in accordance with the terms of this Contract. Notwithstanding anything to the contrary, and without limitation, District has not promised or guaranteed any minimum amount of work, and Contractor understands and acknowledges same. District has no obligation to pay for overtime or holiday work, nor will it pay premiums for overtime and holidays.

3.3 ***Taxes.***

District is exempt from paying Minnesota sales and use taxes on certain purchases, as provided in Minnesota Statute, Section 297A.70. Contractor shall not charge District for such sales and use taxes. Alternatively, Contractor shall be responsible for the payment of any and all sales taxes to the Minnesota Department of Revenue relating to the following taxable items sold pursuant to this Contract; construction materials, leasing of motor vehicles, food and lodging, [See Minnesota Statute 297A.70]. Contractor shall promptly reimburse District for any and all such sales and use taxes paid by District to any governmental authority on behalf of Contractor including penalties and interest with respect thereto, and including any and all expenses (including attorneys' fees) or damages that result from a failure by Contractor to properly remit or reimburse District for any and all such sales and use taxes provided above.

District may be obligated by state and federal law to withhold state and federal taxes from the consideration stated herein. These taxes may consist of, but are not limited to, the Minnesota state entertainer tax, Minnesota state nonresident withholding tax, federal withholding on payments to foreign nonresident aliens, and federal backup withholding.

3.4 ***Fund Availability; Federal Funds Contingency.***

Financial obligations of District payable after the current fiscal year are contingent upon funds for that purpose being appropriated, budgeted and otherwise made available. If this Contract is funded in whole or in part with federal funds, District's payment obligations

are subject to and contingent upon the continuing availability of federal funds for the purposes hereof.

4 GENERAL TERMS AND CONDITIONS

4.1 The terms and conditions contained in this Contract shall govern and shall take precedence over any different or additional terms and conditions which Contractor may have included in any documents attached to or accompanying this Contract. Any handwritten changes on the face of this document shall be ignored and have no legal effect unless initialed by all parties. If this Agreement was made pursuant to a Request for Proposal (RFP) or Request for Information (RFI), the following order of precedence shall apply: (1) this Contract and its Exhibits, (2) District's RFP or RFI, and (3) Contractor's Response to District's RFP or RFI.

5 AFFIRMATIVE ACTION, EQUAL EMPLOYMENT OPPORTUNITY

5.1 The District is committed to the policy that all persons shall have equal access to its programs, facilities, and employment without regard to race, color, creed, religion, sex, national origin, age, marital status, disability, public assistance status, veteran status, or sexual orientation and is committed to transacting business only with firms who follow these practices. Contractor must apply every good faith effort to ensure implementation of this policy in their practices of employment, upgrade, demotion or transfer, recruitment, or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. As applicable, Contractor shall also develop and have on file for each of its establishments, written Affirmative Action Plans, as may be required by the rules and regulations of the Secretary of Labor. If applicable, Contractor certifies that it has received a certificate of compliance from the Minnesota Commissioner of Human Rights for its affirmative action plan. By accepting this Contract, Contractor certifies that it complies with all applicable federal and state laws as well as District policies related to non-discrimination, equal employment opportunity, and affirmative action.

6 BACKGROUND CHECKS

6.1 Contractor shall screen Contractor and all paid and volunteer employees and agents, including interviews, reference checks, credit history (if handling district funds), driving history and insurance coverage (if transporting district staff, students or families). And, Contractor shall conduct criminal background checks in accordance with state and federal law and District policy for Contractor and all paid and volunteer employees and agents who will have direct contact with children under this Contract. Background checks will be done prior to any contact with children, and shall be done in accordance with applicable state and federal laws, including but not limited to Minn. Stat. Sections 299C.61-.64; Minn. Stat. Section 123B.03; 42 U.S.C.Section 5119a and 42 U.S.C. Section 14501-05.

6.2 Contractor is responsible for ensuring that all paid and volunteer employees and agents who will be in contact with District staff and students are appropriate persons to conduct such work.

7 DATA PRIVACY

7.1 Contractor agrees that any information it creates, collects, receives, stores, uses, or disseminates during the course of its performance, which concerns the personal, financial, or other affairs of the District, its Board, officers, employees or students shall be kept confidential and in conformance with all state and federal laws relating to data privacy, including, without limitation, the Minnesota Government Data Practices Act, Minnesota Statute, Chapter 13. Contractor must comply with any applicable requirements as if it were a governmental entity. The remedies in Minn. Stat. § 13.08 apply to the Contractor. The Contractor will report immediately to the District any requests from third parties for information related to this Contract. The District will respond to such data requests. All subcontracts, if allowed, shall contain the same or similar data practices compliance requirements.

7.2 Contractors that provide school-issued devices for student use and directly or indirectly create, receive, or maintain educational data incidental to performing their duties under this Contract shall also sign **Exhibit C** ("Student Data Privacy"). "School-issued devices," as used herein, refers to hardware or software that is provided to an individual student for that student's dedicated personal use, and includes devices issued through a one-to-one program.

8 OWNERSHIP OF MATERIAL

8.1 The Contractor expressly waives to the District any claim to copyright pertaining to all new materials, publications, and documents produced as a result of this Contract and agrees that the District shall have exclusive right to and responsibility for their distribution, publication, copyrighting (when applicable) and all other matters relating to dissemination of the materials. Contractor shall not use, willingly allow or cause to have such materials used for any purpose other than performance of Contractor's obligations under this Contract without prior written consent of the District.

9 USE OF DISTRICT NAME OR LOGO

9.1 Contractor agrees not to use the name, logo, or any other marks (including, but not limited to, colors and music) owned by or associated with the District or the name of any representative of the District in any sales promotion work or advertising, or any form of publicity, without the written permission of the District.

10 INDEPENDENT CONTRACTOR

10.1 Contractor shall perform its duties hereunder as an independent contractor and not as an employee of the District. Neither Contractor nor any agent or employee of Contractor shall be or shall be deemed to be an agent or employee of the District. Contractor shall pay when due all required employment taxes and income tax withholding, including all federal and state income tax on any monies paid pursuant to this Contract. Contractor acknowledges that Contractor and its employees are not entitled to tax withholding,

worker's compensation, unemployment compensation, or any employee benefits, statutory or otherwise. Contractor shall have no authorization, express or implied, to bind District to any agreements, liability, or understanding except as expressly set forth herein. Contractor shall be solely responsible for the acts of Contractor, its employees and agents.

10.2 Contractor shall hold District completely harmless from and against any such contributions, premiums and taxes described above and from all claims and liability pertaining to those or any other item for which Contractor is responsible under this Contract, and from all attorney's fees and other costs incurred by District in contesting or defending against any responsibility therefore which is asserted against District.

11 WORKER HEALTH, SAFETY AND TRAINING

11.1 Contractor shall be solely responsible for the health and safety of its employees and/or self in connection with the work performed under this Contract. Contractor shall make arrangements to ensure the health and safety of all subagents and other persons who may perform work in connection to this Contract. Contractor shall ensure all personnel, subagents and/or self are properly trained and supervised and, when applicable, duly licensed or certified appropriate to the tasks performed under this Contract. Contractor shall comply with federal, state and local occupational safety and health standards, regulations, and rules promulgated pursuant to the Occupational Health and Safety Act that are applicable to the work performed by Contractor. Contractor shall develop and implement an emergency plan and procedures to follow in emergencies.

12 BUREAU OF CITIZENSHIP & IMMIGRATION SERVICES REQUIREMENTS

12.1 Contractor shall comply with all applicable requirements of the BCIS relating to employment including but not limited to confirming nationality for all employees and complying with requirements for employing aliens if appropriate.

13 INSURANCE

13.1 At all times during its performance under this Contract, Contractor shall obtain and keep in force comprehensive general liability insurance, including coverage for death, bodily or personal injury, property damage, liability and automobile coverages, with limits of not less than $1,500,000 each claim and $1,500,000 each occurrence covering claims that arise out of its acts and operations in providing services to the District or at limits established for a municipal corporation by Minnesota Statute Section 466.04. All such certificates evidencing such insurance shall name District as additional insured. Contractor may meet the limits above $1,000,000 per occurrence through umbrella or excess coverage.

13.2 Contractor represents that it has worker's compensation insurance to the extent required by law and agrees to furnish proof of such insurance for worker's compensation and the liability insurance, upon request. Contractor also represents that it has professional liability insurance with limits of not less than $1,500,000 each claim and $1,500,000 each occurrence covering claims that arise out of its acts and operations in providing services to the District, but shall not name the District as an additional insured to the coverage.

13.3 Contractor or its members shall also maintain property insurance coverage for the facility in which the program is located if it is not in a district building. Contractor and its members shall obtain and maintain insurance covering claims for the loss of or damage to its personal property that may be caused by students attending its programs.

13.4 Contractor shall provide all such certificates to District. Contractor shall not cancel or revise any insurance coverage required by this section during the term of this Contract and shall require its insurer to mail the District a notice if the coverage is cancelled or revised.

14 INDEMNIFICATION

14.1 Contractor agrees to release, defend, indemnify, and hold harmless District, its board, officers, students, employees, and agents from all liability, injuries, claims, damages (including claims of bodily injury, property damage, or negligence), or loss, including costs, expenses, and attorneys' fees, which arise in connection with, in relation to, or as a result of Contractor's negligent acts or omissions or in connection with Contractor's breach of warranties. The foregoing agreement to release, defend, indemnify and hold harmless shall not apply to the extent such liability, injuries, claims, damages, or loss was caused by the intentional, willful, or wanton acts of District. Contractor shall not settle or compromise any claim in which the District has been named a party and for which Contractor must indemnify the District without a signed agreement approved by the District.

15 LIMITATION ON LIABILTY

15.1 In no event shall the District be liable for any indirect, consequential, incidental, lost profits or like expectancy damages arising out of the Contract. District's maximum obligation under this Contract shall not exceed the amount set forth herein.

16 CONFLICT OF INTEREST/CODE OF ETHICS

16.1 Contractor agrees that it will not represent any other party or client which may create a conflict of interest in its representation with the District. Contractor agrees to be bound by the District's Code of Ethics. In particular, Contractor: (i) certifies that it has not paid kickbacks directly or indirectly to any District employee for the purpose of obtaining this or any other District Contract; (ii) agrees to cooperate fully with any investigation involving a possible violation; and (iii) agrees to report any suspected violations to the District. Contractor certifies that it has provided no fees, gifts, gratuities, compensation, or anything of value in violation any applicable laws or District policies.

17 COMPLIANCE WITH LAWS AND DEBARMENT

17.1 Contractor certifies that all goods or services furnished under this Contract shall comply with all applicable federal, state, and local laws and regulations, as well as District policies and procedures, regardless of whether such laws and regulations are specifically set forth in this Contract. Contractor represents that it is not currently debarred or suspended by any federal agency from doing business with the federal or state government.

Contractor shall notify District if it becomes debarred or suspended during the term of this Contract. District may immediately terminate this Contract in the event of such termination or suspension and Contractor shall be responsible for any costs incurred by District in connection therewith.

18 TERMINATION

18.1 The District and/or Contractor may terminate this Contract at any time without cause, upon thirty (30) days written notice to the other Party. In the event of such termination, Contractor shall be entitled to payment, calculated on a pro rata or other equitable basis, determined by District in its sole discretion, for work or services satisfactorily performed. In no event shall Contractor be paid for work performed or costs incurred after termination, or for costs incurred by suppliers or subcontractors which reasonably could have been avoided.

18.2 District may terminate this Contract in whole or in part for cause upon seven (7) days written notice if Contractor fails to comply with any material term or condition of this Contract, becomes insolvent or files for bankruptcy protection, or fails to comply in a material way with the requirements of this Contract. Late delivery of goods or services, or delivery of goods or services that are defective or do not conform to the Contract shall, without limitation, be causes allowing District to terminate for cause. If a determination is made that District improperly terminated this Contract for Cause, then such termination shall be deemed to have been for without cause.

18.3 Notwithstanding the above, Contractor shall not be relieved of liability to the District for damages sustained by the District as a result of any breach of this Contract by the contactor. The District, may, in such event, withhold payments due to the Contractor for the purpose of set-off until such time as the exact amount of damages due to the District is determined. The rights or remedies provided here shall not limit the District, in case of any default, error or omissions, by the Contractor, from asserting any other right or remedy allowed by law. Nothing in this Contract shall be construed as a waiver of any right, remedy, liability limit or immunity of the District under law.

19 RETURN OF DATA

19.1 Within fifteen (15) days of the completion or earlier termination of this Contract, or upon earlier request of the District Contractor shall return all documents, data and other information provided by the District to Contractor, or Contractor's employees or agents in connection with this Contract. Additionally, Contractor, upon the request of the District, shall destroy all copies of such District provided data, documents, or information in Contractor's possession or control, and provide District with proof of such destruction.

20 RECORDS MANAGEMENT AND MAINTENANCE

20.1 District shall have the right to inspect and copy such books, records, and documents (in whatever medium they exist) as well as all accounting procedures and practices of Contractor, its agents, and subcontractors to verify Contractor's performance and all expenses submitted pursuant to the terms of this Contract. Contractor shall make such items

available for inspection during normal business hours at Contractor's place of business. Such records may be subject to copy, review and/or audit by District, State Auditor and/or the Comptroller General of the United States, or a duly authorized representative, if federal funds are used for any work under this Contract. All such items shall be retained by Contractor during the term of this Contract and for a period of six (6) years after the delivery of the goods and/or services. Any items relating to a claim arising out of the performance of this Contract shall be retained by Contractor, its agents and subcontractors, if any, until the claim has been resolved.

21 NOTICES/ADMINISTRATION

Except as otherwise provided in this Contract, all notices, requests and other communications that a party is required or elects to deliver shall be in writing and shall be delivered personally, or by facsimile or electronic mail (provided such delivery is confirmed), or by a recognized overnight courier service or by United States mail, first-class, certified or registered, postage prepaid, return receipt requested, to the other parties at the address set forth below or to such other address as such party may designate by notice given pursuant to this section.

Special School District No. 1

Division: Authorized District Employee
Attn: Tia Clasen
1250 W Broadway
Minneapolis, MN 55411
Email: tia.clasen@mpls.k12.mn.us

CONTRACTOR

Scholastic Inc. Attn; Toni Abrahams, VP of Operations
Phone: 203-797-3846
Address: 557 Broadway, NY, NY 10012 Cincinnati, OH
Email: rfp-scholastic@scholastic.com

With a copy to
;
Andrew S. Hedden
EVP and General Counsel
Scholastic Inc
557 Broadway
New York, NY 10012

ACKNOWLEDGMENT

21.1 In signing, Contractor certifies under penalties of perjury (see Section 6109 of the IRS Code for further penalties) that: (1) the taxpayer ID number (TIN) provided to District is correct; (2) it is not subject to back up withholding because (a) it is exempt from such withholding, (b) it has not been notified by the IRS that it is subject to backup withholding as a failure to report all interest or dividends, or (c) the IRS has notified it that it is no longer subject to backup withholding; (3) it is a U.S. person (including a U.S. resident alien); and (4) it has full authority to execute this Contract and perform its obligation under this Contract. Contractor must cross out and initial item (2) and notify District in writing, if Contractor has been notified by the IRS that it is currently subject to backup withholding because of under reporting interest or dividends on its tax return. Contractor must cross out item (3) above if it is not a U.S person for tax purposes or U.S. resident alien.

21.2 Notwithstanding this certification, Contractor hereby acknowledges that District has the right to withhold amounts for federal backup withholding if such withholding is required by written notice from the Internal Revenue Service issued subsequent to the date this Contract is executed.

22 NON-WAIVER

22.1 No waiver by any party of any default or nonperformance shall be deemed a waiver of any subsequent default or nonperformance.

23 ASSIGNMENT

23.1 Contractor may not assign any obligations of this Contract without the prior written consent of District. In the event of any assignment, Contractor shall remain responsible for its performance and that of any assignee under this Contract. This Contract shall be binding upon Contractor, and its successors and assigns, if any. Any assignment attempted to be made in violation of this Contract shall be void. Notwithstanding any notice of assignment, District's tender of payment to Contractor named herein, or to any person reasonably believed by District to be entitled to payment, shall satisfy District's obligation to pay, and in no event shall District be obligated to pay twice or be liable for any damages due to failure to pay the correct party.

24 CHOICE OF LAW, FORUM SELECTION, ENTIRE CONTRACT AND AMENDMENT

24.1 This Contract shall be construed under Minnesota law (without regard for choice of law considerations). Any action arising out of this Contract shall be heard by a state court in Minnesota. For this purpose, Contractor specifically consents to jurisdiction in Minnesota. This Contract constitutes the entire Contract and understanding of the parties

and replaces any prior or contemporaneous agreement, whether written or oral. Any amendments to this Contract shall be in writing and executed by same parties who executed the original Contract, or their successors in office.

25 WARRANTY

25.1 Contractor expressly warrants and guarantees that the services performed under this Contract will be of the highest professional standards and quality. Contractor further represents that all services and goods (if any and as applicable) provided under this Contract: (i) are free from defects in material and workmanship; (ii) are of the quality, size and dimensions ordered; (iii) are fit for the particular needs and purposes of District as may be communicated to Contractor; (iv) comply with the highest warranties and representations expressed by Contractor orally or in any written document provided to or in the possession of District; (v) comply with all applicable laws, codes and regulations (including any published by any national or statewide association or groups); and (vi) are not restricted in any way by patents, copyrights, trade secrets, or any other rights of third parties. If any of the foregoing warranties are breached, Contractor agrees to correct all defects and nonconformities at Contractor's sole expense, to be liable for all direct damages suffered District and any other persons, and to defend, indemnify, and hold harmless District and its Board, officers, students, employees, and agents from any claim asserted by any person resulting in whole or in part from such breach. The foregoing warranties and guarantees shall not be deemed waived by reason of the acceptance of the goods or services or payment by District.

26 SEVERABILITY

26.1 If any provision of this Contract shall be invalid or unenforceable with respect to any party, the remainder of the Contract, or the application of such provision to persons other than those as to which it is held invalid or unenforceable, shall not be affected and each provision of the remainder of the Contract shall be valid and be enforceable to the fullest extent permitted by law.

27 SURVIVABILITY

27.1 The terms, provisions, representations, and warranties contained in this Contract that by their sense and context are intended to survive the performance thereof by any of the parties hereunder shall so survive the completion of performance and termination of this Contract, including the making of any and all payments hereunder.

[The remainder of this page intentionally left blank.]

SPECIAL SCHOOL DISTRICT NO. 1

Signature: _____

Name: Tia Clasen

(Printed)

Title: Senior Academic Officer, Academics

Date: _____

CONTRACTOR NAME

Signature: 

Name: Toni Abrahams
(Printed)

Title: VP of Operations

Date: 3/3/3025

EXHIBIT A Scope of Work

Deliverables:

Teacher training module ready by March 3rd, 2025.

Teacher portal ready for use March 10th and open until April 7th.

Delivery of student packs the week of May 12-23, 2025.

Service Outcome:

Timely communication and collaboration with MPS IT department to establish and maintain Clever sync with Scholastic Select website.

Delivery tracking numbers provided to each building contact in spreadsheet format upon creation.

Scholastic reps available on-site as needed to support summer reading engagement events May 27-June 5th.

Method of Evaluation:

Percentage of on-time orders filled.

Optional student survey evaluating experience with self-select compared to previous pre-select.

Optional teacher survey evaluating experience administering self-select compared to pre-select.

]

EXHIBIT B: PAYMENT TERMS

If there are exhibits to describe the payment terms:

- Price Quote Q-372824 is valid through Quote Expiration Date, 4/11/2025
- Payment terms: net 30 days
- State law requires sales tax be added to your order unless we have a sales tax exemption certificate on file
- Scholastic terms are FOB shipping point unless otherwise noted on the purchase order
- The Federal Tax ID# for Scholastic Inc. is 13-1824190

[The remainder of this page intentionally left blank.]

EXHIBIT C: STUDENT DATA PRIVACY

As used in this exhibit, the term "educational data" shall have the meaning ascribed to it under the Minnesota Government Data Practices Act ("MGDPA"), Minn. Stat. § 13.32 as amended.

1. Contractor acknowledges that all of the data created, collected, received, stored, used, maintained, or disseminated by Contractor in performing the services described in this Contract is subject to the requirements of the MGDPA, Minn. Stat. ch. 13, and Contractor must comply with those requirements as if it were a government entity. Contractor shall be subject to all civil remedies available under the MGDPA, Minn. Stat. § 13.08 as amended, for any violation of these obligations.

2. No educational data created, received, maintained, or disseminated by Contractor pursuant or incidental to this Contract shall become or be considered property of the Contractor. Any such educational data shall remain the property of the District.

3. If educational data maintained by Contractor pursuant or incidental to performance of this Contract are subject to a breach of security of the data, as that term is defined by the MGDPA, Minn. Stat. § 13.055 as amended, Contractor shall, upon discovering such breach, provide the District with all information necessary for the District to fulfill its obligations under the MGDPA.

4. Contractor shall not sell, share, or disseminate educational data, except as permitted under the MGDPA, Minn. Stat. § 13.32 as amended, or as part of a valid delegation or assignment of this Contract, if the terms of the Contract permit delegation or assignment. Any assignee or delegee must separately execute this Exhibit and is bound by the same terms.

5. Contractor shall not use educational data for any commercial purpose, including but not limited to marketing or advertising to a student or parent.

    a. The term "commercial purpose," does not include providing the specific services agreed upon in this Contract.

    b. Contractor may use deidentified aggregate information for the purpose of improving, maintaining, developing, supporting, or diagnosing the Contractor's site, service, or operation, as long as all direct and indirect identifiers have been removed from the data prior to use.

6. Contractor's employees, officers, agents, and sub-contractors, if applicable, shall only have access to educational data if authorized.

7. Contractor's employees, officers, agents, and sub-contractors, if applicable, shall only be authorized to access educational data if such access is necessary to fulfill their official duties in the performance of this Contract.

8. Unless renewal of the Contract is reasonably anticipated, Contractor shall destroy or return all educational data created, received, or maintained pursuant or incidental to the Contract within 90 days of the expiration of this Contract.

9. Contractor shall abide with all the requirements and restrictions of Minn. Stat. § 13.32, as amended, that pertain to or address technology providers. Contractor shall be considered a "technology provider" for purposes of Section 13.32.

BY SIGNING BELOW, CONTRACTOR ACKNOWLEDGES AND AGREES THAT IT UNDERSTANDS THE TERMS OF THIS EXHIBIT, THAT THESE TERMS ARE PART OF ITS CONTRACT WITH THE DISTRICT, AND THAT IT AGREES TO BE BOUND BY AND ABIDE BY THESE TERMS.

SCHOLASTIC INC

Signature

Toni Abrahams
Name

VP of Operations
Title

3/3/2025
Date

SCHOLASTIC EDUCATION SOLUTIONS

Scholastic Inc. | PO Box 639852 | Cincinnati, OH 45263-9852 | 800-724-2222
educationorders@scholastic.com | Tax ID:13-1824190

Customer Contact:
MANDY BELLM
MINNEAPOLIS PUBLIC SCHOOLS

Bill To:
MANDY BELLM
MINNEAPOLIS PUBLIC SCHOOLS
1250 W BROADWAY AVE
MINNEAPOLIS, MN, 55411-2533, USA

Ship To:
MANDY BELLM
MINNEAPOLIS PUBLIC SCHOOLS
1250 W BROADWAY AVE
MINNEAPOLIS, MN, 55411-2533, USA

Price Quote

Contact your Scholastic Representative with changes, questions, or to process your order.

Kevin Norman
Phone: (615) 961-9816
Email: knorman@scholastic.com

Minneapolis Public Schools Summer Self-Select 2025

Quote #:	Q-372824
Date:	2/10/2025
Expires On:	4/11/2025
Account UCN:	600007125
Tax Exemption:	Y
EULA on File:	Accepted
LI Member#:	FC47594

Product	Source Code	Item Detail	Quantity	List Price	Your Price	Total Price
Kindergarten Self-Select 5-book Custom Pack	ASK		2,566	$35.00	$35.00	$89,810.00
Grade 1 Self-Select 5-book Custom Pack	ASK		2,212	$35.00	$35.00	$77,420.00
Grade 2 Self-Select 5-book Custom Pack	ASK		2,284	$35.00	$35.00	$79,940.00
Grade 3 Self-Select 5-book Custom Pack	ASK		2,280	$35.00	$35.00	$79,800.00
Grade 4 Self-Select 5-book Custom Pack	ASK		2,361	$35.00	$35.00	$82,635.00
Grade 5 Self-Select 5-book Custom Pack	ASK		2,373	$35.00	$35.00	$83,055.00
Grade 6 Self-Select 5-book Custom Pack	ASK		51	$35.00	$35.00	$1,785.00
PreK Nonfiction 5-book Standard Pack	ASK		898	$25.00	$21.25	$19,082.50
PreK-Grade 5 Nonfiction 5-book Standard Pack English	ASK		292	$25.00	$21.25	$6,205.00
PreK-Grade 5 Nonfiction 5-book Standard Pack Spanish	ASK		76	$25.00	$21.25	$1,615.00
					Subtotal:	$521,347.50

* Shipping and handing only applies to print materials.
**State law requires sales tax be added to your order unless we have sales tax exemption certificate on file. Tax on this quote may be your estimated tax, actual tax will be charged at the time of shipping. Scholastic terms are FOB shipping point unless otherwise noted on the purchase order. If tax has been added to your order and you are exempt from sales tax, please fax your "sales tax exemption certificate" to 1-800-560- 6815 or mail to Scholastic Inc., 2931 E. McCarty Street, Jefferson City, MO., 65101

* Shipping and Handling	**36,494.33**
Grand Total	$557,841.83

Scholastic Inc. | PO Box 639852 | Cincinnati, OH 45263-9852 | 800-724-2222
educationorders@scholastic.com | Tax ID:13-1824190

Terms and Conditions:
This Price Quote is subject to the Customer Terms and Conditions of Scholastic Inc. Issuance of a purchase order or payment pursuant to this Price Quote, or usage of the products specified herein, shall be deemed acceptance of such Terms and Conditions *(https://educationsolutions.scholastic.com/terms.html)*

For Internal Use Only

- Opportunity Name: Summer 2025 Self-Select PreK-5
- Opportunity Id: 006VI00000bIAZtYAO

SRM #4400002881

MINNEAPOLIS PUBLIC SCHOOLS

AGREEMENT FOR LABOR, REPAIR, AND/OR INSTALLATION – OR PURCHASE OF GOODS, SUPPLIES AND MATERIALS

PROJECT:

This Agreement (the "Agreement") is made this 20 day of February, 2025 (the "Effective Date") by and between Special School District No. 1, a Minnesota public school corporation (the "School District")_ and, Schwab Vollhaber Lubratt Service Inc. (the "Contractor").

RECITALS:

A. The School District owns and operates school buildings, administrative offices, and related sites and facilities that are generally located throughout the City of Minneapolis, Minnesota (collectively, the "Sites and Facilities").

B. The Sites and Facilities require maintenance, repair, and updating from time-to-time, necessitating the provision of services by a third-party contractor.

C. The School District also must periodically engage a third-party contractor to facilitate the purchase of equipment, materials and supplies to support its school operations.

D. The School District desires to retain a contractor to perform the services described below (the "Project") in accordance with and subject to the terms and conditions in this Agreement.

E. The Contractor has examined the location of all proposed work if applicable, carefully reviewed and evaluated the specifications set forth by the School District for the Project, is familiar with all conditions relevant to the performance of the services and is committed to perform all work required for the price specified in this Agreement.

In consideration of the covenants and agreements hereinafter set forth, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

1. ***General Terms and Conditions.*** Reference is hereby made to the General Terms and Conditions of this Agreement attached hereto as **Exhibit A** and made a part hereof (the "General Terms and Conditions"). The General Terms and Conditions are incorporated herein by

reference as if set forth in full herein. Without limiting the generality of the foregoing, (a) all capitalized terms used in this Agreement without definition shall have the meanings ascribed to them in the General Terms and Conditions and (b) all capitalized terms used in the General Terms and Conditions without definition shall have the meanings ascribed to them in this Agreement.

2. ***Project Information.***

(a) ***Scope of Work.*** The Project generally consists

Proposal is in accordance with Region 4 ESC Contract # R200401 available via OMNIA PARTNERS _. A detailed Scope of Work is set forth in **Exhibit B**, attached hereto and made a part hereof. Where applicable, drawings, specifications, lists of equipment, supplies, materials, and/or other existing documents describing or connected to the Project are listed or described on **Exhibit B.**

(b) ***Time of Performance.*** The Project shall be commenced on the Effective Date and completed in accordance with the schedule set forth in the Scope of Work, **Exhibit B** hereto (the "Work Schedule"). Time is of the essence in the performance of services under this Agreement.

(c) ***Compensation.*** The School District shall pay the Contractor for the services in accordance with this Agreement and the Schedule of Rates/Payments attached hereto as **Exhibit C** (the "Payment Schedule") and incorporated herein by reference. No rate changes shall be made during the term of this Agreement without the prior written approval of the School District. The Contractor's total compensation for services performed in accordance with this Agreement, including all reimbursable items, shall not exceed ____Two hundred Seventy-nine thousand six hundred and twenty__ Dollars ($__279,620.00___)(the "Contract Sum").

3. ***Notices.*** Any notice, demand, or other communication under this Agreement by either party to the other shall be sufficiently given or delivered if it is dispatched by registered or certified mail, postage prepaid, return receipt requested, or delivered personally:

(a) To the Contractor:
2920 Centre Pointe Drive, Roseville, MN 55113

_____

Attn: Schwab Vollhaber Lubratt Service Inc

(b) To the School District: Minneapolis Public Schools
1250 W. Broadway Avenue
Minneapolis, MN 55411-2533
Attn: Grant Lindberg

or at such other address with respect to either such party as that party may, from time to time, designate in writing and forward to the other as provided in this section.

4. ***Authorized Representatives.***

(a) The School District's authorized representatives with respect to this Agreement are: Grant Lindberg; 612-668-0281; grant.lindberg@mpls.k12.mn.us

(b) The Contractor's authorized representatives with respect to this Agreement are: Cameron Sigecan, 651-415-2565; cams@svl.com

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date indicated next to the name of the party who signs below.

SPECIAL SCHOOL DISTRICT NO. 1

Dated: _____, 20__ By: _____
[Authorized Signatory]

_____
[Title]

CONTRACTOR

Dated: February 24, 2024 By: Cameron Sigecan
Digitally signed by Cameron Sigecan
Date: 2025.02.24 11:43:47-05'00'
[Authorized Signatory]

EXHIBIT A

GENERAL TERMS AND CONDITIONS

These General Terms and Conditions (the "General Terms and Conditions) form a part of that certain AGREEMENT FOR LABOR, REPAIR, AND/OR INSTALLATION – OR PURCHASE OF GOODS, SUPPLIES AND MATERIAL**.**

1. ***Definitions.*** The terms defined in this Section shall have the following meanings for purposes of these General Terms and Conditions when initially capitalized herein:

(a) "**Agreement"** means that certain AGREEMENT FOR LABOR, REPAIR, AND/OR INSTALLATION – OR PURCHASE OF GOODS, SUPPLIES AND MATERIAL**.**

(b) "**Contract Documents"** means, collectively, (i) the Agreement, (ii) these General Terms and Conditions, (iii) all Exhibits listed or described in the Agreement and (iv) all drawings, specifications, addenda and modifications describing the Work which are issued after the date hereof.

(c) "**Work**" means all labor, materials, equipment, supplies, and/or services required to complete the Project described in the Contract Documents.

2. ***Contract Sum.*** The School District agrees to pay the Contractor for the full and faithful performance of the Work and related costs a stipulated amount equal to the Contract Sum set forth in the Agreement. The Contract Sum shall be subject to additions and deductions for changes in the Work, and the School District may deduct from the Contract Sum the value of any Work done which, in the good faith opinion of the School District, is not in compliance with the Contract Documents. The Contract Sum shall be payable to the Contractor in accordance with the Payment Schedule, subject to the provisions of these General Terms and Conditions.

3. ***Work Schedule.*** Contractor shall perform all of the Work in accordance with the Work Schedule. Time is of the essence in completing the Project. The Contractor agrees to notify the School District in writing of any and all causes of delay of the Work, or any part thereof, within 24 hours after such cause of delay shall arise, and in case of the failure of the Contractor to perform this Agreement and complete the Work at the time specified in the Contract Documents, the School District may immediately, or at any time thereafter, proceed to complete the Work at the cost and expense of the Contractor. Upon receipt of written notice from the Contractor of the existence of causes over which the Contractor has no control and which must delay the completion of the work, the School District may at its discretion, extend the date specified for the completion of the Work.

4. ***Standards of Performance.*** The Contractor agrees that all the work and labor shall be done in the best and most diligent manner and that all materials and labor shall be in entire and strict conformity in every respect with the Contract Documents and shall be subject to the inspection and approval by the proper authorities of the School District for the supervision of the

Work, and in case any of said material or labor shall be rejected by the School District as defective or unsuitable, then the materials shall be removed and replaced with other approved materials and the labor shall be done anew to the satisfaction and approval of the School District at the cost and expense of the Contractor. The Contractor agrees to take all precautions necessary to protect the public against injury, and to keep danger signals out at night and at such other times and such places as public safety may require during the performance of this Agreement. The Contractor further agrees to make good, replace, and renew at the Contractor's own cost and expense any loss or damage to the Work and Project occurring prior to the final delivery to and acceptance thereof by the School District, by reason of fire, tornado, theft, or any cause whatsoever, and to be wholly responsible for the construction, completion and delivery of the Work and Project in its entirety for the final acceptance by the School District; and any payment or payments made to the Contractor hereunder, shall not be construed as operating to relieve the Contractor from responsibility for the Work and Project as herein provided and agreed. It is agreed and understood by the parties hereto that the use of the Work and Project at any time by the School District for any purposes shall not be construed to be or operate as an acceptance by the School District of the work to be done by the Contractor under this Agreement.

5. ***Change Orders; Limitations***. No claim for extra work done or additional materials, equipment, or supplies furnished by the Contractor will be made by the Contractor or allowed by the School District, nor shall the Contractor do any work or furnish any materials, equipment or supplies not covered by the Scope of Work, unless such work or materials, equipment or supplies is ordered in writing by the School District. Any such work or materials, equipment or supplies which may be done or furnished by the Contractor without such written order first being given, shall be at the Contractor's own risk and expense. When any extra work or materials, equipment or supplies is ordered by the School District to be done or furnished, the Contractor shall furnish such materials and do such work for the price mutually agreed to by the Contractor and the School District, and when any alteration of the Scope of Work is ordered by the School District, the Contractor agrees to perform the work as altered and if such alteration shall reduce the cost of doing such work, the actual amount of such reduction in cost shall be deducted from the Contract Sum.

6. ***Labor, Materials, Equipment, Etc.*** The Contractor shall provide and pay for all labor, materials, equipment, tools, machinery, water, heat, utilities, transportation and other facilities and/or services necessary for the proper execution of the Work. All costs and expenses for such items shall be included in the Contract Sum.

7. ***Permits, Fees and Compliance with Law***. The Contractor shall secure all permits, licenses and inspections necessary for the execution and completion of the Work as part of the Contract Sum. All permit, license and inspection fees shall be included in the Contract Sum. The Contractor shall comply with the terms of all such permits and licenses and with all federal, state and municipal laws, statutes, ordinances, building codes, rules and regulations applicable to the Work.

8. ***Taxes.*** The Contractor shall pay sales, consumer, use and other similar taxes, except to the extent that such taxes are not payable due to the status of the School District as a tax-exempt entity. The Contractor shall not charge the School District for state sales taxes, uses taxes,

and other taxes that are not payable due to the status of the School District as a tax-exempt entity, and the Contract Sum shall be reduced to the extent that amounts for such taxes were included in the determination thereof.

9. ***Subcontractors; Third Party Claims***. The Contractor further agrees to pay all laborers employed, and all subcontractors furnishing material to the Contractor in and about the performance of this Agreement, and for all labor and material by them so performed and furnished, but in case the Contractor shall fail so to pay and to satisfy every and all claims and demands for labor and materials as aforesaid, the School District may apply the monies due and coming to the Contractor under this Agreement toward paying and satisfying such claims and demands, and the School District is herewith given the right to apply monies due and coming to the Contractor hereunder towards paying any indebtedness or claim heretofore accrued or which may hereafter come due to the School District from the Contractor on any account whatsoever, and the amount of such payments shall be charged against the balance due the Contractor hereunder; provided that nothing herein contained nor any variation from the amounts of the installments or from the manner and times of their payment shall be construed as impairing the right of the School District or of those to whose benefit the bond herein agreed upon shall insure, to hold the Contractor or surety liable on the bond for any breach of the conditions of the same nor as imposing upon the School District any obligation to laborers, materialmen, contractors, or sureties to pay or to retain for their benefit any monies coming to the Contractor hereunder. Contractor shall comply with the requirements of Minn. Stat. §471.425, subd. 4a., Prompt Payment to Subcontractors, which is incorporated herein by reference.

10. ***Bonds.*** If required by the Contract Documents, prior to performing any work under this Agreement, the Contractor shall provide the School District with the following bonds covering the Project: (a) a performance bond for the benefit of the School District, ensuring that Contractor will construct and maintain the Project in accordance with the Contract Documents, and saving and holding the School District harmless from all costs and charges which may accrue on account of completing the Project; and (b) a payment bond for the use and benefit of all persons furnishing labor or materials for the Project and making just claims for payment for such labor or materials.

11. ***Background Checks.*** The Contractor shall obtain a background check pursuant to applicable federal and state law and School District policy, including the Minnesota Child Protection Background Check Act, for each employee, volunteer or agent assigned to the Project. If Contractor receives a report that an employee, volunteer or agent so assigned has ever been convicted of a serious offense, or a background check crime, as defined at Minn. Stat. § 299C.61, it shall take immediate steps to notify the School District of the report and remove such employee, volunteer or agent from his/her assignment.

12. ***Equal Opportunity***. The Contractor agrees that in the hiring of common or skilled labor for the performance of any work under this Agreement or any subcontract hereunder, no contractor, material supplier, or vendor, shall, by reason of race, creed, color, sex or national origin, discriminate against any person or persons who are citizens of the United States and who are qualified and available to perform the work to which such employment relates; that neither he nor any subcontractor, material supplier, or vendor, shall in any manner discriminate against, or intimidate, or prevent the employment of any such person or persons from the performance of

work under this Agreement or any subcontract hereunder on account of race, creed, color, sex or national origin; that any violation of this Section shall be a misdemeanor; and that this Agreement may be canceled or terminated by the School District and all money due, or to become due hereunder, may be forfeited, for a second or any subsequent violation of the terms or conditions of this Agreement.

13. ***Independent Contractor***. All work provided pursuant to this Agreement shall be provided by the Contractor as an independent contractor and not as an employee of the School District for any purpose. Any and all officers, employees, subcontractors, agents, or any other person engaged by the Contractor in the performance of work or services pursuant to this Agreement shall not be considered employees of the School District. Any and all actions which arise as a consequence of any act or omission by the Contractor, its officers, employees, subcontractors, agents, or other persons engaged by the Contractor in the performance of work or services pursuant to this Agreement, shall not be the obligation or responsibility of the School District. The Contractor, and its officers, employees, subcontractors, and agents, shall not be entitled to any of the rights, privileges, or benefits of the School District's employees. This Agreement does not establish a joint powers agreement or joint partnership between the School District and the Contractor.

14. ***Indemnification***. The Contractor hereby agrees to protect, defend and hold the School District and its officers, elected and appointed officials, employees, administrators, agents, and representatives harmless from and indemnified against any and all loss, costs, fines, charges, damage and expenses, including, without limitation, reasonable attorneys' fees, consultants' and expert witness fees, and travel associated therewith, due to claims or demands of any kind whatsoever (including those based on strict liability) arising out of (i) the activities contemplated by this Agreement, (ii) including, without limitation, any claims for any lien imposed by law for services, labor or materials, or (iii) by reason of the execution of this Agreement or the performance of this Agreement. The Contractor, and the Contractor's successors or assigns, agree to protect, defend and save the School District, and its officers, agents, and employees, harmless from all such claims, demands, damages, and causes of action and the costs, disbursements, and expenses of defending the same, including but not limited to, attorneys' fees. This indemnity shall be continuing and shall survive the performance or cancellation of this Agreement. Nothing in this Agreement shall be construed as a limitation of or waiver by the School District of any immunities, defenses, or other limitations on liability to which the School District is entitled by law, including but not limited to the maximum monetary limits on liability established by Minnesota Statutes, Chapter 466, or otherwise.

15. ***Insurance***. Prior to performing any work under this Agreement, the Contractor shall purchase and maintain such insurance in the amounts specified below as will protect the Contractor from claims which may arise out of, or result from, the Contractor's performance under this Agreement, whether such performance is by the Contractor or by any subcontractor, or by anyone directly employed by them, or by anyone for whose acts or omissions anyone of them may be liable. Certificates of Insurance shall name the School District as an additional insured. The insurance shall not be canceled by the Contractor until all of the work required by this Agreement has been completed, accepted, and final payment made by the School District. Written notification of the School District by the Contractor shall be required thirty (30) calendar days prior to

cancellation, expiration, or change of insurance. All policies shall be written on an occurrence basis using ISO Form CG 00 01 or its equivalent.

(a) Statutory Workers Compensation and Employer's Liability

(b) Commercial General Liability:

Each Occurrence	$1,500,000
Damage to Rented Premises Each Occurrence	$ 100,000
Medical Expense any One Person	$ 5,000
Personal and Advertising Injury	$1,000,000
General Aggregate	$2,000,000
Products – Completed Operations Aggregate	$2,000,000

(c) Automobile Liability:

Combined Single Limit (Each Accident)	$1,500,000

(d) Other forms of insurance as called for in the Contract Documents.

The above paragraphs establish minimum insurance requirements, and it is the sole responsibility of the Contractor to purchase and maintain additional insurance that may be necessary for compliance with this Agreement. Certificates of Insurance must indicate if the policy is issued pursuant to all above requirements. The Contractor shall not commence work on the Project until the Contractor has obtained the required insurance and filed an acceptable Certificate(s) of Insurance with the School District. Copies of insurance policies shall be submitted to School District upon request.

16. ***Termination.*** The School District shall have the right to terminate the Agreement with or without cause by and upon delivering written notice to the Contractor. In the event of such termination by the School District for convenience, the School District shall promptly pay the Contractor any compensation owed for Work completed in compliance with the requirements of the Contract Documents through and including the date of termination, and upon payment of such compensation, the School District shall have no further obligations or liabilities to the Contractor. In the event of such termination by the School District for cause (including, without limitation, if the Contractor defaults, fails to comply with the Contract Documents, provides defective or non-conforming Work, becomes insolvent or becomes the subject of bankruptcy proceedings), the School District shall not be liable to the Contractor for any amounts, but the Contractor shall be liable to the School District for all losses, damages and expenses resulting from such default. The School District may withhold payments due to the Contractor for the purpose of set-off until such time as the exact amount of damages due to the School District is determined. If a determination is made that the School District improperly terminated the Agreement "for cause," then such termination shall be deemed to have been a "without cause" termination for convenience.

17. ***Limitation on Liability.*** In no event shall the School District be liable for any indirect, consequential, incidental, lost profits or like expectancy damages arising out of the

Agreement. The School District's maximum liability under the Agreement shall not exceed the Contract Sum.

18. ***Additional Requirements for Purchases of Equipment, Goods and Supplies.***

(a) ***Inspection and Testing.*** For a period of up to ten (10) business days following delivery, the School District shall have the right to inspect and/or test any equipment, goods and supplies (collectively, the "Goods") purchased by the School District. If upon inspection or testing the Goods or any portion thereof are found to be nonconforming, unsatisfactory, defective, of inferior quality or workmanship, or fail to meet any requirements or specifications contained in the Contract Documents, then without prejudice to any other rights or remedies, the School District may reject the Goods.

(b) ***Warranty.*** Contractor warrants that the Goods will be of merchantable quality and free from defects in design, engineering, material and workmanship for the time period specified by a manufacturer's warranty or as agreed to by the Contractor and the School District. Contractor further warrants that the Goods will meet the performance requirements and specifications set forth in the Contract Documents and shall be fit for the purpose intended. Contractor also warrants that the Goods are free and clear of all liens and encumbrances whatsoever, that Contractor has a good and marketable title to same, and that Contractor owns or has a valid license for all of the proprietary technology and intellectual property incorporated within the Goods. Contractor agrees to indemnify, defend and hold the School District harmless against any and all third-party claims resulting from the breach or inaccuracy of any of the foregoing warranties.

(c) ***Title and Risk of Loss.*** Title to the Goods shall remain with the Contractor until the School District accepts delivery of the Goods. The risk of loss will be on the Contractor until such time as the School District accepts delivery of the Goods. Contractor will be liable for any loss or damage to the Goods caused by Contractor or its subcontractors, their agents or employees, and Contractor will replace or repair said Goods at its own cost to the complete satisfaction of the School District.

19. ***Amendments; Binding Agreement; Assignment.*** Any amendment to this Agreement must be in writing and signed by both parties. This Agreement shall be binding upon and inure to the benefit of the parties. No assignment or attempted assignment of this Agreement or of any rights hereunder shall be effective without the prior written consent of the School District.

20. ***Authority.*** Each of the undersigned parties warrants it has the full authority to execute and delivery this Agreement.

21. ***Authorized Representatives***. Any consent, approval, authorization or other action required or permitted to be given or taken under the Contract Documents by the School District or the Contractor, as the case may be, shall be given or taken by one or more of the Authorized Representatives of each, except as provided by applicable law or School District policy.

22. ***Applicable Law; Jurisdiction.*** This Agreement shall be governed by and construed in accordance with the laws of the State of Minnesota. Any disputes, controversies, or claims arising out of this Agreement shall be heard in the Hennepin County District Court or United States District Court of Minnesota, and all parties to this Agreement waive any objection to the jurisdiction of these courts, whether based on convenience or otherwise.

23. ***Compliance with Laws.*** The Contractor warrants that all work performed pursuant to this Agreement shall be in compliance with all federal, state and local laws, ordinances, regulations, rules, and standards, as well as all requirements set forth in the Contract Documents, or any further requirements of the School District. The Contractor and all subcontractors shall conform to the labor laws of the State of Minnesota, and all other laws, ordinances and legal requirements pertaining to the Project. Pursuant to Minnesota Statutes 177.41 to 177.44 and corresponding Minnesota Rules 5200.1000 to 5200.1120, this Agreement may be subject to the prevailing wages as established by the Minnesota Department of Labor and Industry.

24. ***Warranty.*** The Contractor warrants that the Work shall be in accordance with the Contract Documents, applicable law and trade standards and free from material structural defects, improper workmanship or defective materials. Contractor shall replace, correct, or repair any Work not in accordance with the Contract Documents, applicable law and trade standards or any defects caused by faulty materials, equipment or workmanship for a period of two (2) year(s) from the date of completion of the Work. Nothing in this Section shall be construed to place a time limit with respect to any other obligation Contractor may have under this Agreement.

25. ***Entire Agreement.*** The Contract Documents and any addenda or amendments thereto signed by the parties shall constitute the entire Agreement between the School District and Contractor, and supersedes any other written or oral agreements between and School District and Contractor.

26. ***Severability.*** In the event that any one or more of the provisions of this Agreement, or any application thereof, shall be found to be invalid, illegal or otherwise unenforceable, the validity, legality, and enforceability of the remaining provisions in any application thereof shall not in any way be affected or impaired thereby.

27. ***No Waiver.*** No failure by any party to insist upon the strict performance of any covenant, duty, agreement, or condition of this Agreement or to exercise any right or remedy consequent upon a breach thereof, shall constitute a waiver of any such breach of any other covenant, agreement, term, or condition, nor does it imply that such covenant, agreement, term or condition may be waived again.

28. ***Data Practices.*** Any and all data created, collected, received, stored, used, maintained, or disseminated by the Contractor pursuant to this Agreement shall be administered in accordance with, and is subject to the requirements of the Minnesota Government Data Practices Act, Minnesota Statutes, Chapter 13, and the Contractor must comply with these requirements as if it were a government entity. This Section does not create a duty on the part of the Contractor to provide access to public data to the public if the public data are available from the School District,

except as required by the terms of this Agreement. The Contractor will report immediately to the School District any requests from third parties for information related to the Agreement.

29. ***Audit.*** The Contractor must allow the School District, or its duly authorized agents, and the state auditor or legislative auditor reasonable access to the Contractor's books, records, documents, and accounting procedures and practices that are pertinent to all work provided under this Agreement for a minimum of six years from the termination of this Agreement.

30. ***No Third-Party Beneficiary***. The Contractor acknowledges that nothing contained in this Agreement nor any act by the School District or the Contractor shall be deemed or construed by the Contractor or by any third person to create any relationship of third-party beneficiary, principal and agent, limited or general partner, or joint venture between the School District and the Contractor.

31. ***Counterparts.*** This Agreement may be executed in any number of counterparts, each of which shall constitute one and the same instrument.

EXHIBIT B

SCOPE OF WORK AND SCHEDULE OF PERFORMANCE

"Payments are to be made to vendor during the fiscal year
through invoices, with this contract expiring on _12/31/2025_"

EXHIBIT C

SCHEDULE OF RATES/PAYMENTS

Please see attachment

MINNEAPOLIS PUBLIC SCHOOLS

AGREEMENT FOR LABOR, REPAIR, AND/OR INSTALLATION – OR PURCHASE OF GOODS, SUPPLIES AND MATERIALS

PROJECT:

This Agreement (the "Agreement") is made this 17 day of February, 2025 (the "Effective Date") by and between Special School District No. 1, a Minnesota public school corporation (the "School District"), and SVL (the "Contractor").

RECITALS:

A. The School District owns and operates school buildings, administrative offices, and related sites and facilities that are generally located throughout the City of Minneapolis, Minnesota (collectively, the "Sites and Facilities").

B. The Sites and Facilities require maintenance, repair, and updating from time-to-time, necessitating the provision of services by a third-party contractor.

C. The School District also must periodically engage a third-party contractor to facilitate the purchase of equipment, materials and supplies to support its school operations.

D. The School District desires to retain a contractor to perform the services described below (the "Project") in accordance with and subject to the terms and conditions in this Agreement.

E. The Contractor has examined the location of all proposed work if applicable, carefully reviewed and evaluated the specifications set forth by the School District for the Project, is familiar with all conditions relevant to the performance of the services and is committed to perform all work required for the price specified in this Agreement.

In consideration of the covenants and agreements hereinafter set forth, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

1. ***General Terms and Conditions.*** Reference is hereby made to the General Terms and Conditions of this Agreement attached hereto as **Exhibit A** and made a part hereof (the "General Terms and Conditions"). The General Terms and Conditions are incorporated herein by

reference as if set forth in full herein. Without limiting the generality of the foregoing, (a) all capitalized terms used in this Agreement without definition shall have the meanings ascribed to them in the General Terms and Conditions and (b) all capitalized terms used in the General Terms and Conditions without definition shall have the meanings ascribed to them in this Agreement.

2. ***Project Information.***

(a) ***Scope of Work.*** The Project generally consists of renew and replace condensing unit. A detailed Scope of Work is set forth in **Exhibit B**, attached hereto and made a part hereof. Where applicable, drawings, specifications, lists of equipment, supplies, materials, and/or other existing documents describing or connected to the Project are listed or described on **Exhibit B.**

(b) ***Time of Performance.*** The Project shall be commenced on the Effective Date and completed in accordance with the schedule set forth in the Scope of Work, **Exhibit B** hereto (the "Work Schedule"). Time is of the essence in the performance of services under this Agreement.

(c) ***Compensation.*** The School District shall pay the Contractor for the services in accordance with this Agreement and the Schedule of Rates/Payments attached hereto as **Exhibit C** (the "Payment Schedule") and incorporated herein by reference. No rate changes shall be made during the term of this Agreement without the prior written approval of the School District. The Contractor's total compensation for services performed in accordance with this Agreement, including all reimbursable items, shall not exceed three hundred sixteen thousand two hundred fifty seven dollars ($316,257)(the "Contract Sum").

3. ***Notices.*** Any notice, demand, or other communication under this Agreement by either party to the other shall be sufficiently given or delivered if it is dispatched by registered or certified mail, postage prepaid, return receipt requested, or delivered personally:

(a) To the Contractor:
SVL
2920 Centre Pointe Drive
Roseville, MN 55113
Attn: Cameron Sigan

(b) To the School District:
Minneapolis Public Schools
1250 W. Broadway Avenue
Minneapolis, MN 55411-2533
Attn: Grant Lindberg

or at such other address with respect to either such party as that party may, from time to time, designate in writing and forward to the other as provided in this section.

4. ***Authorized Representatives.***

(a) The School District's authorized representatives with respect to this Agreement are: Cameron Sigecan; 651-415-2565, cams@svl.com.

(b) The Contractor's authorized representatives with respect to this Agreement are: Grant Lindberg; 612-668-0281, Grant.Lindberg@mpls.k12.mn.us.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date indicated next to the name of the party who signs below.

SPECIAL SCHOOL DISTRICT NO. 1

Dated: _____, 20__ By: _____
[Authorized Signatory]

_____
[Title]

CONTRACTOR

Dated: February 12, ____, 2025 By: Cameron Sigecan Digitally signed by Cameron Sigecan DN: C=US, E=CamS@svl.com, O="SVL, Inc. ", OU="SVL, Inc. ", CN=Cameron Sigecan Date: 2025.02.12 14:19:32-05'00' _____
[Authorized Signatory]

EXHIBIT A

GENERAL TERMS AND CONDITIONS

These General Terms and Conditions (the "General Terms and Conditions) form a part of that certain AGREEMENT FOR LABOR, REPAIR, AND/OR INSTALLATION – OR PURCHASE OF GOODS, SUPPLIES AND MATERIAL**.**

1. ***Definitions.*** The terms defined in this Section shall have the following meanings for purposes of these General Terms and Conditions when initially capitalized herein:

(a) "**Agreement"** means that certain AGREEMENT FOR LABOR, REPAIR, AND/OR INSTALLATION – OR PURCHASE OF GOODS, SUPPLIES AND MATERIAL**.**

(b) "**Contract Documents"** means, collectively, (i) the Agreement, (ii) these General Terms and Conditions, (iii) all Exhibits listed or described in the Agreement and (iv) all drawings, specifications, addenda and modifications describing the Work which are issued after the date hereof.

(c) "**Work**" means all labor, materials, equipment, supplies, and/or services required to complete the Project described in the Contract Documents.

2. ***Contract Sum.*** The School District agrees to pay the Contractor for the full and faithful performance of the Work and related costs a stipulated amount equal to the Contract Sum set forth in the Agreement. The Contract Sum shall be subject to additions and deductions for changes in the Work, and the School District may deduct from the Contract Sum the value of any Work done which, in the good faith opinion of the School District, is not in compliance with the Contract Documents. The Contract Sum shall be payable to the Contractor in accordance with the Payment Schedule, subject to the provisions of these General Terms and Conditions.

3. ***Work Schedule.*** Contractor shall perform all of the Work in accordance with the Work Schedule. Time is of the essence in completing the Project. The Contractor agrees to notify the School District in writing of any and all causes of delay of the Work, or any part thereof, within 24 hours after such cause of delay shall arise, and in case of the failure of the Contractor to perform this Agreement and complete the Work at the time specified in the Contract Documents, the School District may immediately, or at any time thereafter, proceed to complete the Work at the cost and expense of the Contractor. Upon receipt of written notice from the Contractor of the existence of causes over which the Contractor has no control and which must delay the completion of the work, the School District may at its discretion, extend the date specified for the completion of the Work.

4. ***Standards of Performance.*** The Contractor agrees that all the work and labor shall be done in the best and most diligent manner and that all materials and labor shall be in entire and strict conformity in every respect with the Contract Documents and shall be subject to the inspection and approval by the proper authorities of the School District for the supervision of the

Work, and in case any of said material or labor shall be rejected by the School District as defective or unsuitable, then the materials shall be removed and replaced with other approved materials and the labor shall be done anew to the satisfaction and approval of the School District at the cost and expense of the Contractor. The Contractor agrees to take all precautions necessary to protect the public against injury, and to keep danger signals out at night and at such other times and such places as public safety may require during the performance of this Agreement. The Contractor further agrees to make good, replace, and renew at the Contractor's own cost and expense any loss or damage to the Work and Project occurring prior to the final delivery to and acceptance thereof by the School District, by reason of fire, tornado, theft, or any cause whatsoever, and to be wholly responsible for the construction, completion and delivery of the Work and Project in its entirety for the final acceptance by the School District; and any payment or payments made to the Contractor hereunder, shall not be construed as operating to relieve the Contractor from responsibility for the Work and Project as herein provided and agreed. It is agreed and understood by the parties hereto that the use of the Work and Project at any time by the School District for any purposes shall not be construed to be or operate as an acceptance by the School District of the work to be done by the Contractor under this Agreement.

5. ***Change Orders; Limitations***. No claim for extra work done or additional materials, equipment, or supplies furnished by the Contractor will be made by the Contractor or allowed by the School District, nor shall the Contractor do any work or furnish any materials, equipment or supplies not covered by the Scope of Work, unless such work or materials, equipment or supplies is ordered in writing by the School District. Any such work or materials, equipment or supplies which may be done or furnished by the Contractor without such written order first being given, shall be at the Contractor's own risk and expense. When any extra work or materials, equipment or supplies is ordered by the School District to be done or furnished, the Contractor shall furnish such materials and do such work for the price mutually agreed to by the Contractor and the School District, and when any alteration of the Scope of Work is ordered by the School District, the Contractor agrees to perform the work as altered and if such alteration shall reduce the cost of doing such work, the actual amount of such reduction in cost shall be deducted from the Contract Sum.

6. ***Labor, Materials, Equipment, Etc.*** The Contractor shall provide and pay for all labor, materials, equipment, tools, machinery, water, heat, utilities, transportation and other facilities and/or services necessary for the proper execution of the Work. All costs and expenses for such items shall be included in the Contract Sum.

7. ***Permits, Fees and Compliance with Law***. The Contractor shall secure all permits, licenses and inspections necessary for the execution and completion of the Work as part of the Contract Sum. All permit, license and inspection fees shall be included in the Contract Sum. The Contractor shall comply with the terms of all such permits and licenses and with all federal, state and municipal laws, statutes, ordinances, building codes, rules and regulations applicable to the Work.

8. ***Taxes.*** The Contractor shall pay sales, consumer, use and other similar taxes, except to the extent that such taxes are not payable due to the status of the School District as a tax-exempt entity. The Contractor shall not charge the School District for state sales taxes, uses taxes,

and other taxes that are not payable due to the status of the School District as a tax-exempt entity, and the Contract Sum shall be reduced to the extent that amounts for such taxes were included in the determination thereof.

9. ***Subcontractors; Third Party Claims***. The Contractor further agrees to pay all laborers employed, and all subcontractors furnishing material to the Contractor in and about the performance of this Agreement, and for all labor and material by them so performed and furnished, but in case the Contractor shall fail so to pay and to satisfy every and all claims and demands for labor and materials as aforesaid, the School District may apply the monies due and coming to the Contractor under this Agreement toward paying and satisfying such claims and demands, and the School District is herewith given the right to apply monies due and coming to the Contractor hereunder towards paying any indebtedness or claim heretofore accrued or which may hereafter come due to the School District from the Contractor on any account whatsoever, and the amount of such payments shall be charged against the balance due the Contractor hereunder; provided that nothing herein contained nor any variation from the amounts of the installments or from the manner and times of their payment shall be construed as impairing the right of the School District or of those to whose benefit the bond herein agreed upon shall insure, to hold the Contractor or surety liable on the bond for any breach of the conditions of the same nor as imposing upon the School District any obligation to laborers, materialmen, contractors, or sureties to pay or to retain for their benefit any monies coming to the Contractor hereunder. Contractor shall comply with the requirements of Minn. Stat. §471.425, subd. 4a., Prompt Payment to Subcontractors, which is incorporated herein by reference.

10. ***Bonds.*** If required by the Contract Documents, prior to performing any work under this Agreement, the Contractor shall provide the School District with the following bonds covering the Project: (a) a performance bond for the benefit of the School District, ensuring that Contractor will construct and maintain the Project in accordance with the Contract Documents, and saving and holding the School District harmless from all costs and charges which may accrue on account of completing the Project; and (b) a payment bond for the use and benefit of all persons furnishing labor or materials for the Project and making just claims for payment for such labor or materials.

11. ***Background Checks.*** The Contractor shall obtain a background check pursuant to applicable federal and state law and School District policy, including the Minnesota Child Protection Background Check Act, for each employee, volunteer or agent assigned to the Project. If Contractor receives a report that an employee, volunteer or agent so assigned has ever been convicted of a serious offense, or a background check crime, as defined at Minn. Stat. § 299C.61, it shall take immediate steps to notify the School District of the report and remove such employee, volunteer or agent from his/her assignment.

12. ***Equal Opportunity***. The Contractor agrees that in the hiring of common or skilled labor for the performance of any work under this Agreement or any subcontract hereunder, no contractor, material supplier, or vendor, shall, by reason of race, creed, color, sex or national origin, discriminate against any person or persons who are citizens of the United States and who are qualified and available to perform the work to which such employment relates; that neither he nor any subcontractor, material supplier, or vendor, shall in any manner discriminate against, or intimidate, or prevent the employment of any such person or persons from the performance of

work under this Agreement or any subcontract hereunder on account of race, creed, color, sex or national origin; that any violation of this Section shall be a misdemeanor; and that this Agreement may be canceled or terminated by the School District and all money due, or to become due hereunder, may be forfeited, for a second or any subsequent violation of the terms or conditions of this Agreement.

13. ***Independent Contractor***. All work provided pursuant to this Agreement shall be provided by the Contractor as an independent contractor and not as an employee of the School District for any purpose. Any and all officers, employees, subcontractors, agents, or any other person engaged by the Contractor in the performance of work or services pursuant to this Agreement shall not be considered employees of the School District. Any and all actions which arise as a consequence of any act or omission by the Contractor, its officers, employees, subcontractors, agents, or other persons engaged by the Contractor in the performance of work or services pursuant to this Agreement, shall not be the obligation or responsibility of the School District. The Contractor, and its officers, employees, subcontractors, and agents, shall not be entitled to any of the rights, privileges, or benefits of the School District's employees. This Agreement does not establish a joint powers agreement or joint partnership between the School District and the Contractor.

14. ***Indemnification***. The Contractor hereby agrees to protect, defend and hold the School District and its officers, elected and appointed officials, employees, administrators, agents, and representatives harmless from and indemnified against any and all loss, costs, fines, charges, damage and expenses, including, without limitation, reasonable attorneys' fees, consultants' and expert witness fees, and travel associated therewith, due to claims or demands of any kind whatsoever (including those based on strict liability) arising out of (i) the activities contemplated by this Agreement, (ii) including, without limitation, any claims for any lien imposed by law for services, labor or materials, or (iii) by reason of the execution of this Agreement or the performance of this Agreement. The Contractor, and the Contractor's successors or assigns, agree to protect, defend and save the School District, and its officers, agents, and employees, harmless from all such claims, demands, damages, and causes of action and the costs, disbursements, and expenses of defending the same, including but not limited to, attorneys' fees. This indemnity shall be continuing and shall survive the performance or cancellation of this Agreement. Nothing in this Agreement shall be construed as a limitation of or waiver by the School District of any immunities, defenses, or other limitations on liability to which the School District is entitled by law, including but not limited to the maximum monetary limits on liability established by Minnesota Statutes, Chapter 466, or otherwise.

15. ***Insurance***. Prior to performing any work under this Agreement, the Contractor shall purchase and maintain such insurance in the amounts specified below as will protect the Contractor from claims which may arise out of, or result from, the Contractor's performance under this Agreement, whether such performance is by the Contractor or by any subcontractor, or by anyone directly employed by them, or by anyone for whose acts or omissions anyone of them may be liable. Certificates of Insurance shall name the School District as an additional insured. The insurance shall not be canceled by the Contractor until all of the work required by this Agreement has been completed, accepted, and final payment made by the School District. Written notification of the School District by the Contractor shall be required thirty (30) calendar days prior to

cancellation, expiration, or change of insurance. All policies shall be written on an occurrence basis using ISO Form CG 00 01 or its equivalent.

(a) Statutory Workers Compensation and Employer's Liability

(b) Commercial General Liability:

Each Occurrence	$1,500,000
Damage to Rented Premises Each Occurrence	$ 100,000
Medical Expense any One Person	$ 5,000
Personal and Advertising Injury	$1,000,000
General Aggregate	$2,000,000
Products – Completed Operations Aggregate	$2,000,000

(c) Automobile Liability:

Combined Single Limit (Each Accident)	$1,500,000

(d) Other forms of insurance as called for in the Contract Documents.

The above paragraphs establish minimum insurance requirements, and it is the sole responsibility of the Contractor to purchase and maintain additional insurance that may be necessary for compliance with this Agreement. Certificates of Insurance must indicate if the policy is issued pursuant to all above requirements. The Contractor shall not commence work on the Project until the Contractor has obtained the required insurance and filed an acceptable Certificate(s) of Insurance with the School District. Copies of insurance policies shall be submitted to School District upon request.

16. ***Termination.*** The School District shall have the right to terminate the Agreement with or without cause by and upon delivering written notice to the Contractor. In the event of such termination by the School District for convenience, the School District shall promptly pay the Contractor any compensation owed for Work completed in compliance with the requirements of the Contract Documents through and including the date of termination, and upon payment of such compensation, the School District shall have no further obligations or liabilities to the Contractor. In the event of such termination by the School District for cause (including, without limitation, if the Contractor defaults, fails to comply with the Contract Documents, provides defective or non-conforming Work, becomes insolvent or becomes the subject of bankruptcy proceedings), the School District shall not be liable to the Contractor for any amounts, but the Contractor shall be liable to the School District for all losses, damages and expenses resulting from such default. The School District may withhold payments due to the Contractor for the purpose of set-off until such time as the exact amount of damages due to the School District is determined. If a determination is made that the School District improperly terminated the Agreement "for cause," then such termination shall be deemed to have been a "without cause" termination for convenience.

17. ***Limitation on Liability.*** In no event shall the School District be liable for any indirect, consequential, incidental, lost profits or like expectancy damages arising out of the

Agreement. The School District's maximum liability under the Agreement shall not exceed the Contract Sum.

18. ***Additional Requirements for Purchases of Equipment, Goods and Supplies.***

(a) ***Inspection and Testing.*** For a period of up to ten (10) business days following delivery, the School District shall have the right to inspect and/or test any equipment, goods and supplies (collectively, the "Goods") purchased by the School District. If upon inspection or testing the Goods or any portion thereof are found to be nonconforming, unsatisfactory, defective, of inferior quality or workmanship, or fail to meet any requirements or specifications contained in the Contract Documents, then without prejudice to any other rights or remedies, the School District may reject the Goods.

(b) ***Warranty.*** Contractor warrants that the Goods will be of merchantable quality and free from defects in design, engineering, material and workmanship for the time period specified by a manufacturer's warranty or as agreed to by the Contractor and the School District. Contractor further warrants that the Goods will meet the performance requirements and specifications set forth in the Contract Documents and shall be fit for the purpose intended. Contractor also warrants that the Goods are free and clear of all liens and encumbrances whatsoever, that Contractor has a good and marketable title to same, and that Contractor owns or has a valid license for all of the proprietary technology and intellectual property incorporated within the Goods. Contractor agrees to indemnify, defend and hold the School District harmless against any and all third-party claims resulting from the breach or inaccuracy of any of the foregoing warranties.

(c) ***Title and Risk of Loss.*** Title to the Goods shall remain with the Contractor until the School District accepts delivery of the Goods. The risk of loss will be on the Contractor until such time as the School District accepts delivery of the Goods. Contractor will be liable for any loss or damage to the Goods caused by Contractor or its subcontractors, their agents or employees, and Contractor will replace or repair said Goods at its own cost to the complete satisfaction of the School District.

19. ***Amendments; Binding Agreement; Assignment.*** Any amendment to this Agreement must be in writing and signed by both parties. This Agreement shall be binding upon and inure to the benefit of the parties. No assignment or attempted assignment of this Agreement or of any rights hereunder shall be effective without the prior written consent of the School District.

20. ***Authority.*** Each of the undersigned parties warrants it has the full authority to execute and delivery this Agreement.

21. ***Authorized Representatives***. Any consent, approval, authorization or other action required or permitted to be given or taken under the Contract Documents by the School District or the Contractor, as the case may be, shall be given or taken by one or more of the Authorized Representatives of each, except as provided by applicable law or School District policy.

22. ***Applicable Law; Jurisdiction.*** This Agreement shall be governed by and construed in accordance with the laws of the State of Minnesota. Any disputes, controversies, or claims arising out of this Agreement shall be heard in the Hennepin County District Court or United States District Court of Minnesota, and all parties to this Agreement waive any objection to the jurisdiction of these courts, whether based on convenience or otherwise.

23. ***Compliance with Laws.*** The Contractor warrants that all work performed pursuant to this Agreement shall be in compliance with all federal, state and local laws, ordinances, regulations, rules, and standards, as well as all requirements set forth in the Contract Documents, or any further requirements of the School District. The Contractor and all subcontractors shall conform to the labor laws of the State of Minnesota, and all other laws, ordinances and legal requirements pertaining to the Project. Pursuant to Minnesota Statutes 177.41 to 177.44 and corresponding Minnesota Rules 5200.1000 to 5200.1120, this Agreement may be subject to the prevailing wages as established by the Minnesota Department of Labor and Industry.

24. ***Warranty.*** The Contractor warrants that the Work shall be in accordance with the Contract Documents, applicable law and trade standards and free from material structural defects, improper workmanship or defective materials. Contractor shall replace, correct, or repair any Work not in accordance with the Contract Documents, applicable law and trade standards or any defects caused by faulty materials, equipment or workmanship for a period of two (2) year(s) from the date of completion of the Work. Nothing in this Section shall be construed to place a time limit with respect to any other obligation Contractor may have under this Agreement.

25. ***Entire Agreement.*** The Contract Documents and any addenda or amendments thereto signed by the parties shall constitute the entire Agreement between the School District and Contractor, and supersedes any other written or oral agreements between and School District and Contractor.

26. ***Severability.*** In the event that any one or more of the provisions of this Agreement, or any application thereof, shall be found to be invalid, illegal or otherwise unenforceable, the validity, legality, and enforceability of the remaining provisions in any application thereof shall not in any way be affected or impaired thereby.

27. ***No Waiver.*** No failure by any party to insist upon the strict performance of any covenant, duty, agreement, or condition of this Agreement or to exercise any right or remedy consequent upon a breach thereof, shall constitute a waiver of any such breach of any other covenant, agreement, term, or condition, nor does it imply that such covenant, agreement, term or condition may be waived again.

28. ***Data Practices.*** Any and all data created, collected, received, stored, used, maintained, or disseminated by the Contractor pursuant to this Agreement shall be administered in accordance with, and is subject to the requirements of the Minnesota Government Data Practices Act, Minnesota Statutes, Chapter 13, and the Contractor must comply with these requirements as if it were a government entity. This Section does not create a duty on the part of the Contractor to provide access to public data to the public if the public data are available from the School District,

except as required by the terms of this Agreement. The Contractor will report immediately to the School District any requests from third parties for information related to the Agreement.

29. ***Audit.*** The Contractor must allow the School District, or its duly authorized agents, and the state auditor or legislative auditor reasonable access to the Contractor's books, records, documents, and accounting procedures and practices that are pertinent to all work provided under this Agreement for a minimum of six years from the termination of this Agreement.

30. ***No Third-Party Beneficiary***. The Contractor acknowledges that nothing contained in this Agreement nor any act by the School District or the Contractor shall be deemed or construed by the Contractor or by any third person to create any relationship of third-party beneficiary, principal and agent, limited or general partner, or joint venture between the School District and the Contractor.

31. ***Counterparts.*** This Agreement may be executed in any number of counterparts, each of which shall constitute one and the same instrument.

EXHIBIT B

SCOPE OF WORK AND SCHEDULE OF PERFORMANCE

2920 Centre Pointe Drive, Roseville, MN 55113 | Phone: 651-481-8000 | Fax: 651-481-8621

www.svl.com | CamsS@svl.com

February 3, 2025

Minneapolis Public Schools
Harrison Education Center
501 Irving Ave N
Minneapolis, MN 55405

CERTIFIED PROPOSAL NUMBER: R200401-MN-317164

Proposal is in accordance with Region 4 ESC Contract # R200401 available via OMNIA PARTNERS

MPS Harrison Education Center Cooling Improvements

Scope of work

- Construction Scope to be performed
  - Disconnect electrical and low voltage controls from CU-01-15555 as required in preparation for removal and disposal.
  - Evacuate and dispose of existing R22 Refrigerant from Lineset and CU-01-15555 as required. Dispose of existing refrigerant in accordance to EPA regulations or hand over to Minneapolis Public Schools trades for use at a later date.
  - Cut back existing DX Refrigerant piping from existing condensing units and DX Coils in preparation for removal of existing line set
  - Disconnect and remove existing refrigerant piping as required
  - Remove Existing R22 DX from AHU-01-15558 properly in preparation for new coils
  - Crane down existing Condensing unit in preparation for new units
  - Provide new R410A Rated refrigerant piping as required in preparation for new Condensing Units and DX Coils
  - Install all new interconnecting piping as required for CU-01-15555 ACCU's and DX Coils to and from AHU-01-15558
  - Crane and rigging as required to remove existing condensing units
  - Remove existing DX Coils in preparation for new
  - Supply and Install new Condensing units:
    - (1) Daikin RCS Condensing Units:
      - CU-01-15555 – Daikin Model No. RCS110D
        - 460/3 electrical
        - Factory mounted disconnects
        - Refrigeration Service Valves
        - 6 Steps of Capacity Control with 6 Scroll Compressors on dual independent circuits
        - Condenser with built in hail protection and vandal guard
        - Phases Failure, Ground fault protection
        - 1 year parts warranty
        - Extended 5 year compressor parts warranty
        - Start up and first year labor warranty by SVL Service
        - Custom Cottonwood Screens to be supplied and installed by SVL
  - Supply and Install new R410A DX Coils:
    - (4) R410A DX Coils in AHU-01-155558
      - AHU-01-15558 Coils – Daikin Model No. 5EJ _ Paired with RCS110D
        - Interlaced DX Coils
        - 0.0075" Aluminum Fins
        - 0.020" Copper Tubes
        - Galvanized Case

ALL SALES ARE SUBJECT TO SVL'S TERMS AND CONDITIONS OF SALE, AVAILABLE AT https://www.svl.com/terms-and-conditions/, apply to this proposal/sale. Sales & use taxes not included. Goods will conform to approved/reviewed submittals. Quotes are valid for 30 days.

- Supply and install refrigerant piping and specialties as required for proper installation in accordance with manufacturer's recommendations.
- Provide any necessary flashing for the coil install as required
- Supply and charge condensing units with new R410A refrigerant, trim as necessary for proper installation
- Provide and install high voltage wiring necessary for hookup of new equipment
- Provide controls and low voltage wiring
- All Building Automation Controls as necessary included
- Provide 1" closed cell insulation on suction line only with metal jacket piping exposed to the weather. Standard closed cell insulation on remainder of refrigerant piping
- Start/test/check included
- First year parts and labor warranty

  - Permits
  - All crane, trucking and rigging necessary for the demolition and installation of equipment/materials

- Project/Price assumes Minneapolis Public Schools is Tax Exempt

OMNIA Certified Proposal: CU-01-15555 Harrison Cooling Upgrades.....$316,257.00

Rebate Alert! Due to the premium efficiency of this Daikin RCS110D Condensing Unit (11.2 EER and 15.7 IPLV), this would apply for an estimated cel rebate of $22,380!!! The rebate is not included in the above amount.

Cameron Sigecan
SVL
2920 Centre Pointe Drive
Roseville, MN 55115
Cams@svl.com - 651.415.2565

Governance Clause for National Cooperative Contract Proposals

OMNIA

This proposal for the sale of Daikin Applied's services, parts, and/or equipment, including the pricing and scope of work as described herein, is subject to the terms and conditions of and will be governed exclusively by Region 4 ESC Contract # R200401 ("OMNIA"), incorporated herein by reference. Any other terms and conditions, including those that may be contained in customer's Purchase Order or other customer documents, will have no force or effect unless mutually agreed to by the Parties. The OMNIA contract is available through OMNIA Partners at:
https://www.omniapartners.com/suppliers/daikin-applied/public-sector/contract-documents#contract-375

EXHIBIT C

SCHEDULE OF RATES/PAYMENTS

Payments are to be made to vendor during the fiscal year through invoices, with this contract expiring 12/31/2025.

MINNEAPOLIS PUBLIC SCHOOLS
Urban Education. Global Citizens.

CONTRACT FOR GOODS – above $50,000

This Contract is entered into between Special School District No. 1, "District", a special school district created and existing under the laws of Minnesota, and SVL "Contractor" (collectively "parties") to provide six Daikin air handling units at the North High School Renovation Project Phase 4.

1 TERM OF CONTRACT

1.1 This Contract is effective on March 11, 2025 or the date of the last signature of the parties, whichever is later, and shall remain in effect until June 30, 2026, or until all obligations set forth in this Contract have been satisfactorily fulfilled, or the Contract has been terminated, whichever occurs first. Contractor shall have a continuing obligation, after said Contract period, to comply with any provision of this Contract intended for District's protection or benefit, or that that by its sense and context, is intended to survive the completion, expiration or termination of this Contract.

1.2 Contractor understands that NO WORK SHOULD BEGIN UNDER THIS CONTRACT until all required signatures on this Contract have been obtained and the Contract has been authorized and/or approved by the District's Board. Any work performed by Contractor prior to such time shall be considered as having been performed at Contractor's OWN RISK and as a volunteer.

2 SCOPE OF WORK

2.1 Contractor shall perform all of the services/delivery of goods set forth herein and any exhibits attached hereto as **Exhibit A** ("Scope of Work"). Contractor understands that time is of the essence in this Contract and agrees to meet all milestones indicated in this section, in the Contract herein and any exhibits attached hereto.

3 CONSIDERATION AND TERMS OF PAYMENT

The consideration for all services (and goods if any) performed or supplied by Contractor under this Contract shall be paid by District as described below.

3.1 *Total Obligation*

District's total obligation to Contractor/Vendor under this Contract, including compensation for goods, and/or services, and reimbursable expenses (if applicable), shall not exceed $533,324.00. Contractor/Vendor shall not receive any additional reimbursement for materials or subsistence expenses incurred in the performance of this Contract.

3.2 *Frequency of Invoicing and Terms of Payment*

Subject to the conditions herein, payment shall be made by District within thirty (30) days upon receipt of Contractor's invoice for goods delivered or services rendered pursuant to this Contract. The Contractor's standard invoice shall be submitted after satisfactory completion of services on a monthly basis. District has no obligation to pay for services that are not satisfactorily performed or performed in violation of federal, state or local law, ordinance, rule or regulation. In the case of a dispute about satisfactory performance of services, the parties agree to work in good faith to resolve any disputes. If either party does not dispute an invoice in writing within 180 days of receipt of the invoice, no action challenging the invoice may be taken.

As applicable, for all agreed upon work performed by Contractor or Contractor's personnel in the provision of goods and/or services stipulated herein, District shall pay Contractor at the hourly or per diem rates as set forth in the applicable **Exhibit B**. Payment shall be made to Contractor based on the hours recorded provided such hours are in accordance with the terms of this Contract. Notwithstanding anything to the contrary, and without limitation, District has not promised or guaranteed any minimum amount of work, and Contractor understands and acknowledges same. District has no obligation to pay for overtime or holiday work, nor will it pay premiums for overtime and holidays.

3.3 *Taxes.*

District is exempt from paying Minnesota sales and use taxes on certain purchases, as provided in Minnesota Statute, Section 297A.70. Contractor shall not charge District for such sales and use taxes. Alternatively, Contractor shall be responsible for the payment of any and all sales taxes to the Minnesota Department of Revenue relating to the following taxable items sold pursuant to this Contract; construction materials, leasing of motor vehicles, food and lodging, [See Minnesota Statute 297A.70]. Contractor shall promptly reimburse District for any and all such sales and use taxes paid by District to any governmental authority on behalf of Contractor including penalties and interest with

respect thereto, and including any and all expenses (including attorneys' fees) or damages that result from a failure by Contractor to properly remit or reimburse District for any and all such sales and use taxes provided above.

District may be obligated by state and federal law to withhold state and federal taxes from the consideration stated herein. These taxes may consist of, but are not limited to, the Minnesota state entertainer tax, Minnesota state nonresident withholding tax, federal withholding on payments to foreign nonresident aliens, and federal backup withholding.

4 INSPECTION OF GOODS & REJECTION

4.1 Buyer is entitled to inspect the Goods upon delivery. If the Goods are unacceptable for any reason, Buyer must reject them at the time of delivery up to ten (10) business days from the date of delivery. If Buyer has not rejected the Goods within ten (10) business days from the date of delivery, Buyer shall have waived any right to reject that specific delivery of Goods.

4.2 In the event Buyer rejects the Goods, Buyer shall allow Seller a reasonable time to cure the deficiency. A reasonable time period shall be determined by industry standards for the Goods, as well as the Seller and Buyer.

5 RISK OF LOSS

5.1 Risk of loss will be on the Seller until the time when the Buyer accepts delivery. Seller shall maintain any and all necessary insurance in order to insure the Goods against loss at Seller's own expense.

6 TITLE

6.1 Title to the Goods will remain with the Seller until Buyer accepts delivery.

7 FORCE MAJEURE

7.1 Non-delivery or default of this Agreement due to labor disputes, transportation shortage, delay or shortage of materials to produce the Goods, fires, accidents, Acts of God, or any other causes outside of Seller's control shall be notified to Buyer immediately upon realization that it will not be able to deliver the Goods as promised. Either Party may terminate this Agreement upon such notice.

8 GENERAL TERMS AND CONDITIONS

8.1 The terms and conditions contained in this Contract shall govern and shall take precedence over any different or additional terms and conditions which Contractor may have included in any documents attached to or accompanying this Contract. Any handwritten changes on the face of this document shall be ignored and have no legal effect unless initialed by all parties. If this Agreement was made pursuant to a Request for Proposal (RFP) or Request for Information (RFI), the following order of precedence shall apply: (1) this Contract and its Exhibits, (2) District's RFP or RFI, and (3) Contractor's Response to District's RFP or RFI.

9 AFFIRMATIVE ACTION, EQUAL EMPLOYMENT OPPORTUNITY

9.1 The District is committed to the policy that all persons shall have equal access to its programs, facilities, and employment without regard to race, color, creed, religion, sex, national origin, age, marital status, disability, public assistance status, veteran status, or sexual orientation and is committed to transacting business only with firms who follow these practices. Contractor must apply every good faith effort to ensure implementation of this policy in their practices of employment, upgrade, demotion or transfer, recruitment, or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. As applicable, Contractor shall also develop and have on file for each of its establishments, written Affirmative Action Plans, as may be required by the rules and regulations of the Secretary of Labor. If applicable, Contractor certifies that it has received a certificate of compliance from the Minnesota Commissioner of Human Rights for its affirmative action plan. By accepting this Contract, Contractor certifies that it complies with all applicable federal and state laws as well as District policies related to non-discrimination, equal employment opportunity, and affirmative action.

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10.1 Contractor agrees that any information it creates, collects, receives, stores, uses, or disseminates during the course of its performance, which concerns the personal, financial, or other affairs of the District, its Board, officers, employees or students shall be kept confidential and in conformance with all state and federal laws relating to data privacy, including, without limitation, the Minnesota Government Data Practices Act, Minnesota Statute, Chapter 13. Contractor must comply with any applicable requirements as if it were a governmental entity. The remedies in Minn. Stat. § 13.08 apply to the Contractor. The Contractor will report immediately to the District any requests from third parties for information related to this Contract. The District will respond to such data requests. All subcontracts, if allowed, shall contain the same or similar data practices compliance requirements.

11 USE OF DISTRICT NAME OR LOGO

11.1 Contractor agrees not to use the name, logo, or any other marks (including, but not limited to, colors and music) owned by or associated with the District or the name of any representative of the District in any sales promotion work or advertising, or any form of publicity, without the written permission of the District.

12 INDEPENDENT CONTRACTOR

12.1 Contractor shall perform its duties hereunder as an independent contractor and not as an employee of the District. Neither Contractor nor any agent or employee of Contractor shall be or shall be deemed to be an agent or employee of the District. Contractor shall pay when due all required employment taxes and income tax withholding, including all federal and state income tax on any monies paid pursuant to this Contract. Contractor acknowledges that Contractor and its employees are not entitled to tax withholding, worker's compensation, unemployment compensation, or any employee benefits, statutory or otherwise. Contractor shall have no authorization, express or implied, to bind District to any agreements, liability, or understanding except as expressly set forth herein. Contractor shall be solely responsible for the acts of Contractor, its employees and agents.

12.2 Contractor shall hold District completely harmless from and against any such contributions, premiums and taxes described above and from all claims and liability pertaining to those or any other item for which Contractor is responsible under this Contract, and from all attorney's fees and other costs incurred by District in contesting or defending against any responsibility therefore which is asserted against District.

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13.1 Contractor shall be solely responsible for the health and safety of its employees and/or self in connection with the work performed under this Contract. Contractor shall make arrangements to ensure the health and safety of all subagents and other persons who may perform work in connection to this Contract. Contractor shall ensure all personnel, subagents and/or self are properly trained and supervised and, when applicable, duly licensed or certified appropriate to the tasks performed under this Contract. Contractor shall comply with federal, state and local occupational safety and health standards, regulations, and rules promulgated pursuant to the Occupational Health and Safety Act that are applicable to the work performed by Contractor. Contractor shall develop and implement an emergency plan and procedures to follow in emergencies.

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14.1 Contractor shall comply with all applicable requirements of the BCIS relating to employment including but not limited to confirming nationality for all employees and complying with requirements for employing aliens if appropriate.

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15.1 At all times during its performance under this Contract, Contractor shall obtain and keep in force comprehensive general liability insurance, including coverage for death, bodily or personal injury, property damage, liability and automobile coverages, with limits of not less than $1,500,000 each claim and $1,500,000 each occurrence covering claims that arise out of its acts and operations in providing services to the District or at limits established for a municipal corporation by Minnesota Statute Section 466.04. All such certificates evidencing such insurance shall name District as additional insured. Contractor may meet the limits above $1,000,000 per occurrence through umbrella or excess coverage.

15.2 Contractor represents that it has worker's compensation insurance to the extent required by law and agrees to furnish proof of such insurance for worker's compensation and the liability insurance, upon request. Contractor also represents that it has professional liability insurance with limits of not less than $1,500,000 each claim and $1,500,000 each occurrence covering claims that arise out of its acts and operations in providing services to the District, but shall not name the District as an additional insured to the coverage.

15.3 Contractor shall provide all such certificates to District. Contractor shall not cancel or revise any insurance coverage required by this section during the term of this Contract, and shall require its insurer to mail the District a notice if the coverage is cancelled or revised.

16 INDEMNIFICATION

16.1 Contractor agrees to release, defend, indemnify, and hold harmless District, its board, officers, students, employees, and agents from all liability, injuries, claims, damages (including claims of bodily injury, property damage, or negligence), or loss, including costs, expenses, and attorneys' fees, which arise in connection with, in relation to, or as a result of Contractor's negligent acts or omissions or in connection with Contractor's breach of warranties. The foregoing agreement to release, defend, indemnify and hold harmless shall not apply to the extent such liability, injuries, claims, damages, or loss was caused by the intentional, willful, or wanton acts of District. Contractor shall not settle or compromise any claim in which the District has been named a party and for which Contractor must indemnify the District without a signed agreement approved by the District.

17 LIMITATION ON LIABILTY

17.1 In no event shall the District be liable for any indirect, consequential, incidental, lost profits or like expectancy damages arising out of the Contract. District's maximum obligation under this Contract shall not exceed the amount set forth herein.

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18.1 Contractor agrees that it will not represent any other party or client which may create a conflict of interest in its representation with the District. Contractor agrees to be bound by the District's Code of Ethics. In particular, Contractor: (i) certifies that it has not paid kickbacks directly or indirectly to any District employee for the purpose of obtaining this or any other District Contract; (ii) agrees to cooperate fully with any investigation involving a possible violation; and (iii) agrees to report any suspected violations to the District. Contractor certifies that it has provided no fees, gifts, gratuities, compensation, or anything of value in violation any applicable laws or District policies.

19 COMPLIANCE WITH LAWS AND DEBARMENT

19.1 Contractor certifies that all goods or services furnished under this Contract shall comply with all applicable federal, state, and local laws and regulations, as well as District policies and procedures, regardless of whether such laws and regulations are specifically set forth in this Contract. Contractor represents that it is not currently debarred or suspended by any federal agency from doing business with the federal or state government. Contractor shall notify District if it becomes debarred or suspended during the term of this Contract. District may immediately terminate this Contract in the event of such termination or suspension and Contractor shall be responsible for any costs incurred by District in connection therewith.

20 TERMINATION

20.1 The District and/or Contractor may terminate this Contract at any time without cause, upon thirty (30) days written notice to the other Party. In the event of such termination, Contractor shall be entitled to payment, calculated on a pro rata or other equitable basis, determined by District in its sole discretion, for work or services satisfactorily performed. In no event shall Contractor be paid for work performed or costs incurred after termination, or for costs incurred by suppliers or subcontractors which reasonably could have been avoided.

20.2 District may terminate this Contract in whole or in part for cause upon seven (7) days written notice if Contractor fails to comply with any material term or condition of this Contract, becomes insolvent or files for bankruptcy protection, or fails to comply in a material way with the requirements of this Contract. Late delivery of goods or services, or delivery of goods or services that are defective or do not conform to the Contract shall, without limitation, be causes allowing District to terminate for cause. If a determination is made that District improperly terminated this Contract for Cause, then such termination shall be deemed to have been for without cause.

20.3 Notwithstanding the above, Contractor shall not be relieved of liability to the District for damages sustained by the District as a result of any breach of this Contract by the contactor. The District, may, in such event, withhold payments due to the Contractor for the purpose of set-off until such time as the exact amount of damages due to the District

is determined. The rights or remedies provided here shall not limit the District, in case of any default, error or omissions, by the Contractor, from asserting any other right or remedy allowed by law. Nothing in this Contract shall be construed as a waiver of any right, remedy, liability limit or immunity of the District under law.

21 RETURN OF DATA

21.1 Within fifteen (15) days of the completion or earlier termination of this Contract, or upon earlier request of the District, Contractor shall return all documents, data and other information provided by the District to Contractor, or Contractor's employees or agents in connection with this Contract. Additionally, Contractor, upon the request of the District, shall destroy all copies of such District provided data, documents, or information in Contractor's possession or control, and provide District with proof of such destruction.

22 RECORDS MANAGEMENT AND MAINTENANCE

22.1 District shall have the right to inspect and copy such books, records, and documents (in whatever medium they exist) as well as all accounting procedures and practices of Contractor, its agents, and subcontractors to verify Contractor's performance and all expenses submitted pursuant to the terms of this Contract. Contractor shall make such items available for inspection during normal business hours at Contractor's place of business. Such records may be subject to copy, review and/or audit by District, State Auditor and/or the Comptroller General of the United States, or a duly authorized representative, if federal funds are used for any work under this Contract. All such items shall be retained by Contractor during the term of this Contract and for a period of six (6) years after the delivery of the goods and/or services. Any items relating to a claim arising out of the performance of this Contract shall be retained by Contractor, its agents and subcontractors, if any, until the claim has been resolved.

23 NOTICES/ADMINISTRATION

Except as otherwise provided in this Contract, all notices, requests and other communications that a party is required or elects to deliver shall be in writing and shall be delivered personally, or by facsimile or electronic mail (provided such delivery is confirmed), or by a recognized overnight courier service or by United States mail, first-class, certified or registered, postage prepaid, return receipt requested, to the other parties at the address set forth below or to such other address as such party may designate by notice given pursuant to this section.

Special School District No. 1
Division: Operations/CPCM
Attn: Curt Hartog
1250 W Broadway
Minneapolis, MN 55411
Email: Curtis.hartog@mpls.k12.mn.us

CONTRACTOR

NAME: SVL. Attn: Cam Sigecan
Address: 2920 Center Pointe Drive, Roseville, MN 55113
Phone: 651-481-8000
Email: CamS@SVL.com

ACKNOWLEDGMENT

23.1 In signing, Contractor certifies under penalties of perjury (see Section 6109 of the IRS Code for further penalties) that: (1) the taxpayer ID number (TIN) provided to District is correct; (2) it is not subject to back up withholding because (a) it is exempt from such withholding, (b) it has not been notified by the IRS that it is subject to backup withholding as a failure to report all interest or dividends, or (c) the IRS has notified it that it is no longer subject to backup withholding; (3) it is a U.S. person (including a U.S. resident alien); and (4) it has full authority to execute this Contract and perform its obligation under this Contract. Contractor must cross out and initial item (2) and notify District in writing, if Contractor has been notified by the IRS that it is currently subject to backup withholding because of under reporting interest or dividends on its tax return. Contractor must cross out item (3) above if it is not a U.S person for tax purposes or U.S. resident alien.

23.2 Notwithstanding this certification, Contractor hereby acknowledges that District has the right to withhold amounts for federal backup withholding if such withholding is required by written notice from the Internal Revenue Service issued subsequent to the date this Contract is executed.

24 NON-WAIVER

24.1 No waiver by any party of any default or nonperformance shall be deemed a waiver of any subsequent default or nonperformance.

25 ASSIGNMENT

25.1 Contractor may not assign any obligations of this Contract without the prior written consent of District. In the event of any assignment, Contractor shall remain responsible for its performance and that of any assignee under this Contract. This Contract shall be binding upon Contractor, and its successors and assigns, if any. Any assignment attempted to be made in violation of this Contract shall be void. Notwithstanding any notice of assignment, District's tender of payment to Contractor named herein, or to any person reasonably believed by District to be entitled to payment, shall satisfy District's obligation to pay, and in no event shall District be obligated to pay twice or be liable for any damages due to failure to pay the correct party.

26 CHOICE OF LAW, FORUM SELECTION, ENTIRE CONTRACT AND AMENDMENT

26.1 This Contract shall be construed under Minnesota law (without regard for choice of law considerations). Any action arising out of this Contract shall be heard by a state court in Minnesota. For this purpose, Contractor specifically consents to jurisdiction in Minnesota. This Contract constitutes the entire Contract and understanding of the parties and replaces any prior or contemporaneous agreement, whether written or oral. Any amendments to this Contract shall be in writing and executed by same parties who executed the original Contract, or their successors in office.

27 WARRANTY

27.1 Contractor expressly warrants and guarantees that the services performed under this Contract will be of the highest professional standards and quality. Contractor further represents that all services and goods (if any and as applicable) provided under this Contract: (i) are free from defects in material and workmanship; (ii) are of the quality, size and dimensions ordered; (iii) are fit for the particular needs and purposes of District as may be communicated to Contractor; (iv) comply with the highest warranties and representations expressed by Contractor orally or in any written document provided to or in the possession of District; (v) comply with all applicable laws, codes and regulations (including any published by any national or statewide association or groups); and (vi) are not restricted in any way by patents, copyrights, trade secrets, or any other rights of third parties. If any of the foregoing warranties are breached, Contractor agrees to correct all defects and nonconformities at Contractor's sole expense, to be liable for all direct damages suffered District and any other persons, and to defend, indemnify, and hold harmless District and its Board, officers, students, employees, and agents from any claim asserted by any person resulting in whole or in part from such breach. The foregoing warranties and guarantees shall not be deemed waived by reason of the acceptance of the goods or services or payment by District.

28 SEVERABILITY

28.1 If any provision of this Contract shall be invalid or unenforceable with respect to any party, the remainder of the Contract, or the application of such provision to persons other than those as to which it is held invalid or unenforceable, shall not be affected and each provision of the remainder of the Contract shall be valid and be enforceable to the fullest extent permitted by law.

29 SURVIVABILITY

29.1 The terms, provisions, representations, and warranties contained in this Contract that by their sense and context are intended to survive the performance thereof by any of the parties hereunder shall so survive the completion of performance and termination of this Contract, including the making of any and all payments hereunder.

[The remainder of this page intentionally left blank.]

SPECIAL SCHOOL DISTRICT NO. 1

Signature: _____

Name: Tom Parent
(Printed)

Title: Senior Operations Officer

Date: _____

CONTRACTOR NAME

Signature: _____

Name:
(Printed)

Title:

Date: _____

Deliverables:

Air Handling Units (AHU) 7,9,17,26,27 and 41. Total cost $526,769. Shrink wrap AHU 17, 26 and 27. Cost for shrink wrap $6,555. Total for AHUs and shrink wrap $533,324. Per SVL Omnia quote #1095160V4

Service Outcome:

Delivery and start up of all AHUs in 2025 and 2026.

Method of Evaluation

Successful operations from start up through the warranty period. Note that AHU-17 may be installed as part of Phase 4 or by MPS staff. Owner will coordinate.

[The remainder of this page intentionally left blank.]

EXHIBIT B: PAYMENT TERMS

If there are exhibits to describe the payment terms:

Payment per standard MPS purchase order conditions.

[The remainder of this page intentionally left blank.]

MINNEAPOLIS PUBLIC SCHOOLS
Urban Education. Global Citizens.

CONTRACT FOR GOODS – above $50,000

This Contract is entered into between Special School District No. 1, "District", a special school district created and existing under the laws of Minnesota, and Trane U.S., Inc. "Contractor" (collectively "parties") to provide Pre-Purchased Chiller & Controls at Southwest High School.

1 TERM OF CONTRACT

1.1 This Contract is effective on March 11, 2025 or the date of the last signature of the parties, whichever is later, and shall remain in effect until July 31, 2025, or until all obligations set forth in this Contract have been satisfactorily fulfilled, or the Contract has been terminated, whichever occurs first. Contractor shall have a continuing obligation, after said Contract period, to comply with any provision of this Contract intended for District's protection or benefit, or that that by its sense and context, is intended to survive the completion, expiration or termination of this Contract.

1.2 Contractor understands that NO WORK SHOULD BEGIN UNDER THIS CONTRACT until all required signatures on this Contract have been obtained and the Contract has been authorized and/or approved by the District's Board. Any work performed by Contractor prior to such time shall be considered as having been performed at Contractor's OWN RISK and as a volunteer.

2 SCOPE OF WORK

2.1 Contractor shall perform all of the services/delivery of goods set forth herein and any exhibits attached hereto as **Exhibit A** ("Scope of Work"). Contractor understands that time is of the essence in this Contract and agrees to meet all milestones indicated in this section, in the Contract herein and any exhibits attached hereto.

3 CONSIDERATION AND TERMS OF PAYMENT

The consideration for all services (and goods if any) performed or supplied by Contractor under this Contract shall be paid by District as described below.

3.1 *Total Obligation*

District's total obligation to Contractor/Vendor under this Contract, including compensation for goods, and/or services, and reimbursable expenses (if applicable), shall not exceed $598,821.00 (No Taxes). Contractor/Vendor shall not receive any additional reimbursement for materials or subsistence expenses incurred in the performance of this Contract.

3.2 *Frequency of Invoicing and Terms of Payment*

Subject to the conditions herein, payment shall be made by District within thirty (30) days upon receipt of Contractor's invoice for goods delivered or services rendered pursuant to this Contract. The Contractor's standard invoice shall be submitted after satisfactory completion of services on a monthly basis. District has no obligation to pay for services that are not satisfactorily performed or performed in violation of federal, state or local law, ordinance, rule or regulation. In the case of a dispute about satisfactory performance of services, the parties agree to work in good faith to resolve any disputes. If either party does not dispute an invoice in writing within 180 days of receipt of the invoice, no action challenging the invoice may be taken.

As applicable, for all agreed upon work performed by Contractor or Contractor's personnel in the provision of goods and/or services stipulated herein, District shall pay Contractor at the hourly or per diem rates as set forth in the applicable **Exhibit B**. Payment shall be made to Contractor based on the hours recorded provided such hours are in accordance with the terms of this Contract. Notwithstanding anything to the contrary, and without limitation, District has not promised or guaranteed any minimum amount of work, and Contractor understands and acknowledges same. District has no obligation to pay for overtime or holiday work, nor will it pay premiums for overtime and holidays.

3.3 *Taxes.*

District is exempt from paying Minnesota sales and use taxes on certain purchases, as provided in Minnesota Statute, Section 297A.70. Contractor shall not charge District for such sales and use taxes. Alternatively, Contractor shall be responsible for the payment of any and all sales taxes to the Minnesota Department of Revenue relating to the following taxable items sold pursuant to this Contract; construction materials, leasing of motor vehicles, food and lodging, [See Minnesota Statute 297A.70]. Contractor shall promptly reimburse District for any and all such sales and use taxes paid by District to any governmental authority on behalf of Contractor including penalties and interest with

respect thereto, and including any and all expenses (including attorneys' fees) or damages that result from a failure by Contractor to properly remit or reimburse District for any and all such sales and use taxes provided above.

District may be obligated by state and federal law to withhold state and federal taxes from the consideration stated herein. These taxes may consist of, but are not limited to, the Minnesota state entertainer tax, Minnesota state nonresident withholding tax, federal withholding on payments to foreign nonresident aliens, and federal backup withholding.

4 INSPECTION OF GOODS & REJECTION

4.1 Buyer is entitled to inspect the Goods upon delivery. If the Goods are unacceptable for any reason, Buyer must reject them at the time of delivery up to ten (10) business days from the date of delivery. If Buyer has not rejected the Goods within ten (10) business days from the date of delivery, Buyer shall have waived any right to reject that specific delivery of Goods.

4.2 In the event Buyer rejects the Goods, Buyer shall allow Seller a reasonable time to cure the deficiency. A reasonable time period shall be determined by industry standards for the Goods, as well as the Seller and Buyer.

5 RISK OF LOSS

5.1 Risk of loss will be on the Seller until the time when the Buyer accepts delivery. Seller shall maintain any and all necessary insurance in order to insure the Goods against loss at Seller's own expense.

6 TITLE

6.1 Title to the Goods will remain with the Seller until Buyer accepts delivery.

7 FORCE MAJEURE

7.1 Non-delivery or default of this Agreement due to labor disputes, transportation shortage, delay or shortage of materials to produce the Goods, fires, accidents, Acts of God, or any other causes outside of Seller's control shall be notified to Buyer immediately upon realization that it will not be able to deliver the Goods as promised. Either Party may terminate this Agreement upon such notice.

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10.2 Contractors that provide school-issued devices for student use and directly or indirectly create, receive, or maintain educational data incidental to performing their duties under this Contract shall also sign Exhibit C ("Student Data Privacy"). "School-issued devices," as used herein, refers to hardware or software that is provided to an individual

student for that student's dedicated personal use, and includes devices issued through a one-to-one program.

11 USE OF DISTRICT NAME OR LOGO

11.1 Contractor agrees not to use the name, logo, or any other marks (including, but not limited to, colors and music) owned by or associated with the District or the name of any representative of the District in any sales promotion work or advertising, or any form of publicity, without the written permission of the District.

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15.2 Contractor represents that it has worker's compensation insurance to the extent required by law and agrees to furnish proof of such insurance for worker's compensation and the liability insurance, upon request. Contractor also represents that it has professional liability insurance with limits of not less than $1,500,000 each claim and $1,500,000 each occurrence covering claims that arise out of its acts and operations in providing services to the District, but shall not name the District as an additional insured to the coverage.

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17.1 In no event shall the District be liable for any indirect, consequential, incidental, lost profits or like expectancy damages arising out of the Contract. District's maximum obligation under this Contract shall not exceed the amount set forth herein.

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19.1 Contractor certifies that all goods or services furnished under this Contract shall comply with all applicable federal, state, and local laws and regulations, as well as District policies and procedures, regardless of whether such laws and regulations are specifically set forth in this Contract. Contractor represents that it is not currently debarred or suspended by any federal agency from doing business with the federal or state government. Contractor shall notify District if it becomes debarred or suspended during the term of this Contract. District may immediately terminate this Contract in the event of such termination or suspension and Contractor shall be responsible for any costs incurred by District in connection therewith.

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20.1 The District and/or Contractor may terminate this Contract at any time without cause, upon thirty (30) days written notice to the other Party. In the event of such termination, Contractor shall be entitled to payment, calculated on a pro rata or other equitable basis, determined by District in its sole discretion, for work or services satisfactorily performed. In no event shall Contractor be paid for work performed or costs incurred after termination, or for costs incurred by suppliers or subcontractors which reasonably could have been avoided.

20.2 District may terminate this Contract in whole or in part for cause upon seven (7) days written notice if Contractor fails to comply with any material term or condition of this Contract, becomes insolvent or files for bankruptcy protection, or fails to comply in a material way with the requirements of this Contract. Late delivery of goods or services, or delivery of goods or services that are defective or do not conform to the Contract shall, without limitation, be causes allowing District to terminate for cause. If a determination is made that District improperly terminated this Contract for Cause, then such termination shall be deemed to have been for without cause.

20.3 Notwithstanding the above, Contractor shall not be relieved of liability to the District for damages sustained by the District as a result of any breach of this Contract by the contactor. The District, may, in such event, withhold payments due to the Contractor for the purpose of set-off until such time as the exact amount of damages due to the District is determined. The rights or remedies provided here shall not limit the District, in case of any default, error or omissions, by the Contractor, from asserting any other right or remedy allowed by law. Nothing in this Contract shall be construed as a waiver of any right, remedy, liability limit or immunity of the District under law.

21 RETURN OF DATA

21.1 Within fifteen (15) days of the completion or earlier termination of this Contract, or upon earlier request of the District, Contractor shall return all documents, data and other information provided by the District to Contractor, or Contractor's employees or agents in connection with this Contract. Additionally, Contractor, upon the request of the District, shall destroy all copies of such District provided data, documents, or information in Contractor's possession or control, and provide District with proof of such destruction.

22 RECORDS MANAGEMENT AND MAINTENANCE

22.1 District shall have the right to inspect and copy such books, records, and documents (in whatever medium they exist) as well as all accounting procedures and practices of Contractor, its agents, and subcontractors to verify Contractor's performance and all expenses submitted pursuant to the terms of this Contract. Contractor shall make such items available for inspection during normal business hours at Contractor's place of business. Such records may be subject to copy, review and/or audit by District, State Auditor and/or the Comptroller General of the United States, or a duly authorized representative, if federal funds are used for any work under this Contract. All such items shall be retained by Contractor during the term of this Contract and for a period of six (6) years after the delivery of the goods and/or services. Any items relating to a claim arising out of the performance of this Contract shall be retained by Contractor, its agents and subcontractors, if any, until the claim has been resolved.

23 NOTICES/ADMINISTRATION

Except as otherwise provided in this Contract, all notices, requests and other communications that a party is required or elects to deliver shall be in writing and shall be delivered personally, or by facsimile or electronic mail (provided such delivery is confirmed), or by a recognized overnight courier service or by United States mail, first-class, certified or registered, postage prepaid, return receipt requested, to the other parties at the address set forth below or to such other address as such party may designate by notice given pursuant to this section.

Special School District No. 1
Division: Operations - CPCM
Attn: Jeff M. Helstrom
1250 W Broadway

Minneapolis, MN 55411
Email: jeffrey.helstrom@mpls.k12.mn.us

CONTRACTOR

NAME: Trane U.S. Inc. (Jordan Entwisle – Systems Account Manager)
Address: 1285 Grey Fox Road, Suite 200, Arden Hills, MN 55112
Phone: 612-718-0704
Email: jordan.entwisle@trane.com

ACKNOWLEDGMENT

23.1 In signing, Contractor certifies under penalties of perjury (see Section 6109 of the IRS Code for further penalties) that: (1) the taxpayer ID number (TIN) provided to District is correct; (2) it is not subject to back up withholding because (a) it is exempt from such withholding, (b) it has not been notified by the IRS that it is subject to backup withholding as a failure to report all interest or dividends, or (c) the IRS has notified it that it is no longer subject to backup withholding; (3) it is a U.S. person (including a U.S. resident alien); and (4) it has full authority to execute this Contract and perform its obligation under this Contract. Contractor must cross out and initial item (2) and notify District in writing, if Contractor has been notified by the IRS that it is currently subject to backup withholding because of under reporting interest or dividends on its tax return. Contractor must cross out item (3) above if it is not a U.S person for tax purposes or U.S. resident alien.

23.2 Notwithstanding this certification, Contractor hereby acknowledges that District has the right to withhold amounts for federal backup withholding if such withholding is required by written notice from the Internal Revenue Service issued subsequent to the date this Contract is executed.

24 NON-WAIVER

24.1 No waiver by any party of any default or nonperformance shall be deemed a waiver of any subsequent default or nonperformance.

25 ASSIGNMENT

25.1 Contractor may not assign any obligations of this Contract without the prior written consent of District. In the event of any assignment, Contractor shall remain responsible for its performance and that of any assignee under this Contract. This Contract shall be binding upon Contractor, and its successors and assigns, if any. Any assignment attempted to be made in violation of this Contract shall be void. Notwithstanding any notice of assignment, District's tender of payment to Contractor named herein, or to any person reasonably believed by District to be entitled to payment, shall satisfy District's obligation to pay, and

in no event shall District be obligated to pay twice or be liable for any damages due to failure to pay the correct party.

26 CHOICE OF LAW, FORUM SELECTION, ENTIRE CONTRACT AND AMENDMENT

26.1 This Contract shall be construed under Minnesota law (without regard for choice of law considerations). Any action arising out of this Contract shall be heard by a state court in Minnesota. For this purpose, Contractor specifically consents to jurisdiction in Minnesota. This Contract constitutes the entire Contract and understanding of the parties and replaces any prior or contemporaneous agreement, whether written or oral. Any amendments to this Contract shall be in writing and executed by same parties who executed the original Contract, or their successors in office.

27 WARRANTY

27.1 Contractor expressly warrants and guarantees that the services performed under this Contract will be of the highest professional standards and quality. Contractor further represents that all services and goods (if any and as applicable) provided under this Contract: (i) are free from defects in material and workmanship; (ii) are of the quality, size and dimensions ordered; (iii) are fit for the particular needs and purposes of District as may be communicated to Contractor; (iv) comply with the highest warranties and representations expressed by Contractor orally or in any written document provided to or in the possession of District; (v) comply with all applicable laws, codes and regulations (including any published by any national or statewide association or groups); and (vi) are not restricted in any way by patents, copyrights, trade secrets, or any other rights of third parties. If any of the foregoing warranties are breached, Contractor agrees to correct all defects and nonconformities at Contractor's sole expense, to be liable for all direct damages suffered District and any other persons, and to defend, indemnify, and hold harmless District and its Board, officers, students, employees, and agents from any claim asserted by any person resulting in whole or in part from such breach. The foregoing warranties and guarantees shall not be deemed waived by reason of the acceptance of the goods or services or payment by District.

28 SEVERABILITY

28.1 If any provision of this Contract shall be invalid or unenforceable with respect to any party, the remainder of the Contract, or the application of such provision to persons other than those as to which it is held invalid or unenforceable, shall not be affected and each provision of the remainder of the Contract shall be valid and be enforceable to the fullest extent permitted by law.

29 SURVIVABILITY

29.1 The terms, provisions, representations, and warranties contained in this Contract that by their sense and context are intended to survive the performance thereof by any of

the parties hereunder shall so survive the completion of performance and termination of this Contract, including the making of any and all payments hereunder.

[The remainder of this page intentionally left blank.]

SPECIAL SCHOOL DISTRICT NO. 1

Signature: _____

Name: Tom Parent
(Printed)

Title: Senior Operations Officer

Date: _____

CONTRACTOR NAME

Signature: _____

Name:
(Printed)

Title:

Date: _____

EXHIBIT A: SCOPE OF WORK

Deliverables:

Pre-Purchas Chiller & Chiller Controls from Trane U.S. Inc., for use on Construction Project @ Southwest High School in Summer 2026.

Cost is: $598,821.00 (No Taxes)

Service Outcome:

Chiller & Chiller Controls arrive to Contractor in like new condition.

Method of Evaluation

Jeff Helstrom – Project Manager MPS CPCM along with Commissioning Agent & Construction Manager will inspect all components for adherence to Design Plans & Specifications.

[The remainder of this page intentionally left blank.]

EXHIBIT B: PAYMENT TERMS

If there are exhibits to describe the payment terms:

Payment Terms is 30 days after delivery.

[The remainder of this page intentionally left blank.]

FY21 North High School Renovations-Bid Pack 4
Work Scope 09-C Ceiling and Acoustical Treatments

Contract Sum: $460,000

Contractor: Twin City Acoustics, Inc.

Project Name and Number

North High School
1500 James Avenue N
Minneapolis, MN 55411
Minneapolis Public Schools Project Number
OP25-2512

Description

Perform ceiling and acoustical treatments in accordance with Work Scope 09-C for the North High School Phase 4 renovations

Contract Sum details

Item	Price	Status
Base Bid	$374,000	accepted
Alt #1: Health Office	$21,000	rejected
Alt #2: Athletic and Counseling Offices	$15,000	rejected
Alt #3: Electrical panel replacements	$0	accepted
Alt #4: AHU-41 replacement	$48,000	accepted
Alt #5: Direct digital controls	$38,000	accepted

Contract Documents

AIA Document A132-2019
AIA Document A132 Exhibit A-2019
Exhibit B – Project Charter
Exhibit C – Owner Insurance
Exhibit D – Project Schedule
AIA Document A232-2019

AIA® Document A132® – 2019

Standard Form of Agreement Between Owner and Contractor, Construction Manager as Adviser Edition

AGREEMENT made as of the first__ day of _February_____ in the year 2025_
(In words, indicate day, month, and year.)

BETWEEN the Owner:
(Name, legal status, address, and other information)

Minneapolis Public Schools Special School District #1
1250 West Broadway Avenue
Minneapolis, MN 55411

and the Contractor:
(Name, legal status, address, and other information)

Twin City Acoustics, Inc.
9449 Science Center Drive, Ste 100
New Hope, MN 55428

for the following Project:
(Name, location, and detailed description)

North High School Phase 4 Work Scope 09C Ceiling and Acoustical Treatments
1500 James Avenue
Minneapolis, MN 55411

The Construction Manager:
(Name, legal status, address, and other information)

Kraus-Anderson Construction Company
501 South 8th Street
Minneapolis, MN 55405

The Architect:
(Name, legal status, address, and other information)

LSE Architects
1401 Glenwood Avenue
Minneapolis, MN 55405

The Owner and Contractor agree as follows.

ADDITIONS AND DELETIONS:
The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

This document is intended to be used in conjunction with AIA Documents A232™–2019, General Conditions of the Contract for Construction, Construction Manager as Adviser Edition; B132™–2019, Standard Form of Agreement Between Owner and Architect, Construction Manager as Adviser Edition; and C132™–2019, Standard Form of Agreement Between Owner and Construction Manager as Adviser. AIA Document A232™–2019 is adopted in this document by reference. Do not use with other general conditions unless this document is modified.

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TABLE OF ARTICLES

1 THE CONTRACT DOCUMENTS

2 THE WORK OF THIS CONTRACT

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8 MISCELLANEOUS PROVISIONS

9 ENUMERATION OF CONTRACT DOCUMENTS

EXHIBIT A INSURANCE AND BONDS
EXHIBIT B DETERMINATION OF THE COST OF THE WORK

ARTICLE 1 THE CONTRACT DOCUMENTS

The Contract Documents consist of this Agreement, Conditions of the Contract (General, Supplementary, and other Conditions), Drawings, Specifications, Addenda issued prior to execution of this Agreement, other documents ("Contract" or "Contract Documents") listed in this Agreement, and Modifications issued after execution of this Agreement, all of which form the Contract, and are as fully a part of the Contract as if attached to this Agreement or repeated herein. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations, or agreements, either written or oral. An enumeration of the Contract Documents, other than Modifications, appears in Article 9.

§ 1.2 In the event that there are inconsistencies between any of the Project Contract Documents, all Contract Documents shall be construed together and shall be read with a purpose and intent to provide that the Contractor shall commit to fully complete its Project Work and services with the greater degree of commitment as referenced in the Contract Documents, including the plans and specifications, to work diligently to ensure completion of the Project in a timely and workmanlike manner and at the earliest stated times provided for in Project schedules, as they may be revised, and to ensure that Contractor, and all of its Subcontractors and suppliers complete the Project on schedule and within Project Contract Price, subject to approved change orders.

§ 1.3 Contractor acknowledges that it has had full, fair, and adequate opportunity to review all of the Project bidding and Contract Documents, that it has fully satisfied itself as to the scope and requirements of the Project, that it has fully and fairly investigated all Project site conditions and circumstances and Contract Documents, including any potential difficulties or interferences present in the same, that it has had the opportunity to ask questions during the bidding phase and that it has received adequate answers to any such questions, that it has had the opportunity to attend and fairly participate in all pre-bid conferences and pre-construction conferences, and that it has required the same of all of its Subcontractors.

ARTICLE 2 THE WORK OF THIS CONTRACT

The Contractor shall fully execute the Work described in the Contract Documents, except as specifically indicated in the Contract Documents to be the responsibility of others.

ARTICLE 3 DATE OF COMMENCEMENT AND DATES OF SUBSTANTIAL COMPLETION

§ 3.1 The date of commencement of the Work shall be:
(Check one of the following boxes.)

[ ] The date of this Agreement.

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[X] A date set forth in a notice to proceed issued by the Owner.

[ ] Established as follows:
(Insert a date or a means to determine the date of commencement of the Work.)

If a date of commencement of the Work is not selected, then the date of commencement shall be the date of this Agreement.

§ 3.2 The Contract Time shall be measured from the date of commencement of the Work.

§ 3.3 Substantial Completion of the Project or Portions Thereof

§ 3.3.1 Subject to adjustments of the Contract Time as provided in the Contract Documents, the date of Substantial Completion of the Work of all of the Contractors for the Project will be:
(Insert the date of Substantial Completion of the Work of all Contractors for the Project.)

Defined in EXH-D Project Schedule

§ 3.3.2 Subject to adjustments of the Contract Time as provided in the Contract Documents, if portions of the Work of all of the Contractors for the Project are to be completed prior to Substantial Completion of the entire Work of all of the Contractors for the Project, the Contractors shall achieve Substantial Completion of such portions by the following dates defined in EXH-D Project Schedule. Such portions of the Work not completed as defined in EXH-D Project Schedule shall be subject to liquidated damages as set forth in Article 4.5.

(Table deleted)
(Table deleted)
(Paragraphs deleted)
§ 3.4.3 If the Contractor fails to substantially complete the Work of this Contract, or portions thereof, as provided in this Section 3.4, liquidated damages, if any, shall be assessed as set forth in Section 4.5.

ARTICLE 4 CONTRACT SUM

§ 4.1 The Owner shall pay the Contractor the Contract Sum in current funds for the Contractor's performance of the
(Paragraphs deleted)
Contract as defined in EXH-B Project Charter, subject to additions and deductions as provided in the Contract Documents.

§ 4.2 Stipulated Sum

§ 4.2.1 The Contract Sum shall be four hundred sixty thousand dollars ($ 460,000), subject to additions and deductions as provided in the Contract Documents.

§ 4.2.2 Alternates

§ 4.2.2.1 Alternates, if any, included in the Contract Sum are defined in EXH-B Project Charter.
(Table deleted)
§ 4.2.2.2 Subject to the conditions noted in EXH-B Project Charter, alternates may be accepted by the Owner following execution of this Agreement. Upon acceptance, the Owner shall issue a Modification to this Agreement.
(Paragraphs deleted)
(Table deleted)
§ 4.2.3 Allowances, if any, included in the Contract Sum are defined in EXH-B Project Charter.
(Identify each allowance.)

Item	Price

§ 4.2.4 Unit prices, if any are defined in EXH-B Project Charter.

(Table deleted)

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§ 4.3 Allowances, if any, included in the Contract Sum are defined in EXH-B Project Charter.

(Paragraph deleted)
(Table deleted)
(Paragraphs deleted)
§ 4.4 Unit prices, if any, are defined in EXH-B Project Charter.

(Paragraphs deleted)
(Table deleted)
(Paragraphs deleted)
(Table deleted)
(Paragraphs deleted)
(Table deleted)
(Paragraphs deleted)
(Table deleted)
(Paragraphs deleted)
§ 4.5 Liquidated damages, if any:
(Insert terms and conditions for liquidated damages, if any, to be assessed in accordance with Section 3.4.)

Contractor and Owner recognize that time is of the essence for the Project and the Owner will suffer financial loss if the Work is not completed in the time specified in the Contract Documents. The parties also recognize the delays, expenses, and difficulties involved in proving in a legal proceeding the actual loss suffered by the Owner if the Work is not completed on time. Accordingly, instead of requiring such proof, the Owner and Contractor agree that as liquidated damages for delay (but not as penalty), Contractor shall pay Owner One Thousand Dollars ($1,000.00) per calendar day for each day that expires after the time specified for Substantial Completion in EXH-D Project Schedule until such time the Work is determined to be substantially complete by the Owner.

After Substantial Completion, if Contractor neglects, refuses, or fails to complete the remaining Work within the Contract Time specified in the Contract Documents, the Contractor shall pay the Owner One Thousand Dollars ($1,000.00) per day that expires after the time specified in the Contract Documents for Final Completion and readiness for Final Payment until the Work is completed.

§ 4.6 Other:
(Insert provisions for bonus, cost savings or other incentives, if any, that might result in a change to the Contract Sum.)

None

ARTICLE 5 PAYMENTS

§ 5.1 Progress Payments

§ 5.1.1 Based upon Applications for Payment submitted to the Construction Manager by the Contractor, and Certificates for Payment issued by the Construction Manager and Architect and approval by the Owner's Representative, the Owner shall make progress payments on account of the Contract Sum, to the Contractor, as provided below and elsewhere in the Contract Documents.

§ 5.1.2 The period covered by each Application for Payment shall be one calendar month ending on the last day of the month.

§ 5.1.3 When an Application for Payment is received by the Construction Manager, payment of the amount certified shall be made by the Owner not later than forty-five (45) days after the Construction Manager receives the Application for Payment. Unless expressly otherwise agreed in this Contract, payments and payment disputes shall be governed by the Prompt Payment of Local Government Bills, Minnesota Statutes, Section 471.425 ("Prompt Payment Act").
(Federal, state or local laws may require payment within a certain period of time.)

§ 5.1.4 Progress Payments Where the Contract Sum is Based on a Stipulated Sum

§ 5.1.4.1 Each Application for Payment shall be based on the most recent schedule of values submitted by the Contractor on AIA G702 Application and Certificate for Payment in accordance with the Contract Documents. The schedule of

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values shall allocate the entire Contract Sum among the various portions of the Work. The schedule of values shall be prepared in such form, and supported by such data to substantiate its accuracy, as the Construction Manager and Architect may require. This schedule of values shall be used as a basis for reviewing the Contractor's Applications for Payment.

§ 5.1.4.2 Applications for Payment shall show the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment.

§ 5.1.4.3 In accordance with AIA Document A232™–2019, General Conditions of the Contract for Construction, Construction Manager as Adviser Edition, as modified and subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

§ 5.1.4.3.1 The amount of each progress payment shall first include:

.1 That portion of the Contract Sum properly allocable to completed Work;

.2 That portion of the Contract Sum properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction, or, if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing; and

.3 That portion of Construction Change Directives that the Architect determines, in the Architect's professional judgment, to be reasonably justified.

§ 5.1.4.3.2 The amount of each progress payment shall then be reduced by:

.1 The aggregate of any amounts previously paid by the Owner;

.2 The amount, if any, for Work that remains uncorrected and for which the Architect has previously withheld a Certificate for Payment as provided in Article 9 of AIA Document A232–2019;

.3 Any amount for which the Contractor does not intend to pay a Subcontractor or material supplier, unless the Work has been performed by others the Contractor intends to pay;

.4 For Work performed or defects discovered since the last payment application, any amount for which the Architect may withhold payment, or nullify a Certificate of Payment in whole or in part, as provided in Article 9 of AIA Document A232–2019; and

.5 Retainage withheld pursuant to Section 5.1.7.

(Paragraphs deleted)

§ 5.1.7 Retainage

§ 5.1.7.1 For each progress payment made prior to when the Work of this Contract is substantially complete, the Owner may withhold the following amount, as retainage, from the payment otherwise due:
(Insert a percentage or amount to be withheld as retainage from each Application for Payment. The amount of retainage may be limited by governing law.)

Five Percent (5%)

§ 5.1.7.1.1 The following items are not subject to retainage:
(Insert any items not subject to the withholding of retainage, such as general conditions, insurance, etc.)

For major items installed into the Work, the Contractor may request full payment for the items to ensure prompt delivery and fabrication. Such items shall be recommended by the Architect and approved by the Owner as not requiring retainage. Prompt payment for the items shall be documented by the Contractor to the Owner in the subsequent payment application by submitting a full lien release for the items. Major items may include mechanical units with long lead times, structural systems with long lead times, critical path systems or items, etc. Major items will be discussed and defined by Owner, Architect, Construction Manager and Contractor.

§ 5.1.7.2 Reduction or limitation of retainage, if any, shall be as follows:
(If the retainage established in Section 5.1.7.1 is to be modified prior to when the entire Work of this Contract is substantially complete, including modifications for completion of portions of the Work as provided in Section 3.4.2, insert provisions for such modifications.)

Prior to Substantial Completion and at the discretion of the Owner, retainage may be reduced. If the Work has been fifty percent (50%) completed as determined by the Architect and is satisfactory to the Owner, then ninety percent (90%) of the

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retained amount may be released to the Contractor for completed Work (with ten percent (10%) of the total retained by the Owner).

§ 5.1.7.3 Except as set forth in this Section 5.1.7.3, when the Work of this Contract is substantially complete, the Contractor may submit an Application for Payment that includes the retainage withheld from prior Applications for Payment pursuant to this Section 5.1.7. The Application for Payment submitted when the Work of this Contract is substantially complete shall not include retainage as follows:
(Insert any other conditions for release of retainage when the Work of this Contract is substantially complete, or upon Substantial Completion of the Work of all Contractors on the Project or portions thereof.)

Upon Substantial Completion, additional retainage may be returned to the Contractor as recommended by the Architect and Construction Manager and approved by the Owner to an amount sufficient to satisfactorily complete the Work. Retainage release will comply with Minnesota Statutes, Section 15.72 after Substantial Completion and punch list acceptance by the Owner.

§ 5.2 Final Payment

§ 5.2.1 Final Payment Where the Contract Sum is Based on a Stipulated Sum

§ 5.2.1.1 Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Contractor when

.1 the Contractor has fully performed the Contract except for the Contractor's responsibility to correct Work as provided in Article 12 of AIA Document A232–2019, and to satisfy other requirements, if any, which extend beyond final payment;

.2 a final Certificate for Payment or Project Certificate for Payment has been issued by the Architect; and

.3 all lien waivers and IC134 forms have been delivered to the Owner.

§ 5.2.1.2 The Owner's final payment to the Contractor shall be made no later than forty-five (45) days after the issuance of the Architect's final Certificate for Payment or Project Certificate for Payment, or as follows:

§ 5.2.2 Final Payment Where the Contract Sum is Based on the Cost of the Work with or without a Guaranteed Maximum Price

§ 5.2.2.1 Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Contractor when

.1 the Contractor has fully performed the Contract except for the Contractor's responsibility to correct Work as provided in Article 12 of AIA Document A232–2019, and to satisfy other requirements, if any, which extend beyond final payment;

.2 the Contractor has submitted a final accounting for the Cost of the Work, pursuant to Exhibit B, Determination of the Cost of the Work and a final Application for Payment; and

.3 a final Certificate for Payment or Project Certificate for Payment has been issued by the Architect in accordance with Exhibit B, Determination of the Cost of the Work.

§ 5.2.2.2 The Owner's final payment to the Contractor shall be made no later than 30 days after the issuance of the final Certificate for Payment or Project Certificate for Payment, or as follows:

§ 5.3 Payments due and unpaid under the Contract shall bear interest from the date payment is due at the rate stated below.
(Insert rate of interest agreed upon, if any.)

Zero %

ARTICLE 6 DISPUTE RESOLUTION

§ 6.1 Initial Decision Maker

The Architect will serve as Initial Decision Maker pursuant to Article 15 of AIA Document
(Paragraphs deleted)
A232–2019.

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§ 6.1.1 Mediation
The Owner or the Contractor may request mediation of any Claim submitted to the Initial Decision Maker before the decision becomes final and binding. The mediation shall be governed by the Construction Industry Mediation Rules of the American Arbitration Association in effect at the date of this contract. The request for mediation shall be made in writing by the party requesting mediation and the other party of this contract. The Owner and Contractor shall participate in mediation in good faith. The mediation shall be concluded within 60 days of the request. Mediation is not a condition precedent to commencing litigation. If litigation is commenced, the Owner and Contractor agree to mediate before any dispositive motion or trial.

§ 6.2 Binding Dispute Resolution
For any Claim subject to, but not resolved by, mediation pursuant to Article 15 of AIA Document A232–2019, the method of binding dispute resolution shall be as follows:
(Check the appropriate box.)

[ ] Arbitration pursuant to Article 15 of AIA Document A232–2019.

[X] Litigation in a state or federal court of competent jurisdiction located in Hennepin County, Minnesota.

[ ] Other: *(Specify)*

If the Owner and Contractor do not select a method of binding dispute resolution, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, Claims will be resolved by litigation in a court of competent jurisdiction.

ARTICLE 7 TERMINATION OR SUSPENSION
§ 7.1 Where the Contract Sum is a Stipulated Sum
§ 7.1.1 The Contract may be terminated by the Owner or the Contractor as provided in Article 14 of AIA Document A232–2019.

§ 7.1.1.1 If the Contract is terminated for the Owner's convenience in accordance with Article 14 of AIA Document A232–2019, then the Owner shall pay the Contractor a termination fee as follows:
(Insert the amount of, or method for determining, the fee, if any, payable to the Contractor following a termination for the Owner's convenience.)

Termination fee will be based on the percentage of Work completed and any materials purchased or in production at the time of termination. Said fee and justification shall be provided to the Owner by the Contractor within ten (10) days' notice of the termination.

§ 7.1.2 The Work may be suspended by the Owner as provided in Article 14 of AIA Document A232–2019.

(Paragraphs deleted)
ARTICLE 8 MISCELLANEOUS PROVISIONS
§ 8.1 Where reference is made in this Agreement to a provision of AIA Document A232–2019 or another Contract Document, the reference refers to that provision as amended or supplemented by other provisions of the Contract Documents.

§ 8.2 The Owner's representative:
(Name, address, email address, and other information)

Curtis Hartog, PE, Executive Director
Minneapolis Public Schools, SSD#1
Capital Planning, Construction & Maintenance
1250 West Broadway Avenue, Minneapolis, MN 55411

§ 8.3 The Contractor's representative:

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(Name, address, email address, and other information)

Derek Brinker
Vice President
Twin City Acoustics, Inc
9449 Science Center Dr. Ste 100
New Hope, MN 55428

§ 8.4 Neither the Owner's nor the Contractor's representative shall be changed without ten days' prior notice to the other party.

§ 8.5 Record Keeping—Availability and Retention
Pursuant to Minnesota Statutes, Section 16C.05, subd. 5, Contractor agrees that the books, records, documents and accounting procedures and practices of Contractor, that are relevant to the Contract or transaction, are subject to examination by the Owner, the Owner's auditor, and the state auditor for a minimum of six (6) years. Contractor shall maintain such records for a minimum of six (6) years after final payment.

§ 8.6 Data Practices
Pursuant to Minnesota Statutes, Section 13.05, subd. 11, all of the data created, collected, received, stored, used, maintained, or disseminated by Contractor in performing this contract is subject to the requirements of the Minnesota Government Data Practices Act ("MGDPA"), Minnesota Statutes Chapter 13, and Contractor must comply with those requirements as if it were a government entity. The remedies in Minnesota Statutes, Section 13.08 apply to Contractor. Contractor does not have a duty to provide access to public data to the public if the public data are available from the Owner, except as required by the terms of this contract.

§ 8.7 Non-Discrimination
Pursuant to Minnesota Statutes, Section 181.59, the Contractor will take affirmative action to ensure that applicants are selected, and that employees are treated during employment, without regard to their race, color, creed, religion, national origin, sex, sexual orientation, marital status, status with regard to public assistance, membership or activity in a local civil rights commission, disability or age. The Contractor agrees to be bound by the provisions of Minnesota Statutes, Section 181.59, that prohibits certain discriminatory practices and the terms of said section are incorporated into this contract.

§ 8.8 Prompt Payment to Subcontractors
In accordance with the Prompt Payment Act, each Prime Contractor must pay any subcontractor within ten (10) days of the Prime Contractor's receipt of payment from the municipality for undisputed services provided by the subcontractor. The Subcontract must require the Prime Contractor to pay interest of 1-1/2 percent per month or any part of a month to the subcontractor on any undisputed amount not paid on time to the subcontractor. The minimum monthly interest penalty payment for an unpaid balance of $100 or more is $10. For an unpaid balance of less than $100, the Prime Contractor shall pay the actual penalty due to the subcontractor. A subcontractor who prevails in a civil action to collect interest penalties from a Prime Contractor must be awarded its costs and disbursements, including attorney's fees, incurred in bringing the action.

§ 8.9 Prevailing Wage
Contractor agrees that all laborers or mechanics working on the Project shall receive at least the prevailing wage rate in accordance with Minnesota Statutes Section 177.42, *et seq*. Contractor agrees further that it will incorporate any and all necessary contract language in its agreements with any subcontractors to allow Contractor to monitor and enforce the prevailing wage requirement for subcontractors of any tier.

§ 8.5 Insurance and Bonds
§ 8.5.1 The Owner and the Contractor shall purchase and maintain insurance as set forth EXH-C Owner Insurance.

§ 8.5.2 The Contractor shall provide bonds as set forth in AIA Document A132™–2019, Exhibit A, and elsewhere in the Contract Documents.

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§ 8.6 Notice in electronic format, pursuant to Article 1 of AIA Document A232–2019, may be given in accordance with AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, if completed, or as otherwise set forth below:

(If other than in accordance with AIA Document E203–2013, insert requirements for delivering notice in electronic format such as name, title, and email address of the recipient and whether and how the system will be required to generate a read receipt for the transmission.)

email to Owner's representative identified in Section 8.2

§ 8.7 Relationship of the Parties

Where the Contract is based on the Cost of the Work plus the Contractor's Fee, with or without a Guaranteed Maximum Price, the Contractor accepts the relationship of trust and confidence established by this Agreement and covenants with the Owner to cooperate with the Architect and exercise the Contractor's skill and judgment in furthering the interests of the Owner; to furnish efficient business administration and supervision; to furnish at all times an adequate supply of workers and materials; and to perform the Work in an expeditious and economical manner consistent with the Owner's interests. The Owner agrees to furnish and approve, in a timely manner, information required by the Contractor and to make payments to the Contractor in accordance with the requirements of the Contract Documents.

§ 8.8 Other provisions:

Owner prohibits Contractor from using the Work in any marketing material or business development practice. Contractor is prohibited from communication with any news outlet or public without Owner's written approval.

Floor plans, designs, wiring, safety and security measures shall be kept confidential by the Contractor, the Subcontractors, the Sub-Subcontractors (of any tier) during and after completion of the Work.

ARTICLE 9 ENUMERATION OF CONTRACT DOCUMENTS

§ 9.1 This Agreement is comprised of the following documents:

.1 AIA Document A132™–2019, Standard Form of Agreement Between Owner and Contractor, Construction Manager as Adviser Edition

.2 AIA Document A132™–2019, Exhibit A, Insurance and Bonds Exhibit

.3 AIA Document A232™–2019, General Conditions of the Contract for Construction, Construction Manager as Adviser Edition

.4 AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, dated as indicated below:

(Insert the date of the E203-2013 incorporated into this Agreement.)

Not Applicable

.5 Drawings

Number	Title	Date
139	North High School Renovations & CTE Center Vol 1 of 2	November 13, 2024
209	North High School Renovations & CTE Center Vol 2 of 2	November 13, 2024

.6 Specifications

Section	Title	Date	Pages
All Specifications	North High School Renovations and CTE Center Bid Package 4	November 13, 2024	1414

.7 Addenda, if any:

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Number	Date	Pages
1	December 2, 2024	70
2	December 9, 2024	165

Portions of Addenda relating to bidding or proposal requirements are not part of the Contract Documents unless the bidding or proposal requirements are also enumerated in this Article 9.

.8 Other Exhibits:

EXH-B Project Charter
EXH-C Owner Insurance
EXH-D Project Schedule
(Check all boxes that apply and include appropriate information identifying the exhibit where required.)

[ ]
(Paragraphs deleted)

[ ] Supplementary and other Conditions of the Contract:

Document	Title	Date	Pages

.9 Other documents, if any, listed below:
(List here any additional documents that are intended to form part of the Contract Documents. AIA Document A232–2019 provides that the advertisement or invitation to bid, Instructions to Bidders, sample forms, the Contractor's bid or proposal, portions of Addenda relating to bidding or proposal requirements, and other information furnished by the Owner in anticipation of receiving bids or proposals, are not part of the Contract Documents unless enumerated in this Agreement. Any such documents should be listed here only if intended to be part of the Contract Documents.)

Contractors Bid Documents

This Agreement is entered into as of the day and year first written above.

OWNER *(Signature)*	**CONTRACTOR** *(Signature)*
Tom Parent, Sr Operations Officer	Derek Brinker; VP
(Printed name and title)	*(Printed name and title)*

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Additions and Deletions Report for
AIA® Document A132® – 2019

This Additions and Deletions Report, as defined on page 1 of the associated document, reproduces below all text the author has added to the standard form AIA document in order to complete it, as well as any text the author may have added to or deleted from the original AIA text. Added text is shown underlined. Deleted text is indicated with a horizontal line through the original AIA text.

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PAGE 1

AGREEMENT made as of the first day of February in the year 2025

...

Minneapolis Public Schools Special School District #1
1250 West Broadway Avenue
Minneapolis, MN 55411

...

Twin City Acoustics, Inc.
9449 Science Center Drive, Ste 100
New Hope, MN 55428

...

North High School Phase 4 Work Scope 09C Ceiling and Acoustical Treatments
1500 James Avenue
Minneapolis, MN 55411

...

Kraus-Anderson Construction Company
501 South 8th Street
Minneapolis, MN 55405

...

LSE Architects
1401 Glenwood Avenue
Minneapolis, MN 55405

PAGE 2

The Contract Documents consist of this Agreement, Conditions of the Contract (General, Supplementary, and other Conditions), Drawings, Specifications, Addenda issued prior to execution of this Agreement, other documents ("Contract" or "Contract Documents") listed in this Agreement, and Modifications issued after execution of this Agreement, all of which form the Contract, and are as fully a part of the Contract as if attached to this Agreement or repeated herein. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations, or agreements, either written or oral. An enumeration of the Contract Documents, other than Modifications, appears in Article 9.

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§ 1.2 In the event that there are inconsistencies between any of the Project Contract Documents, all Contract Documents shall be construed together and shall be read with a purpose and intent to provide that the Contractor shall commit to fully complete its Project Work and services with the greater degree of commitment as referenced in the Contract Documents, including the plans and specifications, to work diligently to ensure completion of the Project in a timely and workmanlike manner and at the earliest stated times provided for in Project schedules, as they may be revised, and to ensure that Contractor, and all of its Subcontractors and suppliers complete the Project on schedule and within Project Contract Price, subject to approved change orders.

§ 1.3 Contractor acknowledges that it has had full, fair, and adequate opportunity to review all of the Project bidding and Contract Documents, that it has fully satisfied itself as to the scope and requirements of the Project, that it has fully and fairly investigated all Project site conditions and circumstances and Contract Documents, including any potential difficulties or interferences present in the same, that it has had the opportunity to ask questions during the bidding phase and that it has received adequate answers to any such questions, that it has had the opportunity to attend and fairly participate in all pre-bid conferences and pre-construction conferences, and that it has required the same of all of its Subcontractors.

PAGE 3

[X] A date set forth in a notice to proceed issued by the Owner.

...

Defined in EXH-D Project Schedule

§ 3.3.2 Subject to adjustments of the Contract Time as provided in the Contract Documents, if portions of the Work of all of the Contractors for the Project are to be completed prior to Substantial Completion of the entire Work of all of the Contractors for the Project, the Contractors shall achieve Substantial Completion of such portions by the following ~~dates:~~dates defined in EXH-D Project Schedule. Such portions of the Work not completed as defined in EXH-D Project Schedule shall be subject to liquidated damages as set forth in Article 4.5.

~~Portion of Work~~ ~~Substantial Completion Date~~

~~§ 3.4 When the Work of this Contract, or any Portion Thereof, is Substantially Complete~~
~~§ 3.4.1 Subject to adjustments of the Contract Time as provided in the Contract Documents, the Contractor shall substantially complete the entire Work of this Contract:~~
~~*(Check one of the following boxes and complete the necessary information.)*~~

~~[ ] Not later than ( ) calendar days from the date of commencement of the Work.~~

~~[ ] By the following date:~~

~~§ 3.4.2 Subject to adjustments of the Contract Time as provided in the Contract Documents, if portions of the Work of this Contract are to be substantially complete prior to when the entire Work of this Contract shall be substantially complete, the Contractor shall substantially complete such portions by the following dates:~~

~~Portion of Work~~ ~~Date to be substantially complete~~

...

§ 4.1 The Owner shall pay the Contractor the Contract Sum in current funds for the Contractor's performance of the ~~Contract. The Contract Sum shall be one of the following:~~
~~*(Check the appropriate box.)*~~

~~[ ] Stipulated Sum, in accordance with Section 4.2 below~~

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[ ] ~~Cost of the Work plus the Contractor's Fee, in accordance with Section 4.3 below~~

[ ] ~~Cost of the Work plus the Contractor's Fee with a Guaranteed Maximum Price, in accordance with Section 4.4 below~~

~~*(Based on the selection above, complete Section 4.2, 4.3 or 4.4 below.)*~~
Contract as defined in EXH-B Project Charter, subject to additions and deductions as provided in the Contract Documents.

...

§ 4.2.1 The Contract Sum shall be four hundred sixty thousand dollars ($ 460,000), subject to additions and deductions as provided in the Contract Documents.

...

§ 4.2.2.1 Alternates, if any, included in the Contract ~~Sum:~~
Sum are defined in EXH-B Project Charter.

~~Item~~	~~Price~~

§ 4.2.2.2 Subject to the conditions noted ~~below, the following~~ in EXH-B Project Charter, alternates may be accepted by the Owner following execution of this Agreement. Upon acceptance, the Owner shall issue a Modification to this Agreement.
~~*(Insert below each alternate and the conditions that must be met for the Owner to accept the alternate.)*~~

~~Item~~	~~Price~~	~~Conditions for Acceptance~~

§ 4.2.3 Allowances, if any, included in the Contract ~~Sum:~~Sum are defined in EXH-B Project Charter.

...

§ 4.2.4 Unit prices, if ~~any:~~
~~(Identify the item and state the unit price, and quantity limitations, if any, to which the unit price will be applicable.)~~any are defined in EXH-B Project Charter.

~~Item~~	~~Units and Limitations~~	~~Price per Unit ($0.00)~~

§ 4.3 ~~Cost of the Work Plus Contractor's Fee without a Guaranteed Maximum Price~~Allowances, if any, included in the Contract Sum are defined in EXH-B Project Charter.
~~§ 4.3.1 The Cost of the Work is as defined in Exhibit B, Determination of the Cost of the Work.~~

~~§ 4.3.2 The Contractor's Fee:~~
~~*(State a lump sum, percentage of Cost of the Work or other provision for determining the Contractor's Fee.)*~~

~~§ 4.3.3 The method of adjustment of the Contractor's Fee for changes in the Work:~~

~~§ 4.3.4 Limitations, if any, on a Subcontractor's overhead and profit for increases in the cost of its portion of the Work:~~

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§ 4.3.5 Rental rates for Contractor-owned equipment shall not exceed (percent (%) of the standard rental rate paid at the place of the Project.

§ 4.3.6 Unit prices, if any:
(Identify the item and state the unit price and quantity limitations, if any, to which the unit price will be applicable.)

Item	Units and Limitations	Price per Unit ($0.00)

§ 4.3.7 The Contractor shall prepare and submit to the Construction Manager, within 14 days of executing this Agreement, a written Control Estimate for the Owner's review and approval. The Control Estimate shall include the items in Section B.1 of Exhibit B, Determination of the Cost of the Work.

§ 4.4 Cost of the Work Plus Contractor's Fee with a Guaranteed Maximum PriceUnit prices, if any, are defined in EXH-B Project Charter.
§ 4.4.1 The Cost of the Work is as defined in Exhibit B, Determination of the Cost of the Work.

§ 4.4.2 The Contractor's Fee:
(State a lump sum, percentage of Cost of the Work or other provision for determining the Contractor's Fee.)

§ 4.4.3 The method of adjustment of the Contractor's Fee for changes in the Work:

§ 4.4.4 Limitations, if any, on a Subcontractor's overhead and profit for increases in the cost of its portion of the Work:

§ 4.4.5 Rental rates for Contractor-owned equipment shall not exceed (percent (%) of the standard rental rate paid at the place of the Project.

§ 4.4.6 Unit Prices, if any:
(Identify the item and state the unit price and quantity limitations, if any, to which the unit price will be applicable.)

Item	Units and Limitations	Price per Unit ($0.00)

§ 4.4.7 Guaranteed Maximum Price
§ 4.4.7.1 The Contract Sum is guaranteed by the Contractor not to exceed ($), subject to additions and deductions by Change Order as provided in the Contract Documents. This maximum sum is referred to in the Contract Documents as the Guaranteed Maximum Price. Costs which would cause the Guaranteed Maximum Price to be exceeded shall be paid by the Contractor without reimbursement by the Owner.

§ 4.4.7.2 Alternates
§ 4.4.7.2.1 Alternates, if any, included in the Guaranteed Maximum Price:

Item	Price

§ 4.4.7.2.2 Subject to the conditions noted below, the following alternates may be accepted by the Owner following execution of this Agreement. Upon acceptance, the Owner shall issue a Modification to this Agreement.
(Insert below each alternate and the conditions that must be met for the Owner to accept the alternate.)

Item	Price	Conditions for Acceptance

§ 4.4.7.3 Allowances, if any, included in the Guaranteed Maximum Price:
(Identify each allowance.)

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~~Item~~ ~~Price~~

~~§ 4.4.7.4 Assumptions, if any, upon which the Guaranteed Maximum Price is based:~~
~~*(Identify each assumption.)*~~

~~§ 4.4.8 To the extent that the Contract Documents are anticipated to require further development, the Guaranteed Maximum Price includes the costs attributable to such further development consistent with the Contract Documents and reasonably inferable therefrom. Such further development does not include changes in scope, systems, kinds and quality of materials, finishes, or equipment, all of which, if required, shall be incorporated by Change Order.~~

~~§ 4.4.9 The Owner shall authorize preparation of revisions to the Contract Documents that incorporate the agreed upon assumptions contained in Section 4.4.7.4. The Owner shall promptly furnish such revised Contract Documents to the Contractor. The Contractor shall notify the Owner and Architect of any inconsistencies between the agreed upon assumptions contained in Section 4.4.7.4 and the revised Contract Documents.~~

Contractor and Owner recognize that time is of the essence for the Project and the Owner will suffer financial loss if the Work is not completed in the time specified in the Contract Documents. The parties also recognize the delays, expenses, and difficulties involved in proving in a legal proceeding the actual loss suffered by the Owner if the Work is not completed on time. Accordingly, instead of requiring such proof, the Owner and Contractor agree that as liquidated damages for delay (but not as penalty), Contractor shall pay Owner One Thousand Dollars ($1,000.00) per calendar day for each day that expires after the time specified for Substantial Completion in EXH-D Project Schedule until such time the Work is determined to be substantially complete by the Owner.

After Substantial Completion, if Contractor neglects, refuses, or fails to complete the remaining Work within the Contract Time specified in the Contract Documents, the Contractor shall pay the Owner One Thousand Dollars ($1,000.00) per day that expires after the time specified in the Contract Documents for Final Completion and readiness for Final Payment until the Work is completed.

...

None

...

§ 5.1.1 Based upon Applications for Payment submitted to the Construction Manager by the Contractor, and Certificates for Payment issued by the Construction Manager and ~~Architect,~~ Architect and approval by the Owner's Representative, the Owner shall make progress payments on account of the Contract Sum, to the Contractor, as provided below and elsewhere in the Contract Documents.

§ 5.1.2 The period covered by each Application for Payment shall be one calendar month ending on the last day of the ~~month, or as follows:~~
month.

§ 5.1.3 ~~Provided that~~ When an Application for Payment is received by the Construction ~~Manager not later than the day of a month, the Owner shall make payment of the amount certified to the Contractor not later than the day of the month. If an Application for Payment is received by the Construction Manager after the application date fixed above, payment of the amount certified~~ Manager, payment of the amount certified shall be made by the Owner not later than forty-five (45) days after the Construction Manager receives the Application for Payment. Unless expressly otherwise agreed in this Contract, payments and payment disputes shall be governed by the Prompt Payment of Local Government Bills, Minnesota Statutes, Section 471.425 ("Prompt Payment Act").

...

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§ 5.1.4.1 Each Application for Payment shall be based on the most recent schedule of values submitted by the Contractor on AIA G702 Application and Certificate for Payment in accordance with the Contract Documents. The schedule of values shall allocate the entire Contract Sum among the various portions of the Work. The schedule of values shall be prepared in such form, and supported by such data to substantiate its accuracy, as the Construction Manager and Architect may require. This schedule of values shall be used as a basis for reviewing the Contractor's Applications for Payment.
PAGE 5

§ 5.1.4.3 In accordance with AIA Document A232™–2019, General Conditions of the Contract for Construction, Construction Manager as Adviser Edition, as modified and subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

...

~~§ 5.1.5 Progress Payments Where the Contract Sum is Based on the Cost of the Work without a Guaranteed Maximum Price~~

~~§ 5.1.5.1 With each Application for Payment, the Contractor shall submit the cost control information required in Exhibit B, Determination of the Cost of the Work, along with payrolls, petty cash accounts, receipted invoices, or invoices with check vouchers attached, and any other evidence required by the Owner, Construction Manager or Architect to demonstrate that payments already made by the Contractor on account of the Cost of the Work equal or exceed progress payments already received by the Contractor, plus payrolls for the period covered by the present Application for Payment, less that portion of the payments attributable to the Contractor's Fee.~~

~~§ 5.1.5.2 Applications for Payment shall show the Cost of the Work actually incurred by the Contractor through the end of the period covered by the Application for Payment and for which the Contractor has made or intends to make actual payment prior to the next Application for Payment.~~

~~§ 5.1.5.3 In accordance with AIA Document A232-2019 and subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:~~

~~§ 5.1.5.3.1 The amount of each progress payment shall first include:~~

~~.1 The Cost of the Work as described in Exhibit B, Determination of the Cost of the Work;~~
~~.2 That portion of Construction Change Directives that the Architect determines, in the Architect's professional judgment, to be reasonably justified; and~~
~~.3 The Contractor's Fee computed upon the Cost of the Work described in the preceding Section 5.1.5.3.1.1 at the rate stated in Section 4.3.2; or if the Contractor's Fee is stated as a fixed sum in Section 4.3.2 an amount which bears the same ratio to that fixed-sum Fee as the Cost of the Work included in Section 5.1.5.3.1.1 bears to a reasonable estimate of the probable Cost of the Work upon its completion.~~

~~§ 5.1.5.3.2 The amount of each progress payment shall then be reduced by:~~

~~.1 The aggregate of any amounts previously paid by the Owner;~~
~~.2 The amount, if any, for Work that remains uncorrected and for which the Architect has previously withheld a Certificate for Payment as provided in Article 9 of AIA Document A232–2019;~~
~~.3 Any amount for which the Contractor does not intend to pay a Subcontractor or material supplier, unless the Work has been performed by others the Contractor intends to pay;~~
~~.4 For Work performed or defects discovered since the last payment application, any amount for which the Architect may withhold payment, or nullify a Certificate of Payment in whole or in part, as provided in Article 9 of AIA Document A232–2019;~~
~~.5 The shortfall, if any, indicated by the Contractor in the documentation required by Section 5.1.5.1 to substantiate prior Applications for Payment, or resulting from errors subsequently discovered by the Owner's auditors in such documentation; and~~
~~.6 Retainage withheld pursuant to Section 5.1.7.~~

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§ 5.1.5.4 The Owner, Construction Manager and Contractor shall agree upon a mutually acceptable procedure for review and approval of payments to Subcontractors and the percentage of retainage held on Subcontracts, and the Contractor shall execute subcontracts in accordance with those agreements.

§ 5.1.5.5 In taking action on the Contractor's Applications for Payment, the Construction Manager and Architect shall be entitled to rely on the accuracy and completeness of the information furnished by the Contractor, and such action shall not be deemed to be a representation that (1) the Construction Manager and Architect have made a detailed examination, audit or arithmetic verification of the documentation submitted in accordance with Article 5 or other supporting data; (2) that the Construction Manager and Architect have made exhaustive or continuous on-site inspections; or (3) that the Construction Manager and Architect have made examinations to ascertain how or for what purposes the Contractor has used amounts previously paid on account of the Contract. Such examinations, audits and verifications, if required by the Owner, will be performed by the Owner's auditors acting in the sole interest of the Owner.

§ 5.1.5.6 Except with the Owner's prior approval, the Contractor shall not make advance payments to suppliers for materials or equipment which have not been delivered and stored at the site.

§ 5.1.5.7 If final completion of the Work is materially delayed through no fault of the Contractor, then the Owner shall pay the Contractor any additional amounts in accordance with Article 9 of AIA Document A232–2019.

§ 5.1.6 Progress Payments Where the Contract Sum is Based on the Cost of the Work with a Guaranteed Maximum Price

§ 5.1.6.1 With each Application for Payment, the Contractor shall submit payrolls, petty cash accounts, receipted invoices or invoices with check vouchers attached, and any other evidence required by the Owner, Construction Manager or Architect to demonstrate that payments already made by the Contractor on account of the Cost of the Work equal or exceed progress payments already received by the Contractor plus payrolls for the period covered by the present Application for Payment, less that portion of the progress payments attributable to the Contractor's Fee.

§ 5.1.6.2 Each Application for Payment shall be based on the most recent schedule of values submitted by the Contractor in accordance with the Contract Documents. The schedule of values shall allocate the entire Guaranteed Maximum Price among: (1) the various portions of the Work; (2) any contingency for costs that are included in the Guaranteed Maximum Price but not otherwise allocated to another line item or included in a Change Order; and (3) the Contractor's Fee.

§ 5.1.6.2.1 The schedule of values shall be prepared in such form, and supported by such data to substantiate its accuracy, as the Construction Manager and Architect may require. This schedule of values shall be used as a basis for reviewing the Contractor's Applications for Payment.

§ 5.1.6.2.2 The allocation of the Guaranteed Maximum Price under this Section 5.1.6.2 shall not constitute a separate guaranteed maximum price for the Cost of the Work of each individual line item in the schedule of values.

§ 5.1.6.2.3 When the Contractor allocates costs from a contingency to another line item in the schedule of values, the Contractor shall submit supporting documentation to the Architect and Construction Manager.

§ 5.1.6.3 Applications for Payment shall show the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment. The percentage of completion shall be the lesser of (1) the percentage of that portion of the Work which has actually been completed; or (2) the percentage obtained by dividing (a) the expense that has actually been incurred by the Contractor on account of that portion of the Work and for which the Contractor has made payment or intends to make payment prior to the next Application for Payment by (b) the share of the Guaranteed Maximum Price allocated to that portion of the Work in the schedule of values.

§ 5.1.6.4 In accordance with AIA Document A232–2019, and subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

§ 5.1.6.4.1 The amount of each progress payment shall first include:

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.1 That portion of the Guaranteed Maximum Price properly allocable to completed Work as determined by multiplying the percentage of completion of each portion of the Work by the share of the Guaranteed Maximum Price allocated to that portion of the Work in the most recent schedule of values;

.2 That portion of the Guaranteed Maximum Price properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction or, if approved in writing in advance by the Owner, suitably stored off the site at a location agreed upon in writing;

.3 That portion of Construction Change Directives that the Architect determines, in the Architect's professional judgment, to be reasonably justified; and

.4 The Contractor's Fee, computed upon the Cost of the Work described in the preceding Sections 5.1.6.4.1.1 and 5.1.6.4.1.2 at the rate stated in Section 4.4.2 or, if the Contractor's Fee is stated as a fixed sum in that Section, an amount that bears the same ratio to that fixed-sum fee as the Cost of the Work included in Sections 5.1.6.4.1.1 and 5.1.6.4.1.2 bears to a reasonable estimate of the probable Cost of the Work upon its completion.

§ 5.1.6.4.2 The amount of each progress payment shall then be reduced by:

.1 The aggregate of any amounts previously paid by the Owner;

.2 The amount, if any, for Work that remains uncorrected and for which the Architect has previously withheld a Certificate for Payment as provided in Article 9 of AIA Document A232–2019;

.3 Any amount for which the Contractor does not intend to pay a Subcontractor or material supplier, unless the Work has been performed by others the Contractor intends to pay;

.4 For Work performed or defects discovered since the last payment application, any amount for which the Architect may withhold payment, or nullify a Certificate of Payment in whole or in part, as provided in Article 9 of AIA Document A232–2019;

.5 The shortfall, if any, indicated by the Contractor in the documentation required by Section 5.1.6.1 to substantiate prior Applications for Payment, or resulting from errors subsequently discovered by the Owner's auditors in such documentation; and

.6 Retainage withheld pursuant to Section 5.1.7.

§ 5.1.6.5 The Owner and the Contractor shall agree upon a mutually acceptable procedure for review and approval of payments to Subcontractors and the percentage of retainage held on Subcontracts, and the Contractor shall execute subcontracts in accordance with those agreements.

§ 5.1.6.6 In taking action on the Contractor's Applications for Payment, the Construction Manager and Architect shall be entitled to rely on the accuracy and completeness of the information furnished by the Contractor and such action shall not be deemed to be a representation that (1) the Construction Manager or Architect have made a detailed examination, audit, or arithmetic verification of the documentation submitted in accordance with Section 5.1.6.1 or other supporting data; (2) that the Construction Manager or Architect have made exhaustive or continuous on-site inspections; or (3) that the Construction Manager or Architect have made examinations to ascertain how or for what purposes the Contractor has used amounts previously paid on account of the Contract. Such examinations, audits, and verifications, if required by the Owner, will be performed by the Owner's auditors acting in the sole interest of the Owner.

§ 5.1.6.7 Except with the Owner's prior approval, the Contractor shall not make advance payments to suppliers for materials or equipment which have not been delivered and stored at the site.

§ 5.1.6.8 If final completion of the Work is materially delayed through no fault of the Contractor, then the Owner shall pay the Contractor any additional amounts in accordance with Article 9 of AIA Document A232–2019.

...

Five Percent (5%)

...

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For major items installed into the Work, the Contractor may request full payment for the items to ensure prompt delivery and fabrication. Such items shall be recommended by the Architect and approved by the Owner as not requiring retainage. Prompt payment for the items shall be documented by the Contractor to the Owner in the subsequent payment application by submitting a full lien release for the items. Major items may include mechanical units with long lead times, structural systems with long lead times, critical path systems or items, etc. Major items will be discussed and defined by Owner, Architect, Construction Manager and Contractor.

...

Prior to Substantial Completion and at the discretion of the Owner, retainage may be reduced. If the Work has been fifty percent (50%) completed as determined by the Architect and is satisfactory to the Owner, then ninety percent (90%) of the retained amount may be released to the Contractor for completed Work (with ten percent (10%) of the total retained by the Owner).

Upon Substantial Completion, additional retainage may be returned to the Contractor as recommended by the Architect and Construction Manager and approved by the Owner to an amount sufficient to satisfactorily complete the Work. Retainage release will comply with Minnesota Statutes, Section 15.72 after Substantial Completion and punch list acceptance by the Owner.

...

.1 the Contractor has fully performed the Contract except for the Contractor's responsibility to correct Work as provided in Article 12 of AIA Document A232–2019, and to satisfy other requirements, if any, which extend beyond final payment; ~~and~~

.2 a final Certificate for Payment or Project Certificate for Payment has been issued by ~~the Architect.~~the Architect; and

.3 all lien waivers and IC134 forms have been delivered to the Owner.

§ 5.2.1.2 The Owner's final payment to the Contractor shall be made no later than ~~30~~ forty-five (45) days after the issuance of the Architect's final Certificate for Payment or Project Certificate for Payment, or as follows:

...

§ 5.3 Payments due and unpaid under the Contract shall bear interest from the date payment is due at the rate stated ~~below, or in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located.~~below.

...

Zero %

...

The Architect will serve as Initial Decision Maker pursuant to Article 15 of AIA Document ~~A232–2019, unless the parties appoint below another individual, not a party to this Agreement, to serve as Initial Decision Maker.~~
~~*(If the parties mutually agree, insert the name, address and other contact information of the Initial Decision Maker, if other than the Architect.)*~~

A232–2019.

§ 6.1.1 Mediation

The Owner or the Contractor may request mediation of any Claim submitted to the Initial Decision Maker before the decision becomes final and binding. The mediation shall be governed by the Construction Industry Mediation Rules of the American Arbitration Association in effect at the date of this contract. The request for mediation shall be made in

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writing by the party requesting mediation and the other party of this contract. The Owner and Contractor shall participate in mediation in good faith. The mediation shall be concluded within 60 days of the request. Mediation is not a condition precedent to commencing litigation. If litigation is commenced, the Owner and Contractor agree to mediate before any dispositive motion or trial.

[ ] ~~Litigation in a court of competent jurisdiction.~~ [X] Litigation in a state or federal court of competent jurisdiction located in Hennepin County, Minnesota.

...

Termination fee will be based on the percentage of Work completed and any materials purchased or in production at the time of termination. Said fee and justification shall be provided to the Owner by the Contractor within ten (10) days' notice of the termination.

...

~~**§ 7.2 Where the Contract Sum is Based on the Cost of the Work with or without a Guaranteed Maximum Price**~~

~~**§ 7.2.1 Termination**~~

~~**§ 7.2.1.1** The Contract may be terminated by the Owner or the Contractor as provided in Article 14 of AIA Document A232–2019.~~

~~**§ 7.2.1.2 Termination by the Owner for Cause**~~

~~**§ 7.2.1.2.1** If the Owner terminates the Contract for cause as provided in Article 14 of AIA Document A232–2019, the Owner shall then only pay the Contractor an amount as follows:~~

~~.1 Take the Cost of the Work incurred by the Contractor to the date of termination;~~

~~.2 Add the Contractor's Fee, computed upon the Cost of the Work to the date of termination at the rate stated in Section 4.3.2 or 4.4.2, as applicable, or, if the Contractor's Fee is stated as a fixed sum in that Section, an amount that bears the same ratio to that fixed-sum Fee as the Cost of the Work at the time of termination bears to a reasonable estimate of the probable Cost of the Work upon its completion;~~

~~.3 Subtract the aggregate of previous payments made by the Owner; and~~

~~.4 Subtract the costs and damages incurred, or to be incurred, by the Owner under Article 14 of AIA Document A232–2019.~~

~~**§ 7.2.1.2.2** When the Contract Sum is based on the Cost of the Work with a Guaranteed Maximum Price, if the Owner terminates the Contract for cause as provided in Article 14 of AIA Document A232–2019, the amount, if any, to be paid to the Contractor under Article 14 of AIA Document A232–2019 shall not cause the Guaranteed Maximum Price to be exceeded, nor shall it exceed the amount calculated in Section 7.2.1.2.1.~~

~~**§ 7.2.1.2.3** The Owner shall also pay the Contractor fair compensation, either by purchase or rental at the election of the Owner, for any equipment owned by the Contractor that the Owner elects to retain and that is not otherwise included in the Cost of the Work under Section 7.2.1.2.1.1. To the extent that the Owner elects to take legal assignment of subcontracts and purchase orders (including rental agreements), the Contractor shall, as a condition of receiving the payments referred to in this Article 7, execute and deliver all such papers and take all such steps, including the legal assignment of such subcontracts and other contractual rights of the Contractor, as the Owner may require for the purpose of fully vesting in the Owner the rights and benefits of the Contractor under such subcontracts or purchase orders. All Subcontracts, purchase orders and rental agreements entered into by the Contractor will contain provisions allowing for assignment to the Owner as described above.~~

~~**§ 7.2.1.3 Termination by the Owner for Convenience**~~

~~If the Owner terminates the Contract for convenience in accordance with Article 14 of AIA Document A232–2019, then the Owner shall pay the Contractor a termination fee as follows:~~

~~*(Insert the amount of or method for determining the fee, if any, payable to the Contractor following a termination for the Owner's convenience.)*~~

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~~§ 7.3 Suspension~~

~~The Work may be suspended by the Owner as provided in Article 14 of AIA Document A232–2019; in such case, the Contract Sum and Contract Time shall be increased as provided in Article 14 of AIA Document A232–2019, except that the term "profit" shall be understood to mean the Contractor's Fee as described in Section 4.3.2 or 4.4.2, as applicable, of this Agreement.~~

...

Curtis Hartog, PE, Executive Director
Minneapolis Public Schools, SSD#1
Capital Planning, Construction & Maintenance
1250 West Broadway Avenue, Minneapolis, MN 55411
PAGE 8

Derek Brinker
Vice President
Twin City Acoustics, Inc
9449 Science Center Dr. Ste 100
New Hope, MN 55428

...

§ 8.5 ~~Insurance and Bonds~~Record Keeping—Availability and Retention

Pursuant to Minnesota Statutes, Section 16C.05, subd. 5, Contractor agrees that the books, records, documents and accounting procedures and practices of Contractor, that are relevant to the Contract or transaction, are subject to examination by the Owner, the Owner's auditor, and the state auditor for a minimum of six (6) years. Contractor shall maintain such records for a minimum of six (6) years after final payment.

§ 8.6 Data Practices

Pursuant to Minnesota Statutes, Section 13.05, subd. 11, all of the data created, collected, received, stored, used, maintained, or disseminated by Contractor in performing this contract is subject to the requirements of the Minnesota Government Data Practices Act ("MGDPA"), Minnesota Statutes Chapter 13, and Contractor must comply with those requirements as if it were a government entity. The remedies in Minnesota Statutes, Section 13.08 apply to Contractor. Contractor does not have a duty to provide access to public data to the public if the public data are available from the Owner, except as required by the terms of this contract.

§ 8.7 Non-Discrimination

Pursuant to Minnesota Statutes, Section 181.59, the Contractor will take affirmative action to ensure that applicants are selected, and that employees are treated during employment, without regard to their race, color, creed, religion, national origin, sex, sexual orientation, marital status, status with regard to public assistance, membership or activity in a local civil rights commission, disability or age. The Contractor agrees to be bound by the provisions of Minnesota Statutes, Section 181.59, that prohibits certain discriminatory practices and the terms of said section are incorporated into this contract.

§ 8.8 Prompt Payment to Subcontractors

In accordance with the Prompt Payment Act, each Prime Contractor must pay any subcontractor within ten (10) days of the Prime Contractor's receipt of payment from the municipality for undisputed services provided by the subcontractor. The Subcontract must require the Prime Contractor to pay interest of 1-1/2 percent per month or any part of a month to the subcontractor on any undisputed amount not paid on time to the subcontractor. The minimum monthly interest penalty payment for an unpaid balance of $100 or more is $10. For an unpaid balance of less than $100, the Prime Contractor shall pay the actual penalty due to the subcontractor. A subcontractor who prevails in a civil action to collect interest penalties from a Prime Contractor must be awarded its costs and disbursements, including attorney's fees, incurred in bringing the action.

§ 8.9 Prevailing Wage

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Contractor agrees that all laborers or mechanics working on the Project shall receive at least the prevailing wage rate in accordance with Minnesota Statutes Section 177.42, *et seq.* Contractor agrees further that it will incorporate any and all necessary contract language in its agreements with any subcontractors to allow Contractor to monitor and enforce the prevailing wage requirement for subcontractors of any tier.

§ 8.5 Insurance and Bonds

§ 8.5.1 The Owner and the Contractor shall purchase and maintain insurance as set forth ~~in AIA Document A132™–2019, Standard Form of Agreement Between Owner and Contractor, Construction Manager as Adviser Edition, Exhibit A, Insurance and Bonds, and elsewhere in the Contract Documents.~~EXH-C Owner Insurance.

PAGE 9

§ 8.6 Notice in electronic format, pursuant to Article 1 of AIA Document A232–2019, may be given in accordance with ~~a building information modeling exhibit,~~ AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, if completed, or as otherwise set forth below:

(If other than in accordance with ~~a building information modeling exhibit,~~ AIA Document E203–2013, insert requirements for delivering notice in electronic format such as name, title, and email address of the recipient and whether and how the system will be required to generate a read receipt for the transmission.)

email to Owner's representative identified in Section 8.2

...

Owner prohibits Contractor from using the Work in any marketing material or business development practice. Contractor is prohibited from communication with any news outlet or public without Owner's written approval.

Floor plans, designs, wiring, safety and security measures shall be kept confidential by the Contractor, the Subcontractors, the Sub-Subcontractors (of any tier) during and after completion of the Work.

...

.4 ~~Building Information Modeling Exhibit, if completed:~~AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, dated as indicated below:
(Insert the date of the E203-2013 incorporated into this Agreement.)

Not Applicable

...

139		North High School Renovations & CTE Center Vol 1 of 2	November 13, 2024
209		North High School Renovations & CTE Center Vol 2 of 2	November 13, 2024

...

	All Specifications	North High School Renovations and CTE Center Bid Package 4	November 13, 2024	1414

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1	December 2, 2024	70
2	December 9, 2024	165

...

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EXH-B Project Charter
EXH-C Owner Insurance
EXH-D Project Schedule
(Check all boxes that apply and include appropriate information identifying the exhibit where required.)

~~[ ] *AIA Document A132™ 2019, Exhibit B, Determination of the Cost of the Work*~~

[ ] ~~AIA Document E235™ 2019, Sustainable Projects Exhibit, Construction Manager as Adviser Edition, dated as indicated below:~~
~~*(Insert the date of the E235 2019 incorporated into this Agreement.)*~~

~~[ ] The Sustainability Plan:~~

~~Title~~	~~Date~~	~~Pages~~

...

Contractors Bid Documents

...

Tom Parent, Sr Operations Officer

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Certification of Document's Authenticity

AIA® Document D401™ – 2003

I, , hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with its associated Additions and Deletions Report and this certification at 13:10:49 CT on 02/03/2025 under Order No. 4104251278 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document A132™ – 2019, Standard Form of Agreement Between Owner and Contractor, Construction Manager as Adviser Edition, other than those additions and deletions shown in the associated Additions and Deletions Report.



(Signed)

Curtis Hartog, Executive Director

(Title)

2/3/2025

(Dated)

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AIA® Document A132® – 2019 Exhibit A

Insurance and Bonds

This Insurance and Bonds Exhibit is part of the Agreement, between the Owner and the Contractor, dated the _first_ day of _February____ in the year _2025
(In words, indicate day, month, and year.)

for the following **PROJECT:**
(Name and location or address)

North High School Phase 4 Work Scope 09-C Ceiling and Acoustic Treatments
1500 James Avenue, Minneapolis, MN 55411

THE OWNER:
(Name, legal status, and address)

Minneapolis Public Schools Special School District #1
1250 West Broadway Avenue
Minneapolis, MN 55411

THE CONTRACTOR:
(Name, legal status, and address)
Twin City Acoustics, Inc
9449 Science Center Drive, Ste 100
New Hope, MN 55428

TABLE OF ARTICLES

A.1 GENERAL

A.2 OWNER'S INSURANCE

A.3 CONTRACTOR'S INSURANCE AND BONDS

A.4 SPECIAL TERMS AND CONDITIONS

ADDITIONS AND DELETIONS:
The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

This document is intended to be used in conjunction with AIA Document A232™–2019, General Conditions of the Contract for Construction. Article 11 of A232™–2019 contains additional insurance provisions

ARTICLE A.1 GENERAL

The Owner and Contractor shall purchase and maintain insurance, and provide bonds, as set forth in this Exhibit. As used in this Exhibit, the term General Conditions refers to AIA Document A232™–2019, General Conditions of the Contract for Construction.

ARTICLE A.2 OWNER'S INSURANCE

§ A.2.1 General

Prior to commencement of the Work, the Owner shall secure the insurance, and provide evidence of the coverage, required under this Article A.2 and, upon the Contractor's request, provide a copy of the property insurance policy or policies required by Section A.2.3. The copy of the policy or policies provided shall contain all applicable conditions, definitions, exclusions, and endorsements.

§ A.2.2 Liability Insurance

The Owner shall be responsible for purchasing and maintaining the Owner's usual general liability insurance.

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User Notes:

§ A.2.3 Required Property Insurance

§ A.2.3.1 Unless this obligation is placed on the Contractor pursuant to Section A.3.3.2.1, the Owner shall purchase and maintain, from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located, property insurance policy form and sufficient to cover the total value of the entire Project on a replacement cost basis. The Owner's property insurance coverage shall be no less than the amount of the initial Contract Sum, plus the value of subsequent Modifications and labor performed and materials or equipment supplied by others. The property insurance shall be maintained until Substantial Completion and thereafter as provided in Section A.2.3.1.3, unless otherwise provided in the Contract Documents or otherwise agreed in writing by the parties to this Agreement. This insurance shall include the interests of the Owner, Contractor, Subcontractors, and Sub-subcontractors in the Project as insureds. This insurance shall include the interests of mortgagees as loss payees.

§ A.2.3.1.1 Causes of Loss. The insurance required by this Section A.2.3.1 shall provide coverage for direct physical loss or damage, and shall not exclude the risks of fire, explosion, theft, vandalism, malicious mischief, collapse, earthquake, flood, or windstorm. The insurance shall also provide coverage for ensuing loss or resulting damage from error, omission, or deficiency in construction methods, design, specifications, workmanship, or materials. Sub-limits, if any, are as follows:
(Indicate below the cause of loss and any applicable sub-limit.)

Causes of Loss	Sub-Limit

§ A.2.3.1.2 Specific Required Coverages. The insurance required by this Section A.2.3.1 shall provide coverage for loss or damage to false work and other temporary structures, and to building systems from testing and startup. The insurance shall also cover debris removal, including demolition occasioned by enforcement of any applicable legal requirements, and reasonable compensation for the Architect's, Construction Manager's, and Contractor's services and expenses required as a result of such insured loss, including claim preparation expenses. Sub-limits, if any, are as follows:
(Indicate below type of coverage and any applicable sub-limit for specific required coverages.)

Coverage	Sub-Limit

§ A.2.3.1.3 Unless the parties agree otherwise, upon Substantial Completion, the Owner shall continue the insurance required by Section A.2.3.1 or, if necessary, replace the insurance policy required under Section A.2.3.1 with property insurance written for the total value of the Project that shall remain in effect until expiration of the period for correction of the Work set forth in Section 12.2.2 of the General Conditions.

§ A.2.3.1.4 Deductibles and Self-Insured Retentions. If the insurance required by this Section A.2.3 is subject to deductibles or self-insured retentions, the Owner shall be responsible for all loss not covered because of such deductibles or retentions.

§ A.2.3.2 Occupancy or Use Prior to Substantial Completion. The Owner's occupancy or use of any completed or partially completed portion of the Work prior to Substantial Completion shall not commence until the insurance company or companies providing the insurance under Section A.2.3.1 have consented in writing to the continuance of coverage. The Owner and the Contractor shall take no action with respect to partial occupancy or use that would cause cancellation, lapse, or reduction of insurance, unless they agree otherwise in writing.

§ A.2.3.3 Insurance for Existing Structures

If the Work involves remodeling an existing structure or constructing an addition to an existing structure, the Owner shall purchase and maintain, until the expiration of the period for correction of Work as set forth in Section 12.2.2 of the General Conditions, "all-risks" property insurance, on a replacement cost basis, protecting the existing structure against direct physical loss or damage from the causes of loss identified in Section A.2.3.1, notwithstanding the undertaking of the Work. The Owner shall be responsible for all co-insurance penalties.

§ A.2.4 Optional Extended Property Insurance.

The Owner shall purchase and maintain the insurance selected and described below.

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(Select the types of insurance the Owner is required to purchase and maintain by placing an X in the box(es) next to the description(s) of selected insurance. For each type of insurance selected, indicate applicable limits of coverage or other conditions in the fill point below the selected item.)

[ ] **§ A.2.4.1 Loss of Use, Business Interruption, and Delay in Completion Insurance,** to reimburse the Owner for loss of use of the Owner's property, or the inability to conduct normal operations due to a covered cause of loss.

[ ] **§ A.2.4.2 Ordinance or Law Insurance,** for the reasonable and necessary costs to satisfy the minimum requirements of the enforcement of any law or ordinance regulating the demolition, construction, repair, replacement or use of the Project.

[ ] **§ A.2.4.3 Expediting Cost Insurance,** for the reasonable and necessary costs for the temporary repair of damage to insured property, and to expedite the permanent repair or replacement of the damaged property.

[ ] **§ A.2.4.4 Extra Expense Insurance,** to provide reimbursement of the reasonable and necessary excess costs incurred during the period of restoration or repair of the damaged property that are over and above the total costs that would normally have been incurred during the same period of time had no loss or damage occurred.

[ ] **§ A.2.4.5 Civil Authority Insurance,** for losses or costs arising from an order of a civil authority prohibiting access to the Project, provided such order is the direct result of physical damage covered under the required property insurance.

[ ] **§ A.2.4.6 Ingress/Egress Insurance,** for loss due to the necessary interruption of the insured's business due to physical prevention of ingress to, or egress from, the Project as a direct result of physical damage.

[ ] **§ A.2.4.7 Soft Costs Insurance,** to reimburse the Owner for costs due to the delay of completion of the Work, arising out of physical loss or damage covered by the required property insurance: including construction loan fees; leasing and marketing expenses; additional fees, including those of architects, engineers, consultants, attorneys and accountants, needed for the completion of the construction, repairs, or reconstruction; and carrying costs such as property taxes, building permits, additional interest on loans, realty taxes, and insurance premiums over and above normal expenses.

§ A.2.5 Other Optional Insurance.

The Owner shall purchase and maintain the insurance selected below.

(Select the types of insurance the Owner is required to purchase and maintain by placing an X in the box(es) next to the description(s) of selected insurance.)

[ ] **§ A.2.5.1 Cyber Security Insurance** for loss to the Owner due to data security and privacy breach, including costs of investigating a potential or actual breach of confidential or private information.

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(Indicate applicable limits of coverage or other conditions in the fill point below.)

[ ] **§ A.2.5.2 Other Insurance**
(List below any other insurance coverage to be provided by the Owner and any applicable limits.)

Coverage	Limits

ARTICLE A.3 CONTRACTOR'S INSURANCE AND BONDS

§ A.3.1 General

§ A.3.1.1 Certificates of Insurance. The Contractor shall provide certificates of insurance acceptable to the Owner evidencing compliance with the requirements in this Article A.3 at the following times: (1) prior to commencement of the Work; (2) upon renewal or replacement of each required policy of insurance; and (3) upon the Owner's written request. An additional certificate evidencing continuation of commercial liability coverage, including coverage for completed operations, shall be submitted with the final Application for Payment and thereafter upon renewal or replacement of such coverage until the expiration of the periods required by Section A.3.2.1 and Section A.3.3.1. The certificates will show the Owner as an additional insured on the Contractor's Commercial General Liability and excess or umbrella liability policy or policies.

§ A.3.1.2 Deductibles and Self-Insured Retentions. The Contractor shall disclose to the Owner any deductible or self-insured retentions applicable to any insurance required to be provided by the Contractor.

§ A.3.1.3 Additional Insured Obligations. To the fullest extent permitted by law, the Contractor shall cause the commercial general liability coverage to include (1) the Owner, the Architect and the Architect's consultants, and the Construction Manager and the Construction Manager's consultants, as additional insureds for claims caused in whole or in part by the Contractor's negligent acts or omissions during the Contractor's operations; and (2) the Owner as an additional insured for claims caused in whole or in part by the Contractor's negligent acts or omissions for which loss occurs during completed operations. The additional insured coverage shall be primary and non-contributory to any of the Owner's general liability insurance policies and shall apply to both ongoing and completed operations. To the extent commercially available, the additional insured coverage shall be no less than that provided by Insurance Services Office, Inc. (ISO) forms CG 20 10 07 04, CG 20 37 07 04, and, with respect to the Architect and the Architect's consultants, and the Construction Manager and the Construction Manager's consultants, CG 20 32 07 04.

§ A.3.2 Contractor's Required Insurance Coverage

§ A.3.2.1 The Contractor shall purchase and maintain the types and limits of insurance as defined in EXH-C Owner Insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The Contractor shall maintain the required insurance until the expiration of the period for correction of Work as set forth in Section 12.2.2 of the General Conditions, unless a different duration is stated below:
(If the Contractor is required to maintain insurance for a duration other than the expiration of the period for correction of Work, state the duration.)

§ A.3.2.2 Commercial General Liability

§ A.3.2.2.1 Commercial General Liability insurance for the Project written on an occurrence form with policy limits as defined in EXH-C Owner Insurance providing coverage for claims including

.1 damages because of bodily injury, sickness or disease, including occupational sickness or disease, and death of any person;
.2 personal injury and advertising injury;
.3 damages because of physical damage to or destruction of tangible property, including the loss of use of such property;
.4 bodily injury or property damage arising out of completed operations; and
.5 the Contractor's indemnity obligations under Section 3.18 of the General Conditions.

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§ A.3.2.2.2 The Contractor's Commercial General Liability policy under this Section A.3.2.2 shall not contain an exclusion or restriction of coverage for the following:

.1 Claims by one insured against another insured, if the exclusion or restriction is based solely on the fact that the claimant is an insured, and there would otherwise be coverage for the claim.

.2 Claims for property damage to the Contractor's Work arising out of the products-completed operations hazard where the damaged Work or the Work out of which the damage arises was performed by a Subcontractor.

.3 Claims for bodily injury other than to employees of the insured.

.4 Claims for indemnity under Section 3.18 of the General Conditions arising out of injury to employees of the insured.

.5 Claims or loss excluded under a prior work endorsement or other similar exclusionary language.

.6 Claims or loss due to physical damage under a prior injury endorsement or similar exclusionary language.

.7 Claims related to residential, multi-family, or other habitational projects, if the Work is to be performed on such a project.

.8 Claims related to roofing, if the Work involves roofing.

.9 Claims related to exterior insulation finish systems (EIFS), synthetic stucco or similar exterior coatings or surfaces, if the Work involves such coatings or surfaces.

.10 Claims related to earth subsidence or movement, where the Work involves such hazards.

.11 Claims related to explosion, collapse and underground hazards, where the Work involves such hazards.

§ A.3.2.3 Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Contractor, with policy limits as defined in EXH-C Owner Insurance.

§ A.3.2.4 The Contractor may achieve the required limits and coverage for Commercial General Liability and Automobile Liability through a combination of primary and excess or umbrella liability insurance, provided such primary and excess or umbrella insurance policies result in the same or greater coverage as the coverages required under Section A.3.2.2 and A.3.2.3, and in no event shall any excess or umbrella liability insurance provide narrower coverage than the primary policy. The excess policy shall not require the exhaustion of the underlying limits only through the actual payment by the underlying insurers. Umbrella coverage as defined in EXH-C Owner Insurance.

§ A.3.2.5 Workers' Compensation at statutory limits for Coverage A as defined in EXH-C Owner Insurance.

§ A.3.2.6 Employers' Liability Coverage B as defined in EXH-C Owner Insurance.

§ A.3.2.7 If the Contractor is required to furnish professional services as part of the Work, the Contractor shall procure Professional Liability insurance covering performance of the professional services, with policy limits as defined in EXH-C Owner Insurance.

§ A.3.2.8 Insurance for the use or operation of manned or unmanned aircraft, if the Work requires such activities, with policy limits as defined in EXH-C Owner Insurance.

(Paragraphs deleted)

§ A.3.3 Contractor's Other Insurance Coverage

§ A.3.3.1 Insurance selected and described in this Section A.3.3 shall be purchased from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The Contractor shall maintain the required insurance until the expiration of the period for correction of Work as set forth in Section 12.2.2 of the General Conditions, unless a different duration is stated below:
(If the Contractor is required to maintain any of the types of insurance selected below for a duration other than the expiration of the period for correction of Work, state the duration.)

If Professional Liability insurance is required as part of the Contract, the Contractor shall maintain coverage for one year beyond the date of Substantial Completion.

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§ A.3.3.2 The Contractor shall purchase and maintain the types and limits of insurance as defined in EXH-C Owner Insurance.

(Paragraphs deleted)

§ A.3.4 Performance Bond and Payment Bond

The Contractor shall provide surety bonds, from a company or companies lawfully authorized to issue surety bonds in the jurisdiction where the Project is located, as follows:
(Specify type and penal sum of bonds.)

Type	Penal Sum ($0.00)
Payment Bond	$460,000
Performance Bond	$460,000

Payment and Performance Bonds shall be AIA Document A312™, Payment Bond and Performance Bond, or contain provisions identical to AIA Document A312™, current as of the date of this Agreement.

ARTICLE A.4 SPECIAL TERMS AND CONDITIONS

Special terms and conditions that modify this Insurance and Bonds Exhibit, if any, are as follows:

None

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Additions and Deletions Report for
AIA® Document A132® – 2019 Exhibit A

This Additions and Deletions Report, as defined on page 1 of the associated document, reproduces below all text the author has added to the standard form AIA document in order to complete it, as well as any text the author may have added to or deleted from the original AIA text. Added text is shown underlined. Deleted text is indicated with a horizontal line through the original AIA text.

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PAGE 1

This Insurance and Bonds Exhibit is part of the Agreement, between the Owner and the Contractor, dated the _first_ day of _February_____ in the year _2025

...

North High School Phase 4 Work Scope 09-C Ceiling and Acoustic Treatments
1500 James Avenue, Minneapolis, MN 55411

...

Minneapolis Public Schools Special School District #1
1250 West Broadway Avenue
Minneapolis, MN 55411

...

Twin City Acoustics, Inc
9449 Science Center Drive, Ste 100
New Hope, MN 55428

PAGE 2

§ A.2.3.1 Unless this obligation is placed on the Contractor pursuant to Section A.3.3.2.1, the Owner shall purchase and maintain, from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located, property insurance ~~written on a builder's risk "all-risks" completed value or equivalent~~ policy form and sufficient to cover the total value of the entire Project on a replacement cost basis. The Owner's property insurance coverage shall be no less than the amount of the initial Contract Sum, plus the value of subsequent Modifications and labor performed and materials or equipment supplied by others. The property insurance shall be maintained until Substantial Completion and thereafter as provided in Section A.2.3.1.3, unless otherwise provided in the Contract Documents or otherwise agreed in writing by the parties to this Agreement. This insurance shall include the interests of the Owner, Contractor, Subcontractors, and Sub-subcontractors in the Project as insureds. This insurance shall include the interests of mortgagees as loss payees.

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§ A.3.2.1 The Contractor shall purchase and maintain the ~~following~~ types and limits of insurance as defined in EXH-C Owner Insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The Contractor shall maintain the required insurance until the expiration of the period for correction of Work as set forth in Section 12.2.2 of the General Conditions, unless a different duration is stated below:

...

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§ A.3.2.2.1 Commercial General Liability insurance for the Project written on an occurrence form with policy limits ~~of not less than ($) each occurrence, ($) general aggregate, and ($) aggregate for products-completed operations hazard,~~ as defined in EXH-C Owner Insurance providing coverage for claims including

§ A.3.2.3 Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Contractor, with policy limits ~~of not less than ($) per accident, for bodily injury, death of any person, and property damage arising out of the ownership, maintenance and use of those motor vehicles along with any other statutorily required automobile coverage.~~as defined in EXH-C Owner Insurance.

§ A.3.2.4 The Contractor may achieve the required limits and coverage for Commercial General Liability and Automobile Liability through a combination of primary and excess or umbrella liability insurance, provided such primary and excess or umbrella insurance policies result in the same or greater coverage as the coverages required under Section A.3.2.2 and A.3.2.3, and in no event shall any excess or umbrella liability insurance provide narrower coverage than the primary policy. The excess policy shall not require the exhaustion of the underlying limits only through the actual payment by the underlying insurers. Umbrella coverage as defined in EXH-C Owner Insurance.

§ A.3.2.5 Workers' Compensation at statutory ~~limits.~~limits for Coverage A as defined in EXH-C Owner Insurance.

§ A.3.2.6 Employers' Liability ~~with policy limits not less than ($) each accident, ($) each employee, and ($) policy limit.~~Coverage B as defined in EXH-C Owner Insurance.

§ A.3.2.7 ~~Jones Act, and the Longshore & Harbor Workers' Compensation Act, as required, if the Work involves hazards arising from work on or near navigable waterways, including vessels and docks.~~ If the Contractor is required to furnish professional services as part of the Work, the Contractor shall procure Professional Liability insurance covering performance of the professional services, with policy limits as defined in EXH-C Owner Insurance.

§ A.3.2.8 ~~If the Contractor is required to furnish professional services as part of the Work, the Contractor shall procure Professional Liability insurance covering performance of the professional services, with policy limits of not less than ($) per claim and ($) in the aggregate.~~Insurance for the use or operation of manned or unmanned aircraft, if the Work requires such activities, with policy limits as defined in EXH-C Owner Insurance.

~~§ A.3.2.9 If the Work involves the transport, dissemination, use, or release of pollutants, the Contractor shall procure Pollution Liability insurance, with policy limits of not less than ($) per claim and ($) in the aggregate.~~

~~§ A.3.2.10 Coverage under Sections A.3.2.8 and A.3.2.9 may be procured through a Combined Professional Liability and Pollution Liability insurance policy, with combined policy limits of not less than ($) per claim and ($) in the aggregate.~~

~~§ A.3.2.11 Insurance for maritime liability risks associated with the operation of a vessel, if the Work requires such activities, with policy limits of not less than ($) per claim and ($) in the aggregate.~~

~~§ A.3.2.12 Insurance for the use or operation of manned or unmanned aircraft, if the Work requires such activities, with policy limits of not less than ($) per claim and ($) in the aggregate.~~

...

If Professional Liability insurance is required as part of the Contract, the Contractor shall maintain coverage for one year beyond the date of Substantial Completion.

§ A.3.3.2 The Contractor shall purchase and maintain the ~~following~~ types and limits of insurance ~~in accordance with Section A.3.3.1.~~as defined in EXH-C Owner Insurance.

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~~*(Select the types of insurance the Contractor is required to purchase and maintain by placing an X in the box(es) next to the description(s) of selected insurance. Where policy limits are provided, include the policy limit in the appropriate fill point.)*~~

~~[ ] § A.3.3.2.1 If there is only one Contractor performing the Work on the Project, property insurance of the same type and scope satisfying the requirements identified in Section A.2.3, which, if selected in this section A.3.3.2.1, relieves the Owner of the responsibility to purchase and maintain such insurance except insurance required by Section A.2.3.1.3 and Section A.2.3.3. The Contractor shall comply with all obligations of the Owner under Section A.2.3 except to the extent provided below. The Contractor shall disclose to the Owner the amount of any deductible, and the Owner shall be responsible for losses within the deductible. Upon request, the Contractor shall provide the Owner with a copy of the property insurance policy or policies required. The Owner shall adjust and settle the loss with the insurer and be the trustee of the proceeds of the property insurance in accordance with Article 11 of the General Conditions unless otherwise set forth below:~~
~~*(Where the Contractor's obligation to provide property insurance differs from the Owner's obligations as described under Section A.2.3, indicate such differences in the space below. Additionally, if a party other than the Owner will be responsible for adjusting and settling a loss with the insurer and acting as the trustee of the proceeds of property insurance in accordance with Article 11 of the General Conditions, indicate the responsible party below.)*~~

~~[ ] § A.3.3.2.2 Railroad Protective Liability Insurance, with policy limits of not less than ($) per claim and ($) in the aggregate, for Work within fifty (50) feet of railroad property.~~

~~[ ] § A.3.3.2.3 Asbestos Abatement Liability Insurance, with policy limits of not less than ($) per claim and ($) in the aggregate, for liability arising from the encapsulation, removal, handling, storage, transportation, and disposal of asbestos-containing materials.~~

~~[ ] § A.3.3.2.4 Insurance for physical damage to property while it is in storage and in transit to the construction site on an "all-risks" completed value form.~~

~~[ ] § A.3.3.2.5 Property insurance on an "all-risks" completed value form, covering property owned by the Contractor and used on the Project, including scaffolding and other equipment.~~

~~[ ] § A.3.3.2.6 Other Insurance~~
~~*(List below any other insurance coverage to be provided by the Contractor and any applicable limits.)*~~

~~Coverage~~ ~~Limits~~

§ A.3.4 Performance Bond and Payment Bond
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Payment Bond	$460,000
Performance Bond	$460,000

...

None

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AIA® Document A232® – 2019

General Conditions of the Contract for Construction, Construction Manager as Adviser Edition

for the following PROJECT:
(Name, and location or address)

North High School Phase 4 Work Scope 09-C Ceiling and Acoustic Treatments
1500 James Avenue, Minneapolis, MN 55411

THE CONSTRUCTION MANAGER:
(Name, legal status, and address)

Kraus-Anderson Construction Company
501 South 8th Street, Minneapolis, MN 55404

THE OWNER:
(Name, legal status, and address)

Minneapolis Public Schools Special School District #1
1250 West Broadway Avenue
Minneapolis, MN 55411

THE ARCHITECT:
(Name, legal status, and address)

LSE Architects 1401 Glenwood Avenue
Minneapolis, MN 55405

ADDITIONS AND DELETIONS:
The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

This document is intended to be used in conjunction with AIA Documents A132™–2019, Standard Form of Agreement Between Owner and Contractor, Construction Manager as Adviser Edition; B132™–2019, Standard Form of Agreement Between Owner and Architect, Construction Manager as Adviser Edition; and C132™–2019, Standard Form of Agreement Between Owner and Construction Manager as Adviser.

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ARTICLE 1 GENERAL PROVISIONS

§ 1.1 Basic Definitions

§ 1.1.1 The Contract Documents. The Contract Documents are enumerated in the Agreement between the Owner and Contractor (hereinafter the Agreement) and consist of the Agreement, Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, Addenda issued prior to execution of the Contract, other documents listed in the Agreement, and Modifications issued after execution of the Contract. A Modification is (1) a written amendment to the Contract signed by both parties, (2) a Change Order, (3) a Construction Change Directive, or (4) a written order for a minor change in the Work issued by the Architect. Unless specifically enumerated in the Agreement, the Contract Documents do not include the advertisement or invitation to bid, Instructions to Bidders, sample forms, other information furnished by the Owner in anticipation of receiving bids or proposals, the Contractor's bid or proposal, or portions of addenda relating to bidding or proposal requirements.

§ 1.1.1.1 Notwithstanding the foregoing, it is understood and agreed that the Owner is an intended third-party beneficiary of all contracts between the Contractor and Subcontractors or suppliers who provide labor and/or materials for the Work.

§ 1.1.2 The Contract. The Contract Documents form the Contract for Construction. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations, or agreements, either written or oral. The Contract may be amended or modified only by a Modification. The Contract Documents shall not be construed to create a contractual relationship of any kind (1) between the Contractor and the Architect or the Architect's consultants, (2) between the Owner and the Construction Manager or the Construction Manager's consultants, (3) between the Owner and the Architect or the Architect's consultants, (4) between the Contractor and the Construction Manager or the Construction Manager's consultants, (5) between the Owner and a Subcontractor or Sub-subcontractor (6) between the Construction Manager and the Architect, or (7) between any persons or entities other than the Owner and Contractor. The Construction Manager and Architect shall, however, be entitled to performance and enforcement of obligations under the Contract intended to facilitate performance of their duties.

§ 1.1.3 The Work. The term "Work" means the construction and services required by the Contract Documents, whether completed or partially completed, and includes all other labor, materials, equipment, and services provided or to be provided by the Contractor to fulfill the Contractor's obligations. The Work may constitute the whole or a part of the Project.

§ 1.1.4 The Project. The Project is the total construction of which the Work performed under the Contract Documents may be the whole or a part and which may include construction by other Contractors, and by the Owner's own forces and Separate Contractors.

§ 1.1.5 Contractors. Contractors are persons or entities, other than the Contractor or Separate Contractors, who perform Work under contracts with the Owner that are administered by the Architect and Construction Manager.

§ 1.1.6 Separate Contractors. Separate Contractors are persons or entities who perform construction under separate contracts with the Owner not administered by the Architect and Construction Manager.

§ 1.1.7 The Drawings. The Drawings are the graphic and pictorial portions of the Contract Documents showing the design, location and dimensions of the Work, generally including plans, elevations, sections, details, schedules, and diagrams.

§ 1.1.8 The Specifications. The Specifications are that portion of the Contract Documents consisting of the written requirements for materials, equipment, systems, standards and workmanship for the Work, and performance of related services.

§ 1.1.9 Instruments of Service. Instruments of Service are representations, in any medium of expression now known or later developed, of the tangible and intangible creative work performed by the Architect and the Architect's consultants under their respective professional services agreements. Instruments of Service may include, without limitation, studies, surveys, models, sketches, drawings, specifications, and other similar materials.

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§ 1.1.10 Initial Decision Maker. The Initial Decision Maker is the person identified in the Agreement to render initial decisions on Claims in accordance with Section 15.2. The Architect will serve as the Initial Decision Maker pursuant to Section 15.2 of AIA Document A232–2019.

§ 1.2 Correlation and Intent of the Contract Documents

§ 1.2.1 The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work by the Contractor. The Contract Documents are complementary, and what is required by one shall be as binding as if required by all; performance by the Contractor shall be required only to the extent consistent with the Contract Documents and reasonably inferable from them as being necessary to produce the intended results.

§ 1.2.1.1 The invalidity of any provision of the Contract Documents shall not invalidate the Contract or its remaining provisions. In such case the Contract Documents shall be construed, to the fullest extent permitted by law, to give effect to the parties' intentions and purposes in executing the Contract.

§ 1.2.2 Organization of the Specifications into divisions, sections and articles, and arrangement of Drawings shall not control the Contractor in dividing the Work among Subcontractors or in establishing the extent of Work to be performed by any trade.

§ 1.2.3 Unless otherwise stated in the Contract Documents, words that have well-known technical or construction industry meanings are used in the Contract Documents in accordance with such recognized meanings.

§ 1.3 Capitalization

Terms capitalized in these General Conditions include those that are (1) specifically defined, (2) the titles of numbered articles, or (3) the titles of other documents published by the American Institute of Architects.

§ 1.4 Interpretation

In the interest of brevity the Contract Documents frequently omit modifying words such as "all" and "any" and articles such as "the" and "an," but the fact that a modifier or an article is absent from one statement and appears in another is not intended to affect the interpretation of either statement.

§ 1.4.1 In the case of inconsistency between Drawings and Specifications or within Contract Documents not clarified by Addenda, the better quality or greater quantity of Work shall be provided in accordance with the Architect's interpretation.

§ 1.5 Ownership and Use of Drawings, Specifications, and Other Instruments of Service

§ 1.5.1 The Architect and the Architect's consultants shall be deemed the authors and owners of their respective Instruments of Service, including the Drawings and Specifications, and retain all common law, statutory, and other reserved rights in their Instruments of Service, including copyrights. The Contractor, Subcontractors, sub-subcontractors, and suppliers shall not own or claim a copyright in the Instruments of Service. Submittal or distribution to meet official regulatory requirements or for other purposes in connection with the Project is not to be construed as publication in derogation of the Architect's or Architect's consultants' reserved rights. The Owner retains rights to the Instruments of Service pursuant to Article 7 of AIA Document B101-2017.

§ 1.5.2 The Contractor, Subcontractors, Sub-subcontractors, and suppliers are authorized to use and reproduce the Instruments of Service provided to them, subject to any protocols established pursuant to Sections 1.7 and 1.8, solely and exclusively for execution of the Work. All copies made under this authorization shall bear the copyright notice, if any, shown on the Instruments of Service. The Contractor, Subcontractors, Sub-subcontractors, and suppliers may not use the Instruments of Service on other projects or for additions to the Project outside the scope of the Work without the specific written consent of the Owner, Architect, and the Architect's consultants.

§ 1.5.3 The Architect shall furnish to the Contractor a version of the Instruments of Service in electronic form for the sole purpose of the construction of the Project for which the Instruments of Service were created.

§ 1.6 Notice

§ 1.6.1 Except as otherwise provided in Section 1.6.2, where the Contract Documents require one party to notify or give notice to the other party, such notice shall be provided in writing to the designated representative of the party to

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whom the notice is addressed and shall be deemed to have been duly served if delivered in person, by mail, by courier, or by electronic transmission if a method for electronic transmission is set forth in the Agreement.

§ 1.6.2 Notice of Claims as provided in Section 15.1.3 shall be provided in writing and shall be deemed to have been duly served only if delivered to the designated representative of the party to whom the notice is addressed by certified or registered mail, or by courier providing proof of delivery.

§ 1.7 Digital Data Use and Transmission

The parties shall agree upon protocols governing the transmission and use of Instruments of Service or any other information or documentation in digital form. The parties may use AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit or other form, to establish the protocols for the development, use, transmission, and exchange of digital data.

§ 1.8 Building Information Models Use and Reliance

Any use of, or reliance on, all or a portion of a building information model without agreement to protocols governing the use of, and reliance on, the information contained in the model and without having those protocols set forth in AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, and the requisite AIA Document G202™–2013, Project Building Information Modeling Protocol Form or other form, shall be at the using or relying party's sole risk and without liability to the other party and its contractors or consultants, the authors of, or contributors to, the building information model, and each of their agents and employees.

ARTICLE 2 OWNER

§ 2.1 General

§ 2.1.1 The Owner is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The Owner shall designate in writing a representative who shall have express authority to bind the Owner with respect to all matters requiring the Owner's approval or authorization in accordance with Owner's Delegation of Authority Policy, a copy of which will be provided at Contractor's request. Except as otherwise provided in Section 4.2.1, the Construction Manager and the Architect do not have such authority. The term "Owner" means the Owner or the Owner's authorized representative.

(Paragraph deleted)

§ 2.2 Evidence of the Owner's Financial Arrangements

§ 2.2.1 Prior to commencement of the Work, and upon written request by the Contractor, the Owner shall furnish to the Contractor reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Contract. The Contractor shall have no obligation to commence the Work until the Owner provides such evidence. If commencement of the Work is delayed under this Section 2.2.1, the Contract Time shall be extended appropriately.

§ 2.2.2 Following commencement of the Work and upon written request by the Contractor, the Owner shall furnish to the Contractor reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Contract only if (1) the Owner fails to make payments to the Contractor as the Contract Documents require; (2) the Contractor identifies in writing a reasonable concern regarding the Owner's ability to make payment when due; or (3) a change in the Work materially changes the Contract Sum. If the Owner fails to provide such evidence, as required, within fourteen days of the Contractor's request, the Contractor may immediately stop the Work and, in that event, shall notify the Owner that the Work has stopped. However, if the request is made because a change in the Work materially changes the Contract Sum under (3) above, the Contractor may immediately stop only that portion of the Work affected by the change until reasonable evidence is provided. If the Work is stopped under this Section 2.2.2, the Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable costs of shutdown, delay and start-up, plus interest as provided in the Contract Documents.

§ 2.2.3 After the Owner furnishes evidence of financial arrangements under this Section 2.2, the Owner shall not materially vary such financial arrangements without prior notice to the Contractor.

§ 2.2.4 Where the Owner has designated information furnished under this Section 2.2 as "confidential," the Contractor shall keep the information confidential and shall not disclose it to any other person. However, the Contractor may disclose "confidential" information, after seven (7) days' notice to the Owner, where disclosure is required by law, including a subpoena or other form of compulsory legal process issued by a court or governmental entity, or by court

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or arbitrator(s) order. The Contractor may also disclose "confidential" information to its employees, consultants, sureties, Subcontractors and their employees, Sub-subcontractors, and others who need to know the content of such information solely and exclusively for the Project and who agree to maintain the confidentiality of such information.

§ 2.3 Information and Services Required of the Owner

§ 2.3.1 Except for permits and fees that are the responsibility of the Contractor under the Contract Documents, including those required under Section 3.7.1, the Owner shall secure and pay for necessary approvals, easements, assessments and charges required for construction, use or occupancy of permanent structures or for permanent changes in existing facilities. Unless otherwise provided under the Contract Documents, the Owner, assisted by the Construction Manager, shall secure and pay for the building permit.

§ 2.3.2 The Owner shall retain an architect lawfully licensed to practice architecture, or an entity lawfully practicing architecture, in the jurisdiction where the Project is located. That person or entity is identified as the Architect in the Agreement and is referred to throughout the Contract Documents as if singular in number.

§ 2.3.3 The Owner shall retain a construction manager adviser lawfully practicing construction management in the jurisdiction where the Project is located. That person or entity is identified as the Construction Manager in the Agreement and is referred to throughout the Contract Documents as if singular in number.

§ 2.3.4 If the employment of the Construction Manager or Architect terminates, the Owner shall employ a successor construction manager or architect to whom the Contractor has no reasonable objection and whose status under the Contract Documents shall be that of the Construction Manager or Architect, respectively.

§ 2.3.5 If requested by the Contractor and reasonably required for the Project, the Owner shall furnish surveys describing physical characteristics, legal limitations and utility locations for the site of the Project, and a written legal description of the site. The Contractor shall exercise proper precautions relating to the safe performance of the Work.

§ 2.3.6 The Owner shall furnish information or services required of the Owner by the Contract Documents with reasonable promptness. The Owner shall also furnish any other information or services under the Owner's control and relevant to the Contractor's performance of the Work with reasonable promptness after receiving the Contractor's written request for such information or services. The Contractor is responsible for the timeliness of, or interference caused by, Subcontractors, Sub-subcontractors (of any tier), and others directly or indirectly under contract to the Contractor.

§ 2.3.7 Unless otherwise provided in the Contract Documents, the Owner shall furnish to the Contractor one copy of the Contract Documents for purposes of making reproductions pursuant to Section 1.5.2.

§ 2.3.8 The Owner shall forward all communications to the Contractor through the Construction Manager. Other communication shall be made as set forth in Section 4.2.6.

§ 2.4 Owner's Right to Stop the Work

If the Contractor fails to correct Work that is not in accordance with the requirements of the Contract Documents as required by Section 12.2 or repeatedly fails to carry out Work in accordance with the Contract Documents, the Owner may issue a written order to the Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, the right of the Owner to stop the Work shall not give rise to a duty on the part of the Owner to exercise this right for the benefit of the Contractor or any other person or entity, except to the extent required by Section 6.1.3.

§ 2.5 Owner's Right to Carry Out the Work

If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within a three-business-day (3) period after receipt of notice from the Owner to commence and continue correction of such default or neglect with diligence and promptness, the Owner may, without prejudice to other remedies the Owner may have, correct such default or neglect. Such action by the Owner and amounts charged to the Contractor are both subject to review by the Construction Manager and prior approval of the Architect, and the Construction Manager or Architect may, pursuant to Section 9.5.1, withhold or nullify a Certificate for Payment in whole or in part, to the extent reasonably necessary to reimburse the Owner for the reasonable cost of correcting such deficiencies, including Owner's expenses and compensation for the Construction Manager's and Architect's and their respective consultants'

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additional services and expenses made necessary by such default, neglect, or failure. If current and future payments are not sufficient to cover such amounts, the Contractor shall pay the difference to the Owner within ten (10) days following written request for payment delivered by the Owner to the Contractor. If the Contractor disagrees with the actions of the Owner or the Architect, or the amounts claimed as costs to the Owner, the Contractor may file a Claim pursuant to Article 15.

ARTICLE 3 CONTRACTOR

§ 3.1 General

§ 3.1.1 The Contractor is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The Contractor shall be lawfully licensed, if required in the jurisdiction where the Project is located. The Contractor shall designate in writing a representative who shall have express authority to bind the Contractor with respect to all matters under this Contract. The term "Contractor" means the Contractor or the Contractor's authorized representative.

§ 3.1.2 The Contractor shall perform the Work in accordance with the Contract Documents.

§ 3.1.3 The Contractor shall hire a professional utilities locator to investigate and verify all private utility locations prior to excavation and cutting into of existing Work. The Contractor is responsible for locating, terminating, and reinstallation of all private utilities. Private site utilities may not be in the Drawings and Project Manual and as such, verification of private utilities is the sole responsibility of the Contractor. Costs associated with moving and repairing of unknown and undocumented utilities will be by appropriate Change Order. The Contractor shall comply with Gopher State One Call, or other public utility service locator to locate all public utilities prior to any work on the site. This shall not relieve Contractor from obligations under Article 3.

§ 3.1.4 The Contractor shall not be relieved of its obligations to perform the Work in accordance with the Contract Documents either by activities or duties of the Construction Manager or Architect in their administration of the Contract, or by tests, inspections or approvals required or performed by persons or entities other than the Contractor.

§ 3.2 Review of Contract Documents and Field Conditions by Contractor

§ 3.2.1 The Contractor shall carefully study and compare the Contract Documents with each other and with information furnished by the Owner pursuant to Section 2.2.3, and shall immediately report to the Architect and Construction Manager errors, inconsistencies, or omissions discovered. The Contractor shall not be liable to the Owner or Architect for damage resulting from errors, inconsistencies, or omissions in the Contract Document unless the Contractor recognized such error, inconsistency, or omission and knowingly failed to report it to the Architect. If the Contractor performs any construction activity knowing or believing it involves a recognized error, inconsistency, or omission in the Contract Documents without such notice to the Architect, the Contractor shall assume full responsibility for such performance and shall bear the attributable costs for correction and shall bear responsibility for any additional costs, delays, and damages resulting from such failure to immediately report any such errors, inconsistencies, or omissions which the Contractor may discover. By executing the Contract, the Contractor represents that the Contractor has reviewed and understands the Contract Documents, has visited the Site and is familiar with local conditions under which the Work is to be performed, has correlated personal observations with the requirements of the Contract Documents, and has notified the Architect of and obtained clarification of any discrepancies which have become apparent during the bidding or proposal period.

§ 3.2.1.1 The Contractor shall take field measurements and verify field conditions and shall carefully compare such field measurements and conditions and other information known to the Contractor with the Contract Documents before commencing activities. Errors, inconsistencies, or omissions discovered shall be reported to the Architect immediately in writing.

§ 3.2.1.2 The Contractor shall carefully study and compare the Contract Documents with existing conditions at the job site and shall immediately report in writing to the Architect any error, inconsistency, or omission which the Contractor may discover or any materials, systems, procedures, or methods of construction, either shown on the Drawings or specified, which the Contractor has reason to believe are incorrect, inadequate, obsolete, unsuitable for the purpose intended or which the Contractor has reason to believe would constitute or result in a violation of the Contractor's warranty under Section 3.5 or applicable law. The Contractor shall not proceed with any work in such areas until written instructions are received from the Architect.

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§ 3.2.2 The Contractor shall perform the Work in accordance with the Contract Documents and submittals accepted pursuant to Section 3.12.

§ 3.2.3 The Owner shall be entitled to deduct from the Contract Sum amounts paid to the Architect for the Architect to evaluate and respond to the Contractor's requests for interpretation or information where such information was available to the Contractor from a careful study and comparison of the Contract Documents, Filed Conditions, Owner Provided Information, Contractor Prepared Coordination Drawings, or prior Project Correspondence or Documentation.

§ 3.2.4 If the Contractor believes that any portions of the Contract Documents do not comply with applicable laws, statutes, ordinances, building codes, and rules and regulations, or any orders by code enforcement officials or the Owner or its designees acting in the capacity of building code inspectors or Referenced Standards, the Contractor must promptly notify the Owner and the Architect of the non-compliance as provided in Section 3.2.6 and request direction before proceeding with the affected Work.

§ 3.2.5 The Contractor must promptly notify the Owner and the Architect in writing of any apparent errors, inconsistencies, omissions, ambiguities, construction impracticalities or code violations discovered as a result of the Contractor's review of the Contract Documents including any differences between actual and indicated dimensions, locations and descriptions, and must give the Owner and the Architect timely notice in writing of same and of any corrections, clarifications, additional Drawings or Specifications, or other information required to define the Work in greater detail or to permit the proper progress of the Work. The Contractor must provide similar notice with respect to any variance between its review of the Site and physical data and Site conditions observed.

§ 3.2.6 If the Contractor performs any Work involving an apparent error, inconsistency, ambiguity, construction impracticality, omission or code violation in the Contract Documents of which the Contractor is aware, or which could reasonably have been discovered by the review required by Section 3.2, without prompt written notice to the Owner and the Architect and request for correction, clarification or additional information, as appropriate, the Contractor does so at its own risk and expense and all Claims relating thereafter are specifically waived.

§ 3.3 Supervision and Construction Procedures

§ 3.3.1 The Contractor shall supervise and direct the Work, using the Contractor's best skill and attention. The Contractor shall be solely responsible for, and have control over, construction means, methods, techniques, sequences, and procedures, and for coordinating all portions of the Work under the Contract. If the Contract Documents give specific instructions concerning construction means, methods, techniques, sequences, or procedures, the Contractor shall evaluate the jobsite safety thereof and shall be solely responsible for the jobsite safety of such means, methods, techniques, sequences, or procedures. If the Contractor determines that such means, methods, techniques, sequences or procedures may not be safe, the Contractor shall give timely notice to the Owner, the Construction Manager, and the Architect, and shall propose alternative means, methods, techniques, sequences, or procedures. The Architect shall evaluate the proposed alternative solely for conformance with the design intent for the completed construction. The Construction Manager shall review the proposed alternative for sequencing, constructability, and coordination impacts on the other Contractors. Unless the Architect or the Construction Manager objects to the Contractor's proposed alternative, the Contractor shall perform the Work using its alternative means, methods, techniques, sequences, or procedures.

§ 3.3.2 The Contractor shall be responsible to the Owner for acts and omissions of the Contractor's employees, Subcontractors and their agents and employees, and other persons or entities performing portions of the Work for, or on behalf of, the Contractor or any of its Subcontractors.

§ 3.3.3 The Contractor shall be responsible for inspection of portions of the Project already performed to determine that such portions are in proper condition to receive subsequent Work.

§ 3.3.4 The Contractor shall at all times staff the Project adequately to allow the Project to be managed and completed in a timely and professional manner. The Contractor shall have competent supervision on the job during work hours and readily available at all times upon call.

§ 3.3.5 The Contractor shall at all times make reasonable provisions to protect any Work performed by any separate contractors, adjacent property, and the existing building (if any) from damage due to the Work or due to the weather.

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§ 3.3.6 The Owner or its approved representative (heretofore referred to as Owner's Representative) shall have access to the Work site and all Work. No supervision or inspection by the Owner or the Owner's Representative, nor the authority to act, nor any other actions taken by the Owner's Representative shall relieve the Contractor of any of its obligations under the Contract Documents or give rise to any duty on the part of the Owner.

§ 3.3.7 The Contract shall take appropriate precautions to ensure that the Work does not materially disrupt any ongoing operation by the Owner at the Project (if any) except to the extent any such disruption is a necessary result of performing a particular portion of the Work, in which case the Contractor shall provide the Owner with reasonable advanced written notice and shall take all commercially reasonable measures to minimize the impact on the Owner and the Owner's operations.

§ 3.4 Labor and Materials

§ 3.4.1 Unless otherwise provided in the Contract Documents, the Contractor shall provide and pay for labor, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation, and other facilities and services necessary for proper execution and completion of the Work, whether temporary or permanent and whether or not incorporated or to be incorporated in the Work. Should the Contract Documents require Work to be performed after regular working hours or should the Contractor elect to perform Work after regular working hours, the additional cost of such Work shall be borne by the Contractor.

§ 3.4.2 Except in the case of minor changes in the Work approved by the Architect in accordance with Section 3.12.8 or ordered by the Architect in accordance with Section 7.4, the Contractor may make substitutions only with the consent of the Owner, after evaluation by the Architect, in consultation with the Construction Manager, and in accordance with a Change Order or Construction Change Directive.

§ 3.4.3 The Contractor shall enforce strict discipline and good order among the Contractor's employees and other persons carrying out the Work. The Contractor shall not permit employment of unfit persons or persons not properly skilled in tasks assigned to them.

§ 3.4.4 The Contractor shall be responsible for all additional costs incurred to incorporate into the Project substitute materials, products, or equipment approved by Owner during the bidding period.

§ 3.4.5 In the event of a Change related to substitute or additional materials, and which shall comply with Article 7, the Contractor shall exercise reasonable efforts, consistent with the provisions of the Contract Documents to obtain the maximum available case discounts on all materials, provided that, in doing so, the Contractor shall not accept or use materials for incorporation into the Project which are of a type or quality not reasonably contemplated under the terms of the Contract Documents.

§ 3.4.6 After award of the Contract, a request for substitution of a material, product, or piece of equipment at no change in the Contract Sum will not be approved by the Owner or the Architect, unless the specified item is no longer manufactured, the specified item is unavailable as a result of an act of government such as a declaration of a national emergency, or delivery of the specified items is substantially delayed as a result of labor disputes affecting the manufacturer, unusual delay in transportation, or any other cause beyond control of the Contractor or a Subcontractor or material supplier which the Architect determines justified the delay. Requests will not be approved where the delay in delivery results from failure to promptly place subcontracts and material orders. Requests for substitution shall be submitted in writing to the Architect and shall clearly describe the proposed substitution, state the reason for the unavailability of a specified item and be accompanied by such additional data and information as may be necessary in the discretion of the Owner and the Architect to establish the acceptability of the proposed substitute.

§ 3.4.7 The Owner shall be entitled to deduct from the Contract Sum amounts paid to the Architect to evaluate the Contractor's proposed Substitutions and for changes made to the Contract Documents as a result of Owner's acceptance of such Substitutions.

§ 3.5 Warranty

§ 3.5.1 The Contractor warrants to the Owner, Construction Manager, and Architect that materials and equipment furnished under the Contract will be of good quality and new unless the Contract Documents require or permit otherwise. The Contractor further warrants that the Work will conform to the requirements of the Contract Documents

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and will be free from defects, except for those inherent in the quality of the Work the Contract Documents require or permit. Work, materials, or equipment not conforming to these requirements may be considered defective. The Contractor's warranty excludes remedy for damage or defect caused by abuse, alterations to the Work not executed by the Contractor, improper or insufficient maintenance, improper operation, or normal wear and tear and normal usage. If required by the Construction Manager or Architect, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment.

§ 3.5.2 All material, equipment, or other special warranties required by the Contract Documents shall be issued in the name of the Owner, or shall be transferable to the Owner, and shall commence in accordance with Section 9.8.4. The Contractor shall arrange for the Owner to have the benefit of and right to enforce all warranties by Subcontractors, Sub-subcontractors, suppliers, and manufacturers.

§ 3.5.3 Manufacturers' warranties and warranties by other shall not relieve the Contractor of any of its responsibilities.

§ 3.5.4 The Contractor's general warranty and any additional or special warranties are not limited by the Contractor's obligations to specifically correct defective or nonconforming Work as provided in Article 12, nor are they limited by any other remedies provided in the Contract Documents. The Contractor shall also be liable for any damage to property or persons (including death) including consequential and direct damages relating to any breach of the Contractor's general warranty or any additional or special warranties required by the Contract Documents.

§ 3.5.5 The Contractor must furnish all special warranties required by the Contract Documents to the Owner no later than Substantial Completion. The Owner may require additional special warranties in connection with the approval of "Or-Equals" or Substitutions, Allowance items, Work that is defective or nonconforming, or the acceptance of nonconforming Work pursuant to Article 12.

§ 3.6 Taxes

The Contractor shall pay sales, consumer, use and similar taxes for the Work or portions thereof provided by the Contractor that are legally enacted when bids are received or negotiations concluded, whether or not yet effective or merely scheduled to go into effect.

§ 3.7 Permits, Fees, Notices, and Compliance with Laws

§ 3.7.1 Unless otherwise provided in the Contract Documents, the Owner, assisted by the Construction Manager, shall secure and pay for the building permit. The Contractor shall secure and pay for other permits, fees, licenses, and inspections by government agencies necessary for proper execution and completion of the Work that are customarily secured after execution of the Contract and legally required at the time bids are received or negotiations concluded. The Contractor shall be responsible for the Sewer Access (SAC) and Water Access (WAC) fees for the Project. The Contractor shall pay the SAC/WAC costs to the authorities having jurisdiction from the Allowance in the Base Bid for such charges as defined in the Construction Documents.

§ 3.7.2 The Contractor shall comply with and give notices required by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities applicable to performance of the Work.

§ 3.7.3 If the Contractor performs Work knowing or believing it to be contrary to applicable laws, statutes, ordinances, building codes, rules and regulations, or lawful orders of public authorities, without such notice to the Architect and Owner, the Contractor shall assume full responsibility for such Work and shall bear the attributable costs, delays, and damages resulting from such failure to immediately notify the Architect and Owner of any such violation..

§ 3.7.4 Concealed or Unknown Conditions. If the Contractor encounters conditions at the site that are (1) subsurface or otherwise concealed physical conditions that differ materially from those indicated in the Contract Documents or (2) unknown physical conditions of an unusual nature that differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents, the Contractor shall promptly provide notice to the Owner, Construction Manager, and the Architect before conditions are disturbed and in no event later than ten (10) days after first observance of the conditions. The Architect and Construction Manager will promptly investigate such conditions and, if the Architect, in consultation with the Construction Manager, determines that they differ materially and cause an increase or decrease in the Contractor's cost of, or time required for, performance of any part of the Work, will recommend that an equitable adjustment be made in the Contract Sum or Contract Time, or both. If the Architect, in consultation with the Construction Manager,

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determines that the conditions at the site are not materially different from those indicated in the Contract Documents and that no change in the terms of the Contract is justified, the Architect shall promptly notify the Owner, Construction Manager, and Contractor, stating the reasons. If the Owner or Contractor disputes the Architect's determination or recommendation, either party may submit a Claim as provided in Article 15.

§ 3.7.5 If, in the course of the Work, the Contractor encounters human remains or recognizes the existence of burial markers, archaeological sites or wetlands not indicated in the Contract Documents, the Contractor shall immediately suspend any operations that would affect them and shall notify the Owner, Construction Manager, and Architect. Upon receipt of such notice, the Owner shall promptly take any action necessary to obtain governmental authorization required to resume the operations. The Contractor shall continue to suspend such operations until otherwise instructed by the Owner but shall continue with all other operations that do not affect those remains or features. Requests for adjustments in the Contract Sum and Contract Time arising from the existence of such remains or features may be made as provided in Article 15.

§ 3.8 Allowances

§ 3.8.1 The Contractor shall include in the Contract Sum all allowances stated in the Contract Documents. Items covered by allowances shall be supplied for such amounts and by such persons or entities as the Owner may direct, but the Contractor shall not be required to employ persons or entities to whom the Contractor has reasonable objection.

§ 3.8.2 Unless otherwise provided in the Contract Documents:

.1 allowances shall cover the cost to the Contractor of materials and equipment delivered at the site and all required taxes, less applicable trade discounts;

.2 Contractor's costs for unloading and handling at the site, labor, installation costs, overhead, profit, and other expenses contemplated for stated allowance amounts shall be included in the Contract Sum but not in the allowances; and

.3 whenever costs are more than or less than allowances, the Contract Sum shall be adjusted accordingly by Change Order. The amount of the Change Order shall reflect (1) the difference between actual costs and the allowances under Section 3.8.2.1 and (2) changes in Contractor's costs under Section 3.8.2.2.

§ 3.8.3 Materials and equipment under an allowance shall be selected by the Owner with reasonable promptness.

§ 3.9 Superintendent

§ 3.9.1 The Contractor shall employ a competent superintendent and necessary assistants who shall be in attendance at the Project site during performance of the Work, including that performed by all Subcontractors. The superintendent shall represent the Contractor, and communications given to the superintendent shall be as binding as if given to the Contractor. Important communications including and not limited to communications regarding design changes, alterations, substitutions, clarifications, cost changes, etc. shall be confirmed in writing by the Contractor. Other communications shall be similarly confirmed on written request in each case.

§ 3.9.2 The Contractor, as soon as practicable after award of the Contract, shall notify the Owner and Architect, through the Construction Manager, of the name and qualifications of a proposed superintendent. Within 14 days of receipt of the information, the Construction Manager may notify the Contractor, stating whether the Owner, the Construction Manager, or the Architect (1) has reasonable objection to the proposed superintendent or (2) require additional time for review. Failure of the Construction Manager to provide notice within the 14-day period shall constitute notice of no reasonable objection.

§ 3.9.3 The Contractor shall not employ a proposed superintendent or any other management personnel to whom the Owner, Construction Manager, or Architect has made reasonable and timely objection. The Contractor shall not change the superintendent without the Owner's consent, which shall not unreasonably be withheld or delayed.

§ 3.9.4 If requested by the Owner, the Contractor shall replace the superintendent at no additional cost to the Owner. No other change in this position shall be made without notice to and written consent of the Owner.

§ 3.10 Contractor's Construction and Submittal Schedules

§ 3.10.1 The Contractor, promptly after being awarded the Contract, shall submit for the Owner's and Architect's information, and the Construction Manager's use in developing the Project schedule, a Contractor's construction schedule for the Work. The schedule shall contain detail appropriate for the Project, including (1) the date of

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commencement of the Work, interim schedule milestone dates, critical path schedule milestones, major construction milestones, including and not limited to Civil, Demolition, Structural, Mechanical, Electrical, and Plumbing, and the date of Substantial Completion; (2) an apportionment of the Work by construction activity; and (3) the time required for completion of each portion of the Work. The schedule shall provide for the orderly progression of the Work to completion and shall not exceed time limits current under the Contract Documents. The schedule shall be revised at appropriate intervals as required by the conditions of the Work and Project. The Contractor shall cooperate with the Construction Manager in scheduling and performing the Contractor's Work to avoid conflict with, and as to cause no delay in, the work or activities of other Contractors, or the construction or operations of the Owner's own forces or Separate Contractors.

§ 3.10.2 The Contractor, promptly after being awarded the Contract and thereafter as necessary to maintain a current submittal schedule, shall submit a submittal schedule for the Construction Manager's and Architect's approval. The Architect and Construction Manager's approval shall not be unreasonably delayed or withheld. The submittal schedule shall (1) be coordinated with the Contractor's construction schedule, and (2) allow the Construction Manager and Architect reasonable time to review submittals. If the Contractor fails to submit a submittal schedule, or fails to provide submittals in accordance with the approved submittal schedule, the Contractor shall not be entitled to any increase in Contract Sum or extension of Contract Time based on the time required for review of submittals.

§ 3.10.3 The Contractor shall participate with other Contractors, the Construction Manager, and the Owner in reviewing and coordinating all schedules for incorporation into the Project schedule that is prepared by the Construction Manager. The Contractor shall make revisions to the construction schedule and submittal schedule as deemed necessary by the Construction Manager to conform to the Project schedule.

§ 3.10.4 The Contractor shall perform the Work in general accordance with the most recent schedules submitted to and accepted in writing by the Owner, Construction Manager, and Architect, and incorporated into the approved Project schedule.

§ 3.11 Documents and Samples at the Site

§ 3.11.1 The Contractor shall make available, at the Project site, one record copy of the Contract Documents, including Change Orders, Construction Change Directives, and other Modifications, in good order and updated daily to indicate field changes and selections made during construction, and in addition accepted and approved Shop Drawings, Product Data, Samples, and similar required submittals. These shall be in electronic form or paper copy, available to the Construction Manager, Architect, and Owner as required to complete routine inspections by Architect, Construction Manager and Owner prior to any approval of payments to the Contractor, and delivered to the Construction Manager for submittal to the Owner upon completion of the Work. The Architect and Contractor must verify that all "as-built" Drawings, Specifications, Addenda, Change Orders, and other Modifications are up-to-date before Contractor's Application for Payment is acceptable and before the Owner incurs any duty to pay Contractor in accordance with the Contract. The record documents shall be a separate set of documents labeled "Record Documents" and used only for record purposes and kept clean and undamaged.

§ 3.11.2 No review or receipt of such records by the Architect or Owner shall be considered a waiver of any deviation from the Contract Documents or approved shop drawings, or any way relieve the Contractor from its responsibility to perform the Work in accordance with the Contract Documents.

§ 3.12 Shop Drawings, Product Data, and Samples

§ 3.12.1 Shop Drawings are drawings, diagrams, schedules, and other data specially prepared for the Work by the Contractor or a Subcontractor, Sub-subcontractor, manufacturer, supplier, or distributor to illustrate some portion of the Work.

§ 3.12.2 Product Data are illustrations, standard schedules, performance charts, instructions, brochures, diagrams, and other information furnished by the Contractor to illustrate materials or equipment for some portion of the Work.

§ 3.12.3 Samples are physical examples that illustrate materials, equipment, or workmanship, and establish standards by which the Work will be judged.

§ 3.12.4 Shop Drawings, Product Data, Samples, and similar submittals are not Contract Documents. Their purpose is to demonstrate how the Contractor proposes to conform to the information given and the design concept expressed in the Contract Documents for those portions of the Work for which the Contract Documents require submittals. Review

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by the Architect and Construction Manager is subject to the limitations of Sections 4.2.10 through 4.2.12. Informational submittals upon which the Construction Manager and Architect are not expected to take responsive action may be so identified in the Contract Documents. Submittals that are not required by the Contract Documents may be returned by the Construction Manager or Architect without action.

§ 3.12.5 The Contractor shall review for compliance with the Contract Documents, approve, and submit to the Construction Manager, Shop Drawings, Product Data, Samples, and similar submittals required by the Contract Documents, in accordance with the Project submittal schedule approved by the Construction Manager and Architect or, in the absence of an approved Project submittal schedule, with reasonable promptness and in such sequence as to cause no delay in the Work or in the activities of other Contractors, Separate Contractors, or the Owner's own forces. The Contractor shall cooperate with the Construction Manager in the coordination of the Contractor's Shop Drawings, Product Data, Samples, and similar submittals with related documents submitted by other Contractors. The Contractor must provide the Owner and the Architect with copies of all submittals made to regulatory agencies.

§ 3.12.6 By submitting Shop Drawings, Product Data, Samples, and similar submittals, the Contractor represents to the Owner, Construction Manager, and Architect, that the Contractor has (1) reviewed and approved them, (2) determined and verified materials, field measurements and field construction criteria related thereto, or will do so, and (3) checked and coordinated the information contained within such submittals with the requirements of the Work and of the Contract Documents.

§ 3.12.7 The Contractor shall perform no portion of the Work for which the Contract Documents require submittal and review of Shop Drawings, Product Data, Samples, or similar submittals, until the respective submittal has been reviewed and accepted by the Architect. The Contractor must correct at its cost, and without any adjustment in Contract Time, any Work the correction of which is required due to the Contractor's failure to obtain approval of a submittal required to have been obtained prior to proceeding with the Work, including, but not limited to, correction of any conflicts in the Work resulting from such failure.

§ 3.12.8 The Work shall be in accordance with accepted submittals except that the Contractor shall not be relieved of responsibility for deviations from the requirements of the Contract Documents by the Architect's acceptance of Shop Drawings, Product Data, Samples, or similar submittals, unless the Contractor has specifically notified the Construction Manager and Architect of such deviation at the time of submittal and (1) the Architect has given written acceptance to the specific deviation as a minor change in the Work, or (2) a Change Order or Construction Change Directive has been issued authorizing the deviation. The Contractor shall not be relieved of responsibility for errors or omissions in Shop Drawings, Product Data, Samples, or similar submittals, by the Architect's acceptance thereof.

§ 3.12.9 The Contractor shall direct specific attention, in writing or on resubmitted Shop Drawings, Product Data, Samples, or similar submittals, to revisions other than those requested by the Construction Manager and Architect on previous submittals. In the absence of such notice, the Architect's acceptance of a resubmission shall not apply to such revisions.

§ 3.12.10 The Contractor shall not be required to provide professional services that constitute the practice of architecture or engineering unless such services are specifically required by the Contract Documents for a portion of the Work or unless the Contractor needs to provide such services in order to carry out the Contractor's responsibilities for construction means, methods, techniques, sequences, and procedures. The Contractor shall not be required to provide professional services in violation of applicable law.

§ 3.12.10.1 If professional design services or certifications by a design professional related to systems, materials, or equipment are specifically required of the Contractor by the Contract Documents, the Owner and the Architect will specify all performance and design criteria that such services must satisfy. The Contractor shall be entitled to rely upon the adequacy and accuracy of the performance and design criteria provided in the Contract Documents. The Contractor shall cause such services or certifications to be provided by an appropriately licensed design professional, whose signature and seal shall appear on all drawings, calculations, specifications, certifications, Shop Drawings, and other submittals prepared by such professional. Shop Drawings, and other submittals related to the Work, designed or certified by such professional, if prepared by others, shall bear such professional's written approval when submitted to the Architect. The Owner, the Architect, and the Construction Manager shall be entitled to rely upon the adequacy and accuracy of the services, certifications, and approvals performed or provided by such design professionals, provided the Owner and Architect have specified to the Contractor the performance and design criteria that such services must

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satisfy. Pursuant to this Section 3.12.10, the Architect will review and approve or take other appropriate action on submittals only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Construction Manager shall review submittals for sequencing, constructability, and coordination impacts on other Contractors.

§ 3.12.10.2 If the Contract Documents require the Contractor's design professional to certify that the Work has been performed in accordance with the design criteria, the Contractor shall furnish such certifications to the Construction Manager and Architect at the time and in the form specified by the Architect.

§ 3.13 Use of Site

§ 3.13.1 The Contractor shall confine operations at the site to areas permitted by applicable laws, statutes, ordinances, codes, rules and regulations, lawful orders of public authorities, and the Contract Documents and shall not unreasonably encumber the site with materials or equipment.

§ 3.13.2 The Contractor shall coordinate the Contractor's operations with, and secure the approval of, the Construction Manager before using any portion of the site.

§ 3.13.3 Except as may be specifically provided in the Contract Documents, the Contractor shall provide all necessary temporary facilities, including power, water, sanitation, scaffolding, storage, and security. If Owner makes any such facilities available to Contractor, it is without representation or warranty as to their adequacy for Contractor's use, and Contractor shall indemnify, defend, and hold Owner harmless from and against any claims arising out of Contractor's use of such facilities.

§ 3.14 Cutting and Patching

§ 3.14.1 The Contractor shall be responsible for cutting, fitting, or patching required to complete the Work or to make its parts fit together properly. All areas requiring cutting, fitting, or patching shall be restored to the condition existing prior to the cutting, fitting, or patching, unless otherwise required by the Contract Documents.

§ 3.14.2 The Contractor shall not damage or endanger a portion of the Work or fully or partially completed construction of the Owner, Separate Contractors, or of other Contractors by cutting, patching, or otherwise altering such construction, or by excavation. The Contractor shall not cut or otherwise alter construction by the Owner, Separate Contractors, or by other Contractors except with written consent of the Construction Manager, Owner, and such other Contractors or Separate Contractors. Consent shall not be unreasonably withheld. The Contractor shall hire a professional utilities locator to verify locations of all public and private utilities prior to initiating any cutting work. The Contractor shall not unreasonably withhold, from the Separate Contractors, other Contractors, or the Owner, its consent to cutting or otherwise altering the Work.

§ 3.15 Cleaning Up

§ 3.15.1 The Contractor shall keep the premises and surrounding area continuously free from accumulation of waste materials and rubbish caused by operations under the Contract. At completion of the Work, the Contractor shall remove from and about the Project waste materials, rubbish, Contractor-generated waste materials, the Contractor's generated hazardous waste materials, the Contractor's tools, construction equipment, machinery, and surplus materials from and about the Project.

§ 3.15.2 If the Contractor fails to clean up as provided in the Contract Documents, the Owner, or Construction Manager with the Owner's approval, may do so and the Owner shall be entitled to reimbursement from the Contractor.

§ 3.16 Access to Work

The Contractor shall provide the Owner, Construction Manager, and Architect with access to the Work in preparation and progress wherever located.

§ 3.17 Royalties, Patents and Copyrights

The Contractor shall pay all royalties and license fees. The Contractor shall defend suits or claims for infringement of copyrights and patent rights and shall hold the Owner, Construction Manager, and Architect harmless from loss on account thereof, but shall not be responsible for defense or loss when a particular design, process, or product of a particular manufacturer or manufacturers is required by the Contract Documents, or where the copyright violations are contained in Drawings, Specifications, or other documents prepared by the Owner, Architect, or Construction

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Manager. However, if an infringement of a copyright or patent is discovered by, or made known to, the Contractor, the Contractor shall be responsible for the loss unless the information is promptly furnished to the Architect through the Construction Manager.

§ 3.18 Indemnification

§ 3.18.1 To the fullest extent permitted by law, the Contractor shall indemnify, defend and hold harmless the Owner, Construction Manager, Architect, Construction Manager's and Architect's consultants, and agents and employees of any of them from and against claims, damages, losses, and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), but only to the extent caused by the negligent acts or omissions of the Contractor, a Subcontractor, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss, or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity which would otherwise exist as to a party or person described in this Section 3.18. The Contractor, furthermore, agrees to obtain, maintain, and pay for such general liability coverage and endorsements (including product and completed operations coverage) as will ensure the provisions of this Section 3.18.1. The Contractor agrees to reimburse the Owner, its agents and employees for all costs and disbursements, including attorneys' fees, paid or incurred to enforce the provisions of this Section 3.18.1.

§ 3.18.2 In claims against any person or entity indemnified under this Section 3.18 by an employee of the Contractor, a Subcontractor, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, the indemnification obligation under Section 3.18.1 shall not be limited by a limitation on amount or type of damages, compensation, or benefits payable by or for the Contractor or a Subcontractor under workers' compensation acts, disability benefit acts, or other employee benefit acts.

§ 3.18.3 To the fullest extent permitted by law and without limiting any other indemnification obligations of the Contractor, except to the extent caused by the uncured failure of the Owner to make payment when due and owing, the Contractor shall indemnify and defend the Owner, its officers, directors, assigns, lenders, agents, and employees from any liens, charges (including attorneys' fees) or encumbrances (including but not limited to mechanic's and materialmen's liens or bond claims) arising out of or in connection with the performance of the Work by Contractor, its Subcontractors, or its material suppliers. Upon request of the Owner, the Contractor shall within sixty (60) days remove any liens filed against the Owner or its property. If the Contractor fails to do so, the Owner is authorized by the Contractor to remove or satisfy any such liens, and the Contractor shall pay to the Owner all costs and damages incurred by the Owner to do so, including attorneys' fees.

ARTICLE 4 ARCHITECT AND CONSTRUCTION MANAGER

§ 4.1 General

§ 4.1.1 The Architect is the person or entity retained by the Owner pursuant to Section 2.3.2 and identified as such in the Agreement.

§ 4.1.2 The Construction Manager is the person or entity retained by the Owner pursuant to Section 2.3.3 and identified as such in the Agreement.

§ 4.1.3 Duties, responsibilities, and limitations of authority of the Construction Manager and Architect as set forth in the Contract Documents shall not be restricted, modified, or extended without written consent of the Owner, Construction Manager, Architect, and Contractor. Consent shall not be unreasonably withheld.

§ 4.2 Administration of the Contract

§ 4.2.1 The Construction Manager and Architect will provide administration of the Contract as described in the Contract Documents and will be the Owner's consultants (1) during construction; (2) until final payment is due; and (3) with the Owner's concurrence, from time to time during the correction period described in Section 12.2. The Architect and Construction Manager will advise and consult with the Owner. The Construction Manager and Architect will have authority to act on behalf of the Owner only to the extent provided in the Contract Documents, unless otherwise modified in writing in accordance with other provisions of the Contract.

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§ 4.2.2 The Architect will visit the site at intervals appropriate to the stage of construction, or as otherwise agreed with the Owner, to become generally familiar with the progress and quality of the Work completed, to endeavor to guard the Owner against defects and deficiencies in the Work, and to determine in general if the Work is being performed in a manner indicating that the Work, when completed, will be in accordance with the Contract Documents. However, the Architect will not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. On the basis of the site visits, the Architect will keep the Owner and the Construction Manager reasonably informed about the progress and quality of the portion of the Work completed, and promptly report to the Owner and Construction Manager known deviations from the Contract Documents and defects and deficiencies observed in the Work.

§ 4.2.2.2 The Contractor shall reimburse the Owner for compensation paid to the Architect for additional site visits made necessary by fault, neglect, or request of the Contractor.

§ 4.2.3 The Construction Manager shall provide one or more representatives who shall be in attendance at the Project site whenever the Work is being performed. The Construction Manager will determine in general if the Work observed is being performed in accordance with the Contract Documents, will keep the Owner and Architect reasonably informed of the progress of the Work, and will promptly report to the Owner and Architect known deviations from the Contract Documents and the most recent Project schedule, and defects and deficiencies observed in the Work.

§ 4.2.4 The Construction Manager will schedule and coordinate the activities of the Contractor and other Contractors in accordance with the latest approved Project schedule.

§ 4.2.5 The Construction Manager, except to the extent required by Section 4.2.4, and Architect will not have control over, charge of, or responsibility for, the construction means, methods, techniques, sequences or procedures, or for the safety precautions and programs in connection with the Work, since these are solely the Contractor's rights and responsibilities under the Contract Documents, and neither will be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. Neither the Construction Manager nor the Architect will have control over or charge of, or be responsible for acts or omissions of, the Contractor, Subcontractors, or their agents or employees, or of any other persons or entities performing portions of the Work.

§ 4.2.6 **Communications.** The Owner shall communicate with the Contractor and the Construction Manager's consultants through the Construction Manager about matters arising out of or relating to the Contract Documents. The Owner and Construction Manager shall include the Architect in all communications that relate to or affect the Architect's services or professional responsibilities. The Owner shall promptly notify the Architect of the substance of any direct communications between the Owner and the Construction Manager otherwise relating to the Project. Communications by and with the Architect's consultants shall be through the Architect. Communications by and with Subcontractors and suppliers shall be through the Contractor. Communications by and with other Contractors shall be through the Construction Manager. Communications by and with the Owner's own forces and Separate Contractors shall be through the Owner unless otherwise provided. The Contract Documents may specify other communication protocols. The Owner may require the Architect, Construction Manager and the Contractor to comply with Owner requirements in regards to public communications and site signage.

§ 4.2.7 The Construction Manager and Architect will review and certify all Applications for Payment by the Contractor, in accordance with the provisions of Article 9.

§ 4.2.8 The Architect and Construction Manager have authority to reject Work that does not conform to the Contract Documents, and will notify each other about the rejection. Whenever the Construction Manager considers it necessary or advisable for implementation of the intent of the Contract Documents, the Construction Manager will have authority to require additional inspection or testing of the Work in accordance with Sections 13.4.2 and 13.4.3, upon written authorization of the Owner, whether or not the Work is fabricated, installed or completed. The foregoing authority of the Construction Manager will be subject to the provisions of Sections 4.2.18 through 4.2.20 inclusive, with respect to interpretations and decisions of the Architect. However, neither the Architect's nor the Construction Manager's authority to act under this Section 4.2.8 nor a decision made by either of them in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect or the Construction Manager to the Contractor, Subcontractors, suppliers, their agents or employees, or other persons performing any of the Work.

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§ 4.2.9 Utilizing the submittal schedule provided by the Contractor, the Construction Manager shall prepare, and revise as necessary, a Project submittal schedule incorporating information from other Contractors, the Owner, Owner's consultants, Owner's Separate Contractors and vendors, governmental agencies, and participants in the Project under the management of the Construction Manager. The Project submittal schedule and any revisions shall be submitted to the Architect for approval.

§ 4.2.10 The Construction Manager will receive and promptly review for conformance with the submittal requirements of the Contract Documents, all submittals from the Contractor such as Shop Drawings, Product Data, and Samples. Where there are other Contractors, the Construction Manager will also check and coordinate the information contained within each submittal received from the Contractor and other Contractors, and transmit to the Architect those recommended for approval. By submitting Shop Drawings, Product Data, Samples, and similar submittals, the Construction Manager represents to the Owner and Architect that the Construction Manager has reviewed and recommended them for approval. The Construction Manager's actions will be taken in accordance with the Project submittal schedule approved by the Architect or, in the absence of an approved Project submittal schedule, with reasonable promptness while allowing sufficient time to permit adequate review by the Architect.

§ 4.2.11 The Architect will, and the Owner may, review and approve, or take other appropriate action upon, the Contractor's submittals such as Shop Drawings, Product Data, and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Architect's or Owner's action will be taken with such reasonable promptness as to cause no delay in the Work or in the activities of the Owner, Contractor or separate contractors, while allowing sufficient time in the Architect's professional judgment to permit adequate review. Upon the Architect's or the Owner's completed review, the Architect shall transmit its submittal review to the Construction Manager.

§ 4.2.12 Review of the Contractor's submittals by the Construction Manager and Architect is not conducted for the purpose of determining the accuracy and completeness of other details such as dimensions and quantities, or for substantiating instructions for installation or performance of equipment or systems, all of which remain the responsibility of the Contractor as required by the Contract Documents. The Construction Manager and Architect's review of the Contractor's submittals shall not relieve the Contractor of the obligations under Sections 3.3, 3.5, and 3.12. The Construction Manager and Architect's review shall not constitute approval of safety precautions or of any construction means, methods, techniques, sequences, or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

§ 4.2.13 The Construction Manager will prepare Change Orders and Construction Change Directives.

§ 4.2.14 The Construction Manager and the Architect will take appropriate action on Change Orders or Construction Change Directives in accordance with Article 7, and the Architect will have authority to order minor changes in the Work as provided in Section 7.4. The Architect, in consultation with the Construction Manager, will investigate and make determinations and recommendations regarding concealed and unknown conditions as provided in Section 3.7.4.

§ 4.2.15 Utilizing the documents provided by the Contractor, the Construction Manager will maintain at the site for the Owner one copy of all Contract Documents, approved Shop Drawings, Product Data, Samples, and similar required submittals, in good order and marked currently to record all changes and selections made during construction. These will be available to the Architect and the Contractor, and will be delivered to the Owner upon completion of the Project.

§ 4.2.16 The Construction Manager will assist the Architect in conducting inspections to determine the date or dates of Substantial Completion and the date of final completion; issue Certificates of Substantial Completion in conjunction with the Architect pursuant to Section 9.8; and receive and forward to the Owner written warranties and related documents required by the Contract and assembled by the Contractor pursuant to Section 9.10. The Construction Manager will forward to the Architect a final Application and Certificate for Payment or final Project Application and Project Certificate for Payment upon the Contractor's compliance with the requirements of the Contract Documents.

§ 4.2.17 If the Owner and Architect agree, the Architect will provide one or more Project representatives to assist in carrying out the Architect's responsibilities at the site. The Owner shall notify the Construction Manager of any change in the duties, responsibilities and limitations of authority of the Project representatives.

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§ 4.2.18 The Architect will interpret and decide matters concerning performance under the requirements of, the Contract Documents on written request of the Construction Manager, Owner, or Contractor through the Construction Manager. The Architect's response to such requests will be made with reasonable promptness and within any time limits agreed upon. If no agreement is made concerning the time within which interpretations required of the Architect shall be furnished in compliance with this Section 4.2.18, then delay shall not be recognized on account of failure by the Architect to furnish such interpretations until fifteen (15) days after written request is made to them.

§ 4.2.19 Architect's decisions on matters relating to aesthetic effect will be final if consistent with the intent expressed in the Contract Documents.

§ 4.2.20 Architect will review and respond to requests for information about the Contract Documents. The Architect's response to such requests will be made in writing within any time limits agreed upon or otherwise with reasonable promptness. If appropriate, the Architect will prepare and issue supplemental Drawings and Specifications in response to the requests for information.

(Paragraph deleted)

ARTICLE 5 SUBCONTRACTORS

§ 5.1 Definitions

§ 5.1.1 A Subcontractor is a person or entity who has a direct contract with the Contractor to perform a portion of the Work at the site. The term "Subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Subcontractor or an authorized representative of the Subcontractor. The term "Subcontractor" does not include other Contractors or Separate Contractors or the subcontractors of other Contractors or Separate Contractors.

§ 5.1.2 A Sub-subcontractor is a person or entity who has a direct or indirect contract with a Subcontractor to perform a portion of the Work at the site. The term "Sub-subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Sub-subcontractor or an authorized representative of the Sub-subcontractor.

§ 5.2 Award of Subcontracts and Other Contracts for Portions of the Work

§ 5.2.1 Unless otherwise stated in the Contract Documents, the Contractor, as soon as practicable after award of the Contract, shall notify in writing the Construction Manager, for review by the Owner, Construction Manager and Architect, of the persons or entities proposed for each principal portion of the Work, including those who are to furnish materials or equipment fabricated to a special design. Within 14 days of receipt of the information, the Construction Manager may notify the Contractor whether the Owner, the Construction Manager or the Architect (1) has reasonable objection to any such proposed person or entity or, (2) requires additional time for review. Failure of the Construction Manager to provide notice within the 14-day period shall constitute notice of no reasonable objection. The Contractor shall not employ any Subcontractor or use any material to which the Architect, Construction Manager or Owner may object. Prior to the employment of any Subcontractor, the Contractor must obtain the Owner's approval of such Subcontractor for the designated portion of the Work.

§ 5.2.2 The Contractor shall not contract with a proposed person or entity to whom the Owner, Construction Manager or Architect has made reasonable and timely objection. The Contractor shall not be required to contract with anyone to whom the Contractor has made reasonable objection.

§ 5.2.3 If the Owner, Construction Manager or Architect has reasonable objection to a person or entity proposed by the Contractor, the Contractor shall propose another to whom the Owner, Construction Manager or Architect has no reasonable objection. The Contract Sum shall be increased or decreased by the difference in cost occasioned by such change, and an appropriate Change Order shall be issued. However, no increase in the Contract Sum or Contract Time shall be allowed for such change unless the Contractor has acted promptly and responsively in submitting names as required. Notwithstanding the foregoing, the Contractor shall have a continuing duty to the Owner, Construction Manager and Architect to find and propose such persons or entities as shall not result in material increase in the Contract Sum, or a material decrease in the quality of Work contemplated under the Contract Documents.

§ 5.2.4 The Contractor shall not substitute a Subcontractor, person, or entity for one previously selected if the Owner, Construction Manager or Architect makes reasonable objection to such substitution. Any proposed substitution of a Subcontractor, person, or entity for one previously selected shall be made in a separate writing to the Owner, Construction Manager and Architect. No substitution shall be deemed approved/accepted without written

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confirmation from the Owner, Construction Manager and Architect. Neither acceptance of, nor objection to a Subcontractor or Sub-subcontractor, material supplier, or other person or organization by the Owner, Construction Manager and Architect shall limit the responsibility of the Contractor to furnish materials, products, equipment, and services in conformance with the requirements of the Contract Documents.

§ 5.3 Subcontractual Relations

§ 5.3.1 By appropriate written agreement, the Contractor shall require each Subcontractor, to the extent of the Work to be performed by the Subcontractor, to be bound to the Contractor by terms of the Contract Documents, and to assume toward the Contractor all the obligations and responsibilities, including the responsibility for safety of the Subcontractor's Work, that the Contractor, by these Contract Documents, assumes toward the Owner, Construction Manager and Architect. Each subcontract agreement shall preserve and protect the rights of the Owner, Construction Manager and Architect under the Contract Documents with respect to the Work to be performed by the Subcontractor so that subcontracting thereof will not prejudice such rights, and shall allow to the Subcontractor, unless specifically provided otherwise in the subcontract agreement, the benefit of all rights, remedies, and redress against the Contractor that the Contractor, by the Contract Documents, has against the Owner. Where appropriate, the Contractor shall require each Subcontractor to enter into similar agreements with Sub-subcontractors. The Contractor shall make available to each proposed Subcontractor, prior to the execution of the subcontract agreement, copies of the Contract Documents to which the Subcontractor will be bound, and, upon written request of the Subcontractor, identify to the Subcontractor terms and conditions of the proposed subcontract agreement that may be at variance with the Contract Documents. Subcontractors shall similarly make copies of applicable portions of such documents available to their respective proposed Sub-subcontractors.

§ 5.3.2 The Contractor is responsible for the performance of, the actions of, the timeliness of, or interference caused by, Subcontractors, Sub-subcontractors (of any tier), and others directly or indirectly under contract to the Contractor.

§ 5.4 Contingent Assignment of Subcontracts

§ 5.4.1 Each subcontract agreement for a portion of the Work is assigned by the Contractor to the Owner, provided that

.1 assignment is effective only after termination of the Contract by the Owner for cause pursuant to Section 14.2 and only for those subcontract agreements that the Owner accepts by notifying the Subcontractor and Contractor; and

.2 assignment is subject to the prior rights of the surety, if any, obligated under bond relating to the Contract.

When the Owner accepts the assignment of a subcontract agreement, the Owner assumes the Contractor's rights and obligations under the subcontract.

§ 5.4.2 Upon such assignment, if the Work has been suspended for more than 30 days, the Subcontractor's compensation shall be equitably adjusted for increases in cost resulting from the suspension.

§ 5.4.3 Upon assignment to the Owner under this Section 5.4, the Owner may further assign the subcontract to a successor Contractor or other entity. If the Owner assigns the subcontract to a successor Contractor or other entity, the Owner shall nevertheless remain legally responsible for all of the successor Contractor's obligations under the subcontract.

ARTICLE 6 CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTORS

§ 6.1 Owner's Right to Perform Construction with Own Forces and to Award Other Contracts

§ 6.1.1 The Owner reserves the right to perform construction or operations related to the Project with the Owner's own forces, and with Separate Contractors retained under Conditions of the Contract substantially similar to those of this Contract, including those provisions of the Conditions of the Contract related to insurance and waiver of subrogation.

§ 6.1.2 When the Owner performs construction or operations with the Owner's own forces or Separate Contractors, the Owner shall provide for coordination of such forces and Separate Contractors with the Work of the Contractor, who shall cooperate with them.

§ 6.1.3 Unless otherwise provided in the Contract Documents, when the Owner performs construction or operations related to the Project with the Owner's own forces or with Separate Contractors, the Owner or its Separate Contractors

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shall have the same obligations and rights that the Contractor has under the Conditions of the Contract, including, without excluding others, those stated in Article 3, this Article 6, and Articles 10, 11, and 12.

§ 6.2 Mutual Responsibility

§ 6.2.1 The Contractor shall afford the Owner's own forces, Separate Contractors, Construction Manager and other Contractors reasonable opportunity for introduction and storage of their materials and equipment and performance of their activities, and shall connect and coordinate the Contractor's construction and operations with theirs as required by the Contract Documents.

§ 6.2.2 If part of the Contractor's Work depends for proper execution or results upon construction or operations by the Owner's own forces, Separate Contractors or other Contractors, the Contractor shall, prior to proceeding with that portion of the Work, promptly notify the Construction Manager and Architect of apparent discrepancies or defects in the construction or operations by the Owner or Separate Contractor or other Contractors that would render it unsuitable for proper execution and results of the Contractor's Work. Failure of the Contractor to notify the Construction Manager and the Architect of apparent discrepancies or defects prior to proceeding with the Work shall constitute an acknowledgment that the Owner's or Separate Contractor's or other Contractors' completed or partially completed construction is fit and proper to receive the Contractor's Work. The Contractor shall not be responsible for discrepancies or defects in the construction or operations by the Owner or Separate Contractors or other Contractors that are not reasonably discoverable.

§ 6.2.3 Costs caused by delays or by improperly timed activities or defective construction shall be borne by the party responsible therefor.

§ 6.2.4 The Contractor shall promptly remedy damage that the Contractor wrongfully causes to completed or partially completed construction, or to property of the Owner, Separate Contractors, or other Contractors as provided in Section 10.2.5.

§ 6.2.5 Claims and other disputes and matters in question between the Contractor and a separate contractor shall be subject to the provisions of Article 15 provided the separate contractor has reciprocal obligations.

§ 6.2.6 The Owner, Separate Contractors, and other Contractors shall have the same responsibilities for cutting and patching as are described for the Contractor in Section 3.14.

§ 6.3 Owner's Right to Clean Up

If a dispute arises among the Contractor, Separate Contractors, other Contractors, and the Owner as to the responsibility under their respective contracts for maintaining the premises and surrounding area free from waste materials and rubbish as described in Section 3.15, the Owner may clean up allocate the cost among those responsible as the Architect determines to be just..

ARTICLE 7 CHANGES IN THE WORK

§ 7.1 General

§ 7.1.1 Changes in the Work may be accomplished after execution of the Contract, and without invalidating the Contract, by Change Order, Construction Change Directive or order for a minor change in the Work, subject to the limitations stated in this Article 7 and elsewhere in the Contract Documents.

§ 7.1.2 A Change Order shall be based upon agreement among the Owner, Construction Manager, Architect and Contractor. A Construction Change Directive requires agreement by the Owner, Construction Manager and Architect and may or may not be agreed to by the Contractor.

§ 7.1.3 Changes in the Work shall be performed under applicable provisions of the Contract Documents. The Contractor shall proceed promptly with changes in the Work, unless otherwise provided in the Change Order, Construction Change Directive, or order for a minor change in the Work.

§ 7.1.4 The amount of credit to be allowed by the Contractor to the Owner for any deletion or change which results in a net decrease in the Contract Sum will be the amount of the actual net cost as confirmed by the Architect after consultation with the Owner and Construction Manager. When both additions and credits covering related Work or

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substitutions are involved in any one change, the allowance for both overhead and profit shall be figured on the basis of the net increase or decrease, if any, with respect to that change.

§ 7.1.5 In Section 7.3.6, the allowance for the combined overhead and profit included in the total cost to the Owner shall be based on the following schedule:

.1 For the Contractor, for Work performed by the Contractor's own forces, ten percent (10%) of the cost;

.2 For the Contractor, for Work performed by the Contractor's Subcontractor, five percent (5%) of the amount due the Subcontractor;

.3 For each Subcontractor or Sub-subcontractor involved for Work performed by the Subcontractor's or Sub-subcontractor's own forces, ten percent (10%) of the cost;

.4 For each Subcontractor for Work performed by the Subcontractor's Sub-subcontractor, five percent (5%) of the amount due the Subcontractor;

.5 Costs to which overhead and profit is to be applied shall be determined in accordance with Section 7.3.6;

.6 In order to facilitate checking of quotations for extras or credits, all proposals, expect those so minor that their propriety can be seen by inspection, shall be accompanied by a complete itemization of costs, including labor, materials and subcontracts. Labor and materials shall be itemized in the manner prescribed above. Where major cost items are subcontracts, they shall be itemized also. In no case will a change involving over $500 be approved without such itemization.

§ 7.2 Change Orders and Change Proposals

§ 7.2.1 A Change Order is a written instrument prepared by the Construction Manager and signed by the Owner, Construction Manager, Architect, and Contractor, stating their agreement upon all of the following:

.1 The change in the Work;

.2 The amount of the adjustment, if any, in the Contract Sum; and

.3 The extent of the adjustment, if any, in the Contract Time.

§ 7.2.2 Change Order shall be prepared on AIA Document G731.

§ 7.2.3 The Contractor must submit Change Proposals covering a contemplated Change Order within ten (10) days after request of the Owner, or the Architect or within ten (10) days of the event, or Contractor's discovery of a condition, whichever is earlier, giving rise to the Contractor's claim for a change in the Contract Sum or Contract Time. No increase in the Contract Sum or extension of the Contract Time will be allowed the Contractor for the cost or time involved in making Change Proposals. Change Proposals will define or confirm in detail the Work which is proposed to be added, deleted, or changed and must include any adjustment which the Contractor believes to be necessary in (i) the Contract Sum, or (ii) the Contract Time. Any proposed adjustment must include detailed documentation including, but not limited to: cost, properly itemized and supported by sufficient substantiating data to permit evaluation including cost of labor, materials, supplies and equipment, rental cost of machinery and equipment, additional bond cost, plus a fixed fee for profit and overhead (which includes office overhead and Site-specific overhead and general conditions) of ten percent (10%) if the Work is performed by the Contractor, or five percent (5%) if the Work is performed by a Subcontractor or Sub-subcontractor. The Subcontractor's or Sub-subcontractor's overhead and profit in turn must not exceed a total aggregate of ten percent (10%). Change Proposals will be binding upon the Contractor and may be accepted or rejected by the Owner in its discretion. The Owner may, at its option, instruct the Contractor through a Construction Change Directive to proceed with the Work involved in the Change Proposal in accordance with Section 7.3 without accepting the Change Proposal in its entirety.

§ 7.2.4 If the Owner determines that a Change Proposal is appropriate, the Architect will prepare and submit a request for a Change Order or Contract Amendment providing for an appropriate adjustment in the Contract Sum or Contract Time, or both, for further action by the Owner. No such change is effective until the Owner and Architect sign the Change Order.

§ 7.3 Construction Change Directives

§ 7.3.1 A Construction Change Directive is a written order prepared by the Construction Manager and signed by the Owner, Construction Manager and Architect, directing a change in the Work prior to agreement on adjustment, if any, in the Contract Sum or Contract Time, or both. The Owner may by Construction Change Directive, without

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invalidating the Contract, order changes in the Work within the general scope of the Contract consisting of additions, deletions, or other revisions, the Contract Sum and Contract Time being adjusted accordingly.

§ 7.3.2 A Construction Change Directive shall be used in the absence of total agreement on the terms of a Change Order.

§ 7.3.3 If the Construction Change Directive provides for an adjustment to the Contract Sum, the adjustment shall be based on one of the following methods:

.1 Mutual acceptance of a lump sum properly itemized and supported by sufficient substantiating data to permit evaluation;

.2 Unit prices stated in the Contract Documents or subsequently agreed upon;

.3 Cost to be determined in a manner agreed upon by the parties and a mutually acceptable fixed or percentage fee; or

.4 As provided in Section 7.3.4.

§ 7.3.4 If the Contractor does not respond promptly or disagrees with the method for adjustment in the Contract Sum, the Owner and the Construction Manager shall determine the adjustment on the basis of reasonable expenditures and savings of those performing the Work attributable to the change, including, in case of an increase in the Contract Sum, an amount for overhead and profit as set forth in the Agreement, or if no such amount is set forth in the Agreement, a reasonable amount. In such case, and also under Section 7.3.3.3, the Contractor shall keep and present, in such form as the Construction Manager may prescribe, an itemized accounting together with appropriate supporting data. Unless otherwise provided in the Contract Documents, costs for the purposes of this Section 7.3.4 shall be limited to the following:

.1 Costs of labor, including applicable payroll taxes, fringe benefits required by agreement or custom, workers' compensation insurance, and other employee costs approved by the Construction Manager and Architect;

.2 Costs of materials, supplies, and equipment, including cost of transportation, whether incorporated or consumed;

.3 Rental costs of machinery and equipment, exclusive of hand tools, whether rented from the Contractor or others (at rates approved by the Owner);

.4 Costs of premiums for all bonds and insurance, permit fees, and sales, use, or similar taxes, directly related to the change; and

.5 Costs of supervision and field office personnel directly attributable to the change.

§ 7.3.5 If the Contractor disagrees with the adjustment in the Contract Time, the Contractor may make a Claim in accordance with applicable provisions of Article 15.

§ 7.3.6 Upon receipt of a Construction Change Directive, the Contractor shall promptly proceed with the change in the Work involved and advise the Construction Manager of the Contractor's agreement or disagreement with the method, if any, provided in the Construction Change Directive for determining the proposed adjustment in the Contract Sum or Contract Time.

§ 7.3.7 A Construction Change Directive signed by the Contractor indicates the Contractor's agreement therewith, including adjustment in Contract Sum and Contract Time or the method for determining them. Such agreement shall be effective immediately.

§ 7.3.8 The amount of credit to be allowed by the Contractor to the Owner for a deletion or change that results in a net decrease in the Contract Sum shall be actual net cost as confirmed by the Construction Manager and Architect. When both additions and credits covering related Work or substitutions are involved in a change, the allowance for overhead and profit shall be figured on the basis of net increase, if any, with respect to that change.

§ 7.3.9 Pending final determination of the total cost of a Construction Change Directive to the Owner, the Contractor may request payment for Work completed under the Construction Change Directive in Applications for Payment up to and not exceeding $25,000. The Construction Manager and Architect will make an interim determination for purposes of monthly certification for payment for those costs and certify for payment the amount that the Construction Manager and Architect determine to be reasonably justified. The interim determination of cost shall adjust the Contract Sum on

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the same basis as a Change Order, subject to the right of either party to disagree and assert a Claim in accordance with Article 15.

§ 7.3.10 When the Owner and Contractor agree with a determination made by the Construction Manager and Architect concerning the adjustments in the Contract Sum and Contract Time, or otherwise reach agreement upon the adjustments, such agreement shall be effective immediately and the Construction Manager shall prepare a Change Order. Change Orders may be issued for all or any part of a Construction Change Directive.

§ 7.4 Minor Changes in the Work

The Architect may order minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. The Architect's order for minor changes shall be in writing and approved by the Owner. If the Contractor believes that the proposed minor change in the Work will affect the Contract Sum or Contract Time, the Contractor shall notify the Construction Manager and shall not proceed to implement the change in the Work. If the Contractor performs the Work set forth in the Architect's order for a minor change without prior notice to the Construction Manager that such change will affect the Contract Sum or Contract Time, the Contractor waives any adjustment to the Contract Sum or extension of the Contract Time.

ARTICLE 8 TIME

§ 8.1 Definitions

§ 8.1.1 Unless otherwise provided, Contract Time is the period of time, including authorized adjustments, allotted in the Contract Documents for Substantial Completion of the Work.

§ 8.1.2 The date of commencement of the Work is the date established in the Agreement. The date shall not be postponed by the failure to act of the Contractor or of persons or entities for whom the Contractor is responsible.

§ 8.1.3 The date of Substantial Completion is the date certified by the Architect in accordance with Section 9.8.

§ 8.1.4 The term "day" shall mean calendar day of 24 hours beginning at 12:00 midnight. Calendar days as stated in the Contract Documents, shall include all days of a seven (7) day week including Saturdays, Sundays, and holidays. The term "Milestone Date" is, in each instance, the date established in the Contract Documents for the Substantial completion of all or a designated portion of the Work.

§ 8.2 Progress and Completion

§ 8.2.1 Time limits stated in the Contract Documents are of the essence of the Contract. By executing the Agreement, the Contractor confirms that the Contract Time is a reasonable period for performing the Work.

§ 8.2.2 The Contractor shall not knowingly, except by agreement or instruction of the Owner in writing, commence the Work prior to the effective date of insurance required to be furnished by the Contractor and Owner.

§ 8.2.3 The Contractor shall proceed expeditiously with adequate forces and shall achieve Substantial Completion within the Contract Time and shall achieve specific contractual Milestone Dates (if any), Substantial Completion and final Completion within the time stated in the Contract Documents.

§ 8.2.4 Contractor understands and agrees that all Work must be performed in an orderly and closely coordinated sequence so that the dates for Substantial Completion, Final Completion, and Milestone Dates (if any) may be met by the Contractor.

§ 8.2.5 Timely final completion of the Project is of critical importance to the Owner. The Contractor agrees that it shall substantially complete all Work under the Contract documents within the time established herein and that it shall finally complete the Work in the detail required and in the time required by the Contract Documents.

§ 8.2.6 To the extent that the Contract Documents contain or provide for specific contractual Milestone Dates in addition to Final and Substantial Completion dates, such dates shall be adhered to and shall be the last acceptable dates for those milestones and completions, unless modified by the Owner.

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§ 8.2.7 Notwithstanding anything to the contrary contained in the Contract Documents, in the event that any Contractor fails, or appears likely, in the reasonable opinion of the Owner and Construction Manager, to fail to complete a critical portion of their Work on time or to complete any dates for Substantial Completion, Final Completion, or Milestone Dates as evidenced by the latest update of the CPM Schedule Report, the Owner shall have the right to select and require Contractor's performance under any or all of the following operations:

.1 Require the Contractor to substantiate their capability to get back on schedule within two (2) days;

.2 Require the Contractor, at no additional cost to the Owner, to increase their work force, work overtime and/or extra shifts and do whatever else is required by the Owner until the Contractor gets back on schedule as established by the CPM Schedule Report (including any updates thereto);

.3 Withhold progress payments or portions thereof until such time as the contractor returns to schedule, but only related to Substantial Completion or Final Completion;

.4 Contact or visit the factory, plant, or distribution center whose production or delivery schedule may be critical to the scheduled completion of a portion of the contract work and expedite such production delivery at Contractor's expense; or

.5 Require the Contractor to complete, in detail, and submit weekly a Short Interval Schedule (SIS) showing: (1) planning for the next two weeks; (2) work completed for the previous week; (3) sufficient detail to evaluate daily milestone (if any) and manpower/equipment loading, and shall identify/tie into the monthly updated CPM Schedule Report.

Any costs incurred by the Contractor in fulfilling the option(s) selected by the Owner shall be at the Contractor's expense.

§ 8.3 Delays and Extensions of Time

§ 8.3.1 If the Contractor is delayed at any time in the progress of the Work by (1) an act or neglect of the Owner, Architect, Construction Manager, or an employee of any of them, or of the Owner's own forces, Separate Contractors, or other Contractors; (2) by changes ordered in the Work; (3) by labor disputes, fire, unusual delay in deliveries, unavoidable casualties, adverse weather conditions documented in accordance with Section 15.1.6.2, or other causes beyond the Contractor's control; or (4) by other causes that the Contractor asserts and the Architect, based on the recommendation of the Construction Manager, determines justify delay, then subject to the conditions hereinafter set forth, the Contract Time shall be extended by Change Order for such reasonable time as the Architect may determine. Requests for extensions of time for causes enumerated above will be considered by the Architect subject to the following:

.1 Only those conditions enumerated above over which the Contractor has no control will be considered. The burden of proof to substantiate the claim for an extension shall rest with the Contractor, including evidence that the cause was beyond their control. It shall be deemed the Contractor has control over the supply of labor, materials, equipment, methods, techniques, and over their Subcontractors and suppliers;

.2 In the event of Changes in the Work, any consideration for a time extension will be made only at the time of authorizing the changes, and no later than when the Change Order is prepared, and only if the Change Order significantly affects the time and progress of the entire Work. For changes which do not affect the entire Work, time extension may be granted only for the area, phase, unit, or element affected by the change, if due to a valid reason for a time extension;

.3 Any unusual delay in deliveries will not be considered unless it is solely due to transportation issues wholly outside of Contractor's, Subcontractor's, Sub-subcontractor's or Supplier's control. An extension of time will not be granted for delays in deliveries where said delivery was not properly scheduled or when orders were not promptly and properly placed;

.4 With respect to a claim for an extension of time as a result of climatic conditions, the Contractor shall recognize the location of the site and the existence, as normal, or variations from "average" conditions. Foul weather in itself will not be a valid reason for a time extension. Requests for time extensions because of delay resulting from weather extremes will not be considered unless a substantial variation from usual weather conditions occurs for a significant period of time, during phases of the Work when operation necessarily were suspended to a significant degree when they would otherwise have been in progress. In considering the time extension, the weather conditions both before and after the period in which the delay is claimed will be evaluated with credit given to Owner for unseasonably favorable weather;

.5 Delays resulting from a labor dispute will not result in a time extension of a longer period than the dispute, plus a reasonable time for mobilization if justified and necessary as approved by the

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Architect, and may be less depending on the impact of the dispute, including what operations were suspended or curtailed;

.6 No time extension will be granted as a result of improper scheduling or for failure to have shop drawings or samples submitted in ample time for review under a reasonable and agreed upon schedule; or

.7 Delays by Subcontractors or suppliers will not be considered justification for a time extension, except for the same valid reasons and conditions enumerated under Section 8.3.1.

§ 8.3.2 Claims relating to time shall be made in accordance with applicable provisions of Article 15.

§ 8.3.3 This Section 8.3 does not preclude recovery of damages for delay by either party under other provisions of the Contract Documents.

§ 8.3.4 The Contractor shall be responsible for all Owner incurred costs associated with a Contractor related to delay in completion of the Project. These costs may include, but are not limited to, Owner staff overtime, Consultant additional fees, additional testing, and/or additional rental or storage costs. A Change Order or Construction Change Directive will be issued to cover these costs. If a Change Order is not agreed to by the Contractor, the Owner, after presenting documentation to the Contractor, may deduct these amounts without a Change Order from the Contract Sum.

ARTICLE 9 PAYMENTS AND COMPLETION

§ 9.1 Contract Sum

§ 9.1.1 The Contract Sum is stated in the Agreement and, including authorized adjustments, is the total amount payable by the Owner to the Contractor for performance of the Work under the Contract Documents.

§ 9.1.2 If unit prices are stated in the Contract Documents or subsequently agreed upon, and if quantities originally contemplated are materially changed so that application of such unit prices to the actual quantities causes substantial inequity to the Owner or Contractor, the applicable unit prices shall be equitably adjusted.

§ 9.2 Schedule of Values

Before the first Application for Payment, the Contractor shall submit to the Architect and Construction Manager a schedule of values allocated to various portions of the Work, prepared in the form, and supported by the data to substantiate its accuracy, required by the Construction Manager and the Architect. The schedule, unless objected to by the Construction Manager or Architect, shall be used as a basis for reviewing the Contractor's Applications for Payment. The Construction Manager shall forward to the Architect the Contractor's schedule of values. Any changes to the schedule of values shall be submitted to the Construction Manager and supported by such data to substantiate its accuracy as the Construction Manager and the Architect may require, and unless objected to by the Construction Manager or the Architect, shall be used as a basis for reviewing the Contractor's subsequent Applications for Payment. The Contractor, after receipt of Notice to Proceed, shall meet with the Owner, Construction Manager and the Architect for the purpose of reviewing the Project CPM Schedule and the Contract Schedule of Values. The Contractor shall develop a CPM Schedule for completing their portion of the Work, in conjunction with all other Contractors or Bid Packages, at the Pre-Construction Meeting(s). The Schedule of Values is to be broken down into specification sections and by labor and materials.

§ 9.3 Applications for Payment

§ 9.3.1 At least fifteen days before the date established for each progress payment, the Contractor shall submit to the Construction Manager an itemized Application for Payment for operations completed in accordance with the Schedule of Values. Such application shall be notarized and supported by all data substantiating the Contractor's right to payment that the Owner, Construction Manager or Architect require, such as copies of requisitions, and releases of waivers of lien from Subcontractors and material suppliers, and reflecting retainage if provided for elsewhere in the Contract Documents. The form of Application for Payment shall be a notarized AIA Document G732–2019, Application and Certificate for Payment, supported by AIA Document G703–1992, Continuation Sheet.

§ 9.3.1.1 As provided in Section 7.3.9, such applications may include requests for payment on account of changes in the Work that have been properly authorized by Construction Change Directives, or by interim determinations of the Construction Manager and Architect, but not yet included in Change Orders.

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§ 9.3.1.2 Such applications shall not include requests for payment of amounts the Contractor does not intend to pay a Subcontractor or supplier because of a dispute or other reason, unless such Work has been performed by others whom the Contractor intends to pay.

§ 9.3.1.3 Following certification of the Application for Payment by the Architect and Construction Manager, the Owner shall pay ninety-five percent (95%) of its value, retaining five percent (5%) until Final Completion.

§ 9.3.1.4 Contractor shall provide lien waivers for itself for the current payment application and for Subcontractors, Sub-subcontractors, and suppliers for the previous payment application before the Contractor has earned or has the right to receive payment for the specific items of work or materials covered by the lien waivers. All lien waivers shall be provided in the form required by the Owner. This Section 9.3.1.4 shall not limit other obligations of the Contractor contained elsewhere to provide lien waivers.

§ 9.3.2 Unless otherwise provided in the Contract Documents, payments shall be made on account of materials and equipment delivered and suitably stored at the site for subsequent incorporation in the Work. If approved in advance by the Owner, payment may similarly be made for materials and equipment suitably stored off the site at a location agreed upon in writing. Payment for materials and equipment stored on or off the site shall be conditioned upon compliance by the Contractor with procedures satisfactory to the Owner to establish the Owner's title to such materials and equipment or otherwise protect the Owner's interest, and shall include the costs of applicable insurance, storage, and transportation to the site, for such materials and equipment stored off the site.

§ 9.3.3 The Contractor warrants that title to all Work covered by an Application for Payment will pass to the Owner no later than the time of payment. The Contractor further warrants that upon submittal of an Application for Payment all Work for which Certificates for Payment have been previously issued and payments received from the Owner shall, to the best of the Contractor's knowledge, information, and belief, be free and clear of liens, claims, security interests, or encumbrances, in favor of the Contractor, Subcontractors, suppliers, or other persons or entities that provided labor, materials and equipment relating to the Work.

§ 9.3.4 In each Application for Payment, the Contractor shall certify as follows:

> "That there are no known mechanics' or materialmen's liens or stop notice claims outstanding by the application or any of its subcontractors of any tier, or any of the applicant's or subcontractor's material suppliers, or laborers at the date of this application, that all due and payable bills with respect to the Work have been paid or are included in the amount requested in current application, and that, except for such bills, not paid by Owner, but so included, there is no known basis for the filing of any mechanics' or materialmen's liens or stop notice claims on the Work, and that waivers from Contractor, its subcontractors of any tier, or any of the applicant's or subcontractor's material suppliers and laborers have been obtained in such form as to constitute an effective waiver of liens or stop notice claims, under the laws of the State of Minnesota to the extent of payments made by Owner to Contractor."

Notwithstanding the foregoing Section 9.3.4, Contractor acknowledges its obligation to provide a Payment Bond in accordance with the Contract Documents, and that Contractor's failure to pay any of its Subcontractors, Sub-subcontractors, suppliers, or laborers will be resolved through a claim under the Payment Bond.

§ 9.4 Certificates for Payment

§ 9.4.1 Where there is only one Contractor, the Construction Manager will, within seven days after the Construction Manager's receipt of the Contractor's Application for Payment, review the Application, certify the amount the Construction Manager determines is due the Contractor, and forward the Contractor's Application and Certificate for Payment to the Architect. Within seven days after the Architect receives the Contractor's Application for Payment from the Construction Manager, the Architect will either (1) issue to the Owner a Certificate for Payment, in the full amount of the Application for Payment, with a copy to the Construction Manager; or (2) issue to the Owner a Certificate for Payment for such amount as the Architect determines is properly due, and notify the Construction Manager and Owner of the Architect's reasons for withholding certification in part as provided in Section 9.5.1; or (3) withhold certification of the entire Application for Payment, and notify the Construction Manager and Owner of the Architect's reason for withholding certification in whole as provided in Section 9.5.1. The Construction Manager will promptly forward to the Contractor the Architect's notice of withholding certification.

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§ 9.4.2 Where there is more than one Contractor performing portions of the Project, the Construction Manager will, within seven days after the Construction Manager receives all of the Contractors' Applications for Payment: (1) review the Applications and certify the amount the Construction Manager determines is due each of the Contractors; (2) prepare a Summary of Contractors' Applications for Payment by combining information from each Contractor's application with information from similar applications for progress payments from the other Contractors; (3) prepare a Project Application and Certificate for Payment; (4) certify the amount the Construction Manager determines is due all Contractors; and (5) forward the Summary of Contractors' Applications for Payment and Project Application and Certificate for Payment to the Architect.

§ 9.4.2.1 Within seven days after the Architect receives the Project Application and Project Certificate for Payment and the Summary of Contractors' Applications for Payment from the Construction Manager, the Architect will either (1) issue to the Owner a Project Certificate for Payment, with a copy to the Construction Manager; or (2) issue to the Owner a Project Certificate for Payment for such amount as the Architect determines is properly due, and notify the Construction Manager and Owner of the Architect's reasons for withholding certification in part as provided in Section 9.5.1; or (3) withhold certification of the entire Project Application for Payment, and notify the Construction Manager and Owner of the Architect's reason for withholding certification in whole as provided in Section 9.5.1. The Construction Manager will promptly forward the Architect's notice of withholding certification to the Contractors.

§ 9.4.3 The Construction Manager's certification of an Application for Payment or, in the case of more than one Contractor, a Project Application and Certificate for Payment, shall be based upon the Construction Manager's evaluation of the Work and the data in the Application or Applications for Payment. The Construction Manager's certification will constitute a representation that, to the best of the Construction Manager's knowledge, information, and belief, the Work has progressed to the point indicated, the quality of the Work is in accordance with the Contract Documents, and that the Contractor is, or Contractors are, entitled to payment in the amount certified.

§ 9.4.4 The Architect's issuance of a Certificate for Payment or, in the case of more than one Contractor, Project Application and Certificate for Payment, shall be based upon the Architect's evaluation of the Work, the recommendation of the Construction Manager, and data in the Application for Payment or Project Application for Payment. The Architect's certification will constitute a representation that, to the best of the Architect's knowledge, information, and belief, the Work has progressed to the point indicated, the quality of the Work is in accordance with the Contract Documents, and that the Contractor is, or Contractors are, entitled to payment in the amount certified.

§ 9.4.5 The representations made pursuant to Sections 9.4.3 and 9.4.4 are subject to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, to results of subsequent tests and inspections, to correction of minor deviations from the Contract Documents prior to completion, and to specific qualifications expressed by the Construction Manager or Architect.

§ 9.4.6 The issuance of a Certificate for Payment or a Project Certificate for Payment will not be a representation that the Construction Manager or Architect has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work; (2) reviewed construction means, methods, techniques, sequences, or procedures; (3) reviewed copies of requisitions received from Subcontractors and suppliers and other data requested by the Owner to substantiate the Contractor's right to payment; or (4) made examination to ascertain how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

§ 9.5 Decisions to Withhold Certification

§ 9.5.1 The Construction Manager or Architect may withhold a Certificate for Payment or Project Certificate for Payment in whole or in part, to the extent reasonably necessary to protect the Owner, if in the Construction Manager's or Architect's opinion the representations to the Owner required by Section 9.4.3 and 9.4.4 cannot be made. If the Construction Manager or Architect is unable to certify payment in the amount of the Application, the Construction Manager will notify the Contractor and Owner as provided in Section 9.4.1 and 9.4.2. If the Contractor, Construction Manager and Architect cannot agree on a revised amount, the Architect will promptly issue a Certificate for Payment or a Project Certificate for Payment for the amount for which the Architect is able to make such representations to the Owner. The Construction Manager or Architect may also withhold a Certificate for Payment or, because of subsequently discovered evidence, may nullify the whole or a part of a Certificate for Payment or Project Certificate for Payment previously issued, to such extent as may be necessary in the Construction Manager's or Architect's opinion to protect the Owner from loss for which the Contractor is responsible, including loss resulting from the acts and omissions described in Section 3.3.2 because of

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.1 defective Work not remedied;

.2 third party claims filed or reasonable evidence indicating probable filing of such claims, unless security acceptable to the Owner is provided by the Contractor;

.3 failure of the Contractor to make payments properly to Subcontractors or suppliers for labor, materials or equipment;

.4 reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Sum;

.5 damage to the Owner or a Separate Contractor or other Contractor;

.6 reasonable evidence that the Work will not be completed within the Contract Time, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay; or

.7 repeated failure to carry out the Work in accordance with the Contract Documents.

§ 9.5.2 When either party disputes the Architect's decision regarding a Certificate for Payment under Section 9.5.1, in whole or in part, that party may submit a Claim in accordance with Article 15.

§ 9.5.3 When the reasons for withholding certification are removed, certification will be made for amounts previously withheld.

§ 9.5.4 If the Architect or Construction Manager withholds certification for payment under Section 9.5.1, the Owner may, at its sole option, issue joint checks to the Contractor and to any Subcontractor or supplier to whom the Contractor failed to make payment for Work properly performed or material or equipment suitably delivered. If the Owner makes payments by joint check, the Owner shall notify the Architect and the Construction Manager, and both will reflect such payment on the next Certificate for Payment.

§ 9.6 Progress Payments

§ 9.6.1 After the Architect has issued a Certificate for Payment or Project Certificate for Payment, the Owner shall make payment within thirty (30) days of receipt by Owner of Certificate of Payment in the manner and within the time provided in the Contract Documents, and shall so notify the Construction Manager and Architect.

§ 9.6.2 The Contractor shall pay each Subcontractor, no later than seven days after receipt of payment from the Owner, the amount to which the Subcontractor is entitled, reflecting percentages actually retained from payments to the Contractor on account of the Subcontractor's portion of the Work. The Contractor shall, by appropriate agreement with each Subcontractor, require each Subcontractor to make payments to Sub-subcontractors in a similar manner. Per Minnesota Statutes, Section 471.425, within ten (10) days of Contractor's receipt of payment from Owner, the Contractor must pay any Subcontractor for any undisputed services provided by the Subcontractor. The Contractor shall pay interest of one and one-half percent (1-1/2%) per month, or any part of a month, to the Subcontractor on any undisputed amount not paid on time to the subcontractor. The minimum monthly interest penalty payment for an unpaid balance of $100 or more is $10.00. For an unpaid balance of less than $100, the Contractor shall pay the actual interest penalty due to the Subcontractor. Contractor is advised that by reason of Minnesota Statutes, Section 471.425, subd. 4a, if a Subcontractor prevails in a civil action to collect interest penalties from a prime contractor, the Subcontractor must be awarded its costs and disbursements, including attorneys' fees incurred in bringing the action.

§ 9.6.3 The Construction Manager will, on request, furnish to a Subcontractor, if practicable, information regarding percentages of completion or amounts applied for by the Contractor and action taken thereon by the Owner, Construction Manager and Architect on account of portions of the Work done by such Subcontractor.

§ 9.6.4 The Owner has the right to request written evidence from the Contractor that the Contractor has properly paid Subcontractors and suppliers amounts paid by the Owner to the Contractor for subcontracted Work. If the Contractor fails to furnish such evidence within seven days, the Owner shall have the right to contact Subcontractors and suppliers to ascertain whether they have been properly paid. Neither the Owner, Construction Manager nor Architect shall have an obligation to pay, or to see to the payment of money to, a Subcontractor or supplier, except as may otherwise be required by law.

§ 9.6.5 The Contractor's payments to material and equipment suppliers shall be treated in a manner similar to that provided in Sections 9.6.2, 9.6.3 and 9.6.4.

§ 9.6.6 A Certificate for Payment, a progress payment, or partial or entire use or occupancy of the Project by the Owner shall not constitute acceptance of Work not in accordance with the Contract Documents.

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§ 9.6.7 Unless the Contractor provides the Owner with a payment bond in the full penal sum of the Contract Sum, payments received by the Contractor for Work properly performed by Subcontractors or provided by suppliers shall be held by the Contractor for those Subcontractors or suppliers who performed Work or furnished materials, or both, under contract with the Contractor for which payment was made by the Owner. Nothing contained herein shall require money to be placed in a separate account and not commingled with money of the Contractor, create any fiduciary liability or tort liability on the part of the Contractor for breach of trust, or entitle any person or entity to an award of punitive damages against the Contractor for breach of the requirements of this provision.

§ 9.6.8 Provided the Owner has fulfilled its payment obligations under the Contract Documents, the Contractor shall defend and indemnify the Owner from all loss, liability, damage or expense, including reasonable attorney's fees and litigation expenses, arising out of any lien claim or other claim for payment by any Subcontractor or supplier of any tier. Upon receipt of notice of a lien claim or other claim for payment, the Owner shall notify the Contractor. If approved by the applicable court, when required, the Contractor may substitute a surety bond for the property against which the lien or other claim for payment has been asserted.

§ 9.7 Failure of Payment

If the Construction Manager and Architect do not issue a Certificate for Payment or a Project Certificate for Payment, through no fault of the Contractor, within fourteen days after the Construction Manager's receipt of the Contractor's Application for Payment, or if the Owner does not pay the Contractor within thirty (30) days after the date established in the Contract Documents, the amount certified by the Construction Manager and Architect then the Contractor may, upon ten (10) additional days' notice to the Owner, Construction Manager and Architect, stop the Work until payment of the amount owing has been received. The Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable costs of shutdown, delay and start-up which shall be accomplished as provided in Article 7.

§ 9.8 Substantial Completion

§ 9.8.1 Substantial Completion is the stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Contract Documents so the Owner can occupy or utilize the Work for its intended use and when the Architect issues a Certificate of Substantial Completion.

§ 9.8.2 When the Contractor considers that the Work, or a portion thereof which the Owner agrees to accept separately, is substantially complete, the Contractor shall notify the Construction Manager, and the Contractor and Construction Manager shall jointly prepare and submit to the Architect a comprehensive list of items to be completed or corrected. The Contractor shall proceed promptly to complete and correct items on the list. Failure to include an item on such list does not alter the responsibility of the Contractor to complete all Work in accordance with the Contract Documents. Upon receipt of the Contractor's list, the Architect, assisted by the Construction Manager, will make an inspection to determine whether the Work or designated portion thereof is substantially complete. If the Architect's inspection discloses any item, whether or not included on the Contractor's list, which is not in accordance with the requirements of the Contract documents, the Contractor shall, before issuance of the Certificate of Substantial Completion, complete or correct such item, upon notification by the Architect. The Contractor shall then submit a request for another inspection by the Architect, assisted by the Construction Manager, to determine Substantial Completion. When the Work or designated portion thereof is substantially complete, the Architect will prepare a Certificate of Substantial Completion which shall establish the date of Substantial Completion, shall establish responsibilities of the Owner and Contractor for security, maintenance, heat, utilities, damage to the Work and insurance, and shall fix the time within which the Contractor shall finish all items on the list accompanying the Certificate. Warranties required by the Contract Document shall commence on the date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion.

§ 9.8.3 Upon receipt of the list, the Architect, assisted by the Construction Manager, will make an inspection to determine whether the Work or designated portion thereof is substantially complete. If the Architect's inspection discloses any item, whether or not included on the list, which is not sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work or designated portion thereof for its intended use, the Contractor shall, before issuance of the Certificate of Substantial Completion, complete or correct such item upon notification by the Architect. In such case, the Contractor shall then submit a request for another inspection by the Architect, assisted by the Construction Manager, to determine Substantial Completion.

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§ 9.8.4 When the Architect, assisted by the Construction Manager, determines that the Work of all of the Contractors, or designated portion thereof, is substantially complete, the Construction Manager will prepare, and the Construction Manager and Architect shall execute, a Certificate of Substantial Completion that shall establish the date of Substantial Completion; establish responsibilities of the Owner and Contractor for security, maintenance, heat, utilities, damage to the Work and insurance; and fix the time within which the Contractor shall finish all items on the list accompanying the Certificate. Warranties required by the Contract Documents shall commence on the date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion.

§ 9.8.5 The Certificate of Substantial Completion shall be submitted to the Owner and Contractor for their written acceptance of responsibilities assigned to them in the Certificate. Upon such acceptance, and consent of surety if any, the Owner shall make payment of retainage applying to the Work or designated portion thereof. Such payment shall be adjusted for Work that is incomplete or not in accordance with the requirements of the Contract Documents.

§ 9.8.6 Upon Substantial completion of the Work or designated portion thereof and upon application by the Contractor and certification by the Architect, the Owner shall make payment, reflecting adjustment in retainage, pursuant to Minnesota Statutes, Section 15.72, for such Work or portion thereof as provided in the Contract Documents.

§ 9.8.7 The Architect, assisted by the Construction Manager, shall make one (1) inspection for Substantial Completion and Final Completion in accordance with the AIA Document B101–2017 Owner Architect Agreement. If additional inspections are required due to the Contractor's failure to complete previously listed corrective or uncompleted work, the Architect's expense for conducting such re-inspections and related time in processing, reviewing, and revision of requirements shall be charged to the Contractor and such payment shall be accomplished by a deductive Change Order to the Contractor.

§ 9.9 Partial Occupancy or Use

§ 9.9.1 The Owner may occupy or use any completed or partially completed portion of the Work at any stage when such portion is designated by separate agreement with the Contractor, provided such occupancy or use is consented to by the insurer and authorized by public authorities having jurisdiction over the Project. Such partial occupancy or use may commence whether or not the portion is substantially complete, provided the Owner and Contractor have accepted in writing the responsibilities assigned to each of them for payments, retainage if any, security, maintenance, heat, utilities, damage to the Work and insurance, and have agreed in writing concerning the period for correction of the Work and commencement of warranties required by the Contract Documents. When the Contractor considers a portion substantially complete, the Contractor and Construction Manager shall jointly prepare and submit a list to the Architect as provided under Section 9.8.2. Consent of the Contractor to partial occupancy or use shall not be unreasonably withheld. The stage of the progress of the Work shall be determined by written agreement between the Owner and Contractor or, if no agreement is reached, by decision of the Architect after consultation with the Construction Manager.

§ 9.9.2 Immediately prior to such partial occupancy or use, the Owner, Construction Manager, Contractor, and Architect shall jointly inspect the area to be occupied or portion of the Work to be used in order to determine and record the condition of the Work.

§ 9.9.3 Unless otherwise agreed upon, partial occupancy or use of a portion or portions of the Work shall not constitute acceptance of Work not complying with the requirements of the Contract Documents.

§ 9.10 Final Completion and Final Payment

§ 9.10.1 Upon completion of the Work, the Contractor shall forward to the Construction Manager a notice that the Work is ready for final inspection and acceptance, and shall also forward to the Construction Manager a final Contractor's Application for Payment. Upon receipt, the Construction Manager shall perform an inspection to confirm the completion of Work of the Contractor. The Construction Manager shall make recommendations to the Architect when the Work of all of the Contractors is ready for final inspection, and shall then forward the Contractors' notices and Application for Payment or Project Application for Payment, to the Architect, who will promptly make such inspection. When the Architect finds the Work acceptable under the Contract Documents and the Contract fully performed, the Construction Manager and Architect will promptly issue a final Certificate for Payment or Project Certificate for Payment stating that to the best of their knowledge, information and belief, and on the basis of their observations, on-site visits and inspections, the Work has been completed in accordance with the Contract Documents

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and that the entire balance found to be due the Contractor and noted in the final Certificate is due and payable. The Construction Manager's and Architect's final Certificate for Payment or Project Certificate for Payment will constitute a further representation that conditions listed in Section 9.10.2 as precedent to the Contractor's being entitled to final payment have been fulfilled.

§ 9.10.2 Neither final payment nor any remaining retained percentage shall become due until the Contractor submits to the Architect through the Construction Manager (1) an affidavit that payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which the Owner or the Owner's property might be responsible or encumbered (less amounts withheld by Owner) have been paid or otherwise satisfied, (2) a certificate evidencing that insurance required by the Contract Documents to remain in force after final payment is currently in effect and will not be cancelled or allowed to expire until at least (60) days' prior written notice has been given to the Owner, (3) a written statement that the Contractor knows of no reason that the insurance will not be renewable to cover the period required by the Contract Documents, (4) consent of surety, if any, to final payment (5) documentation of any special warranties, such as manufacturers' warranties or specific Subcontractor warranties, including a summary listing all applicable warranties both standard and extended, itemized by specification section and included at the front of the Operation and Maintenance manuals, and (6) other data establishing payment or satisfaction of obligations, such as receipts and releases and waivers of liens, claims, security interests, or encumbrances arising out of the Contract, to the extent and in such form as may be designated by the Owner. If a Subcontractor refuses to furnish a release or waiver required by the Owner, the Contractor may furnish a bond satisfactory to the Owner to indemnify the Owner against such lien, claim, security interest, or encumbrance. If a lien, claim, security interest, or encumbrance remains unsatisfied after payments are made, the Contractor shall refund to the Owner all money that the Owner may be compelled to pay in discharging the lien, claim, security interest, or encumbrance, including all costs and reasonable attorneys' fees.

§ 9.10.3 If, after Substantial Completion of the Work, final completion thereof is materially delayed through no fault of the Contractor or by issuance of Change Orders affecting final completion, and the Construction Manager and Architect so confirm, the Owner shall, upon application by the Contractor and certification by the Construction Manager and Architect, and without terminating the Contract, make payment of the balance due for that portion of the Work fully completed, corrected, and accepted. If the remaining balance for Work not fully completed or corrected is less than retainage stipulated in the Contract Documents, and if bonds have been furnished, the written consent of the surety to payment of the balance due for that portion of the Work fully completed and accepted shall be submitted by the Contractor to the Architect through the Construction Manager prior to certification of such payment. Such payment shall be made under terms and conditions governing final payment, except that it shall not constitute a waiver of Claims.

§ 9.10.4 The making of final payment shall constitute a waiver of Claims by the Owner except those arising from

.1 liens, Claims, security interests, or encumbrances arising out of the Contract and unsettled;
.2 failure of the Work to comply with the requirements of the Contract Documents;
.3 terms of special warranties required by the Contract Documents; or
.4 audits performed by the Owner, if permitted by the Contract Documents, after final payment.

§ 9.10.5 Acceptance of final payment by the Contractor, a Subcontractor, or a supplier, shall constitute a waiver of claims by that payee except those previously made in writing and identified by that payee as unsettled at the time of final Application for Payment.

§ 9.11 Damages for Delay

§ 9.11.1 The Contractor shall be responsible for damages incurred by the Owner and any other separate contractors for delay resulting from the Contractor's failure to complete the Work within the contract Time or resulting from the progress of the Work failing to substantially conform to the Project Construction Schedule. These damages are not included in liquidated damages and represent additional direct costs incurred by the Owner for the delay. These damages may include Owner incurred costs for temporary classrooms, temporary facilities, moving of programs, etc.

ARTICLE 10 PROTECTION OF PERSONS AND PROPERTY

§ 10.1 Safety Precautions and Programs

§ 10.1.1 The Contractor shall be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the performance of the Contract. The Contractor shall submit the Contractor's safety program to the Construction Manager for review and coordination with the safety programs of other Contractors. The Construction Manager's responsibilities for review and coordination of safety programs shall not extend to direct control over or charge of the acts or omissions of the Contractors, Subcontractors, agents or employees of the

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Contractors or Subcontractors, or any other persons performing portions of the Work and not directly employed by the Construction Manager.

§ 10.1.2 The Contractor shall comply with all applicable laws and regulations. Notwithstanding any language to the contrary, the Owner shall not have any responsibility for job site inspections or safety recommendations. Any inspections or observations by the Owner, Construction Manager or the Architect are solely for the benefit of the Owner and shall not create any duties or obligations to anyone else.

§ 10.2 Safety of Persons and Property

§ 10.2.1 The Contractor shall take reasonable precautions for safety of, and shall provide reasonable protection to prevent damage, injury, or loss to

.1 employees on the Work and other persons who may be affected thereby;

.2 the Work and materials and equipment to be incorporated therein, whether in storage on or off the site, under care, custody, or control of the Contractor, a Subcontractor, or a Sub-subcontractor;

.3 other property at the site or adjacent thereto, such as trees, shrubs, lawns, walks, pavements, roadways, structures, and utilities not designated for removal, relocation, or replacement in the course of construction; and

.4 construction or operations by the Owner, Separate Contractors, or other Contractors.

§ 10.2.2 The Contractor shall comply with, and give notices required by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities, bearing on safety of persons or property or their protection from damage, injury, or loss.

§ 10.2.3 The Contractor shall implement, erect, and maintain, as required by existing conditions and performance of the Contract, reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards; promulgating safety regulations; and notifying the owners and users of adjacent sites and utilities of the safeguards.

§ 10.2.4 When use or storage of explosives or other hazardous materials or equipment or unusual methods are necessary for execution of the Work, the Contractor shall exercise utmost care and carry on such activities under supervision of properly qualified personnel.

§ 10.2.5 The Contractor shall promptly remedy damage and loss (other than damage or loss insured under property insurance required by the Contract Documents) to property referred to in Sections 10.2.1.2, 10.2.1.3 and 10.2.1.4 caused in whole or in part by the Contractor, a Subcontractor, a Sub-subcontractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable and for which the Contractor is responsible under Sections 10.2.1.2, 10.2.1.3 and 10.2.1.4. The Contractor may make a Claim for the cost to remedy the damage or loss to the extent such damage or loss is attributable to acts or omissions of the Owner, Construction Manager or Architect or anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable, and not attributable to the fault or negligence of the Contractor. The foregoing obligations of the Contractor are in addition to the Contractor's obligations under Section 3.18.

§ 10.2.6 The Contractor shall designate a responsible member of the Contractor's organization at the site whose duty shall be the prevention of accidents. This person shall be the Contractor's superintendent unless otherwise designated by the Contractor in writing to the Owner, Construction Manager and Architect.

§ 10.2.7 The Contractor shall not permit any part of the construction or site to be loaded so as to cause damage or create an unsafe condition.

§ 10.2.8 Injury or Damage to Person or Property

If either party suffers injury or damages to person or property because of an act or omission of the other party, of any of the other party's employees or agents, or of others for whose acts such party is legally responsible, notice of the injury or damage, whether or not insured, shall be given to the other party within a reasonable time not exceeding ten (10) days after first observance. The notice shall provide sufficient detail to enable the other party to investigate the matter. If a Claim for additional cost or time related to this Claim is to be asserted, it shall be filed as provided in Sections 15.1.4 and 15.1.5.

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§ 10.3 Hazardous Materials

§ 10.3.1 In the event the Contractor encounters on the site material reasonably believed to be asbestos or polychlorinated biphenyl (PCB) which has not been rendered harmless, the Contractor shall immediately stop Work in the area affected and report the condition to the Owner, Construction Manager and Architect in writing. The Work in the affected area shall not thereafter be resumed except by written agreement of the Owner and Contractor if in fact the material is asbestos or polychlorinated biphenyl (PCB) and has not been rendered harmless. The Work in the affected area shall be resumed in the absence of asbestos or polychlorinated biphenyl (PCB), or when it has been rendered harmless, by written agreement of the Owner and Contractor.

.1 Except where otherwise stated in the Contract Documents, no hazardous material work of any nature shall be performed by the Contractor pursuant to this Contract.

.2 The term "hazardous materials" includes, but is not limited to, asbestos, toxic chemicals, acids, alkalis, irritants, contaminants, or other pollutants, together with any other waste, material, substance, pollutants, or contaminant, all or a portion of which is or would be designated as hazardous waste or substance under applicable local, state, or federal laws, ordinances, codes, rules, or regulations.

§ 10.3.2 To the fullest extent permitted by law, the Owner shall indemnify and hold harmless the Contractor, Construction Manager, Architect, their consultants, and agents and employees of any of them from and against claims, damages, losses, and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work on Owner's property if in fact the material is asbestos or polychlorinated biphenyl (PCB) and has not been rendered harmless, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), including loss of use resulting therefrom, but only to the extent caused in whole or in part by negligent acts or omissions of the Owner, anyone directly or indirectly employed by the Owner, or anyone for whose acts the Owner may be liable, regardless of whether or not such claim, damage, loss, or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity which would otherwise exist as to a party or person described in this Subparagraph 10.3.2.

§ 10.3.3 If reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a material or substance encountered on the site by the contractor, the Contractor shall, upon recognizing the condition, immediately stop Work on Owner's property and report the condition to the Owner, Construction Manager and Architect in writing. The Owner, Construction Manager, Contractor, and Architect shall then proceed in the same manner described in Subparagraph 10.3.1.

(Paragraph deleted)

§ 10.3.5 The Contractor shall reimburse the Owner for the cost and expense the Owner incurs (1) for remediation of hazardous materials or substances the Contractor brings to the site and negligently handles, or (2) where the Contractor fails to perform its obligations under Section 10.3.1, except to the extent that the cost and expense are due to the Owner's fault or negligence. Owner shall be responsible for obtaining the services of a licensed laboratory to verify a presence or absence of the material or substance reported by the Contractor and, in the event such material or substance is found to be present, to verify that it has been rendered harmless.

§ 10.3.6 Regulations concerning the availability of information and employee training in the use and handling of "hazardous substances" and "harmful physical agents", as set forth in the Employee Right-to-Know Act of 1983, Minnesota Statutes, Sections 182.65 to 182.676 are incorporated herein by reference as if fully set forth herein.

§ 10.3.7 The Contractor shall furnish three Material Safety Data Sheets to the Owner for each material used in the Work that is classified by the Employee Right-to-Know Act of 1983 as a "hazardous substance" or a "harmful physical agent."

§ 10.3.8 The Contractor shall label, in generally accepted and/or standardized fashion, all containers on the work site containing "hazardous substances" or as "harmful physical agents." This shall include factory containers and all subsequent containers used in the Work.

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§ 10.4 Emergencies

In an emergency affecting safety of persons or property, the Contractor shall act to prevent threatened damage, injury, or loss. Additional compensation or extension of time claimed by the Contractor on account of an emergency shall be determined as provided in Article 15 and Article 7.

ARTICLE 11 INSURANCE AND BONDS

§ 11.1 Contractor's Insurance and Bonds

§ 11.1.1 The Contractor shall purchase and maintain insurance of the types and limits of liability, containing the endorsements, and subject to the terms and conditions, as described in the Agreement, in EXH-C Owner Insurance or elsewhere in the Contract Documents. The Contractor shall purchase and maintain the required insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located and which carry a Best's rating of A- or higher or are otherwise acceptable to the Owner. The Owner, Construction Manager and Construction Manager's consultants, and the Architect and Architect's consultants, shall be named as additional insureds under the Contractor's commercial general liability policy or as otherwise described in the Contract Documents.

§ 11.1.2 The Contractor shall provide surety bonds of the types, for such penal sums, and subject to such terms and conditions as required by the Contract Documents. The Contractor shall purchase and maintain the required bonds from a company or companies lawfully authorized to issue surety bonds in the jurisdiction where the Project is located.

§ 11.1.3 Upon the request of any person or entity appearing to be a potential beneficiary of bonds covering payment of obligations arising under the Contract, the Contractor shall promptly furnish a copy of the bonds or shall authorize a copy to be furnished. The Contractor shall furnish Certificates of Insurance acceptable to the Owner which shall specifically set forth evidence of all coverage required by Article 11 and EXH-C Owner Insurance and shall be filed with the Owner and Construction Manager prior to commencement of the Work and thereafter upon renewal or replacement of each required policy of insurance.

The Contractor shall not allow insurance required by this Agreement to lapse, be canceled, reduced in limits or coverage, non-renewed, or materially changed or have restrictive modifications added during the life of this Agreement, including the periods of required coverage. The Contractor shall furnish to the Owner and Construction Manager copies of any endorsements that are subsequently issued amending coverage and limits.

If any of the foregoing insurance coverages are required to remain in force after final payment and are reasonably available, all additional certificates evidencing continuation of such coverage shall be submitted with the final Application for Payment. Information concerning reduction of coverage shall be furnished by the Contractor with reasonable promptness in accordance with the Contractor's information and belief.

§ 11.1.3.1 Acceptable insurance certificates are AIA Document G705, CICC of Minnesota Form 701, and/or ACORD form of the American Insurance Institute.

Failure of the Owner to collect certificates does not void the requirements to obtain insurance.

The acceptance of any certificate of insurance by the Owner shall not relieve or decrease the liability of the Contractor hereunder. It is to be understood the Owner, Construction Manager and Architect do not in any way represent that the insurance specified in these articles are sufficient or adequate to protect the Contractor's interest or liabilities, but are merely minimum requirements.

The Contractor shall furnish to the Owner copies of any endorsements that are subsequently issued amending coverage and limits.

§ 11.1.4 In the event the Contractor fails to procure or maintain any insurance coverage required under this Agreement, the Owner may purchase such coverage and deduct the cost thereof from any monies due to the Contractor, or terminate this Agreement under Paragraph 14.2. The Contractor shall be liable to the Owner for providing all coverage, defense, and payments that would have been provided by any insurance that the Contractor failed to procure and maintain as required by the Contract Documents.

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§ 11.1.5 Compliance by the Contractor with the foregoing insurance requirements shall not relieve it from liability for amounts in excess of the limits of insurance.

§ 11.1.6 The Contractor and any of its Subcontractors, Sub-subcontractors, agents and employees, and any separate contractors described in Article 6, if any, and any of their subcontractors, sub-subcontractors, agents and employees shall waive any of their subrogation rights on their Workers Compensation Policy in favor of the Owner, Construction Manager and Architect. The policies shall provide such waivers of subrogation by endorsement or otherwise. A waiver of subrogation shall be effective as to a person or entity even though that person or entity would otherwise have a duty of indemnification, contractual, or otherwise, did not pay the insurance premium directly or indirectly, and whether or not the person or entity had an insurable interest.

§ 11.2 Owner's Insurance

§ 11.2.1 The Owner shall purchase and maintain insurance of the types and limits of liability, containing the endorsements, and subject to the terms and conditions, as described in the Agreement or elsewhere in the Contract Documents. The Owner shall purchase and maintain the required insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The Owner may self-insure and maintain the Owner's usual liability insurance. Optionally, the Owner may purchase and maintain other insurance for self-protection against claims which may arise from operations under the Contract. The Contractor shall not be responsible for purchasing and maintaining this optional Owner's liability insurance unless specifically required by the Contract Documents.

§ 11.2.2 Failure to Purchase Required Property Insurance. If the Owner fails to purchase and maintain the required property insurance, with all of the coverages and in the amounts described in the Agreement or elsewhere in the Contract Documents, the Owner shall inform both the Contractor and the Construction Manager, separately and in writing, prior to commencement of the Work. Upon receipt of notice from the Owner, the Contractor may delay commencement of the Work and may obtain insurance that will protect the interests of the Contractor, Subcontractors, and Sub-Subcontractors in the Work. When the failure to provide coverage has been cured or resolved, the Contract Sum and Contract Time shall be equitably adjusted. In the event the Owner fails to procure coverage, the Owner waives all rights against the Contractor, Subcontractors, and Sub-subcontractors to the extent the loss to the Owner would have been covered by the insurance to have been procured by the Owner. The cost of the insurance shall be charged to the Owner by a Change Order. If the Owner does not provide written notice, and the Contractor is damaged by the failure or neglect of the Owner to purchase or maintain the required insurance, the Owner shall reimburse the Contractor for all reasonable costs and damages attributable thereto.

§ 11.2.3 Notice of Cancellation or Expiration of Owner's Required Property Insurance. Within three (3) business days of the date the Owner becomes aware of an impending or actual cancellation or expiration of any property insurance required by the Contract Documents, the Owner shall provide notice directly to the Contractor, and separately to the Construction Manager, of such impending or actual cancellation or expiration. Unless the lapse in coverage arises from an act or omission of the Contractor: (1) the Contractor, upon receipt of notice from the Owner, shall have the right to stop the Work until the lapse in coverage has been cured by the procurement of replacement coverage by either the Owner or the Contractor; (2) the Contract Time and Contract Sum shall be equitably adjusted; and (3) the Owner waives all rights against the Contractor, Subcontractors, and Sub-subcontractors to the extent any loss to the Owner would have been covered by the insurance had it not expired or been cancelled. If the Contractor purchases replacement coverage, the cost of the insurance shall be charged to the Owner by an appropriate Change Order. The furnishing of notice by the Owner shall not relieve the Owner of any contractual obligation to provide required insurance.

§ 11.3 Waivers of Subrogation

§ 11.3.1 The Owner and Contractor waive all rights against (1) each other and any of their subcontractors, sub-subcontractors, agents, and employees, each of the other; (2) the Construction Manager and Construction Manager's consultants; (3) the Architect and Architect's consultants; (4) other Contractors and any of their subcontractors, sub-subcontractors, agents, and employees; and (5) Separate Contractors, if any, and any of their subcontractors, sub-subcontractors, agents, and employees, for damages caused by fire, or other causes of loss, to the extent those losses are covered by property insurance required by the Agreement or other property insurance applicable to the Project, except such rights as they have to proceeds of such insurance. The Owner or Contractor, as appropriate, shall require similar written waivers in favor of the individuals and entities identified above from the Construction Manager, Construction Manager's consultants, Architect, Architect's consultants, other Contractors,

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Separate Contractors, subcontractors, and sub-subcontractors. The policies of insurance purchased and maintained by each person or entity agreeing to waive claims pursuant to this Section 11.3.1 shall not prohibit this waiver of subrogation. This waiver of subrogation shall be effective as to a person or entity (1) even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, (2) even though that person or entity did not pay the insurance premium directly or indirectly, or (3) whether or not the person or entity had an insurable interest in the damaged property.

(Paragraph deleted)

§ 11.4 Loss of Use, Business Interruption, and Delay in Completion Insurance

The Owner, at the Owner's option, may purchase and maintain insurance that will protect the Owner against loss of use of the Owner's property, or the inability to conduct normal operations, due to fire or other causes of loss. The Owner waives all rights of action against the Contractor, Architect, and Construction Manager for loss of use of the Owner's property, due to fire or other hazards however caused.

§ 11.5 Adjustment and Settlement of Insured Loss

§ 11.5.1 A loss insured under the property insurance required by the Agreement shall be adjusted by the Owner as fiduciary and made payable to the Owner as fiduciary for the insureds, as their interests may appear, subject to requirements of any applicable mortgagee clause and of Section 11.5.2. The Owner shall pay the Construction Manager, Architect and Contractor their just shares of insurance proceeds received by the Owner, and by appropriate agreements the Construction Manager, Architect and Contractor shall make payments to their consultants and Subcontractors in similar manner.

§ 11.5.2 Prior to settlement of an insured loss, the Owner shall notify the Contractor of the terms of the proposed settlement as well as the proposed allocation of the insurance proceeds. The Contractor shall have 14 days from receipt of notice to object to the proposed settlement or allocation of the proceeds. If the Contractor does not object, the Owner shall settle the loss and the Contractor shall be bound by the settlement and allocation. Upon receipt, the Owner shall make the appropriate distributions. Thereafter, if no other agreement is made or the Owner does not terminate the Contract for convenience, the Owner and Contractor shall execute a Change Order for reconstruction of the damaged or destroyed Work in the amount allocated for that purpose. If the Contractor timely objects to either the terms of the proposed settlement or the allocation of the proceeds, the Owner may proceed to settle the insured loss, and any dispute between the Owner and Contractor arising out of the settlement or allocation of the proceeds shall be resolved pursuant to Article 15. Pending resolution of any dispute, the Owner may issue a Construction Change Directive for the reconstruction of the damaged or destroyed Work.

§ 11.6 Bonds

§ 11.6.1 Contractor shall furnish a Performance Bond and a Payment Bond to the Owner in the amount of one hundred percent (100%) of the Contract Sum and issued by a Surety Company authorized to do business in the State of Minnesota, rated "A" or better, and approved by the Owner. The Performance Bond shall be in accordance with Minnesota Statutory requirements, and shall be in the form included in the Project Manual. The Bonds shall allow for any additions or deductions to the Contract Sum.

§ 11.6.2 In order to be acceptable as a surety, Contractor's bonding company bust hold a "Certificate of Authority acceptable to the U.S. Treasury Department and be listed in the Department's current publication of "Bond Qualifiers" with underwriting limitations not less than ten percent (10%) above the Contract Sum.

§ 11.6.3 The surety of the Bonds shall be by a corporate surety company authorized to do business in the state in which Work is being performed under this Contract and acceptable to the Owner. The conditions of the bonds shall meet requirements of the statutes of the state where Work is being performed and all other applicable provisions of state law.

§ 11.6.4 The Contractor shall furnish two (2) originals of the Bonds to the Owner, with copies to the Architect and Construction Manager, within ten (10) days after notification of award and before execution of the Contract. Failure to do so shall constitute a violation of terms of the proposal and provide grounds for forfeiture of bid security.

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ARTICLE 12 UNCOVERING AND CORRECTION OF WORK

§ 12.1 Uncovering of Work

§ 12.1.1 If a portion of the Work is covered contrary to the Construction Manager's or Architect's request or to requirements specifically expressed in the Contract Documents, it must, if requested in writing by either, be uncovered for their examination and be replaced at the Contractor's expense without change in the Contract Time.

§ 12.1.2 If a portion of the Work has been covered that the Construction Manager or Architect has not specifically requested to examine prior to its being covered, the Construction Manager or Architect may request to see such Work and it shall be uncovered by the Contractor. If such Work is in accordance with the Contract Documents, the Contractor shall be entitled to an equitable adjustment to the Contract Sum and Contract Time as may be appropriate. If such Work is not in accordance with the Contract Documents, the costs of uncovering the Work, and the cost of correction, shall be at the Contractor's expense.

§ 12.2 Correction of Work

§ 12.2.1 Before Substantial Completion

The Contractor shall promptly correct Work rejected by the Construction Manager or Architect or failing to conform to the requirements of the Contract Documents, discovered before Substantial Completion, and whether or not fabricated, installed or completed. The Contractor shall bear costs of correcting such rejected Work, including additional testing and inspections, the cost of uncovering and replacement, and compensation for the Construction Manager's and Architect's services and expenses made necessary thereby.

§ 12.2.2 After Substantial Completion

(Paragraphs deleted)

§ 12.2.2.1 If within one year after the date of Substantial Completion of the Work or designated portion thereof, or after the date for commencement of warranties established under Section 9.9.1, or by terms of any applicable special warranty required by the Contract Documents, any of the Work is found to be not in accordance with the requirements of the Contract Documents, the Contractor shall correct it promptly (and any other property damaged or removed in effecting the correction) after receipt of notice from the Owner, Construction Manager or Architect to do so, unless the Owner has previously given the Contractor a written acceptance of such condition. The Owner, Construction Manager or Architect shall give such notice promptly after discovery of the condition. This period of one year shall be extended with respect to portions of Work first performed after Substantial completion by the period of time between Substantial completion and the actual performance of the Work. This obligation under this Subparagraph 12.2.2.1 shall survive acceptance of the Work under the contract and termination of the Contract. The Owner, Construction Manager or Architect shall give such notice promptly after discovery of the condition. The expiration of the above one year or any other specified time period, or any other period prescribed by the law, shall not relieve the Contractor of the obligation form the expense to correct any latent defect in the work or deficiencies which are not readily ascertained, including but not limited to, defective materials and quality of work performed, defects attributable to material substitutions for special materials, substandard performance or otherwise not in compliance with the Contract Documents. Such latent defects or deficiencies shall be corrected as provided in this Paragraph 12.2. Following the correction or replacement of any of the Work, as above specified, the Contractor shall correct any defects or deficiencies in the corrected or replaced materials and workmanship which is found within one year after the date of correction or replacement.

§ 12.2.3 The Contractor shall remove from the site portions of the Work that are not in accordance with the requirements of the Contract Documents and are neither corrected by the Contractor nor accepted by the Owner.

§ 12.2.4 If the Contractor fails to correct nonconforming Work within a reasonable time, the Owner may correct it in accordance with Paragraph 2.4. If the Contractor does not proceed with correction of such nonconforming Work within a reasonable time fixed by written notice from the Architect or Construction Manager, the Owner may correct or remove it and store the salvageable materials or equipment all at the Contractor's expense. If the Contractor does not pay costs of such removal and storage within ten (10) days after written notice, the Owner may upon ten (10) additional days' written notice sell such materials and equipment at auction or at private sale and shall account for the proceeds thereof, after deducting costs and damages that should have been borne by the Contractor, the Contract Sum shall be reduced by the deficiency. If payments then or thereafter due the Contractor are not sufficient to cover such amount, the Contractor shall pay the difference to the Owner.

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§ 12.2.5 The Contractor shall bear the cost of correcting destroyed or damaged construction whether completed or partially completed, of the Owner or separate contractors caused by the Contractor's correction or removal of Work which is not in accordance with the requirements of the Contract Documents.

§ 12.2.6 Nothing contained in this Section 12.2 shall be construed to establish a period of limitation with respect to other obligations the Contractor has under the Contract Documents. Establishment of the one-year period for correction of Work as described in Section 12.2.2 relates only to the specific obligation of the Contractor to correct the Work, and has no relationship to the time within which the obligation to comply with the Contract Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Contractor's liability with respect to the Contractor's obligations other than specifically to correct the Work.

§ 12.3 Acceptance of Nonconforming Work

If the Owner prefers to accept Work that is not in accordance with the requirements of the Contract Documents, the Owner may do so instead of requiring its removal and correction, in which case the Contract Sum will be reduced as appropriate and equitable. Such adjustment shall be effected whether or not final payment has been made.

ARTICLE 13 MISCELLANEOUS PROVISIONS

§ 13.1 Governing Law

The Contract shall be governed by the law of the place where the Project is located excluding that jurisdiction's choice of law rules. If the parties have selected arbitration as the method of binding dispute resolution, the Federal Arbitration Act shall govern Section 15.4.

§ 13.2 Successors and Assigns

§ 13.2.1 The Owner and Contractor respectively bind themselves, their partners, successors, assigns, and legal representatives to covenants, agreements, and obligations contained in the Contract Documents. Except as provided in Section 13.2.2, neither party to the Contract shall assign the Contract as a whole without written consent of the other. If either party attempts to make an assignment without such consent, that party shall nevertheless remain legally responsible for all obligations under the Contract.

§ 13.2.2 The Owner may, without consent of the Contractor, assign the Contract to a lender providing construction financing for the Project, if the lender assumes the Owner's rights and obligations under the Contract Documents. The Contractor shall execute all consents reasonably required to facilitate the assignment.

§ 13.3 Rights and Remedies

§ 13.3.1 Duties and obligations imposed by the Contract Documents and rights and remedies available thereunder shall be in addition to and not a limitation of duties, obligations, rights, and remedies otherwise imposed or available by law.

§ 13.3.2 No action or failure to act by the Owner, Construction Manager, Architect, or Contractor shall constitute a waiver of a right or duty afforded them under the Contract, nor shall such action or failure to act constitute approval of or acquiescence in a breach thereunder, except as may be specifically agreed upon in writing.

§ 13.4 Tests and Inspections

§ 13.4.1 Tests, inspections, and approvals of portions of the Work shall be made as required by the Contract Documents and by applicable laws, statutes, ordinances, codes, rules, and regulations or lawful orders of public authorities. The Owner, Construction Manager or Architect shall make arrangements for such tests, inspections, and approvals with an independent testing laboratory or entity acceptable to the Owner, or with the appropriate public authority. Timely notice shall be given to the Construction Manager and Architect of when and where tests and inspections are to be made so that the Construction Manager and Architect may observe such procedures. The Owner shall bear costs of tests, inspections, or approvals that do not become requirements until after bids are received or negotiations concluded. The Owner shall directly arrange and pay for tests, inspections, or approvals where building codes or applicable laws or regulations so require.

§ 13.4.2 If the Construction Manager, Architect, Owner, or public authorities having jurisdiction determine that portions of the Work require additional testing, inspection, or approval not included under Section 13.4.1, the Construction Manager and Architect will, upon written authorization from the Owner, instruct the Contractor to make arrangements for such additional testing, inspection, or approval, by an entity acceptable to the Owner, and the

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Contractor shall give a minimum of two (2) working days' notice to the Construction Manager and Architect of when and where tests and inspections are to be made so that the Construction Manager and Architect may observe procedures. The Owner shall bear such costs, except as provided in Section 13.4.3.

§ 13.4.3 If procedures for testing, inspection, or approval under Sections 13.4.1 and 13.4.2 reveal failure of the portions of the Work to comply with requirements established by the Contract Documents, all costs made necessary by such failure, including those of repeated procedures and compensation for the Construction Manager's and Architect's services and expenses, shall be at the Contractor's expense.

§ 13.4.4 Required certificates of testing, inspection, or approval shall, unless otherwise required by the Contract Documents, be secured by the Contractor and promptly delivered to the Construction Manager for transmittal to the Architect.

§ 13.4.5 If the Construction Manager or Architect is to observe tests, inspections, or approvals required by the Contract Documents, the Construction Manager or Architect will do so promptly and, where practicable, at the normal place of testing.

§ 13.4.6 Tests or inspections conducted pursuant to the Contract Documents shall be made promptly to avoid unreasonable delay in the Work.

§ 13.5 Interest

All payments to the Contractor shall be governed by the Prompt Payment of Local Government Bills, Minnesota Statutes, Section 471.125 ("Prompt Payment Act") and Article 5 of the A132–2019 Agreement on this Project.

§ 13.6 Non-Discrimination

§ 13.6.1 All contracts between the Owner and companies providing goods and services under the Contract Documents shall contain the following equal opportunity and civil right clause:

> "During the performance of this Agreement, the provider agrees to the following: No contractor, material supplier, vendor, or other person shall on the basis of sex, race, creed, color, religion, national origin, age, marital status, sexual orientation, or disability be excluded from full employment rights in, participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program, service, or activity under the provisions of any and all applicable Federal and State laws against discrimination, including the Minnesota Human Rights Act and the Civil Rights Act of 1964."

Upon request, the Contractor shall furnish all information and reports required by the Owner, or by the rules and regulations of investigation to ascertain compliance with all applicable rules and regulations. The Contractor shall also comply with any applicable licensing requirements of the Minnesota Department of Human Services in employment of personnel.

The Contractor acknowledges that the violation of the above-stated paragraph is a misdemeanor pursuant to Minnesota Statutes, Section 181.59.

This Agreement may be cancelled or terminated by the Owner or any other person authorized to grant the contracts for employment under this Agreement, and all money due, or to become due under this Agreement may be forfeited for a second or any subsequent violation of the non-discriminatory terms stated above.

§ 13.6.2 During the completion of the work and all other services required by the Contract Documents, the Contractor agrees that no contractor, material supplier, vendor, or other person shall, on the basis of sex, race, creed, color, religion, national origin, age, marital status, sexual orientation, or disability be excluded from full employment rights in participation in, be denied the benefits of, or be otherwise subjected to discrimination under the provisions of any and all applicable Federal and State laws against discrimination, including the Minnesota Human Rights Act and the Civil Rights Act of 1964. Upon request, the Architect, Construction Manager and Contractor shall furnish all information and reports required by the Owner, or by the rules and regulations of investigation to ascertain compliance with all applicable rules and regulations. The Contractor shall also comply with any applicable licensing requirements of the Minnesota Department of Human Services in employment of personnel.

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Contractor acknowledges that the violation of the above-states paragraph is a misdemeanor pursuant to Minnesota Statutes Section 181.59.

The Contract Documents may be cancelled or terminated by the Owner or any other person authorized to grant the contracts for employment under this Agreement, and all money due, or to become due under the Agreement may be forfeited for a second or any subsequent violation of the non-discriminatory terms stated above.

§ 13.7 No action or failure to act by the Owner shall constitute a waiver of a right or duty afforded the Owner under the Contract Documents, nor shall such action or failure to act constitute approval of or acquiescence of the Owner in a breach of the Contract Documents, except as may be specifically agreed in writing. None of the approval of any Application for Payment, the making of any payment, the giving of any approval or consent, the use or occupancy of the Work, or any part thereof, the making of final payment, or any other action or inaction on the part of the Owner, Construction Manager or Architect shall constitute a waiver of claims by or rights of the Owner or an acceptance of any Work that is not in accordance with the Contract Documents. The Contractor shall not be relieved from its obligations to perform the Work in accordance with the Contract Documents either by the activities or duties of the representations of the Owner, Construction Manager or Architect, or by inspections, tests, or approvals required or performed by the Owner, Construction Manager or Architect or anyone else.

ARTICLE 14 TERMINATION OR SUSPENSION OF THE CONTRACT

§ 14.1 Termination by the Contractor

§ 14.1.1 The Contractor may terminate the Contract if the Work is stopped for a period of 30 consecutive days through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, their agents or employees, or any other persons or entities performing portions of the Work, for any of the following reasons:

.1 Issuance of an order of a court or other public authority having jurisdiction that requires all Work to be stopped;

.2 An act of government, such as a declaration of national emergency, that requires all Work to be stopped;

.3 Because the Construction Manager has not certified or the Architect has not issued a Certificate for Payment and has not notified the Contractor of the reason for withholding certification as provided in Section 9.4, or because the Owner has not made payment on a Certificate for Payment within the time stated in the Contract Documents; or

.4 The Owner has failed to furnish to the Contractor reasonable evidence as required by Section 2.2.

§ 14.1.2 The Contractor may terminate the Contract if, through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, their agents or employees, or any other persons or entities performing portions of the Work, repeated suspensions, delays, or interruptions of the entire Work by the Owner as described in Section 14.3, constitute in the aggregate more than 100 percent of the total number of days scheduled for completion, or 120 days in any 365-day period, whichever is less.

§ 14.1.3 If one of the reasons described in Section 14.1.1 or 14.1.2 exists, the Contractor may, upon seven days' notice to the Owner, Construction Manager and Architect, terminate the Contract and recover from the Owner payment for Work executed, as well as reasonable overhead and profit on Work not executed, and costs incurred by reason of such termination.

§ 14.1.4 If the Work is stopped for a period of 60 consecutive days through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, or their agents or employees, or any other persons performing portions of the Work because the Owner has repeatedly failed to fulfill the Owner's obligations under the Contract Documents with respect to matters important to the progress of the Work, the Contractor may, upon seven additional days' notice to the Owner, Construction Manager and Architect, terminate the Contract and recover from the Owner as provided in Section 14.1.3.

§ 14.1.5 No Right to Stop Work for Non-Payment

The Contractor has no right to stop Work as a consequence of non-payment. In the event of any disagreement between the Contractor and Owner involving the Contractor's entitlement to payment, the Contractor's only remedy is to file a Claim in accordance with Article 15. The Contractor must diligently proceed with the Work pending resolution of the Claim. If, however, an Application for Payment has been approved for payment by the Owner, and the Owner fails to make payment within sixty (60) days of the approval for payment by the Owner, the Contractor may upon ten (10)

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days written notice to the Owner, stop work if payment is not made by the Owner within ten (10) days following the notice.

§ 14.2 Termination by the Owner for Cause

§ 14.2.1 The Owner may terminate the Contract if the Contractor

.1 repeatedly refuses or fails to supply enough properly skilled workers or proper materials;

.2 fails to make payment to Subcontractors or suppliers in accordance with the respective agreements between the Contractor and the Subcontractors or suppliers;

.3 repeatedly disregards applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of a public authority; or

.4 otherwise is guilty of substantial breach of a provision of the Contract Documents.

§ 14.2.2 When any of the reasons described in Section 14.2.1 exist, after consultation with the Construction Manager, and upon certification by the Architect that sufficient cause exists to justify such action, the Owner may, without prejudice to any other rights or remedies of the Owner and after giving the Contractor and the Contractor's surety, if any, seven days' notice, terminate employment of the Contractor and may, subject to any prior rights of the surety:

.1 Exclude the Contractor from the site and take possession of all materials, equipment, tools, and construction equipment and machinery thereon owned by the Contractor;

.2 Accept assignment of subcontracts pursuant to Section 5.4; and

.3 Finish the Work by whatever reasonable method the Owner may deem expedient. Upon written request of the Contractor, the Owner shall furnish to the Contractor a detailed accounting of the costs incurred by the Owner in finishing the Work.

§ 14.2.3 When the Owner terminates the Contract for one of the reasons stated in Section 14.2.1, the Contractor shall not be entitled to receive further payment until the Work is finished.

§ 14.2.4 If the unpaid balance of the Contract Sum exceeds costs of finishing the Work, including compensation for the Construction Manager's and Architect's services and expenses made necessary thereby, and other damages incurred by the Owner and not expressly waived, such excess shall be paid to the Contractor. If such costs and damages exceed the unpaid balance, the Contractor shall pay the difference to the Owner. The amount to be paid to the Contractor or Owner, as the case may be, shall, upon application, be certified by the Initial Decision Maker after consultation with the Construction Manager, and this obligation for payment shall survive termination of the Contract.

§ 14.3 Suspension by the Owner for Convenience

§ 14.3.1 The Owner may, without cause, order the Contractor in writing to suspend, delay or interrupt the Work, in whole or in part for such period of time as the Owner may determine.

§ 14.3.2 The Contract Sum and the Contract Time shall be adjusted for increases or decreases in the cost and time caused by suspension, delay, or interruption under Section 14.3.1. Adjustment of the Contract Sum shall include reasonable profit. No adjustment shall be made to the extent:

.1 that performance is, was, or would have been, so suspended, delayed, or interrupted, by another cause for which the Contractor is responsible; or

.2 that an equitable adjustment is made or denied under another provision of this Contract.

§ 14.4 Termination by the Owner for Convenience

§ 14.4.1 The Owner may, at any time, terminate the Contract for the Owner's convenience and without cause.

§ 14.4.2 Upon receipt of notice from the Owner of such termination for the Owner's convenience, the Contractor shall

.1 cease operations as directed by the Owner in the notice;

.2 take actions necessary, or that the Owner may direct, for the protection and preservation of the Work; and

.3 except for Work directed to be performed prior to the effective date of termination stated in the notice, terminate all existing subcontracts and purchase orders and enter into no further subcontracts and purchase orders.

(Paragraph deleted)

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ARTICLE 15 CLAIMS AND DISPUTES

§ 15.1 Claims

§ 15.1.1 Definition. A Claim is a demand or assertion by the Contractor seeking, as a matter of right, payment of money, a change in the Contract Time, or other relief with respect to the terms of the Contract. The responsibility to substantiate Claims shall rest with the Contractor. Nothing in this paragraph 15.1.1 is intended to apply to or in any way limit the Owner's right to make Claims related to or arising out of the Contract. This Section 15.1.1 does not require the Owner to file a Claim in order to impose liquidated damages in accordance with the Contract Documents.

§ 15.1.2 Time Limits on Claims

The Owner and Contractor shall commence all Claims and causes of action against the other and arising out of or related to the Contract, whether in contract, tort, breach of warranty or otherwise, in accordance with the requirements of the binding dispute resolution method selected in the Agreement and within the period specified by applicable law, but in any case not more than 10 years after the date of Substantial Completion of the Work. The Owner and Contractor waive all Claims and causes of action not commenced in accordance with this Section 15.1.2.

§ 15.1.3 Notice of Claims

§ 15.1.3.1 Claims by Contractor, where the condition giving rise to the Claim is first discovered prior to expiration of the period for correction of the Work set forth in Section 12.2.2, shall be initiated by written notice to the Owner and to the Initial Decision Maker with a copy sent to the Construction Manager and Architect, if the Architect is not serving as the Initial Decision Maker. Claims by the Contractor under this Section 15.1.3.1 shall be initiated within ten (10) days after occurrence of the event giving rise to such Claim or within ten (10) days after the Contractor first recognizes the condition giving rise to the Claim, whichever is later. Any additional Claim made after and relating to the initial Claim has been implemented by Change Order will not be considered unless submitted in a timely manner. As a condition to making a claim for additional costs, the Contractor shall maintain and produce accurate records to substantiate all additional costs actually incurred. If a Claim for actual costs is approved, the Owner shall pay the Contractor actual costs incurred, plus either (a) ten percent (10%) for overhead and profit for work performed by the Contractor, or (b) five percent (5%) overhead and profit for work performed by a Subcontractor, as applicable.

§ 15.1.3.2 Claims by either the Owner or Contractor, where the condition giving rise to the Claim is first discovered after expiration of the period for correction of the Work set forth in Section 12.2.2, shall be initiated by written notice to the other party. In such event, no decision by the Initial Decision Maker is required.

§ 15.1.4 Continuing Contract Performance

§ 15.1.4.1 Pending final resolution of a Claim, except as otherwise agreed in writing or as provided in Section 9.7 and Article 14, the Contractor shall proceed diligently with performance of the Contract and the Owner shall continue to make payments in accordance with the Contract Documents. Subject to Paragraph 15.1.5, no such continuing performance by the Contractor, nor payment by the Owner shall be deemed a waiver of, or to otherwise impair any such Claim.

§ 15.1.4.2 The Contract Sum and Contract Time shall be adjusted in accordance with the Initial Decision Maker's decision, subject to the right of either party to proceed in accordance with this Article 15. The Architect will issue Certificates for Payment in accordance with the decision of the Initial Decision Maker.

§ 15.1.5 Claims for Additional Cost. If the Contractor wishes to make a Claim for an increase in the Contract Sum, notice as provided in Section 15.1.3 shall be given before proceeding to execute the portion of the Work that is the subject of the Claim. Prior notice is not required for Claims relating to an emergency endangering life or property arising under Section 10.4.

§ 15.1.6 Claims for Additional Time

§ 15.1.6.1 If the Contractor wishes to make a Claim for any increase in the Contract Time, notice as provided in Section 15.1.3 shall be given. The Contractor's Claim shall include an estimate of cost and of probable effect of delay on progress of the Work. In the case of a continuing delay only one Claim is necessary.

§ 15.1.6.2 If adverse weather conditions are the basis for a Claim for additional time, such Claim shall be documented by data substantiating that weather conditions were abnormal for the period of time, could not have been reasonably anticipated and had an adverse effect on the scheduled construction.

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(Paragraphs deleted)

§ 15.2 Initial Decision

§ 15.2.1 Claims, excluding those where the condition giving rise to the Claim is first discovered after expiration of the period for correction of the Work set forth in Section 12.2.2 or arising under Sections 10.3, 10.4, and 11.5, shall be referred to the Initial Decision Maker for initial decision. The Architect will serve as the Initial Decision Maker, unless otherwise indicated in the Agreement. Except for those Claims excluded by this Section 15.2.1, an initial decision shall be required as a condition precedent to mediation of any Claim. If an initial decision has not been rendered within 30 days after the Claim has been referred to the Initial Decision Maker, the party asserting the Claim may demand mediation and binding dispute resolution without a decision having been rendered. Unless the Initial Decision Maker and all affected parties agree, the Initial Decision Maker will not decide disputes between the Contractor and persons or entities other than the Owner.

§ 15.2.2 The Initial Decision Maker will review Claims and within ten days of the receipt of a Claim take one or more of the following actions: (1) request additional supporting data from the claimant or a response with supporting data from the other party, (2) reject the Claim in whole or in part, (3) approve the Claim, (4) suggest a compromise, or (5) advise the parties that the Initial Decision Maker is unable to resolve the Claim if the Initial Decision Maker lacks sufficient information to evaluate the merits of the Claim or if the Initial Decision Maker concludes that, in the Initial Decision Maker's sole discretion, it would be inappropriate for the Initial Decision Maker to resolve the Claim.

§ 15.2.3 In evaluating Claims, the Initial Decision Maker may, but shall not be obligated to, consult with or seek information from either party or from persons with special knowledge or expertise who may assist the Initial Decision Maker in rendering a decision. The Initial Decision Maker may request the Owner to authorize retention of such persons at the Owner's expense.

§ 15.2.4 If the Initial Decision Maker requests a party to provide a response to a Claim or to furnish additional supporting data, such party shall respond, within ten days after receipt of the request, and shall either (1) provide a response on the requested supporting data, (2) advise the Initial Decision Maker when the response or supporting data will be furnished, or (3) advise the Initial Decision Maker that no supporting data will be furnished. Upon receipt of the response or supporting data, if any, the Initial Decision Maker will either reject or approve the Claim in whole or in part.

§ 15.2.5 The Initial Decision Maker will render an initial decision approving or rejecting the Claim, or indicating that the Initial Decision Maker is unable to resolve the Claim. This initial decision shall (1) be in writing; (2) state the reasons therefor; and (3) notify the parties, the Construction Manager, and the Architect, if the Architect is not serving as the Initial Decision Maker, of any change in the Contract Sum or Contract Time or both. The initial decision shall be final and binding on the parties but subject to mediation and, if the parties fail to resolve their dispute through mediation, to binding dispute resolution.

§ 15.2.6 In the event of a Claim against the Contractor, the Owner may, but is not obligated to notify the surety, if any, of the nature and amount of the Claim. If the Claim relates to a possibility of a Contractor's default, the Owner may, but is not obligated to notify the surety and initiate a Claim on the performance bond.

(Paragraphs deleted)

§ 15.3 Mediation

§ 15.3.1 Any claim, dispute or other matter in question or arising out of or related to the Contract shall be subject to mediation. Mediation is not a condition precedent to commencing litigation, but if litigation is commenced before mediation is held, the Parties agree to mediate before any dispositive motions or trial.

§ 15.3.2 The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located unless another location is mutually agreed upon. Agreements reached in mediation and ratified by the Owner's Council shall be enforceable as settlement agreements in any court having jurisdiction thereof.

(Paragraphs deleted)

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Additions and Deletions Report for
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PAGE 1

North High School Phase 4 Work Scope 09-C Ceiling and Acoustic Treatments
1500 James Avenue, Minneapolis, MN 55411

...

Kraus-Anderson Construction Company
501 South 8th Street, Minneapolis, MN 55404

...

Minneapolis Public Schools Special School District #1
1250 West Broadway Avenue
Minneapolis, MN 55411

...

LSE Architects 1401 Glenwood Avenue
Minneapolis, MN 55405

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§ 1.1.1.1 Notwithstanding the foregoing, it is understood and agreed that the Owner is an intended third-party beneficiary of all contracts between the Contractor and Subcontractors or suppliers who provide labor and/or materials for the Work.

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§ 1.1.10 Initial Decision Maker. The Initial Decision Maker is the person identified in the Agreement to render initial decisions on Claims in accordance with Section 15.2. The ~~Initial Decision Maker shall not show partiality to the Owner or Contractor and shall not be liable for results of interpretations or decisions rendered in good faith.~~Architect will serve as the Initial Decision Maker pursuant to Section 15.2 of AIA Document A232–2019.

...

§ 1.2.1 The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work by the Contractor. The Contract Documents are complementary, and what is required by one shall be as binding as if required by all; performance by the Contractor shall be required only to the extent consistent with the Contract Documents and reasonably inferable from them as being necessary to produce the ~~indicated~~ intended results.

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§ 1.2.1.1 The invalidity of any provision of the Contract Documents shall not invalidate the Contract or its remaining provisions. ~~If it is determined that any provision of the Contract Documents violates any law, or is otherwise invalid or unenforceable, then that provision shall be revised to the extent necessary to make that provision legal and enforceable.~~ In such case the Contract Documents shall be construed, to the fullest extent permitted by law, to give effect to the parties' intentions and purposes in executing the Contract.

...

§ 1.4.1 In the case of inconsistency between Drawings and Specifications or within Contract Documents not clarified by Addenda, the better quality or greater quantity of Work shall be provided in accordance with the Architect's interpretation.

§ 1.5.1 The Architect and the Architect's consultants shall be deemed the authors and owners of their respective Instruments of Service, including the Drawings and Specifications, and retain all common law, statutory, and other reserved rights in their Instruments of Service, including copyrights. The Contractor, Subcontractors, sub-subcontractors, and suppliers shall not own or claim a copyright in the Instruments of Service. Submittal or distribution to meet official regulatory requirements or for other purposes in connection with the Project is not to be construed as publication in derogation of the Architect's or Architect's consultants' reserved rights. The Owner retains rights to the Instruments of Service pursuant to Article 7 of AIA Document B101-2017.

...

§ 1.5.3 The Architect shall furnish to the Contractor a version of the Instruments of Service in electronic form for the sole purpose of the construction of the Project for which the Instruments of Service were created.

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The parties shall agree upon ~~written~~ protocols governing the transmission and use ~~of, and reliance on,~~ of Instruments of Service or any other information or documentation in digital form. The parties may use AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit or other form, to establish the protocols for the development, use, transmission, and exchange of digital data.

...

Any use of, or reliance on, all or a portion of a building information model without agreement to ~~written~~ protocols governing the use of, and reliance on, the information contained in the model and without having those protocols set forth in AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, and the requisite AIA Document G202™–2013, Project Building Information Modeling Protocol Form or other form, shall be at the using or relying party's sole risk and without liability to the other party and its contractors or consultants, the authors of, or contributors to, the building information model, and each of their agents and employees.

...

§ 2.1.1 The Owner is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The Owner shall designate in writing a representative who shall have express authority to bind the Owner with respect to all matters requiring the Owner's approval or ~~authorization.~~ authorization in accordance with Owner's Delegation of Authority Policy, a copy of which will be provided at Contractor's request. Except as otherwise provided in Section 4.2.1, the Construction Manager and the Architect do not have such authority. The term "Owner" means the Owner or the Owner's authorized representative.

~~§ 2.1.2 The Owner shall furnish to the Contractor, within fifteen days after receipt of a written request, information necessary and relevant for the Contractor to evaluate, give notice of, or enforce mechanic's lien rights. Such information shall include a correct statement of the record legal title to the property on which the Project is located, usually referred to as the site, and the Owner's interest therein.~~

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§ 2.3.5 ~~The~~ If requested by the Contractor and reasonably required for the Project, the Owner shall furnish surveys describing physical characteristics, legal limitations and utility locations for the site of the Project, and a written legal description of the site. The Contractor ~~shall be entitled to rely on the accuracy of information furnished by the Owner but~~ shall exercise proper precautions relating to the safe performance of the Work.

§ 2.3.6 The Owner shall furnish information or services required of the Owner by the Contract Documents with reasonable promptness. The Owner shall also furnish any other information or services under the Owner's control and relevant to the Contractor's performance of the Work with reasonable promptness after receiving the Contractor's written request for such information or services. The Contractor is responsible for the timeliness of, or interference caused by, Subcontractors, Sub-subcontractors (of any tier), and others directly or indirectly under contract to the Contractor.

...

If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within a ~~ten-day~~ three-business-day (3) period after receipt of notice from the Owner to commence and continue correction of such default or neglect with diligence and promptness, the Owner may, without prejudice to other remedies the Owner may have, correct such default or neglect. Such action by the Owner and amounts charged to the Contractor are both subject to review by the Construction Manager and prior approval of the Architect, and the Construction Manager or Architect may, pursuant to Section 9.5.1, withhold or nullify a Certificate for Payment in whole or in part, to the extent reasonably necessary to reimburse the Owner for the reasonable cost of correcting such deficiencies, including Owner's expenses and compensation for the Construction Manager's and Architect's and their respective consultants' additional services and expenses made necessary by such default, neglect, or failure. If current and future payments are not sufficient to cover such amounts, the Contractor shall pay the difference to the ~~Owner.~~ Owner within ten (10) days following written request for payment delivered by the Owner to the Contractor. If the Contractor disagrees with the actions of the Owner or the Architect, or the amounts claimed as costs to the Owner, the Contractor may file a Claim pursuant to Article 15.

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§ 3.1.3 The Contractor shall ~~not be relieved of its obligations to perform the Work in accordance with the Contract Documents either by activities or duties of the Construction Manager or Architect in their administration of the Contract, or by tests, inspections or approvals required or performed by persons or entities other than the Contractor.~~ hire a professional utilities locator to investigate and verify all private utility locations prior to excavation and cutting into of existing Work. The Contractor is responsible for locating, terminating, and reinstallation of all private utilities. Private site utilities may not be in the Drawings and Project Manual and as such, verification of private utilities is the sole responsibility of the Contractor. Costs associated with moving and repairing of unknown and undocumented utilities will be by appropriate Change Order. The Contractor shall comply with Gopher State One Call, or other public utility service locator to locate all public utilities prior to any work on the site. This shall not relieve Contractor from obligations under Article 3.

§ 3.1.4 The Contractor shall not be relieved of its obligations to perform the Work in accordance with the Contract Documents either by activities or duties of the Construction Manager or Architect in their administration of the Contract, or by tests, inspections or approvals required or performed by persons or entities other than the Contractor.

...

§ 3.2.1 ~~Execution of the Contract by the Contractor is a representation that the Contractor has visited the site, become generally~~ The Contractor shall carefully study and compare the Contract Documents with each other and with information furnished by the Owner pursuant to Section 2.2.3, and shall immediately report to the Architect and Construction Manager errors, inconsistencies, or omissions discovered. The Contractor shall not be liable to the Owner or Architect for damage resulting from errors, inconsistencies, or omissions in the Contract Document unless the Contractor recognized such error, inconsistency, or omission and knowingly failed to report it to the Architect. If the Contractor performs any construction activity knowing or believing it involves a recognized error, inconsistency, or omission in the Contract Documents without such notice to the Architect, the Contractor shall assume full responsibility for such performance and shall bear the attributable costs for correction and shall bear responsibility for any additional costs, delays, and damages resulting from such failure to immediately report any such errors,

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inconsistencies, or omissions which the Contractor may discover. By executing the Contract, the Contractor represents that the Contractor has reviewed and understands the Contract Documents, has visited the Site and is familiar with local conditions under which the Work is to be performed, ~~and correlated personal observations with requirements of the Contract Documents.~~has correlated personal observations with the requirements of the Contract Documents, and has notified the Architect of and obtained clarification of any discrepancies which have become apparent during the bidding or proposal period.

§ 3.2.1.1 The Contractor shall take field measurements and verify field conditions and shall carefully compare such field measurements and conditions and other information known to the Contractor with the Contract Documents before commencing activities. Errors, inconsistencies, or omissions discovered shall be reported to the Architect immediately in writing.

§ 3.2.1.2 The Contractor shall carefully study and compare the Contract Documents with existing conditions at the job site and shall immediately report in writing to the Architect any error, inconsistency, or omission which the Contractor may discover or any materials, systems, procedures, or methods of construction, either shown on the Drawings or specified, which the Contractor has reason to believe are incorrect, inadequate, obsolete, unsuitable for the purpose intended or which the Contractor has reason to believe would constitute or result in a violation of the Contractor's warranty under Section 3.5 or applicable law. The Contractor shall not proceed with any work in such areas until written instructions are received from the Architect.

§ 3.2.2 ~~Because the Contract Documents are complementary, the Contractor shall, before starting each portion of the Work, carefully study and compare the various Contract Documents relative to that portion of the Work, as well as the information furnished by the Owner pursuant to Section 2.3.5, shall take field measurements of any existing conditions related to that portion of the Work, and shall observe any conditions at the site affecting it. These obligations are for the purpose of facilitating coordination and construction by the Contractor and are not for the purpose of discovering errors, omissions, or inconsistencies in the Contract Documents; however, the Contractor shall promptly report to the Construction Manager and Architect any errors, inconsistencies or omissions discovered by or made known to the Contractor as a request for information submitted to the Construction Manager in such form as the Construction Manager and Architect may require. It is recognized that the Contractor's review is made in the Contractor's capacity as a contractor and not as a licensed design professional, unless otherwise specifically provided in the Contract Documents.~~The Contractor shall perform the Work in accordance with the Contract Documents and submittals accepted pursuant to Section 3.12.

§ 3.2.3 The ~~Contractor is not required to ascertain that the Contract Documents are in accordance with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, but the Contractor shall promptly report to the Construction Manager and Architect any nonconformity discovered by or made known to the Contractor as a request for information submitted to Construction Manager in such form as the Construction Manager and Architect may require.~~Owner shall be entitled to deduct from the Contract Sum amounts paid to the Architect for the Architect to evaluate and respond to the Contractor's requests for interpretation or information where such information was available to the Contractor from a careful study and comparison of the Contract Documents, Filed Conditions, Owner Provided Information, Contractor Prepared Coordination Drawings, or prior Project Correspondence or Documentation.

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§ 3.2.4 If the Contractor believes that ~~additional cost or time is involved because of clarifications or instructions the Architect issues in response to the Contractor's notices or requests for information pursuant to Sections 3.2.2 or 3.2.3, the Contractor shall submit Claims as provided in Article 15. If the Contractor fails to perform the obligations of Sections 3.2.2 or 3.2.3, the Contractor shall pay such costs and damages to the Owner, subject to section 15.1.7, as would have been avoided if the Contractor had performed such obligations. If the Contractor performs those obligations, the Contractor shall not be liable to the Owner or Architect for damages resulting from errors, inconsistencies or omissions in the Contract Documents, for differences between field measurements or conditions and the Contract Documents, or for nonconformities of the Contract Documents to applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities.~~any portions of the Contract Documents do not comply with applicable laws, statutes, ordinances, building codes, and rules and regulations, or any orders by code enforcement officials or the Owner or its designees acting in the capacity of building code inspectors or Referenced Standards, the Contractor must promptly notify the Owner and the Architect of the non-compliance as provided in Section 3.2.6 and request direction before proceeding with the affected Work.

§ 3.2.5 The Contractor must promptly notify the Owner and the Architect in writing of any apparent errors, inconsistencies, omissions, ambiguities, construction impracticalities or code violations discovered as a result of the Contractor's review of the Contract Documents including any differences between actual and indicated dimensions, locations and descriptions, and must give the Owner and the Architect timely notice in writing of same and of any corrections, clarifications, additional Drawings or Specifications, or other information required to define the Work in greater detail or to permit the proper progress of the Work. The Contractor must provide similar notice with respect to any variance between its review of the Site and physical data and Site conditions observed.

§ 3.2.6 If the Contractor performs any Work involving an apparent error, inconsistency, ambiguity, construction impracticality, omission or code violation in the Contract Documents of which the Contractor is aware, or which could reasonably have been discovered by the review required by Section 3.2, without prompt written notice to the Owner and the Architect and request for correction, clarification or additional information, as appropriate, the Contractor does so at its own risk and expense and all Claims relating thereafter are specifically waived.

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§ 3.3.4 The Contractor shall at all times staff the Project adequately to allow the Project to be managed and completed in a timely and professional manner. The Contractor shall have competent supervision on the job during work hours and readily available at all times upon call.

§ 3.3.5 The Contractor shall at all times make reasonable provisions to protect any Work performed by any separate contractors, adjacent property, and the existing building (if any) from damage due to the Work or due to the weather.

§ 3.3.6 The Owner or its approved representative (heretofore referred to as Owner's Representative) shall have access to the Work site and all Work. No supervision or inspection by the Owner or the Owner's Representative, nor the authority to act, nor any other actions taken by the Owner's Representative shall relieve the Contractor of any of its obligations under the Contract Documents or give rise to any duty on the part of the Owner.

§ 3.3.7 The Contract shall take appropriate precautions to ensure that the Work does not materially disrupt any ongoing operation by the Owner at the Project (if any) except to the extent any such disruption is a necessary result of performing a particular portion of the Work, in which case the Contractor shall provide the Owner with reasonable advanced written notice and shall take all commercially reasonable measures to minimize the impact on the Owner and the Owner's operations.

§ 3.4.1 Unless otherwise provided in the Contract Documents, the Contractor shall provide and pay for labor, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation, and other facilities and services necessary for proper execution and completion of the Work, whether temporary or permanent and whether or not incorporated or to be incorporated in the Work. Should the Contract Documents require Work to be performed after regular working hours or should the Contractor elect to perform Work after regular working hours, the additional cost of such Work shall be borne by the Contractor.

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§ 3.4.4 The Contractor shall be responsible for all additional costs incurred to incorporate into the Project substitute materials, products, or equipment approved by Owner during the bidding period.

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§ 3.4.5 In the event of a Change related to substitute or additional materials, and which shall comply with Article 7, the Contractor shall exercise reasonable efforts, consistent with the provisions of the Contract Documents to obtain the maximum available case discounts on all materials, provided that, in doing so, the Contractor shall not accept or use materials for incorporation into the Project which are of a type or quality not reasonably contemplated under the terms of the Contract Documents.

§ 3.4.6 After award of the Contract, a request for substitution of a material, product, or piece of equipment at no change in the Contract Sum will not be approved by the Owner or the Architect, unless the specified item is no longer manufactured, the specified item is unavailable as a result of an act of government such as a declaration of a national emergency, or delivery of the specified items is substantially delayed as a result of labor disputes affecting the manufacturer, unusual delay in transportation, or any other cause beyond control of the Contractor or a Subcontractor or material supplier which the Architect determines justified the delay. Requests will not be approved where the delay in delivery results from failure to promptly place subcontracts and material orders. Requests for substitution shall be submitted in writing to the Architect and shall clearly describe the proposed substitution, state the reason for the unavailability of a specified item and be accompanied by such additional data and information as may be necessary in the discretion of the Owner and the Architect to establish the acceptability of the proposed substitute.

§ 3.4.7 The Owner shall be entitled to deduct from the Contract Sum amounts paid to the Architect to evaluate the Contractor's proposed Substitutions and for changes made to the Contract Documents as a result of Owner's acceptance of such Substitutions.

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§ 3.5.2 All material, equipment, or other special warranties required by the Contract Documents shall be issued in the name of the Owner, or shall be transferable to the Owner, and shall commence in accordance with Section 9.8.4. The Contractor shall arrange for the Owner to have the benefit of and right to enforce all warranties by Subcontractors, Sub-subcontractors, suppliers, and manufacturers.

§ 3.5.3 Manufacturers' warranties and warranties by other shall not relieve the Contractor of any of its responsibilities.

§ 3.5.4 The Contractor's general warranty and any additional or special warranties are not limited by the Contractor's obligations to specifically correct defective or nonconforming Work as provided in Article 12, nor are they limited by any other remedies provided in the Contract Documents. The Contractor shall also be liable for any damage to property or persons (including death) including consequential and direct damages relating to any breach of the Contractor's general warranty or any additional or special warranties required by the Contract Documents.

§ 3.5.5 The Contractor must furnish all special warranties required by the Contract Documents to the Owner no later than Substantial Completion. The Owner may require additional special warranties in connection with the approval of "Or-Equals" or Substitutions, Allowance items, Work that is defective or nonconforming, or the acceptance of nonconforming Work pursuant to Article 12.

...

§ 3.7.1 Unless otherwise provided in the Contract Documents, the Owner, assisted by the Construction Manager, shall secure and pay for the building permit. The Contractor shall secure and pay for other permits, fees, licenses, and inspections by government agencies necessary for proper execution and completion of the Work that are customarily secured after execution of the Contract and legally required at the time bids are received or negotiations concluded. The Contractor shall be responsible for the Sewer Access (SAC) and Water Access (WAC) fees for the Project. The Contractor shall pay the SAC/WAC costs to the authorities having jurisdiction from the Allowance in the Base Bid for such charges as defined in the Construction Documents.

...

§ 3.7.3 If the Contractor performs Work knowing or believing it to be contrary to applicable laws, statutes, ordinances, building codes, rules and regulations, or lawful orders of public authorities, without such notice to the Architect and Owner, the Contractor shall assume ~~appropriate~~ full responsibility for such Work and shall bear the ~~costs attributable~~

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~~to correction.~~attributable costs, delays, and damages resulting from such failure to immediately notify the Architect and Owner of any such violation..

§ 3.7.4 Concealed or Unknown Conditions. If the Contractor encounters conditions at the site that are (1) subsurface or otherwise concealed physical conditions that differ materially from those indicated in the Contract Documents or (2) unknown physical conditions of an unusual nature that differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents, the Contractor shall promptly provide notice to the Owner, Construction Manager, and the Architect before conditions are disturbed and in no event later than ~~14~~ ten (10) days after first observance of the conditions. The Architect and Construction Manager will promptly investigate such conditions and, if the Architect, in consultation with the Construction Manager, determines that they differ materially and cause an increase or decrease in the Contractor's cost of, or time required for, performance of any part of the Work, will recommend that an equitable adjustment be made in the Contract Sum or Contract Time, or both. If the Architect, in consultation with the Construction Manager, determines that the conditions at the site are not materially different from those indicated in the Contract Documents and that no change in the terms of the Contract is justified, the Architect shall promptly notify the Owner, Construction Manager, and Contractor, stating the reasons. If the Owner or Contractor disputes the Architect's determination or recommendation, either party may submit a Claim as provided in Article 15.

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§ 3.9.1 The Contractor shall employ a competent superintendent and necessary assistants who shall be in attendance at the Project site during performance of the ~~Work.~~ Work, including that performed by all Subcontractors. The superintendent shall represent the Contractor, and communications given to the superintendent shall be as binding as if given to the Contractor. Important communications including and not limited to communications regarding design changes, alterations, substitutions, clarifications, cost changes, etc. shall be confirmed in writing by the Contractor. Other communications shall be similarly confirmed on written request in each case.

...

§ 3.9.3 The Contractor shall not employ a proposed superintendent or any other management personnel to whom the Owner, Construction Manager, or Architect has made reasonable and timely objection. The Contractor shall not change the superintendent without the Owner's consent, which shall not unreasonably be withheld or delayed.

§ 3.9.4 If requested by the Owner, the Contractor shall replace the superintendent at no additional cost to the Owner. No other change in this position shall be made without notice to and written consent of the Owner.

...

§ 3.10.1 The Contractor, promptly after being awarded the Contract, shall submit for the Owner's and Architect's information, and the Construction Manager's use in developing the Project schedule, a Contractor's construction schedule for the Work. The schedule shall contain detail appropriate for the Project, including (1) the date of commencement of the Work, interim schedule milestone dates, critical path schedule milestones, major construction milestones, including and not limited to Civil, Demolition, Structural, Mechanical, Electrical, and Plumbing, and the date of Substantial Completion; (2) an apportionment of the Work by construction activity; and (3) the time required for completion of each portion of the Work. The schedule shall provide for the orderly progression of the Work to completion and shall not exceed time limits current under the Contract Documents. The schedule shall be revised at appropriate intervals as required by the conditions of the Work and Project. The Contractor shall cooperate with the Construction Manager in scheduling and performing the Contractor's Work to avoid conflict with, and as to cause no delay in, the work or activities of other Contractors, or the construction or operations of the Owner's own forces or Separate Contractors.

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§ 3.10.4 The Contractor shall perform the Work in general accordance with the most recent schedules submitted to and accepted in writing by the Owner, Construction Manager, and Architect, and incorporated into the approved Project schedule.

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~~The Contractor shall make available, at the Project site, the Contract Documents, including Change Orders, Construction Change Directives, and other Modifications, in good order and marked currently to indicate field changes and selections made during construction, and the approved Shop Drawings, Product Data, Samples, and similar required submittals. These shall be in electronic form or paper copy, available to the Construction Manager, Architect, and Owner, and delivered to the Construction Manager for submittal to the Owner upon completion of the Work as a record of the Work as constructed.~~ § 3.11.1 The Contractor shall make available, at the Project site, one record copy of the Contract Documents, including Change Orders, Construction Change Directives, and other Modifications, in good order and updated daily to indicate field changes and selections made during construction, and in addition accepted and approved Shop Drawings, Product Data, Samples, and similar required submittals. These shall be in electronic form or paper copy, available to the Construction Manager, Architect, and Owner as required to complete routine inspections by Architect, Construction Manager and Owner prior to any approval of payments to the Contractor, and delivered to the Construction Manager for submittal to the Owner upon completion of the Work. The Architect and Contractor must verify that all "as-built" Drawings, Specifications, Addenda, Change Orders, and other Modifications are up-to-date before Contractor's Application for Payment is acceptable and before the Owner incurs any duty to pay Contractor in accordance with the Contract. The record documents shall be a separate set of documents labeled "Record Documents" and used only for record purposes and kept clean and undamaged.

§ 3.11.2 No review or receipt of such records by the Architect or Owner shall be considered a waiver of any deviation from the Contract Documents or approved shop drawings, or any way relieve the Contractor from its responsibility to perform the Work in accordance with the Contract Documents.

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§ 3.12.5 The Contractor shall review for compliance with the Contract Documents, approve, and submit to the Construction Manager, Shop Drawings, Product Data, Samples, and similar submittals required by the Contract Documents, in accordance with the Project submittal schedule approved by the Construction Manager and Architect or, in the absence of an approved Project submittal schedule, with reasonable promptness and in such sequence as to cause no delay in the Work or in the activities of other Contractors, Separate Contractors, or the Owner's own forces. The Contractor shall cooperate with the Construction Manager in the coordination of the Contractor's Shop Drawings, Product Data, Samples, and similar submittals with related documents submitted by other Contractors. The Contractor must provide the Owner and the Architect with copies of all submittals made to regulatory agencies.

...

§ 3.12.7 The Contractor shall perform no portion of the Work for which the Contract Documents require submittal and review of Shop Drawings, Product Data, Samples, or similar submittals, until the respective submittal has been reviewed and ~~approved by the Architect.~~accepted by the Architect. The Contractor must correct at its cost, and without any adjustment in Contract Time, any Work the correction of which is required due to the Contractor's failure to obtain approval of a submittal required to have been obtained prior to proceeding with the Work, including, but not limited to, correction of any conflicts in the Work resulting from such failure.

§ 3.12.8 The Work shall be in accordance with ~~approved~~ accepted submittals except that the Contractor shall not be relieved of responsibility for deviations from the requirements of the Contract Documents by the Architect's ~~approval~~ acceptance of Shop Drawings, Product Data, Samples, or similar submittals, unless the Contractor has specifically notified the Construction Manager and Architect of such deviation at the time of submittal and (1) the Architect has given written ~~approval~~ acceptance to the specific deviation as a minor change in the Work, or (2) a Change Order or Construction Change Directive has been issued authorizing the deviation. The Contractor shall not be relieved of responsibility for errors or omissions in Shop Drawings, Product Data, Samples, or similar submittals, by the Architect's ~~approval~~ acceptance thereof.

§ 3.12.9 The Contractor shall direct specific attention, in writing or on resubmitted Shop Drawings, Product Data, Samples, or similar submittals, to revisions other than those requested by the Construction Manager and Architect on previous submittals. In the absence of such notice, the Architect's ~~approval~~ acceptance of a resubmission shall not apply to such revisions.

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§ 3.13.3 Except as may be specifically provided in the Contract Documents, the Contractor shall provide all necessary temporary facilities, including power, water, sanitation, scaffolding, storage, and security. If Owner makes any such

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facilities available to Contractor, it is without representation or warranty as to their adequacy for Contractor's use, and Contractor shall indemnify, defend, and hold Owner harmless from and against any claims arising out of Contractor's use of such facilities.

...

§ 3.14.2 The Contractor shall not damage or endanger a portion of the Work or fully or partially completed construction of the Owner, Separate Contractors, or of other Contractors by cutting, patching, or otherwise altering such construction, or by excavation. The Contractor shall not cut or otherwise alter construction by the Owner, Separate Contractors, or by other Contractors except with written consent of the Construction Manager, Owner, and such other Contractors or Separate Contractors. Consent shall not be unreasonably withheld. The Contractor shall hire a professional utilities locator to verify locations of all public and private utilities prior to initiating any cutting work. The Contractor shall not unreasonably withhold, from the Separate Contractors, other Contractors, or the Owner, its consent to cutting or otherwise altering the Work.

...

§ 3.15.1 The Contractor shall keep the premises and surrounding area continuously free from accumulation of waste materials and rubbish caused by operations under the Contract. At completion of the Work, the Contractor shall remove from and about the Project waste materials, rubbish, Contractor-generated waste materials, the Contractor's generated hazardous waste materials, the Contractor's tools, construction equipment, machinery, and surplus materials from and about the Project.

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§ 3.18.1 To the fullest extent permitted by law, the Contractor shall ~~indemnify~~ indemnify, defend and hold harmless the Owner, Construction Manager, Architect, Construction Manager's and Architect's consultants, and agents and employees of any of them from and against claims, damages, losses, and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), but only to the extent caused by the negligent acts or omissions of the Contractor, a Subcontractor, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss, or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity ~~that~~ which would otherwise exist as to a party or person described in this Section 3.18. The Contractor, furthermore, agrees to obtain, maintain, and pay for such general liability coverage and endorsements (including product and completed operations coverage) as will ensure the provisions of this Section 3.18.1. The Contractor agrees to reimburse the Owner, its agents and employees for all costs and disbursements, including attorneys' fees, paid or incurred to enforce the provisions of this Section 3.18.1.

...

§ 3.18.3 To the fullest extent permitted by law and without limiting any other indemnification obligations of the Contractor, except to the extent caused by the uncured failure of the Owner to make payment when due and owing, the Contractor shall indemnify and defend the Owner, its officers, directors, assigns, lenders, agents, and employees from any liens, charges (including attorneys' fees) or encumbrances (including but not limited to mechanic's and materialmen's liens or bond claims) arising out of or in connection with the performance of the Work by Contractor, its Subcontractors, or its material suppliers. Upon request of the Owner, the Contractor shall within sixty (60) days remove any liens filed against the Owner or its property. If the Contractor fails to do so, the Owner is authorized by the Contractor to remove or satisfy any such liens, and the Contractor shall pay to the Owner all costs and damages incurred by the Owner to do so, including attorneys' fees.

...

§ 4.2.1 The Construction Manager and Architect will provide administration of the Contract as described in the Contract Documents and will be the Owner's ~~representatives during construction until the date the Architect issues the final Certificate for Payment.~~ consultants (1) during construction; (2) until final payment is due; and (3) with the

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Owner's concurrence, from time to time during the correction period described in Section 12.2. The Architect and Construction Manager will advise and consult with the Owner. The Construction Manager and Architect will have authority to act on behalf of the Owner only to the extent provided in the Contract ~~Documents.~~Documents, unless otherwise modified in writing in accordance with other provisions of the Contract.

§ 4.2.2 The Architect will visit the site at intervals appropriate to the stage of construction, or as otherwise agreed with the Owner, to become generally familiar with the progress and quality of the ~~portion of the Work completed,~~ Work completed, to endeavor to guard the Owner against defects and deficiencies in the Work, and to determine in general if the Work ~~observed~~ is being performed in a manner indicating that the Work, when ~~fully~~ completed, will be in accordance with the Contract Documents. However, the Architect will not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. On the basis of the site visits, the Architect will keep the Owner and the Construction Manager reasonably informed about the progress and quality of the portion of the Work completed, and promptly report to the Owner and Construction Manager known deviations from the Contract Documents and defects and deficiencies observed in the Work.

§ 4.2.2.2 The Contractor shall reimburse the Owner for compensation paid to the Architect for additional site visits made necessary by fault, neglect, or request of the Contractor.
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§ 4.2.6 Communications. The Owner shall communicate with the Contractor and the Construction Manager's consultants through the Construction Manager about matters arising out of or relating to the Contract Documents. The Owner and Construction Manager shall include the Architect in all communications that relate to or affect the Architect's services or professional responsibilities. The Owner shall promptly notify the Architect of the substance of any direct communications between the Owner and the Construction Manager otherwise relating to the Project. Communications by and with the Architect's consultants shall be through the Architect. Communications by and with Subcontractors and suppliers shall be through the Contractor. Communications by and with other Contractors shall be through the Construction Manager. Communications by and with the Owner's own forces and Separate Contractors shall be through the ~~Owner.~~ Owner unless otherwise provided. The Contract Documents may specify other communication protocols. The Owner may require the Architect, Construction Manager and the Contractor to comply with Owner requirements in regards to public communications and site signage.

...

§ 4.2.8 The Architect and Construction Manager have authority to reject Work that does not conform to the Contract Documents, and will notify each other about the rejection. Whenever the Construction Manager considers it necessary or ~~advisable,~~ advisable for implementation of the intent of the Contract Documents, the Construction Manager will have authority to require additional inspection or testing of the Work in accordance with Sections 13.4.2 and 13.4.3, upon written authorization of the Owner, whether or not the Work is fabricated, installed or completed. The foregoing authority of the Construction Manager will be subject to the provisions of Sections 4.2.18 through 4.2.20 inclusive, with respect to interpretations and decisions of the Architect. However, neither the Architect's nor the Construction Manager's authority to act under this Section 4.2.8 nor a decision made by either of them in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect or the Construction Manager to the Contractor, Subcontractors, suppliers, their agents or employees, or other persons performing any of the Work.
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§ 4.2.11 The Architect ~~will~~ will, and the Owner may, review and approve, or take other appropriate action upon, the Contractor's submittals such as Shop Drawings, Product Data, and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Architect's ~~action will be taken in accordance with the submittal schedule approved by the Architect or, in the absence of an approved submittal schedule, with reasonable promptness~~ or Owner's action will be taken with such reasonable promptness as to cause no delay in the Work or in the activities of the Owner, Contractor or separate contractors, while allowing sufficient time in the Architect's professional judgment to permit adequate review. Upon the Architect's or the Owner's completed review, the Architect shall transmit its submittal review to the Construction Manager.
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§ 4.2.18 The Architect will interpret and decide matters concerning performance ~~under, and~~ under the requirements of, the Contract Documents on written request of the Construction Manager, Owner, or Contractor through the Construction Manager. The Architect's response to such requests will be made ~~in writing within any time limits agreed upon or otherwise with reasonable promptness.~~ with reasonable promptness and within any time limits agreed upon. If no agreement is made concerning the time within which interpretations required of the Architect shall be furnished in compliance with this Section 4.2.18, then delay shall not be recognized on account of failure by the Architect to furnish such interpretations until fifteen (15) days after written request is made to them.

§ 4.2.19 ~~Interpretations and decisions of the Architect will be consistent with the intent of, and reasonably inferable from, the Contract Documents and will be in writing or in the form of drawings. When making such interpretations and decisions, the Architect will endeavor to secure faithful performance by both Owner and Contractor, will not show partiality to either, and will not be liable for results of interpretations or decisions so rendered in good faith.~~ Architect's decisions on matters relating to aesthetic effect will be final if consistent with the intent expressed in the Contract Documents.

§ 4.2.20 ~~The Architect's decisions on matters relating to aesthetic effect will be final if consistent with the intent expressed in the Contract Documents.~~ Architect will review and respond to requests for information about the Contract Documents. The Architect's response to such requests will be made in writing within any time limits agreed upon or otherwise with reasonable promptness. If appropriate, the Architect will prepare and issue supplemental Drawings and Specifications in response to the requests for information.

~~§ 4.2.21 The Construction Manager will receive and review requests for information from the Contractor, and forward each request for information to the Architect, with the Construction Manager's recommendation. The Architect will review and respond in writing, through the Construction Manager, to requests for information about the Contract Documents. The Construction Manager's recommendation and the Architect's response to each request will be made in writing within any time limits agreed upon or otherwise with reasonable promptness. If appropriate, the Architect will prepare and issue supplemental Drawings and Specifications in response to the requests for information.~~

...

§ 5.2.1 Unless otherwise stated in the Contract Documents, the Contractor, as soon as practicable after award of the Contract, shall notify in writing the Construction Manager, for review by the Owner, Construction Manager and Architect, of the persons or entities proposed for each principal portion of the Work, including those who are to furnish materials or equipment fabricated to a special design. Within 14 days of receipt of the information, the Construction Manager may notify the Contractor whether the Owner, the Construction Manager or the Architect (1) has reasonable objection to any such proposed person or entity or, (2) requires additional time for review. Failure of the Construction Manager to provide notice within the 14-day period shall constitute notice of no reasonable objection. The Contractor shall not employ any Subcontractor or use any material to which the Architect, Construction Manager or Owner may object. Prior to the employment of any Subcontractor, the Contractor must obtain the Owner's approval of such Subcontractor for the designated portion of the Work.

...

§ 5.2.3 If the Owner, Construction Manager or Architect has reasonable objection to a person or entity proposed by the Contractor, the Contractor shall propose another to whom the Owner, Construction Manager or Architect has no reasonable objection. ~~If the proposed but rejected Subcontractor was reasonably capable of performing the Work, the Contract Sum and Contract Time~~ The Contract Sum shall be increased or decreased by the ~~difference, if any,~~ difference in cost occasioned by such change, and an appropriate Change Order shall be ~~issued before commencement of the substitute Subcontractor's Work.~~ issued. However, no increase in the Contract Sum or Contract Time shall be allowed for such change unless the Contractor has acted promptly and responsively in submitting names as required. Notwithstanding the foregoing, the Contractor shall have a continuing duty to the Owner, Construction Manager and Architect to find and propose such persons or entities as shall not result in material increase in the Contract Sum, or a material decrease in the quality of Work contemplated under the Contract Documents.

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§ 5.2.4 The Contractor shall not substitute a Subcontractor, person, or entity for one previously selected if the Owner, Construction Manager or Architect makes reasonable objection to such substitution. Any proposed substitution of a Subcontractor, person, or entity for one previously selected shall be made in a separate writing to the Owner, Construction Manager and Architect. No substitution shall be deemed approved/accepted without written confirmation from the Owner, Construction Manager and Architect. Neither acceptance of, nor objection to a Subcontractor or Sub-subcontractor, material supplier, or other person or organization by the Owner, Construction Manager and Architect shall limit the responsibility of the Contractor to furnish materials, products, equipment, and services in conformance with the requirements of the Contract Documents.

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~~By appropriate written agreement, the Contractor shall require each Subcontractor, to the extent of the Work to be performed by the Subcontractor, to be bound to the Contractor by terms of the Contract Documents, and to assume toward the Contractor all the obligations and responsibilities, including the responsibility for safety of the Subcontractor's Work, that the Contractor, by these Contract Documents, assumes toward the Owner, Construction Manager and Architect. Each subcontract agreement shall preserve and protect the rights of the Owner, Construction Manager and Architect under the Contract Documents with respect to the Work to be performed by the Subcontractor so that subcontracting thereof will not prejudice such rights, and shall allow to the Subcontractor, unless specifically provided otherwise in the subcontract agreement, the benefit of all rights, remedies, and redress against the Contractor that the Contractor, by the Contract Documents, has against the Owner. Where appropriate, the Contractor shall require each Subcontractor to enter into similar agreements with Sub-subcontractors. The Contractor shall make available to each proposed Subcontractor, prior to the execution of the subcontract agreement, copies of the Contract Documents to which the Subcontractor will be bound, and, upon written request of the Subcontractor, identify to the Subcontractor terms and conditions of the proposed subcontract agreement that may be at variance with the Contract Documents. Subcontractors will similarly make copies of applicable portions of such documents available to their respective proposed Sub-subcontractors.~~§ 5.3.1 By appropriate written agreement, the Contractor shall require each Subcontractor, to the extent of the Work to be performed by the Subcontractor, to be bound to the Contractor by terms of the Contract Documents, and to assume toward the Contractor all the obligations and responsibilities, including the responsibility for safety of the Subcontractor's Work, that the Contractor, by these Contract Documents, assumes toward the Owner, Construction Manager and Architect. Each subcontract agreement shall preserve and protect the rights of the Owner, Construction Manager and Architect under the Contract Documents with respect to the Work to be performed by the Subcontractor so that subcontracting thereof will not prejudice such rights, and shall allow to the Subcontractor, unless specifically provided otherwise in the subcontract agreement, the benefit of all rights, remedies, and redress against the Contractor that the Contractor, by the Contract Documents, has against the Owner. Where appropriate, the Contractor shall require each Subcontractor to enter into similar agreements with Sub-subcontractors. The Contractor shall make available to each proposed Subcontractor, prior to the execution of the subcontract agreement, copies of the Contract Documents to which the Subcontractor will be bound, and, upon written request of the Subcontractor, identify to the Subcontractor terms and conditions of the proposed subcontract agreement that may be at variance with the Contract Documents. Subcontractors shall similarly make copies of applicable portions of such documents available to their respective proposed Sub-subcontractors.

§ 5.3.2 The Contractor is responsible for the performance of, the actions of, the timeliness of, or interference caused by, Subcontractors, Sub-subcontractors (of any tier), and others directly or indirectly under contract to the Contractor.

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§ 6.2.2 If part of the Contractor's Work depends for proper execution or results upon construction or operations by the Owner's own forces, Separate Contractors or other Contractors, the Contractor shall, prior to proceeding with that portion of the Work, promptly notify the Construction Manager and Architect of apparent discrepancies or defects in the construction or operations by the Owner or Separate Contractor or other Contractors that would render it unsuitable for proper execution and results of the Contractor's Work. Failure of the Contractor to notify the Construction Manager and the Architect of apparent discrepancies or defects prior to proceeding with the Work shall constitute an acknowledgment that the Owner's or Separate Contractor's or other Contractors' completed or partially completed construction is fit and proper to receive the Contractor's Work. The Contractor shall not be responsible for discrepancies or defects in the construction or operations by the Owner or Separate Contractors or other Contractors that are not ~~apparent.~~reasonably discoverable.

§ 6.2.3 ~~The Contractor shall reimburse the Owner for costs the Owner incurs, including costs that are payable to a Separate Contractors or to other Contractors, because of the Contractor's delays, improperly timed activities or~~

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~~defective construction. The Owner shall be responsible to the Contractor for costs the Contractor incurs because of delays, improperly timed activities, damage to the Work or defective construction by the Owner's own forces, Separate Contractors, or other Contractors.~~Costs caused by delays or by improperly timed activities or defective construction shall be borne by the party responsible therefor.

...

§ 6.2.5 ~~The Owner, Separate Contractors, and other Contractors shall have the same responsibilities for cutting and patching as are described for the Contractor in Section 3.14.~~Claims and other disputes and matters in question between the Contractor and a separate contractor shall be subject to the provisions of Article 15 provided the separate contractor has reciprocal obligations.

§ 6.2.6 The Owner, Separate Contractors, and other Contractors shall have the same responsibilities for cutting and patching as are described for the Contractor in Section 3.14.

...

If a dispute arises among the Contractor, Separate Contractors, other Contractors, and the Owner as to the responsibility under their respective contracts for maintaining the premises and surrounding area free from waste materials and ~~rubbish, the Owner may clean up and the Construction Manager, with notice to the Architect, will allocate the cost among those responsible.~~rubbish as described in Section 3.15, the Owner may clean up allocate the cost among those responsible as the Architect determines to be just..

...

§ 7.1.2 A Change Order shall be based upon agreement among the Owner, Construction Manager, Architect and Contractor. A Construction Change Directive requires agreement by the Owner, Construction Manager and Architect and may or may not be agreed to by the Contractor. ~~An order for a minor change in the Work may be issued by the Architect alone.~~

...

§ 7.1.4 The amount of credit to be allowed by the Contractor to the Owner for any deletion or change which results in a net decrease in the Contract Sum will be the amount of the actual net cost as confirmed by the Architect after consultation with the Owner and Construction Manager. When both additions and credits covering related Work or substitutions are involved in any one change, the allowance for both overhead and profit shall be figured on the basis of the net increase or decrease, if any, with respect to that change.

§ 7.1.5 In Section 7.3.6, the allowance for the combined overhead and profit included in the total cost to the Owner shall be based on the following schedule:

.1 For the Contractor, for Work performed by the Contractor's own forces, ten percent (10%) of the cost;

.2 For the Contractor, for Work performed by the Contractor's Subcontractor, five percent (5%) of the amount due the Subcontractor;

.3 For each Subcontractor or Sub-subcontractor involved for Work performed by the Subcontractor's or Sub-subcontractor's own forces, ten percent (10%) of the cost;

.4 For each Subcontractor for Work performed by the Subcontractor's Sub-subcontractor, five percent (5%) of the amount due the Subcontractor;

.5 Costs to which overhead and profit is to be applied shall be determined in accordance with Section 7.3.6;

.6 In order to facilitate checking of quotations for extras or credits, all proposals, expect those so minor that their propriety can be seen by inspection, shall be accompanied by a complete itemization of costs, including labor, materials and subcontracts. Labor and materials shall be itemized in the manner prescribed above. Where major cost items are subcontracts, they shall be itemized also. In no case will a change involving over $500 be approved without such itemization.

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§ 7.2 Change Orders and Change Proposals

~~A Change Order is a written instrument prepared by the Construction Manager and signed by the Owner, Construction Manager, Architect, and Contractor, stating their agreement upon all of the following:~~**§ 7.2.1** A Change Order is a written instrument prepared by the Construction Manager and signed by the Owner, Construction Manager, Architect, and Contractor, stating their agreement upon all of the following:

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.3 The extent of the adjustment, if any, in the Contract Time.

§ 7.2.2 Change Order shall be prepared on AIA Document G731.

§ 7.2.3 The Contractor must submit Change Proposals covering a contemplated Change Order within ten (10) days after request of the Owner, or the Architect or within ten (10) days of the event, or Contractor's discovery of a condition, whichever is earlier, giving rise to the Contractor's claim for a change in the Contract Sum or Contract Time. No increase in the Contract Sum or extension of the Contract Time will be allowed the Contractor for the cost or time involved in making Change Proposals. Change Proposals will define or confirm in detail the Work which is proposed to be added, deleted, or changed and must include any adjustment which the Contractor believes to be necessary in (i) the Contract Sum, or (ii) the Contract Time. Any proposed adjustment must include detailed documentation including, but not limited to: cost, properly itemized and supported by sufficient substantiating data to permit evaluation including cost of labor, materials, supplies and equipment, rental cost of machinery and equipment, additional bond cost, plus a fixed fee for profit and overhead (which includes office overhead and Site-specific overhead and general conditions) of ten percent (10%) if the Work is performed by the Contractor, or five percent (5%) if the Work is performed by a Subcontractor or Sub-subcontractor. The Subcontractor's or Sub-subcontractor's overhead and profit in turn must not exceed a total aggregate of ten percent (10%). Change Proposals will be binding upon the Contractor and may be accepted or rejected by the Owner in its discretion. The Owner may, at its option, instruct the Contractor through a Construction Change Directive to proceed with the Work involved in the Change Proposal in accordance with Section 7.3 without accepting the Change Proposal in its entirety.

§ 7.2.4 If the Owner determines that a Change Proposal is appropriate, the Architect will prepare and submit a request for a Change Order or Contract Amendment providing for an appropriate adjustment in the Contract Sum or Contract Time, or both, for further action by the Owner. No such change is effective until the Owner and Architect sign the Change Order.

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§ 7.3.4 If the Contractor does not respond promptly or disagrees with the method for adjustment in the Contract Sum, the Owner and the Construction Manager shall determine the adjustment on the basis of reasonable expenditures and savings of those performing the Work attributable to the change, including, in case of an increase in the Contract Sum, an amount for overhead and profit as set forth in the Agreement, or if no such amount is set forth in the Agreement, a reasonable amount. In such case, and also under Section 7.3.3.3, the Contractor shall keep and present, in such form as the Construction Manager may prescribe, an itemized accounting together with appropriate supporting data. Unless otherwise provided in the Contract Documents, costs for the purposes of this Section 7.3.4 shall be limited to the following:

...

.3 Rental costs of machinery and equipment, exclusive of hand tools, whether rented from the Contractor or ~~others;~~others (at rates approved by the Owner);

...

§ 7.3.7 A Construction Change Directive signed by the Contractor indicates the Contractor's agreement therewith, including adjustment in Contract Sum and Contract Time or the method for determining them. Such agreement shall be effective ~~immediately and shall be recorded as a Change Order.~~immediately.

...

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§ 7.3.9 Pending final determination of the total cost of a Construction Change Directive to the Owner, the Contractor may request payment for Work completed under the Construction Change Directive in Applications for ~~Payment.~~ Payment up to and not exceeding $25,000. The Construction Manager and Architect will make an interim determination for purposes of monthly certification for payment for those costs and certify for payment the amount that the Construction Manager and Architect determine to be reasonably justified. The interim determination of cost shall adjust the Contract Sum on the same basis as a Change Order, subject to the right of either party to disagree and assert a Claim in accordance with Article 15.

The Architect may order minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. The Architect's order for minor changes shall be in ~~writing.~~ writing and approved by the Owner. If the Contractor believes that the proposed minor change in the Work will affect the Contract Sum or Contract Time, the Contractor shall notify the Construction Manager and shall not proceed to implement the change in the Work. If the Contractor performs the Work set forth in the Architect's order for a minor change without prior notice to the Construction Manager that such change will affect the Contract Sum or Contract Time, the Contractor waives any adjustment to the Contract Sum or extension of the Contract Time.

...

§ 8.1.2 The date of commencement of the Work is the date established in the Agreement. The date shall not be postponed by the failure to act of the Contractor or of persons or entities for whom the Contractor is responsible.

...

§ 8.1.4 The term "day" ~~as used in the Contract Documents shall mean calendar day unless otherwise specifically defined.~~shall mean calendar day of 24 hours beginning at 12:00 midnight. Calendar days as stated in the Contract Documents, shall include all days of a seven (7) day week including Saturdays, Sundays, and holidays. The term "Milestone Date" is, in each instance, the date established in the Contract Documents for the Substantial completion of all or a designated portion of the Work.

...

§ 8.2.3 The Contractor shall proceed expeditiously with adequate forces and shall achieve Substantial Completion within the Contract ~~Time.~~Time and shall achieve specific contractual Milestone Dates (if any), Substantial Completion and final Completion within the time stated in the Contract Documents.

§ 8.2.4 Contractor understands and agrees that all Work must be performed in an orderly and closely coordinated sequence so that the dates for Substantial Completion, Final Completion, and Milestone Dates (if any) may be met by the Contractor.

§ 8.2.5 Timely final completion of the Project is of critical importance to the Owner. The Contractor agrees that it shall substantially complete all Work under the Contract documents within the time established herein and that it shall finally complete the Work in the detail required and in the time required by the Contract Documents.

§ 8.2.6 To the extent that the Contract Documents contain or provide for specific contractual Milestone Dates in addition to Final and Substantial Completion dates, such dates shall be adhered to and shall be the last acceptable dates for those milestones and completions, unless modified by the Owner.

§ 8.2.7 Notwithstanding anything to the contrary contained in the Contract Documents, in the event that any Contractor fails, or appears likely, in the reasonable opinion of the Owner and Construction Manager, to fail to complete a critical portion of their Work on time or to complete any dates for Substantial Completion, Final Completion, or Milestone Dates as evidenced by the latest update of the CPM Schedule Report, the Owner shall have the right to select and require Contractor's performance under any or all of the following operations:

.1 Require the Contractor to substantiate their capability to get back on schedule within two (2) days;

.2 Require the Contractor, at no additional cost to the Owner, to increase their work force, work overtime and/or extra shifts and do whatever else is required by the Owner until the Contractor gets

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back on schedule as established by the CPM Schedule Report (including any updates thereto);

.3 Withhold progress payments or portions thereof until such time as the contractor returns to schedule, but only related to Substantial Completion or Final Completion;

.4 Contact or visit the factory, plant, or distribution center whose production or delivery schedule may be critical to the scheduled completion of a portion of the contract work and expedite such production delivery at Contractor's expense; or

.5 Require the Contractor to complete, in detail, and submit weekly a Short Interval Schedule (SIS) showing: (1) planning for the next two weeks; (2) work completed for the previous week; (3) sufficient detail to evaluate daily milestone (if any) and manpower/equipment loading, and shall identify/tie into the monthly updated CPM Schedule Report.

Any costs incurred by the Contractor in fulfilling the option(s) selected by the Owner shall be at the Contractor's expense.

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§ 8.3.1 If the Contractor is delayed at any time in the ~~commencement or~~ progress of the Work by (1) an act or neglect of the Owner, Architect, Construction Manager, or an employee of any of them, or of the Owner's own forces, Separate Contractors, or other Contractors; (2) by changes ordered in the Work; (3) by labor disputes, fire, unusual delay in deliveries, unavoidable casualties, adverse weather conditions documented in accordance with Section 15.1.6.2, or other causes beyond the Contractor's control; ~~(4) by delay authorized by the Owner pending mediation and binding dispute resolution; or (5)~~ or (4) by other causes that the Contractor asserts and the Architect, based on the recommendation of the Construction Manager, determines justify delay, then subject to the conditions hereinafter set forth, the Contract Time shall be extended by Change Order for such reasonable time as the Architect may determine. Requests for extensions of time for causes enumerated above will be considered by the Architect subject to the following:

.1 Only those conditions enumerated above over which the Contractor has no control will be considered. The burden of proof to substantiate the claim for an extension shall rest with the Contractor, including evidence that the cause was beyond their control. It shall be deemed the Contractor has control over the supply of labor, materials, equipment, methods, techniques, and over their Subcontractors and suppliers;

.2 In the event of Changes in the Work, any consideration for a time extension will be made only at the time of authorizing the changes, and no later than when the Change Order is prepared, and only if the Change Order significantly affects the time and progress of the entire Work. For changes which do not affect the entire Work, time extension may be granted only for the area, phase, unit, or element affected by the change, if due to a valid reason for a time extension;

.3 Any unusual delay in deliveries will not be considered unless it is solely due to transportation issues wholly outside of Contractor's, Subcontractor's, Sub-subcontractor's or Supplier's control. An extension of time will not be granted for delays in deliveries where said delivery was not properly scheduled or when orders were not promptly and properly placed;

.4 With respect to a claim for an extension of time as a result of climatic conditions, the Contractor shall recognize the location of the site and the existence, as normal, or variations from "average" conditions. Foul weather in itself will not be a valid reason for a time extension. Requests for time extensions because of delay resulting from weather extremes will not be considered unless a substantial variation from usual weather conditions occurs for a significant period of time, during phases of the Work when operation necessarily were suspended to a significant degree when they would otherwise have been in progress. In considering the time extension, the weather conditions both before and after the period in which the delay is claimed will be evaluated with credit given to Owner for unseasonably favorable weather;

.5 Delays resulting from a labor dispute will not result in a time extension of a longer period than the dispute, plus a reasonable time for mobilization if justified and necessary as approved by the Architect, and may be less depending on the impact of the dispute, including what operations were suspended or curtailed;

.6 No time extension will be granted as a result of improper scheduling or for failure to have shop drawings or samples submitted in ample time for review under a reasonable and agreed upon schedule; or

.7 Delays by Subcontractors or suppliers will not be considered justification for a time extension, except for the same valid reasons and conditions enumerated under Section 8.3.1.

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§ 8.3.4 The Contractor shall be responsible for all Owner incurred costs associated with a Contractor related to delay in completion of the Project. These costs may include, but are not limited to, Owner staff overtime, Consultant additional fees, additional testing, and/or additional rental or storage costs. A Change Order or Construction Change Directive will be issued to cover these costs. If a Change Order is not agreed to by the Contractor, the Owner, after presenting documentation to the Contractor, may deduct these amounts without a Change Order from the Contract Sum.

...

~~Where the Contract is based on a stipulated sum or Guaranteed Maximum Price, the Contractor shall submit a schedule of values to the Construction Manager, before the first Application for Payment, allocating the entire Contract Sum to the various portions of the Work. The schedule of values shall be~~ Before the first Application for Payment, the Contractor shall submit to the Architect and Construction Manager a schedule of values allocated to various portions of the Work, prepared in the form, and supported by the data to substantiate its accuracy, required by the Construction Manager and the Architect. ~~This~~ The schedule, unless objected to by the Construction Manager or Architect, shall be used as a basis for reviewing the Contractor's Applications for Payment. The Construction Manager shall forward to the Architect the Contractor's schedule of values. Any changes to the schedule of values shall be submitted to the Construction Manager and supported by such data to substantiate its accuracy as the Construction Manager and the Architect may require, and unless objected to by the Construction Manager or the Architect, shall be used as a basis for reviewing the Contractor's subsequent Applications for Payment. The Contractor, after receipt of Notice to Proceed, shall meet with the Owner, Construction Manager and the Architect for the purpose of reviewing the Project CPM Schedule and the Contract Schedule of Values. The Contractor shall develop a CPM Schedule for completing their portion of the Work, in conjunction with all other Contractors or Bid Packages, at the Pre-Construction Meeting(s). The Schedule of Values is to be broken down into specification sections and by labor and materials.

...

§ 9.3.1 At least fifteen days before the date established for each progress payment, the Contractor shall submit to the Construction Manager an itemized Application for Payment ~~prepared in accordance with the schedule of values, if required under Section 9.2, for completed portions of the Work. The application shall be notarized, if required,~~ for operations completed in accordance with the Schedule of Values. Such application shall be notarized and supported by all data substantiating the Contractor's right to payment that the Owner, Construction Manager or Architect require, such as copies of requisitions, and releases of waivers of lien from Subcontractors and ~~suppliers, and shall reflect retainage if provided for in the Contract Documents.~~material suppliers, and reflecting retainage if provided for elsewhere in the Contract Documents. The form of Application for Payment shall be a notarized AIA Document G732–2019, Application and Certificate for Payment, supported by AIA Document G703–1992, Continuation Sheet.

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§ 9.3.1.2 ~~Applications for Payment~~ Such applications shall not include requests for payment ~~for portions of the Work for which the~~ of amounts the Contractor does not intend to pay a Subcontractor ~~or supplier,~~ or supplier because of a dispute or other reason, unless such Work has been performed by others whom the Contractor intends to pay.

§ 9.3.1.3 Following certification of the Application for Payment by the Architect and Construction Manager, the Owner shall pay ninety-five percent (95%) of its value, retaining five percent (5%) until Final Completion.

§ 9.3.1.4 Contractor shall provide lien waivers for itself for the current payment application and for Subcontractors, Sub-subcontractors, and suppliers for the previous payment application before the Contractor has earned or has the right to receive payment for the specific items of work or materials covered by the lien waivers. All lien waivers shall be provided in the form required by the Owner. This Section 9.3.1.4 shall not limit other obligations of the Contractor contained elsewhere to provide lien waivers.

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§ 9.3.4 In each Application for Payment, the Contractor shall certify as follows:

"That there are no known mechanics' or materialmen's liens or stop notice claims outstanding by the application or any of its subcontractors of any tier, or any of the applicant's or subcontractor's material suppliers, or laborers at the date of this application, that all due and payable bills with respect to the Work have been paid or are included in the amount requested in current application, and that, except for such bills, not paid by Owner, but so included, there is no known basis for the filing of any mechanics' or materialmen's liens or stop notice claims on the Work, and that waivers from Contractor, its subcontractors of any tier, or any of the applicant's or subcontractor's material suppliers and laborers have been obtained in such form as to constitute an effective waiver of liens or stop notice claims, under the laws of the State of Minnesota to the extent of payments made by Owner to Contractor."

Notwithstanding the foregoing Section 9.3.4, Contractor acknowledges its obligation to provide a Payment Bond in accordance with the Contract Documents, and that Contractor's failure to pay any of its Subcontractors, Sub-subcontractors, suppliers, or laborers will be resolved through a claim under the Payment Bond.

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§ 9.6.1 After the Architect has issued a Certificate for Payment or Project Certificate for Payment, the Owner shall make payment within thirty (30) days of receipt by Owner of Certificate of Payment in the manner and within the time provided in the Contract Documents, and shall so notify the Construction Manager and Architect.

§ 9.6.2 The Contractor shall pay each Subcontractor, no later than seven days after receipt of payment from the Owner, the amount to which the Subcontractor is entitled, reflecting percentages actually retained from payments to the Contractor on account of the Subcontractor's portion of the Work. The Contractor shall, by appropriate agreement with each Subcontractor, require each Subcontractor to make payments to Sub-subcontractors in a similar manner. Per Minnesota Statutes, Section 471.425, within ten (10) days of Contractor's receipt of payment from Owner, the Contractor must pay any Subcontractor for any undisputed services provided by the Subcontractor. The Contractor shall pay interest of one and one-half percent (1-1/2%) per month, or any part of a month, to the Subcontractor on any undisputed amount not paid on time to the subcontractor. The minimum monthly interest penalty payment for an unpaid balance of $100 or more is $10.00. For an unpaid balance of less than $100, the Contractor shall pay the actual interest penalty due to the Subcontractor. Contractor is advised that by reason of Minnesota Statutes, Section 471.425, subd. 4a, if a Subcontractor prevails in a civil action to collect interest penalties from a prime contractor, the Subcontractor must be awarded its costs and disbursements, including attorneys' fees incurred in bringing the action.

...

§ 9.6.5 The Contractor's payments to material and equipment suppliers shall be treated in a manner similar to that provided in Sections 9.6.2, 9.6.3 and 9.6.4.

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If the Construction Manager and Architect do not issue a Certificate for Payment or a Project Certificate for Payment, through no fault of the Contractor, within fourteen days after the Construction Manager's receipt of the Contractor's Application for Payment, or if the Owner does not pay the Contractor within ~~seven~~ thirty (30) days after the date established in the Contract Documents, the amount certified by the Construction Manager and Architect ~~or awarded by binding dispute resolution,~~ then the Contractor may, upon ~~seven~~ ten (10) additional days' notice to the Owner, Construction Manager and Architect, stop the Work until payment of the amount owing has been received. The Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable costs of shutdown, delay and ~~start up, plus interest as provided for in the Contract Documents~~ start-up which shall be accomplished as provided in Article 7.

...

§ 9.8.1 Substantial Completion is the stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Contract Documents so the Owner can occupy or utilize the Work for its intended ~~use,~~ use and when the Architect issues a Certificate of Substantial Completion.

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§ 9.8.2 When the Contractor considers that the Work, or a portion thereof which the Owner agrees to accept separately, is substantially complete, the Contractor shall notify the Construction Manager, and the Contractor and Construction Manager shall jointly prepare and submit to the Architect a comprehensive list of items to be completed or ~~corrected prior to final payment.~~ corrected. The Contractor shall proceed promptly to complete and correct items on the list. Failure to include an item on such list does not alter the responsibility of the Contractor to complete all Work in accordance with the Contract Documents. Upon receipt of the Contractor's list, the Architect, assisted by the Construction Manager, will make an inspection to determine whether the Work or designated portion thereof is substantially complete. If the Architect's inspection discloses any item, whether or not included on the Contractor's list, which is not in accordance with the requirements of the Contract documents, the Contractor shall, before issuance of the Certificate of Substantial Completion, complete or correct such item, upon notification by the Architect. The Contractor shall then submit a request for another inspection by the Architect, assisted by the Construction Manager, to determine Substantial Completion. When the Work or designated portion thereof is substantially complete, the Architect will prepare a Certificate of Substantial Completion which shall establish the date of Substantial Completion, shall establish responsibilities of the Owner and Contractor for security, maintenance, heat, utilities, damage to the Work and insurance, and shall fix the time within which the Contractor shall finish all items on the list accompanying the Certificate. Warranties required by the Contract Document shall commence on the date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion.

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§ 9.8.6 Upon Substantial completion of the Work or designated portion thereof and upon application by the Contractor and certification by the Architect, the Owner shall make payment, reflecting adjustment in retainage, pursuant to Minnesota Statutes, Section 15.72, for such Work or portion thereof as provided in the Contract Documents.

§ 9.8.7 The Architect, assisted by the Construction Manager, shall make one (1) inspection for Substantial Completion and Final Completion in accordance with the AIA Document B101–2017 Owner Architect Agreement. If additional inspections are required due to the Contractor's failure to complete previously listed corrective or uncompleted work, the Architect's expense for conducting such re-inspections and related time in processing, reviewing, and revision of requirements shall be charged to the Contractor and such payment shall be accomplished by a deductive Change Order to the Contractor.

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§ 9.10.1 Upon completion of the Work, the Contractor shall forward to the Construction Manager a notice that the Work is ready for final inspection and acceptance, and shall also forward to the Construction Manager a final Contractor's Application for Payment. Upon receipt, the Construction Manager shall perform an inspection to confirm the completion of Work of the Contractor. The Construction Manager shall make recommendations to the Architect when the Work of all of the Contractors is ready for final inspection, and shall then forward the Contractors' notices and Application for Payment or Project Application for Payment, to the Architect, who will promptly make such inspection. When the Architect finds the Work acceptable under the Contract Documents and the Contract fully performed, the Construction Manager and Architect will promptly issue a final Certificate for Payment or Project Certificate for Payment stating that to the best of their knowledge, information and belief, and on the basis of their observations, on-site visits and inspections, the Work has been completed in accordance with the Contract Documents and that the entire balance found to be due the Contractor and noted in the final Certificate is due and payable. The Construction Manager's and Architect's final Certificate for Payment or Project Certificate for Payment will constitute a further representation that conditions listed in Section 9.10.2 as precedent to the Contractor's being entitled to final payment have been fulfilled.

§ 9.10.2 Neither final payment nor any remaining retained percentage shall become due until the Contractor submits to the Architect through the Construction Manager (1) an affidavit that payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which the Owner or the Owner's property might be responsible or encumbered (less amounts withheld by Owner) have been paid or otherwise satisfied, (2) a certificate evidencing that insurance required by the Contract Documents to remain in force after final payment is currently in ~~effect,~~ effect and will not be cancelled or allowed to expire until at least (60) days' prior written notice has been given to the Owner, (3) a written statement that the Contractor knows of no reason that the insurance will not be renewable to cover the period required by the Contract Documents, (4) consent of surety, if any, to final payment (5) documentation of any special

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warranties, such as manufacturers' warranties or specific Subcontractor warranties, ~~and (6), if required by the Owner,~~ including a summary listing all applicable warranties both standard and extended, itemized by specification section and included at the front of the Operation and Maintenance manuals, and (6) other data establishing payment or satisfaction of obligations, such as receipts and releases and waivers of liens, claims, security interests, or encumbrances arising out of the Contract, to the extent and in such form as may be designated by the Owner. If a Subcontractor refuses to furnish a release or waiver required by the Owner, the Contractor may furnish a bond satisfactory to the Owner to indemnify the Owner against such lien, claim, security interest, or encumbrance. If a lien, claim, security interest, or encumbrance remains unsatisfied after payments are made, the Contractor shall refund to the Owner all money that the Owner may be compelled to pay in discharging the lien, claim, security interest, or encumbrance, including all costs and reasonable attorneys' fees.

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§ 9.11 Damages for Delay

§ 9.11.1 The Contractor shall be responsible for damages incurred by the Owner and any other separate contractors for delay resulting from the Contractor's failure to complete the Work within the contract Time or resulting from the progress of the Work failing to substantially conform to the Project Construction Schedule. These damages are not included in liquidated damages and represent additional direct costs incurred by the Owner for the delay. These damages may include Owner incurred costs for temporary classrooms, temporary facilities, moving of programs, etc.

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~~The Contractor shall be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the performance of the Contract. The Contractor shall submit the Contractor's safety program to the Construction Manager for review and coordination with the safety programs of other Contractors. The Construction Manager's responsibilities for review and coordination of safety programs shall not extend to direct control over or charge of the acts or omissions of the Contractors, Subcontractors, agents or employees of the Contractors or Subcontractors, or any other persons performing portions of the Work and not directly employed by the Construction Manager.~~**§ 10.1.1** The Contractor shall be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the performance of the Contract. The Contractor shall submit the Contractor's safety program to the Construction Manager for review and coordination with the safety programs of other Contractors. The Construction Manager's responsibilities for review and coordination of safety programs shall not extend to direct control over or charge of the acts or omissions of the Contractors, Subcontractors, agents or employees of the Contractors or Subcontractors, or any other persons performing portions of the Work and not directly employed by the Construction Manager.

§ 10.1.2 The Contractor shall comply with all applicable laws and regulations. Notwithstanding any language to the contrary, the Owner shall not have any responsibility for job site inspections or safety recommendations. Any inspections or observations by the Owner, Construction Manager or the Architect are solely for the benefit of the Owner and shall not create any duties or obligations to anyone else.

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If either party suffers injury or ~~damage~~ damages to person or property because of an act or omission of the other party, of any of the other party's employees or agents, or of others for whose acts such party is legally responsible, notice of the injury or damage, whether or not insured, shall be given to the other party within a reasonable time not exceeding ~~21~~ ten (10) days after ~~discovery.~~ first observance. The notice shall provide sufficient detail to enable the other party to investigate the matter. If a Claim for additional cost or time related to this Claim is to be asserted, it shall be filed as provided in Sections 15.1.4 and 15.1.5.

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§ 10.3.1 ~~The Contractor is responsible for compliance with any requirements included in the Contract Documents regarding hazardous materials or substances. If the Contractor encounters a hazardous material or substance not addressed in the Contract Documents and if reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a material or substance, including but not limited to asbestos or polychlorinated biphenyl (PCB), encountered on the site by the Contractor, the Contractor shall, upon recognizing the condition, immediately stop Work in the affected area and notify~~ In the event the Contractor encounters on the site material reasonably believed to be asbestos or polychlorinated biphenyl (PCB) which has not been rendered harmless,

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the Contractor shall immediately stop Work in the area affected and report the condition to the Owner, Construction Manager and Architect ~~of the condition.~~in writing. The Work in the affected area shall not thereafter be resumed except by written agreement of the Owner and Contractor if in fact the material is asbestos or polychlorinated biphenyl (PCB) and has not been rendered harmless. The Work in the affected area shall be resumed in the absence of asbestos or polychlorinated biphenyl (PCB), or when it has been rendered harmless, by written agreement of the Owner and Contractor.

.1 Except where otherwise stated in the Contract Documents, no hazardous material work of any nature shall be performed by the Contractor pursuant to this Contract.

.2 The term "hazardous materials" includes, but is not limited to, asbestos, toxic chemicals, acids, alkalis, irritants, contaminants, or other pollutants, together with any other waste, material, substance, pollutants, or contaminant, all or a portion of which is or would be designated as hazardous waste or substance under applicable local, state, or federal laws, ordinances, codes, rules, or regulations.

§ 10.3.2 ~~Upon receipt of the Contractor's notice, the Owner shall obtain the services of a licensed laboratory to verify the presence or absence of the material or substance reported by the Contractor and, in the event such material or substance is found to be present, to cause it to be rendered harmless. Unless otherwise required by the Contract Documents, the Owner shall furnish in writing to the Contractor, Construction Manager and Architect the names and qualifications of persons or entities who are to perform tests verifying the presence or absence of the material or substance or who are to perform the task of removal or safe containment of the material or substance. The Contractor, the Construction Manager and the Architect will promptly reply to the Owner in writing stating whether or not any of them has reasonable objection to the persons or entities proposed by the Owner. If the Contractor, Construction Manager or Architect has an objection to a person or entity proposed by the Owner, the Owner shall propose another to whom the Contractor, the Construction Manager and the Architect have no reasonable objection. When the material or substance has been rendered harmless, Work in the affected area shall resume upon written agreement of the Owner and Contractor. By Change Order, the Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable additional costs of shutdown, delay, and start-up.~~To the fullest extent permitted by law, the Owner shall indemnify and hold harmless the Contractor, Construction Manager, Architect, their consultants, and agents and employees of any of them from and against claims, damages, losses, and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work on Owner's property if in fact the material is asbestos or polychlorinated biphenyl (PCB) and has not been rendered harmless, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), including loss of use resulting therefrom, but only to the extent caused in whole or in part by negligent acts or omissions of the Owner, anyone directly or indirectly employed by the Owner, or anyone for whose acts the Owner may be liable, regardless of whether or not such claim, damage, loss, or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity which would otherwise exist as to a party or person described in this Subparagraph 10.3.2.

§ 10.3.3 ~~To the fullest extent permitted by law, the Owner shall indemnify and hold harmless the Contractor, Subcontractors, Construction Manager, Architect, their consultants, and agents and employees of any of them from and against claims, damages, losses, and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work in the affected area if in fact the material or substance presents the risk of bodily injury or death as described in Section 10.3.1 and has not been rendered harmless, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), except to the extent that such damage, loss, or expense is due to the fault or negligence of the party seeking indemnity.~~If reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a material or substance encountered on the site by the contractor, the Contractor shall, upon recognizing the condition, immediately stop Work on Owner's property and report the condition to the Owner, Construction Manager and Architect in writing. The Owner, Construction Manager, Contractor, and Architect shall then proceed in the same manner described in Subparagraph 10.3.1.

§ 10.3.4 ~~The Owner shall not be responsible under this Section 10.3 for hazardous materials or substances the Contractor brings to the site unless such materials or substances are required by the Contract Documents. The Owner shall be responsible for hazardous materials or substances required by the Contract Documents, except to the extent of the Contractor's fault or negligence in the use and handling of such materials or substances.~~

§ 10.3.5 The Contractor shall reimburse the Owner for the cost and expense the Owner incurs (1) for remediation of hazardous materials or substances the Contractor brings to the site and negligently handles, or (2) where the

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Contractor fails to perform its obligations under Section 10.3.1, except to the extent that the cost and expense are due to the Owner's fault or negligence. Owner shall be responsible for obtaining the services of a licensed laboratory to verify a presence or absence of the material or substance reported by the Contractor and, in the event such material or substance is found to be present, to verify that it has been rendered harmless.

§ 10.3.6 ~~If, without negligence on the part of the Contractor, the Contractor is held liable by a government agency for the cost of remediation of a hazardous material or substance solely by reason of performing Work as required by the Contract Documents, the Owner shall reimburse the Contractor for all cost and expense thereby incurred.~~Regulations concerning the availability of information and employee training in the use and handling of "hazardous substances" and "harmful physical agents", as set forth in the Employee Right-to-Know Act of 1983, Minnesota Statutes, Sections 182.65 to 182.676 are incorporated herein by reference as if fully set forth herein.

§ 10.3.7 The Contractor shall furnish three Material Safety Data Sheets to the Owner for each material used in the Work that is classified by the Employee Right-to-Know Act of 1983 as a "hazardous substance" or a "harmful physical agent."

§ 10.3.8 The Contractor shall label, in generally accepted and/or standardized fashion, all containers on the work site containing "hazardous substances" or as "harmful physical agents." This shall include factory containers and all subsequent containers used in the Work.

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In an emergency affecting safety of persons or property, the Contractor shall ~~act, at the Contractor's discretion,~~ act to prevent threatened damage, injury, or loss. Additional compensation or extension of time claimed by the Contractor on account of an emergency shall be determined as provided in Article 15 and Article 7.

...

§ 11.1.1 The Contractor shall purchase and maintain insurance of the types and limits of liability, containing the endorsements, and subject to the terms and conditions, as described in the ~~Agreement~~ Agreement, in EXH-C Owner Insurance or elsewhere in the Contract Documents. The Contractor shall purchase and maintain the required insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is ~~located.~~ located and which carry a Best's rating of A- or higher or are otherwise acceptable to the Owner. The Owner, Construction Manager and Construction Manager's consultants, and the Architect and Architect's consultants, shall be named as additional insureds under the Contractor's commercial general liability policy or as otherwise described in the Contract Documents.

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§ 11.1.3 Upon the request of any person or entity appearing to be a potential beneficiary of bonds covering payment of obligations arising under the Contract, the Contractor shall promptly furnish a copy of the bonds or shall authorize a copy to be furnished. The Contractor shall furnish Certificates of Insurance acceptable to the Owner which shall specifically set forth evidence of all coverage required by Article 11 and EXH-C Owner Insurance and shall be filed with the Owner and Construction Manager prior to commencement of the Work and thereafter upon renewal or replacement of each required policy of insurance.

The Contractor shall not allow insurance required by this Agreement to lapse, be canceled, reduced in limits or coverage, non-renewed, or materially changed or have restrictive modifications added during the life of this Agreement, including the periods of required coverage. The Contractor shall furnish to the Owner and Construction Manager copies of any endorsements that are subsequently issued amending coverage and limits.

If any of the foregoing insurance coverages are required to remain in force after final payment and are reasonably available, all additional certificates evidencing continuation of such coverage shall be submitted with the final Application for Payment. Information concerning reduction of coverage shall be furnished by the Contractor with reasonable promptness in accordance with the Contractor's information and belief.

§ 11.1.3.1 Acceptable insurance certificates are AIA Document G705, CICC of Minnesota Form 701, and/or ACORD form of the American Insurance Institute.

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Failure of the Owner to collect certificates does not void the requirements to obtain insurance.

The acceptance of any certificate of insurance by the Owner shall not relieve or decrease the liability of the Contractor hereunder. It is to be understood the Owner, Construction Manager and Architect do not in any way represent that the insurance specified in these articles are sufficient or adequate to protect the Contractor's interest or liabilities, but are merely minimum requirements.

The Contractor shall furnish to the Owner copies of any endorsements that are subsequently issued amending coverage and limits.

§ 11.1.4 ~~Notice of Cancellation or Expiration of Contractor's Required Insurance. Within three (3) business days of the date the Contractor becomes aware of an impending or actual cancellation or expiration of any insurance required by the Contract Documents, the Contractor shall provide notice directly to the Owner, and separately to the Construction Manager, of such impending or actual cancellation or expiration. Upon receipt of notice from the Contractor, the Owner shall, unless the lapse in coverage arises from an act or omission of the Owner, have the right to stop the Work until the lapse in coverage has been cured by the procurement of replacement coverage by the Contractor. The furnishing of notice by the Contractor shall not relieve the Contractor of any contractual obligation to provide any required coverage.~~In the event the Contractor fails to procure or maintain any insurance coverage required under this Agreement, the Owner may purchase such coverage and deduct the cost thereof from any monies due to the Contractor, or terminate this Agreement under Paragraph 14.2. The Contractor shall be liable to the Owner for providing all coverage, defense, and payments that would have been provided by any insurance that the Contractor failed to procure and maintain as required by the Contract Documents.

§ 11.1.5 Compliance by the Contractor with the foregoing insurance requirements shall not relieve it from liability for amounts in excess of the limits of insurance.

§ 11.1.6 The Contractor and any of its Subcontractors, Sub-subcontractors, agents and employees, and any separate contractors described in Article 6, if any, and any of their subcontractors, sub-subcontractors, agents and employees shall waive any of their subrogation rights on their Workers Compensation Policy in favor of the Owner, Construction Manager and Architect. The policies shall provide such waivers of subrogation by endorsement or otherwise. A waiver of subrogation shall be effective as to a person or entity even though that person or entity would otherwise have a duty of indemnification, contractual, or otherwise, did not pay the insurance premium directly or indirectly, and whether or not the person or entity had an insurable interest.

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§ 11.2.1 The Owner shall purchase and maintain insurance of the types and limits of liability, containing the endorsements, and subject to the terms and conditions, as described in the Agreement or elsewhere in the Contract Documents. The Owner shall purchase and maintain the required insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The Owner may self-insure and maintain the Owner's usual liability insurance. Optionally, the Owner may purchase and maintain other insurance for self-protection against claims which may arise from operations under the Contract. The Contractor shall not be responsible for purchasing and maintaining this optional Owner's liability insurance unless specifically required by the Contract Documents.

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~~§ 11.3.2 If during the Project construction period the Owner insures properties, real or personal or both, at or adjacent to the site by property insurance under policies separate from those insuring the Project, or if after final payment property insurance is to be provided on the completed Project through a policy or policies other than those insuring the Project during the construction period, to the extent permissible by such policies, the Owner waives all rights in accordance with the terms of Section 11.3.1 for damages caused by fire or other causes of loss covered by this separate property insurance.~~

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§ 11.5.2 Prior to settlement of an insured loss, the Owner shall notify the Contractor of the terms of the proposed settlement as well as the proposed allocation of the insurance proceeds. The Contractor shall have 14 days from receipt of notice to object to the proposed settlement or allocation of the proceeds. If the Contractor does not object, the Owner shall settle the loss and the Contractor shall be bound by the settlement and allocation. Upon receipt, the Owner shall ~~deposit the insurance proceeds in a separate account and~~ make the appropriate distributions. Thereafter, if no other agreement is made or the Owner does not terminate the Contract for convenience, the Owner and Contractor shall execute a Change Order for reconstruction of the damaged or destroyed Work in the amount allocated for that purpose. If the Contractor timely objects to either the terms of the proposed settlement or the allocation of the proceeds, the Owner may proceed to settle the insured loss, and any dispute between the Owner and Contractor arising out of the settlement or allocation of the proceeds shall be resolved pursuant to Article 15. Pending resolution of any dispute, the Owner may issue a Construction Change Directive for the reconstruction of the damaged or destroyed Work.

§ 11.6 Bonds

§ 11.6.1 Contractor shall furnish a Performance Bond and a Payment Bond to the Owner in the amount of one hundred percent (100%) of the Contract Sum and issued by a Surety Company authorized to do business in the State of Minnesota, rated "A" or better, and approved by the Owner. The Performance Bond shall be in accordance with Minnesota Statutory requirements, and shall be in the form included in the Project Manual. The Bonds shall allow for any additions or deductions to the Contract Sum.

§ 11.6.2 In order to be acceptable as a surety, Contractor's bonding company bust hold a "Certificate of Authority acceptable to the U.S. Treasury Department and be listed in the Department's current publication of "Bond Qualifiers" with underwriting limitations not less than ten percent (10%) above the Contract Sum.

§ 11.6.3 The surety of the Bonds shall be by a corporate surety company authorized to do business in the state in which Work is being performed under this Contract and acceptable to the Owner. The conditions of the bonds shall meet requirements of the statutes of the state where Work is being performed and all other applicable provisions of state law.

§ 11.6.4 The Contractor shall furnish two (2) originals of the Bonds to the Owner, with copies to the Architect and Construction Manager, within ten (10) days after notification of award and before execution of the Contract. Failure to do so shall constitute a violation of terms of the proposal and provide grounds for forfeiture of bid security.

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The Contractor shall promptly correct Work rejected by the Construction Manager or Architect or failing to conform to the requirements of the Contract Documents, discovered before Substantial Completion, and whether or not fabricated, installed or completed. ~~Costs~~ The Contractor shall bear costs of correcting such rejected Work, including additional testing and inspections, the cost of uncovering and replacement, and compensation for the Construction Manager's and Architect's services and expenses made necessary ~~thereby, shall be at the Contractor's expense.~~thereby.

...

~~§ 12.2.2.1 In addition to the Contractor's obligations under Section 3.5, if, within one year after the date of Substantial Completion of the Work or designated portion thereof, or after the date for commencement of warranties established under Section 9.9.1, or by terms of any applicable special warranty required by the Contract Documents, any of the Work is found to be not in accordance with the requirements of the Contract Documents, the Contractor shall correct it promptly after receipt of notice from the Owner to do so, unless the Owner has previously given the Contractor a written acceptance of such condition. The Owner shall give such notice promptly after discovery of the condition. During the one-year period for correction of Work, if the Owner fails to notify the Contractor and give the Contractor an opportunity to make the correction, the Owner waives the rights to require correction by the Contractor and to make a claim for breach of warranty. If the Contractor fails to correct nonconforming Work within a reasonable time during that period after receipt of notice from the Owner, Construction Manager or Architect, the Owner may correct it in accordance with Section 2.5.~~

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~~§ 12.2.2.2 The one-year period for correction of Work shall be extended with respect to portions of Work first performed after Substantial Completion by the period of time between Substantial Completion and the actual completion of that portion of the Work.~~

~~§ 12.2.2.3 The one-year period for correction of Work shall not be extended by corrective Work performed by the Contractor pursuant to this Section 12.2.~~

§ 12.2.2.1 If within one year after the date of Substantial Completion of the Work or designated portion thereof, or after the date for commencement of warranties established under Section 9.9.1, or by terms of any applicable special warranty required by the Contract Documents, any of the Work is found to be not in accordance with the requirements of the Contract Documents, the Contractor shall correct it promptly (and any other property damaged or removed in effecting the correction) after receipt of notice from the Owner, Construction Manager or Architect to do so, unless the Owner has previously given the Contractor a written acceptance of such condition. The Owner, Construction Manager or Architect shall give such notice promptly after discovery of the condition. This period of one year shall be extended with respect to portions of Work first performed after Substantial completion by the period of time between Substantial completion and the actual performance of the Work. This obligation under this Subparagraph 12.2.2.1 shall survive acceptance of the Work under the contract and termination of the Contract. The Owner, Construction Manager or Architect shall give such notice promptly after discovery of the condition. The expiration of the above one year or any other specified time period, or any other period prescribed by the law, shall not relieve the Contractor of the obligation form the expense to correct any latent defect in the work or deficiencies which are not readily ascertained, including but not limited to, defective materials and quality of work performed, defects attributable to material substitutions for special materials, substandard performance or otherwise not in compliance with the Contract Documents. Such latent defects or deficiencies shall be corrected as provided in this Paragraph 12.2. Following the correction or replacement of any of the Work, as above specified, the Contractor shall correct any defects or deficiencies in the corrected or replaced materials and workmanship which is found within one year after the date of correction or replacement.

§ 12.2.4 ~~The Contractor shall bear the cost of correcting destroyed or damaged construction of the Owner, Separate Contractors, or other Contractors, whether completed or partially completed, caused by the Contractor's correction or removal of Work that is not in accordance with the requirements of the Contract Documents.~~ If the Contractor fails to correct nonconforming Work within a reasonable time, the Owner may correct it in accordance with Paragraph 2.4. If the Contractor does not proceed with correction of such nonconforming Work within a reasonable time fixed by written notice from the Architect or Construction Manager, the Owner may correct or remove it and store the salvageable materials or equipment all at the Contractor's expense. If the Contractor does not pay costs of such removal and storage within ten (10) days after written notice, the Owner may upon ten (10) additional days' written notice sell such materials and equipment at auction or at private sale and shall account for the proceeds thereof, after deducting costs and damages that should have been borne by the Contractor, the Contract Sum shall be reduced by the deficiency. If payments then or thereafter due the Contractor are not sufficient to cover such amount, the Contractor shall pay the difference to the Owner.

§ 12.2.5 ~~Nothing contained in this Section 12.2 shall be construed to establish a period of limitation with respect to other obligations the Contractor has under the Contract Documents. Establishment of the one-year period for correction of Work as described in Section 12.2.2 relates only to the specific obligation of the Contractor to correct the Work, and has no relationship to the time within which the obligation to comply with the Contract Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Contractor's liability with respect to the Contractor's obligations other than specifically to correct the Work.~~ The Contractor shall bear the cost of correcting destroyed or damaged construction whether completed or partially completed, of the Owner or separate contractors caused by the Contractor's correction or removal of Work which is not in accordance with the requirements of the Contract Documents.

§ 12.2.6 Nothing contained in this Section 12.2 shall be construed to establish a period of limitation with respect to other obligations the Contractor has under the Contract Documents. Establishment of the one-year period for correction of Work as described in Section 12.2.2 relates only to the specific obligation of the Contractor to correct the Work, and has no relationship to the time within which the obligation to comply with the Contract Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Contractor's liability with respect to the Contractor's obligations other than specifically to correct the Work.

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§ 13.4.1 Tests, inspections, and approvals of portions of the Work shall be made as required by the Contract Documents and by applicable laws, statutes, ordinances, codes, rules, and regulations or lawful orders of public authorities. ~~Unless otherwise provided, the Contractor~~ The Owner, Construction Manager or Architect shall make arrangements for such tests, inspections, and approvals with an independent testing laboratory or entity acceptable to the Owner, or with the appropriate public ~~authority, and shall bear all related costs of tests, inspections, and approvals. The Contractor shall give the Construction Manager and Architect timely notice~~ authority. Timely notice shall be given to the Construction Manager and Architect of when and where tests and inspections are to be made so that the Construction Manager and Architect may ~~be present for~~ observe such procedures. The Owner shall bear costs of tests, inspections, or approvals that do not become requirements until after bids are received or negotiations concluded. The Owner shall directly arrange and pay for tests, inspections, or approvals where building codes or applicable laws or regulations so require.

§ 13.4.2 If the Construction Manager, Architect, Owner, or public authorities having jurisdiction determine that portions of the Work require additional testing, inspection, or approval not included under Section 13.4.1, the Construction Manager and Architect will, upon written authorization from the Owner, instruct the Contractor to make arrangements for such additional testing, inspection, or approval, by an entity acceptable to the Owner, and the Contractor shall give ~~timely~~ a minimum of two (2) working days' notice to the Construction Manager and Architect of when and where tests and inspections are to be made so that the Construction Manager and Architect may ~~be present for such procedures. Such~~ observe procedures. The Owner shall bear such costs, except as provided in Section ~~13.4.3, shall be at the Owner's expense.~~ 13.4.3.

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~~Payments due and unpaid under the Contract Documents shall bear interest from the date payment is due at the rate the parties agree upon in writing or, in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located.~~ All payments to the Contractor shall be governed by the Prompt Payment of Local Government Bills, Minnesota Statutes, Section 471.125 ("Prompt Payment Act") and Article 5 of the A132–2019 Agreement on this Project.

§ 13.6 Non-Discrimination

§ 13.6.1 All contracts between the Owner and companies providing goods and services under the Contract Documents shall contain the following equal opportunity and civil right clause:

> "During the performance of this Agreement, the provider agrees to the following: No contractor, material supplier, vendor, or other person shall on the basis of sex, race, creed, color, religion, national origin, age, marital status, sexual orientation, or disability be excluded from full employment rights in, participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program, service, or activity under the provisions of any and all applicable Federal and State laws against discrimination, including the Minnesota Human Rights Act and the Civil Rights Act of 1964."

Upon request, the Contractor shall furnish all information and reports required by the Owner, or by the rules and regulations of investigation to ascertain compliance with all applicable rules and regulations. The Contractor shall also comply with any applicable licensing requirements of the Minnesota Department of Human Services in employment of personnel.

The Contractor acknowledges that the violation of the above-stated paragraph is a misdemeanor pursuant to Minnesota Statutes, Section 181.59.

This Agreement may be cancelled or terminated by the Owner or any other person authorized to grant the contracts for employment under this Agreement, and all money due, or to become due under this Agreement may be forfeited for a second or any subsequent violation of the non-discriminatory terms stated above.

§ 13.6.2 During the completion of the work and all other services required by the Contract Documents, the Contractor agrees that no contractor, material supplier, vendor, or other person shall, on the basis of sex, race, creed, color, religion, national origin, age, marital status, sexual orientation, or disability be excluded from full employment rights in participation in, be denied the benefits of, or be otherwise subjected to discrimination under the provisions of any and all applicable Federal and State laws against discrimination, including the Minnesota Human Rights Act and the

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Civil Rights Act of 1964. Upon request, the Architect, Construction Manager and Contractor shall furnish all information and reports required by the Owner, or by the rules and regulations of investigation to ascertain compliance with all applicable rules and regulations. The Contractor shall also comply with any applicable licensing requirements of the Minnesota Department of Human Services in employment of personnel.

Contractor acknowledges that the violation of the above-states paragraph is a misdemeanor pursuant to Minnesota Statutes Section 181.59.

The Contract Documents may be cancelled or terminated by the Owner or any other person authorized to grant the contracts for employment under this Agreement, and all money due, or to become due under the Agreement may be forfeited for a second or any subsequent violation of the non-discriminatory terms stated above.

§ 13.7 No action or failure to act by the Owner shall constitute a waiver of a right or duty afforded the Owner under the Contract Documents, nor shall such action or failure to act constitute approval of or acquiescence of the Owner in a breach of the Contract Documents, except as may be specifically agreed in writing. None of the approval of any Application for Payment, the making of any payment, the giving of any approval or consent, the use or occupancy of the Work, or any part thereof, the making of final payment, or any other action or inaction on the part of the Owner, Construction Manager or Architect shall constitute a waiver of claims by or rights of the Owner or an acceptance of any Work that is not in accordance with the Contract Documents. The Contractor shall not be relieved from its obligations to perform the Work in accordance with the Contract Documents either by the activities or duties of the representations of the Owner, Construction Manager or Architect, or by inspections, tests, or approvals required or performed by the Owner, Construction Manager or Architect or anyone else.

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§ 14.1.5 No Right to Stop Work for Non-Payment

The Contractor has no right to stop Work as a consequence of non-payment. In the event of any disagreement between the Contractor and Owner involving the Contractor's entitlement to payment, the Contractor's only remedy is to file a Claim in accordance with Article 15. The Contractor must diligently proceed with the Work pending resolution of the Claim. If, however, an Application for Payment has been approved for payment by the Owner, and the Owner fails to make payment within sixty (60) days of the approval for payment by the Owner, the Contractor may upon ten (10) days written notice to the Owner, stop work if payment is not made by the Owner within ten (10) days following the notice.

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§ 14.3.2 The Contract Sum and the Contract Time shall be adjusted for increases or decreases in the cost and time caused by suspension, delay, or interruption under Section 14.3.1. Adjustment of the Contract Sum shall include reasonable profit. No adjustment shall be made to the extent:

...

~~**§ 14.4.3** In case of such termination for the Owner's convenience, the Owner shall pay the Contractor for Work properly executed; costs incurred by reason of the termination, including costs attributable to termination of Subcontracts; and the termination fee, if any, set forth in the Agreement.~~

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§ 15.1.1 Definition. A Claim is a demand or assertion by ~~one of the parties~~ the Contractor seeking, as a matter of right, payment of money, a change in the Contract Time, or other relief with respect to the terms ~~of the Contract. The term "Claim" also includes other disputes and matters in question between the Owner and Contractor arising out~~ of ~~or relating to~~ the Contract. The responsibility to substantiate Claims shall rest with ~~the party making the Claim.~~ the Contractor. Nothing in this paragraph 15.1.1 is intended to apply to or in any way limit the Owner's right to make Claims related to or arising out of the Contract. This Section 15.1.1 does not require the Owner to file a Claim in order to impose liquidated damages in accordance with the Contract Documents.

...

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§ 15.1.3.1 Claims by ~~either the Owner or~~ Contractor, where the condition giving rise to the Claim is first discovered prior to expiration of the period for correction of the Work set forth in Section 12.2.2, shall be initiated by written notice to the ~~other party~~ Owner and to the Initial Decision Maker with a copy sent to the Construction Manager and Architect, if the Architect is not serving as the Initial Decision Maker. Claims by ~~either party~~ the Contractor under this Section 15.1.3.1 shall be initiated within ~~21~~ ten (10) days after occurrence of the event giving rise to such Claim or within ~~21~~ ten (10) days after the ~~claimant~~ Contractor first recognizes the condition giving rise to the Claim, whichever is later. Any additional Claim made after and relating to the initial Claim has been implemented by Change Order will not be considered unless submitted in a timely manner. As a condition to making a claim for additional costs, the Contractor shall maintain and produce accurate records to substantiate all additional costs actually incurred. If a Claim for actual costs is approved, the Owner shall pay the Contractor actual costs incurred, plus either (a) ten percent (10%) for overhead and profit for work performed by the Contractor, or (b) five percent (5%) overhead and profit for work performed by a Subcontractor, as applicable.

§ 15.1.3.2 Claims by either the Owner or Contractor, where the condition giving rise to the Claim is first discovered after expiration of the period for correction of the Work set forth in Section 12.2.2, shall be initiated by written notice to the other party. In such event, no decision by the Initial Decision Maker is required.

...

§ 15.1.4.1 Pending final resolution of a Claim, except as otherwise agreed in writing or as provided in Section 9.7 and Article 14, the Contractor shall proceed diligently with performance of the Contract and the Owner shall continue to make payments in accordance with the Contract Documents. Subject to Paragraph 15.1.5, no such continuing performance by the Contractor, nor payment by the Owner shall be deemed a waiver of, or to otherwise impair any such Claim.

...

§ 15.1.6.1 If the Contractor wishes to make a Claim for ~~an~~ any increase in the Contract Time, notice as provided in Section 15.1.3 shall be given. The Contractor's Claim shall include an estimate of cost and of probable effect of delay on progress of the Work. In the case of a continuing delay only one Claim is necessary.

~~§ 15.1.7 Waiver of Claims for Consequential Damages. The Contractor and Owner waive Claims against each other for consequential damages arising out of or relating to this Contract. This mutual waiver includes~~

~~.1 damages incurred by the Owner for rental expenses, for losses of use, income, profit, financing, business and reputation, and for loss of management or employee productivity or of the services of such persons; and~~

~~.2 damages incurred by the Contractor for principal office expenses including the compensation of personnel stationed there, for losses of financing, business and reputation, and for loss of profit except anticipated profit arising directly from the Work.~~

~~This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination in accordance with Article 14. Nothing contained in this Section 15.1.7 shall be deemed to preclude assessment of liquidated damages, when applicable, in accordance with the requirements of the Contract Documents.~~

...

§ 15.2.6 ~~Either party may file for mediation of an initial decision at any time, subject to the terms of Section 15.2.6.1.~~ In the event of a Claim against the Contractor, the Owner may, but is not obligated to notify the surety, if any, of the nature and amount of the Claim. If the Claim relates to a possibility of a Contractor's default, the Owner may, but is not obligated to notify the surety and initiate a Claim on the performance bond.

~~§ 15.2.6.1 Either party may, within 30 days from the date of receipt of an initial decision, demand in writing that the other party file for mediation. If such a demand is made and the party receiving the demand fails to file for mediation~~

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~~within 30 days of receipt thereof, then both parties waive their rights to mediate or pursue binding dispute resolution proceedings with respect to the initial decision.~~

~~§ 15.2.7 In the event of a Claim against the Contractor, the Owner may, but is not obligated to, notify the surety, if any, of the nature and amount of the Claim. If the Claim relates to a possibility of a Contractor's default, the Owner may, but is not obligated to, notify the surety and request the surety's assistance in resolving the controversy.~~

~~§ 15.2.8 If a Claim relates to or is the subject of a mechanic's lien, the party asserting such Claim may proceed in accordance with applicable law to comply with the lien notice or filing deadlines.~~

§ 15.3.1 ~~Claims, disputes, or other matters in controversy~~ Any claim, dispute or other matter in question or arising out of or related to the ~~Contract, except those waived as provided for in Sections 9.10.4, 9.10.5, and 15.1.7, shall be subject to mediation as a condition precedent to binding dispute resolution.~~Contract shall be subject to mediation. Mediation is not a condition precedent to commencing litigation, but if litigation is commenced before mediation is held, the Parties agree to mediate before any dispositive motions or trial.

§ 15.3.2 The parties shall ~~endeavor to resolve their Claims by mediation which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Mediation Procedures in effect on the date of the Agreement. A request for mediation shall be made in writing, delivered to the other party to the Contract, and filed with the person or entity administering the mediation. The request may be made concurrently with the filing of binding dispute resolution proceedings but, in such event, mediation shall proceed in advance of binding dispute resolution proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order. If an arbitration is stayed pursuant to this Section 15.3.2, the parties may nonetheless proceed to the selection of the arbitrator(s) and agree upon a schedule for later proceedings.~~share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located unless another location is mutually agreed upon. Agreements reached in mediation and ratified by the Owner's Council shall be enforceable as settlement agreements in any court having jurisdiction thereof.

~~§ 15.3.3 Either party may, within 30 days from the date that mediation has been concluded without resolution of the dispute or 60 days after mediation has been demanded without resolution of the dispute, demand in writing that the other party file for binding dispute resolution. If such a demand is made and the party receiving the demand fails to file for binding dispute resolution within 60 days after receipt thereof, then both parties waive their rights to binding dispute resolution proceedings with respect to the initial decision.~~

~~§ 15.3.4 The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.~~

~~**§ 15.4 Arbitration**~~

~~§ 15.4.1 If the parties have selected arbitration as the method for binding dispute resolution in the Agreement, any Claim subject to, but not resolved by, mediation shall be subject to arbitration which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Arbitration Rules in effect on the date of the Agreement. The Arbitration shall be conducted in the place where the Project is located, unless another location is mutually agreed upon. A demand for arbitration shall be made in writing, delivered to the other party to the Contract, and filed with the person or entity administering the arbitration. The party filing a notice of demand for arbitration must assert in the demand all Claims then known to that party on which arbitration is permitted to be demanded.~~

~~§ 15.4.1.1 A demand for arbitration shall be made no earlier than concurrently with the filing of a request for mediation, but in no event shall it be made after the date when the institution of legal or equitable proceedings based on the Claim would be barred by the applicable statute of limitations. For statute of limitations purposes, receipt of a written demand for arbitration by the person or entity administering the arbitration shall constitute the institution of legal or equitable proceedings based on the Claim.~~

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~~§ 15.4.2 The award rendered by the arbitrator or arbitrators shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.~~

~~§ 15.4.3 The foregoing agreement to arbitrate and other agreements to arbitrate with an additional person or entity duly consented to by parties to the Agreement, shall be specifically enforceable under applicable law in any court having jurisdiction thereof.~~

~~§ 15.4.4 Consolidation or Joinder~~

~~§ 15.4.4.1 Subject to the rules of the American Arbitration Association or other applicable arbitration rules, either party may consolidate an arbitration conducted under this Agreement with any other arbitration to which it is a party provided that (1) the arbitration agreement governing the other arbitration permits consolidation, (2) the arbitrations to be consolidated substantially involve common questions of law or fact, and (3) the arbitrations employ materially similar procedural rules and methods for selecting arbitrator(s).~~

~~§ 15.4.4.2 Subject to the rules of the American Arbitration Association or other applicable arbitration rules, either party may include by joinder persons or entities substantially involved in a common question of law or fact whose presence is required if complete relief is to be accorded in arbitration, provided that the party sought to be joined consents in writing to such joinder. Consent to arbitration involving an additional person or entity shall not constitute consent to arbitration of any claim, dispute or other matter in question not described in the written consent.~~

~~§ 15.4.4.3 The Owner and Contractor grant to any person or entity made a party to an arbitration conducted under this Section 15.4, whether by joinder or consolidation, the same rights of joinder and consolidation as those of the Owner and Contractor under this Agreement.~~

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Certification of Document's Authenticity

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I, , hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with its associated Additions and Deletions Report and this certification at 13:12:20 CT on 02/03/2025 under Order No. 4104251278 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document A232™ – 2019, General Conditions of the Contract for Construction, Construction Manager as Adviser Edition, other than those additions and deletions shown in the associated Additions and Deletions Report.

(Signed)

Curtis Hartog, Executive Director

(Title)

2/3/2025

(Dated)

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Exhibit B – Project Charter

FY21 North High School Renovations-Bid Pack 4

Work Scope 09-C Ceiling and Acoustical Treatments

Description

Perform ceiling and acoustical treatments in accordance with Work Scope 09-C for the North High School Phase 4 renovations

Contract Sum

The Contract Sum shall be $460,000

Alternates

Item	Price	Status
Alt #1: Health Office	$21,000	rejected
Alt #2: Athletic and Counseling Offices	$15,400	rejected
Alt #3: Electrical panel replacements	$0	accepted
Alt #4: AHU-41 replacement	$48,000	accepted
Alt #5: Direct digital controls	$38,000	accepted

EXHIBIT C Owner Insurance

Insurance Requirements

1. CONSULTANT'S INSURANCE – to be used with AIA B101-2017, AIA C103-2015, or similar non-contractor consultants:
   The Consultant shall at its own expense maintain in effect at all times during the performance of the Work under the Agreement at least the following coverage and limits of insurance:

   a. Worker's Compensation and Employer's Liability Insurance

      i. Coverage A is statutory.

      ii. Coverage B
      $500,000 Each Accident
      $500,000 Each Employee
      $500,000 Policy Limit (Disease)

   b. Comprehensive General Liability Insurance *

General Aggregate	$1,000,000
Products/Completed Operations Aggregate	$1,000,000
Per Occurrence	$1,000,000
Medical Payments	$10,000

   * The Owner should be named as an additional insured for Comprehensive General Liability Insurance.

   c. Automobile Insurance

Per Occurrence	$1,000,000
PIP	Basic
Underinsured Motorist	$1,000,000
Uninsured Motorist	$1,000,000

   d. Professional Liability Insurance

i. Per Claim	$2,000,000

ii. For projects with an estimated construction Contract Sum of over $10,000,000 or major structural work an aggregate is required as follows:
Aggregate $4,000,000

e. Umbrella Liability Insurance

i. Per Occurrence $2,000,000

ii. For projects with an estimated construction Contract Sum of over $10,000,000 or major structural work an aggregate is required as follows:
Aggregate $2,000,000

f. Manned or Unmanned Aircraft Coverage (if used)

i. Per Claim $1,000,000

ii. Aggregate $1,000,000

For specialty consultants used for commissioning activities, studies, asbestos surveys and security, items A, B, C and F shall apply.

Special Asbestos Abatement Liability Insurance is required for Asbestos Abatement Contractors. The limits are $1,500,000 per claim, for liability arising from the encapsulation, removal, handling, storage, transportation, and disposal of asbestos-containing materials.

2. CONSULTANT'S OBLIGATIONS

Consultant shall not violate or knowingly permit any violation of any conditions or terms of the policies of insurance required to be carried under the terms hereof and shall endeavor to satisfy the requirements of the insurance companies issuing them. In the event Consultant neglects, refuses or fails to provide or maintain any of the insurance required to be carried under the Agreement, or if such insurance is canceled for any reason, the Owner or the Owner's lender(s) shall have the right, but not the duty, to procure or maintain the same.

In the event the Owner or the Owner's lender(s) do procure or maintain such insurance, the Owner or the Owner's lender(s) shall have, in additional to any and all other available remedies, the right to recover from the Consultant (including the right of set-off against sums otherwise due the Consultant) all of the costs associated with procuring or maintaining such insurance.

3. PROFESSIONAL LIABILITY INSURANCE

   a. Professional Liability Coverage of $2,000,000 shall be maintained for one (1) year from the date of Substantial Completion. If the Consultant discontinues its business and if directed by Owner in writing, Consultant shall purchase such insurance in such amount for an extended discovery period beyond the one (1) year after the date of Substantial Completion, with the premium cost to be a reimbursable expense paid by the Owner. The limit of liability for such policy may not be reduced below $2,000,000 without the Owner giving its prior, written consent. All policies of insurance that Consultant is required under the terms of this Exhibit C Owner's Insurance to secure and maintain shall bear the endorsement "Not to be canceled until sixty (60) calendar days after Owner has received a written notice from insurer as evidence by a return receipt of registered or certified mail."

   b. The Owner shall not be responsible for obtaining or paying premiums or other expenses in connection with insurance required to be carried under the Agreement or normally carried by the Consultant's consultants, and the obligation to obtain such insurance and to pay such premiums and other expenses shall be solely that of the Consultant.

   c. The Consultant shall bear all the costs of any and all deductible amounts under any insurance policies required to be carried under the Agreement and shall remain solely and fully liable for the full amount of any claim or item not compensated by insurance (to the extent that any amount resulted from damages that arose out of the Consultant's sole negligence.)

4. COVERAGE

   The coverage's referred to above are set forth in full in the respective policy forms, and the foregoing descriptions of such policies are not intended to be complete.

5. GENERALLY

   a. The Consultant thereby represents and warrants to the Owner that, as of the date of the execution of the Agreement, the Consultant is not aware of any claims or potential claims which have been made, filed or threatened against any of the insurance or for damages covered by any of the insurance required to be carried under the Agreement that would affect the Consultant's ability to provide the insurance coverage required by this agreement.

b. It is understood that the provisions in the Agreement requiring the Consultant to carry insurance shall not be construed as in any manner waiving or restricting the liability of the Consultant as to any obligations imposed under the Agreement, including, but not limited to, obligations imposed under the provisions of Article 11 of the AIA A201-2017 General Conditions.

Insurance requirements for Contractors

1. CONTRACTOR'S INSURANCE – to be used with AIA A101-2017
   The Contractor shall at its own expense maintain in effect at all times during the performance of the Work under the Agreement at least the following coverage and limits of insurance:

   a. Commercial General Liability

      i. General Aggregate $1,500,000

      ii. Products/Completed Operations Aggregate $1,500,000

      iii. Per Occurrence $1,500,000

      The Owner shall be named as additional insured for Commercial General Liability Insurance

   b. Automobile Insurance

      i. Per Occurrence $1,000,000

      ii. PIP Basic

      iii. Underinsured Motorist $1,000,000

      iv. Uninsured Motorist $1,000,000

   c. Workers Compensation

      i. Coverage A is statutory.

      ii. Coverage B $500,000 Each Accident

      iii. $500,000 Each Employee

d. Professional Liability (if the Contractor is hiring professionals)

   i. Per Claim $2,000,000

   For Projects with an estimated construction cost of over $10,000,000 or major structural work, additional Aggregate coverage of $4,000,000 is required.

e. Manned or Unmanned Aircraft Coverage (if used)

   i. Per Claim $1,000,000

   ii. Aggregate $1,000,000

f. Property Insurance

   i. Per Claim $1,000,000

   ii. Aggregate $1,000,000

   This insurance is only required for materials stored offsite and not incorporated into the project at delivery. For material stored on site, no additional insurance is required.

g. Builders "all risk" Insurance

   i. Per Claim $2,000,000

   ii. Aggregate $4,000,000

   This insurance is only required for additions exceeding $10,000,000. Renovations to existing schools are not required to have builders all risk insurance.

h. Umbrella Liability

   i. Aggregate limit $5,000,000

   This insurance is required only for projects larger than $10,000,000 in total construction costs.

Exhibit D – Project Schedule

FY21 North High School Renovations-Bid Pack 4 Work Scope 09-C Ceiling and Acoustical Treatments

OP#:25-2512

Description

Perform ceiling and acoustical in accordance with Work Scope 09-C for the North High School Phase 4 renovations.

Schedule

Start Construction: On or about March 2025 but within 5 days of notice to proceed as directed by the Construction Manager. Please refer to schedule provided in Specifications.

To be completed in 2025-June 2025 to August 2025

Base Bid Level 1 Area E

Base Bid Level 2 Area F, Area G, Area E

Area D Bathrooms March 2025 – May 2025 and September 2025 to December 2025.

Base Bid Level 2 Area E classrooms March 2025-May 2025

Base Bid Area Level 1 Area C – June 2026-August 2026

Base Bid Level 2 Area G – June 2026-August 2026

Bae Bid Level2 Area D – January 2026-August 2026

Alternate #3 – March 2025 through August 2026

Alternate #4 – June 2025-August 2025

Alternate #5 – June 2025-August 2026

Substantial Completion: August 21, 2026.

Major School Days

Recordkeeping Day – March 28, 2025

Spring Break – March 31 – April 4, 2025

Memorial Day – May 26, 2025

Last Day of School – June 6, 2025

Juneteenth – June 19, 2025

Independence Day – July 4, 2025

Last day for Staff – June 30, 2025

Labor Day – September 1, 2025

First Day of School – September 2, 2025

Rosh Hashanah – September 23, 2025
Yom Kippur – October 2, 2025
MEA – October 16-17, 2025
Recordkeeping Day – November 4, 2025
Thanksgiving – November 26-28, 2025
Winter Break – December 22, 2025 to January 2, 2026
Martin Luther King Day – January 19, 2026
Recordkeeping Day – January 23, 2026
Presidents Day – February 16, 2026
Professional Development – February 17, 2026
Eid al-Fitr – March 20, 2026
Recordkeeping Day – March 27, 2026
Memorial Day – May 25, 2026
Professional Development – May 26, 2026
Eid al Adha – May 27, 2026
Juneteenth – June 19, 2026
Independence Day – July 4, 2026
Labor Day – September 7, 2026
First day of School – September 8, 2026

Substantial Completion

The Work will be substantially complete on or before August 21, 2026

ATTACHMENT A

LETTER OF ASSENT

Twin City Acoustics, Inc. hereby agrees to accept and be bound by the terms and conditions of the Project Labor Agreement between MINNEAPOLIS PUBLIC SCHOOLS, SPECIAL SCHOOL DISTRICT NO. 1 and the MINNEAPOLIS BUILDING AND CONSTRUCTION TRADES COUNCIL, dated and effective 2/11/2025, for the Project listed below, with respect to all Project Work as those terms are defined in the Project Labor Agreement.

NAME OF PROJECT: North High School Bid Pack 4 Renovations

Twin City Acoustics, Inc.
Contractor Name

9449 Science Center Dr Ste #100
Address

New Hope, MN 55428
City/State

By: [signature]

Title: VP

Dated: 2-11-25

DOCUMENT 00 22 13b - ATTACHMENT A-1 - FIRST-TIER SUBCONTRACTORS

LIST SUBMIT WITH PRIME CONTRACTOR RESPONSE

PROJECT TITLE: North High School - Renovations BP#4

Minn. Stat. § 16C.285, Subd. 5. A prime contractor or subcontractor shall include in its verification of compliance under subdivision 4 a list of all of its first-tier subcontractors that it intends to retain for work on the project.

FIRST TIER SUBCONTRACTOR NAMES (LEGAL NAME OF COMPANY AS REGISTERED WITH THE SECRETARY OF STATE)	NAME OF CITY WHERE COMPANY HOME OFFICE IS LOCATED
No Subs	

Contract Summary of Approval

Contract Group: IT Department

Contract Type: Services

VENDOR DETAILS

Vendor Name:	UCDirect
Reason Vendor Selected:	State, Cooperative or Joint Power Contract
Vetted/State/Cooperatives End Date:	

CONTRACT INFORMATION

Contract Purpose:	District wide Phone System
Contract Description:	New phone system
Amendment Description:	N/A
Deliverables/Outcomes:	Equipment for new phone system
Site(s) Affected:	District wide
Effective Start Date:	7/1/2026
Effective End Date:	6/30/2027
Contract Manager:	Tim Wilson

FUNDING INFORMATION

Shopping Cart No.:	TBD
Contract Value:	$319,003.85
Original Contract Amount:	Click or tap to enter text
Accumulative Contract Value:	Click or tap to enter text
Primary Fund Source:	Bond Funds

APPROVED BY

Tim Wilson	Executive Director, IT Services		3/4/2025
LEVEL 1 APPROVER	TITLE	SIGNATURE	DATE
Tom Parent	Senior Information Officer		
LEVEL 2 APPROVER	TITLE	SIGNATURE	DATE

Quote

Quote	#q146157
Created By	Kathleen Connors
Date	2/28/2025

UCDirect, a division of Tele-Communication, Inc.
2075 East Governors Circle
Houston, TX 77092, USA

Sales: (281) 810-6291
Support: (281) 810-3905

zoomsales@ucdirect.com
zoomsupport@ucdirect.com

BILL TO

Minneapolis Public Schools
1250 W. Broadway Ave
Minneapolis MN 55411
United States (612) 668-0000

SHIP TO

Minneapolis Public Schools
1250 W. Broadway Ave
Minneapolis MN 55411
United States (612) 668-0000

Quote Expires	Ordered By	Sales Rep	Shipping Method
3/30/2025		Kathleen Connors	UPS® Ground
Cust PO	**Terms**	**Currency**	**Exchange Rate**
	Credit Card	USA	1

Item	Qty	List Price	Unit Price	Total Price
US-YLNK-SIP-T33G-US-USD Yealink T33G phone - Dual-port Gigabit Ethernet, 2.4" 320 x 240-pixel color display with backlight (power supply not included)	5,250	$109.00	$51.10	$268,275.00
US-YLNK-WMB-T33G-US-USD Yealink WMB-T33G-WB Wall Mount for T33G/T33P	2,500	$8.00	$4.47	$11,175.00
US-YLNK-SIP-T46U-US-USD Yealink SIP-T46U Dual-port Gigabit Ethernet, 4.3" color LCD	250	$269.00	$118.99	$29,747.50
US-YLNK-UH34-MONO-UC-US-USD Yealink UH34 Mono UC USB Wired Headset with Leather ear cushions	100	$49.00	$33.15	$3,315.00
US-GRST-HT814-US-USD Grandstream 4 FXS, 2 GigE, NAT Router	75	$119.00	$86.5513	$6,491.35

TDSynnex OMNIA R200803

RETURN POLICY:

If you identify an Out of Box Failure (OBF) within 14 days of receipt of the item, please reach out to zoomsupport@ucdirect.com

UCDirect will accept unopened boxes up to 30 days from the time of shipment. Please contact zoomsales@ucdirect.com

LEASING OPTIONS:

We offer leasing options. All leasing quotes are good for 30 days and are subject to credit approval. The proposal provides an approximate monthly payment for hardware, software, and services, as applicable, based on the contract type and term in months. Taxes, fees and insurance are not included in pricing. Any changes to the quote may change monthly finance pricing.

Subtotal	$319,003.85
Shipping Cost [1]	$0.00
Handling Cost	$0.00
Tax Total (0%) [2]	$0.00
Total	**$319,003.85**

Quoted prices are our best estimate and are subject to change based on actual freight charges, manuf. price increases, etc.

FY21 North High School Renovations-Bid Pack 4 Work Scope 09-K Painting

Contract Sum: $108,000

Contractor: Wasche Commercial Finishes, Inc.

Project Name and Number

North High School
1500 James Avenue N
Minneapolis, MN 55411
Minneapolis Public Schools Project Number
OP25-2512

Description

Perform painting in accordance with Work Scope 09-K for the North High School Phase 4 renovations

Contract Sum details

Item	Price	Status
Base Bid	$108,000	accepted
Alt #1: Health Office	$13,800	rejected
Alt #2: Athletic and Counseling Offices	$20,500	rejected
Alt #3: Electrical panel replacements	$0	accepted
Alt #4: AHU-41 replacement	$0	accepted
Alt #5: Direct digital controls	$0	accepted

Contract Documents

AIA Document A132-2019
AIA Document A132 Exhibit A-2019
Exhibit B – Project Charter
Exhibit C – Owner Insurance
Exhibit D – Project Schedule
AIA Document A232-2019

AIA® Document A132® – 2019

Standard Form of Agreement Between Owner and Contractor, Construction Manager as Adviser Edition

AGREEMENT made as of the first__ day of _February_____ in the year 2025_
(In words, indicate day, month, and year.)

BETWEEN the Owner:
(Name, legal status, address, and other information)

Minneapolis Public Schools Special School District #1
1250 West Broadway Avenue
Minneapolis, MN 55411

and the Contractor:
(Name, legal status, address, and other information)

Wasche Commercial Finishes
21335 Aberdeen St. NE
East Bethel, MN 55011

for the following Project:
(Name, location, and detailed description)

North High School Phase 4 Work Scope 09-K Painting
1500 James Avenue
Minneapolis, MN 55411

The Construction Manager:
(Name, legal status, address, and other information)

Kraus-Anderson Construction Company
501 South 8th Street
Minneapolis, MN 55405

The Architect:
(Name, legal status, address, and other information)

LSE Architects
1401 Glenwood Avenue
Minneapolis, MN 55405

The Owner and Contractor agree as follows.

ADDITIONS AND DELETIONS:
The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

This document is intended to be used in conjunction with AIA Documents A232™–2019, General Conditions of the Contract for Construction, Construction Manager as Adviser Edition; B132™–2019, Standard Form of Agreement Between Owner and Architect, Construction Manager as Adviser Edition; and C132™–2019, Standard Form of Agreement Between Owner and Construction Manager as Adviser. AIA Document A232™–2019 is adopted in this document by reference. Do not use with other general conditions unless this document is modified.

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TABLE OF ARTICLES

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9 ENUMERATION OF CONTRACT DOCUMENTS

EXHIBIT A INSURANCE AND BONDS
EXHIBIT B DETERMINATION OF THE COST OF THE WORK

ARTICLE 1 THE CONTRACT DOCUMENTS

The Contract Documents consist of this Agreement, Conditions of the Contract (General, Supplementary, and other Conditions), Drawings, Specifications, Addenda issued prior to execution of this Agreement, other documents ("Contract" or "Contract Documents") listed in this Agreement, and Modifications issued after execution of this Agreement, all of which form the Contract, and are as fully a part of the Contract as if attached to this Agreement or repeated herein. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations, or agreements, either written or oral. An enumeration of the Contract Documents, other than Modifications, appears in Article 9.

§ 1.2 In the event that there are inconsistencies between any of the Project Contract Documents, all Contract Documents shall be construed together and shall be read with a purpose and intent to provide that the Contractor shall commit to fully complete its Project Work and services with the greater degree of commitment as referenced in the Contract Documents, including the plans and specifications, to work diligently to ensure completion of the Project in a timely and workmanlike manner and at the earliest stated times provided for in Project schedules, as they may be revised, and to ensure that Contractor, and all of its Subcontractors and suppliers complete the Project on schedule and within Project Contract Price, subject to approved change orders.

§ 1.3 Contractor acknowledges that it has had full, fair, and adequate opportunity to review all of the Project bidding and Contract Documents, that it has fully satisfied itself as to the scope and requirements of the Project, that it has fully and fairly investigated all Project site conditions and circumstances and Contract Documents, including any potential difficulties or interferences present in the same, that it has had the opportunity to ask questions during the bidding phase and that it has received adequate answers to any such questions, that it has had the opportunity to attend and fairly participate in all pre-bid conferences and pre-construction conferences, and that it has required the same of all of its Subcontractors.

ARTICLE 2 THE WORK OF THIS CONTRACT

The Contractor shall fully execute the Work described in the Contract Documents, except as specifically indicated in the Contract Documents to be the responsibility of others.

ARTICLE 3 DATE OF COMMENCEMENT AND DATES OF SUBSTANTIAL COMPLETION

§ 3.1 The date of commencement of the Work shall be:
(Check one of the following boxes.)

[ ] The date of this Agreement.

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[X] A date set forth in a notice to proceed issued by the Owner.

[ ] Established as follows:
(Insert a date or a means to determine the date of commencement of the Work.)

If a date of commencement of the Work is not selected, then the date of commencement shall be the date of this Agreement.

§ 3.2 The Contract Time shall be measured from the date of commencement of the Work.

§ 3.3 Substantial Completion of the Project or Portions Thereof

§ 3.3.1 Subject to adjustments of the Contract Time as provided in the Contract Documents, the date of Substantial Completion of the Work of all of the Contractors for the Project will be:
(Insert the date of Substantial Completion of the Work of all Contractors for the Project.)

Defined in EXH-D Project Schedule

§ 3.3.2 Subject to adjustments of the Contract Time as provided in the Contract Documents, if portions of the Work of all of the Contractors for the Project are to be completed prior to Substantial Completion of the entire Work of all of the Contractors for the Project, the Contractors shall achieve Substantial Completion of such portions by the following dates defined in EXH-D Project Schedule. Such portions of the Work not completed as defined in EXH-D Project Schedule shall be subject to liquidated damages as set forth in Article 4.5.

(Table deleted)
(Table deleted)
(Paragraphs deleted)
§ 3.4.3 If the Contractor fails to substantially complete the Work of this Contract, or portions thereof, as provided in this Section 3.4, liquidated damages, if any, shall be assessed as set forth in Section 4.5.

ARTICLE 4 CONTRACT SUM

§ 4.1 The Owner shall pay the Contractor the Contract Sum in current funds for the Contractor's performance of the
(Paragraphs deleted)
Contract as defined in EXH-B Project Charter, subject to additions and deductions as provided in the Contract Documents.

§ 4.2 Stipulated Sum

§ 4.2.1 The Contract Sum shall be one hundred eight thousand dollars ($ 108,000), subject to additions and deductions as provided in the Contract Documents.

§ 4.2.2 Alternates

§ 4.2.2.1 Alternates, if any, included in the Contract Sum are defined in EXH-B Project Charter.
(Table deleted)
§ 4.2.2.2 Subject to the conditions noted in EXH-B Project Charter, alternates may be accepted by the Owner following execution of this Agreement. Upon acceptance, the Owner shall issue a Modification to this Agreement.
(Paragraphs deleted)
(Table deleted)
§ 4.2.3 Allowances, if any, included in the Contract Sum are defined in EXH-B Project Charter.
(Identify each allowance.)

Item	Price

§ 4.2.4 Unit prices, if any are defined in EXH-B Project Charter.

(Table deleted)

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§ 4.3 Allowances, if any, included in the Contract Sum are defined in EXH-B Project Charter.

(Paragraph deleted)
(Table deleted)
(Paragraphs deleted)
§ 4.4 Unit prices, if any, are defined in EXH-B Project Charter.

(Paragraphs deleted)
(Table deleted)
(Paragraphs deleted)
(Table deleted)
(Paragraphs deleted)
(Table deleted)
(Paragraphs deleted)
(Table deleted)
(Paragraphs deleted)
§ 4.5 Liquidated damages, if any:
(Insert terms and conditions for liquidated damages, if any, to be assessed in accordance with Section 3.4.)

Contractor and Owner recognize that time is of the essence for the Project and the Owner will suffer financial loss if the Work is not completed in the time specified in the Contract Documents. The parties also recognize the delays, expenses, and difficulties involved in proving in a legal proceeding the actual loss suffered by the Owner if the Work is not completed on time. Accordingly, instead of requiring such proof, the Owner and Contractor agree that as liquidated damages for delay (but not as penalty), Contractor shall pay Owner One Thousand Dollars ($1,000.00) per calendar day for each day that expires after the time specified for Substantial Completion in EXH-D Project Schedule until such time the Work is determined to be substantially complete by the Owner.

After Substantial Completion, if Contractor neglects, refuses, or fails to complete the remaining Work within the Contract Time specified in the Contract Documents, the Contractor shall pay the Owner One Thousand Dollars ($1,000.00) per day that expires after the time specified in the Contract Documents for Final Completion and readiness for Final Payment until the Work is completed.

§ 4.6 Other:
(Insert provisions for bonus, cost savings or other incentives, if any, that might result in a change to the Contract Sum.)

None

ARTICLE 5 PAYMENTS

§ 5.1 Progress Payments

§ 5.1.1 Based upon Applications for Payment submitted to the Construction Manager by the Contractor, and Certificates for Payment issued by the Construction Manager and Architect and approval by the Owner's Representative, the Owner shall make progress payments on account of the Contract Sum, to the Contractor, as provided below and elsewhere in the Contract Documents.

§ 5.1.2 The period covered by each Application for Payment shall be one calendar month ending on the last day of the month.

§ 5.1.3 When an Application for Payment is received by the Construction Manager, payment of the amount certified shall be made by the Owner not later than forty-five (45) days after the Construction Manager receives the Application for Payment. Unless expressly otherwise agreed in this Contract, payments and payment disputes shall be governed by the Prompt Payment of Local Government Bills, Minnesota Statutes, Section 471.425 ("Prompt Payment Act").
(Federal, state or local laws may require payment within a certain period of time.)

§ 5.1.4 Progress Payments Where the Contract Sum is Based on a Stipulated Sum

§ 5.1.4.1 Each Application for Payment shall be based on the most recent schedule of values submitted by the Contractor on AIA G702 Application and Certificate for Payment in accordance with the Contract Documents. The schedule of

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values shall allocate the entire Contract Sum among the various portions of the Work. The schedule of values shall be prepared in such form, and supported by such data to substantiate its accuracy, as the Construction Manager and Architect may require. This schedule of values shall be used as a basis for reviewing the Contractor's Applications for Payment.

§ 5.1.4.2 Applications for Payment shall show the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment.

§ 5.1.4.3 In accordance with AIA Document A232™–2019, General Conditions of the Contract for Construction, [illegible] Construction Manager as Adviser Edition, as modified and subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

§ 5.1.4.3.1 The amount of each progress payment shall first include:

.1 That portion of the Contract Sum properly allocable to completed Work;

.2 That portion of the Contract Sum properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction, or, if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing; and

.3 That portion of Construction Change Directives that the Architect determines, in the Architect's [illegible] professional judgment, to be reasonably justified.

§ 5.1.4.3.2 The amount of each progress payment shall then be reduced by:

.1 The aggregate of any amounts previously paid by the Owner;

.2 The amount, if any, for Work that remains uncorrected and for which the Architect has previously withheld a Certificate for Payment as provided in Article 9 of AIA Document A232–2019;

.3 Any amount for which the Contractor does not intend to pay a Subcontractor or material supplier, unless the Work has been performed by others the Contractor intends to pay;

.4 For Work performed or defects discovered since the last payment application, any amount for which the Architect may withhold payment, or nullify a Certificate of Payment in whole or in part, as provided in Article 9 of AIA Document A232–2019; and

.5 Retainage withheld pursuant to Section 5.1.7.

(Paragraphs deleted)

§ 5.1.7 Retainage

§ 5.1.7.1 For each progress payment made prior to when the Work of this Contract is substantially complete, the Owner may withhold the following amount, as retainage, from the payment otherwise due:
(Insert a percentage or amount to be withheld as retainage from each Application for Payment. The amount of retainage may be limited by governing law.)

Five Percent (5%)

§ 5.1.7.1.1 The following items are not subject to retainage:
(Insert any items not subject to the withholding of retainage, such as general conditions, insurance, etc.)

For major items installed into the Work, the Contractor may request full payment for the items to ensure prompt delivery and fabrication. Such items shall be recommended by the Architect and approved by the Owner as not requiring retainage. Prompt payment for the items shall be documented by the Contractor to the Owner in the subsequent payment application by submitting a full lien release for the items. Major items may include mechanical units with long lead times, structural systems with long lead times, critical path systems or items, etc. Major items will be discussed and defined by Owner, Architect, Construction Manager and Contractor.

§ 5.1.7.2 Reduction or limitation of retainage, if any, shall be as follows:
(If the retainage established in Section 5.1.7.1 is to be modified prior to when the entire Work of this Contract is substantially complete, including modifications for completion of portions of the Work as provided in Section 3.4.2, insert provisions for such modifications.)

Prior to Substantial Completion and at the discretion of the Owner, retainage may be reduced. If the Work has been fifty percent (50%) completed as determined by the Architect and is satisfactory to the Owner, then ninety percent (90%) of the

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retained amount may be released to the Contractor for completed Work (with ten percent (10%) of the total retained by the Owner).

§ 5.1.7.3 Except as set forth in this Section 5.1.7.3, when the Work of this Contract is substantially complete, the Contractor may submit an Application for Payment that includes the retainage withheld from prior Applications for Payment pursuant to this Section 5.1.7. The Application for Payment submitted when the Work of this Contract is substantially complete shall not include retainage as follows:
(Insert any other conditions for release of retainage when the Work of this Contract is substantially complete, or upon Substantial Completion of the Work of all Contractors on the Project or portions thereof.)

Upon Substantial Completion, additional retainage may be returned to the Contractor as recommended by the Architect and Construction Manager and approved by the Owner to an amount sufficient to satisfactorily complete the Work. Retainage release will comply with Minnesota Statutes, Section 15.72 after Substantial Completion and punch list acceptance by the Owner.

§ 5.2 Final Payment

§ 5.2.1 Final Payment Where the Contract Sum is Based on a Stipulated Sum

§ 5.2.1.1 Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Contractor when

.1 the Contractor has fully performed the Contract except for the Contractor's responsibility to correct Work as provided in Article 12 of AIA Document A232–2019, and to satisfy other requirements, if any, which extend beyond final payment;

.2 a final Certificate for Payment or Project Certificate for Payment has been issued by the Architect; and

.3 all lien waivers and IC134 forms have been delivered to the Owner.

§ 5.2.1.2 The Owner's final payment to the Contractor shall be made no later than forty-five (45) days after the issuance of the Architect's final Certificate for Payment or Project Certificate for Payment, or as follows:

§ 5.2.2 Final Payment Where the Contract Sum is Based on the Cost of the Work with or without a Guaranteed Maximum Price

§ 5.2.2.1 Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Contractor when

.1 the Contractor has fully performed the Contract except for the Contractor's responsibility to correct Work as provided in Article 12 of AIA Document A232–2019, and to satisfy other requirements, if any, which extend beyond final payment;

.2 the Contractor has submitted a final accounting for the Cost of the Work, pursuant to Exhibit B, Determination of the Cost of the Work and a final Application for Payment; and

.3 a final Certificate for Payment or Project Certificate for Payment has been issued by the Architect in accordance with Exhibit B, Determination of the Cost of the Work.

§ 5.2.2.2 The Owner's final payment to the Contractor shall be made no later than 30 days after the issuance of the final Certificate for Payment or Project Certificate for Payment, or as follows:

§ 5.3 Payments due and unpaid under the Contract shall bear interest from the date payment is due at the rate stated below.
(Insert rate of interest agreed upon, if any.)

Zero %

ARTICLE 6 DISPUTE RESOLUTION

§ 6.1 Initial Decision Maker

The Architect will serve as Initial Decision Maker pursuant to Article 15 of AIA Document
(Paragraphs deleted)
A232–2019.

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§ 6.1.1 Mediation
The Owner or the Contractor may request mediation of any Claim submitted to the Initial Decision Maker before the decision becomes final and binding. The mediation shall be governed by the Construction Industry Mediation Rules of the American Arbitration Association in effect at the date of this contract. The request for mediation shall be made in writing by the party requesting mediation and the other party of this contract. The Owner and Contractor shall participate in mediation in good faith. The mediation shall be concluded within 60 days of the request. Mediation is not a condition precedent to commencing litigation. If litigation is commenced, the Owner and Contractor agree to mediate before any dispositive motion or trial.

§ 6.2 Binding Dispute Resolution
For any Claim subject to, but not resolved by, mediation pursuant to Article 15 of AIA Document A232–2019, the method of binding dispute resolution shall be as follows:
(Check the appropriate box.)

[ ] Arbitration pursuant to Article 15 of AIA Document A232–2019.

[X] Litigation in a state or federal court of competent jurisdiction located in Hennepin County, Minnesota.

[ ] Other: *(Specify)*

If the Owner and Contractor do not select a method of binding dispute resolution, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, Claims will be resolved by litigation in a court of competent jurisdiction.

ARTICLE 7 TERMINATION OR SUSPENSION
§ 7.1 Where the Contract Sum is a Stipulated Sum
§ 7.1.1 The Contract may be terminated by the Owner or the Contractor as provided in Article 14 of AIA Document A232–2019.

§ 7.1.1.1 If the Contract is terminated for the Owner's convenience in accordance with Article 14 of AIA Document A232–2019, then the Owner shall pay the Contractor a termination fee as follows:
(Insert the amount of, or method for determining, the fee, if any, payable to the Contractor following a termination for the Owner's convenience.)

Termination fee will be based on the percentage of Work completed and any materials purchased or in production at the time of termination. Said fee and justification shall be provided to the Owner by the Contractor within ten (10) days' notice of the termination.

§ 7.1.2 The Work may be suspended by the Owner as provided in Article 14 of AIA Document A232–2019.

(Paragraphs deleted)
ARTICLE 8 MISCELLANEOUS PROVISIONS
§ 8.1 Where reference is made in this Agreement to a provision of AIA Document A232–2019 or another Contract Document, the reference refers to that provision as amended or supplemented by other provisions of the Contract Documents.

§ 8.2 The Owner's representative:
(Name, address, email address, and other information)

Curtis Hartog, PE, Executive Director
Minneapolis Public Schools, SSD#1
Capital Planning, Construction & Maintenance
1250 West Broadway Avenue, Minneapolis, MN 55411

§ 8.3 The Contractor's representative:

Init.
/
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(Name, address, email address, and other information)

Brad Feyereisen
VP of Sales
Wasche Commercial Finishes
21335 Aberdeen St. NE
East Bethel, MN 55011

§ 8.4 Neither the Owner's nor the Contractor's representative shall be changed without ten days' prior notice to the other party.

§ 8.5 Record Keeping—Availability and Retention
Pursuant to Minnesota Statutes, Section 16C.05, subd. 5, Contractor agrees that the books, records, documents and accounting procedures and practices of Contractor, that are relevant to the Contract or transaction, are subject to examination by the Owner, the Owner's auditor, and the state auditor for a minimum of six (6) years. Contractor shall maintain such records for a minimum of six (6) years after final payment.

§ 8.6 Data Practices
Pursuant to Minnesota Statutes, Section 13.05, subd. 11, all of the data created, collected, received, stored, used, maintained, or disseminated by Contractor in performing this contract is subject to the requirements of the Minnesota Government Data Practices Act ("MGDPA"), Minnesota Statutes Chapter 13, and Contractor must comply with those requirements as if it were a government entity. The remedies in Minnesota Statutes, Section 13.08 apply to Contractor. Contractor does not have a duty to provide access to public data to the public if the public data are available from the Owner, except as required by the terms of this contract.

§ 8.7 Non-Discrimination
Pursuant to Minnesota Statutes, Section 181.59, the Contractor will take affirmative action to ensure that applicants are selected, and that employees are treated during employment, without regard to their race, color, creed, religion, national origin, sex, sexual orientation, marital status, status with regard to public assistance, membership or activity in a local civil rights commission, disability or age. The Contractor agrees to be bound by the provisions of Minnesota Statutes, Section 181.59, that prohibits certain discriminatory practices and the terms of said section are incorporated into this contract.

§ 8.8 Prompt Payment to Subcontractors
In accordance with the Prompt Payment Act, each Prime Contractor must pay any subcontractor within ten (10) days of the Prime Contractor's receipt of payment from the municipality for undisputed services provided by the subcontractor. The Subcontract must require the Prime Contractor to pay interest of 1-1/2 percent per month or any part of a month to the subcontractor on any undisputed amount not paid on time to the subcontractor. The minimum monthly interest penalty payment for an unpaid balance of $100 or more is $10. For an unpaid balance of less than $100, the Prime Contractor shall pay the actual penalty due to the subcontractor. A subcontractor who prevails in a civil action to collect interest penalties from a Prime Contractor must be awarded its costs and disbursements, including attorney's fees, incurred in bringing the action.

§ 8.9 Prevailing Wage
Contractor agrees that all laborers or mechanics working on the Project shall receive at least the prevailing wage rate in accordance with Minnesota Statutes Section 177.42, *et seq*. Contractor agrees further that it will incorporate any and all necessary contract language in its agreements with any subcontractors to allow Contractor to monitor and enforce the prevailing wage requirement for subcontractors of any tier.

§ 8.5 Insurance and Bonds
§ 8.5.1 The Owner and the Contractor shall purchase and maintain insurance as set forth EXH-C Owner Insurance.

§ 8.5.2 The Contractor shall provide bonds as set forth in AIA Document A132™–2019, Exhibit A, and elsewhere in the Contract Documents.

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§ 8.6 Notice in electronic format, pursuant to Article 1 of AIA Document A232–2019, may be given in accordance with AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, if completed, or as otherwise set forth below:
(If other than in accordance with AIA Document E203–2013, insert requirements for delivering notice in electronic format such as name, title, and email address of the recipient and whether and how the system will be required to generate a read receipt for the transmission.)

email to Owner's representative identified in Section 8.2

§ 8.7 Relationship of the Parties

Where the Contract is based on the Cost of the Work plus the Contractor's Fee, with or without a Guaranteed Maximum Price, the Contractor accepts the relationship of trust and confidence established by this Agreement and covenants with the Owner to cooperate with the Architect and exercise the Contractor's skill and judgment in furthering the interests of the Owner; to furnish efficient business administration and supervision; to furnish at all times an adequate supply of workers and materials; and to perform the Work in an expeditious and economical manner consistent with the Owner's interests. The Owner agrees to furnish and approve, in a timely manner, information required by the Contractor and to make payments to the Contractor in accordance with the requirements of the Contract Documents.

§ 8.8 Other provisions:

Owner prohibits Contractor from using the Work in any marketing material or business development practice. Contractor is prohibited from communication with any news outlet or public without Owner's written approval.

Floor plans, designs, wiring, safety and security measures shall be kept confidential by the Contractor, the Subcontractors, the Sub-Subcontractors (of any tier) during and after completion of the Work.

ARTICLE 9 ENUMERATION OF CONTRACT DOCUMENTS

§ 9.1 This Agreement is comprised of the following documents:

.1 AIA Document A132™–2019, Standard Form of Agreement Between Owner and Contractor, Construction Manager as Adviser Edition

.2 AIA Document A132™–2019, Exhibit A, Insurance and Bonds Exhibit

.3 AIA Document A232™–2019, General Conditions of the Contract for Construction, Construction Manager as Adviser Edition

.4 AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, dated as indicated below:
(Insert the date of the E203-2013 incorporated into this Agreement.)

Not Applicable

.5 Drawings

Number	Title	Date
139	North High School Renovations & CTE Center Vol 1 of 2	November 13, 2024
209	North High School Renovations & CTE Center Vol 2 of 2	November 13, 2024

.6 Specifications

Section	Title	Date	Pages
All Specifications	North High School Renovations and CTE Center Bid Package 4	November 13, 2024	1414

.7 Addenda, if any:

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Number	Date	Pages
1	December 2, 2024	70
2	December 9, 2024	165

Portions of Addenda relating to bidding or proposal requirements are not part of the Contract Documents unless the bidding or proposal requirements are also enumerated in this Article 9.

.8 Other Exhibits:

EXH-B Project Charter
EXH-C Owner Insurance
EXH-D Project Schedule
(Check all boxes that apply and include appropriate information identifying the exhibit where required.)

[ ]
(Paragraphs deleted)

[ ] Supplementary and other Conditions of the Contract:

Document	Title	Date	Pages

.9 Other documents, if any, listed below:
(List here any additional documents that are intended to form part of the Contract Documents. AIA Document A232–2019 provides that the advertisement or invitation to bid, Instructions to Bidders, sample forms, the Contractor's bid or proposal, portions of Addenda relating to bidding or proposal requirements, and other information furnished by the Owner in anticipation of receiving bids or proposals, are not part of the Contract Documents unless enumerated in this Agreement. Any such documents should be listed here only if intended to be part of the Contract Documents.)

Contractors Bid Documents

This Agreement is entered into as of the day and year first written above.

OWNER *(Signature)*	**CONTRACTOR** *(Signature)*
Tom Parent, Sr Operations Officer	matt wasche, President
(Printed name and title)	*(Printed name and title)*

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Additions and Deletions Report for
AIA® Document A132® – 2019

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PAGE 1

AGREEMENT made as of the first___day of _February_____in the year 2025_

...

Minneapolis Public Schools Special School District #1
1250 West Broadway Avenue
Minneapolis, MN 55411

...

Wasche Commercial Finishes
21335 Aberdeen St. NE
East Bethel, MN 55011

...

North High School Phase 4 Work Scope 09-K Painting
1500 James Avenue
Minneapolis, MN 55411

...

Kraus-Anderson Construction Company
501 South 8th Street
Minneapolis, MN 55405

...

LSE Architects
1401 Glenwood Avenue
Minneapolis, MN 55405

PAGE 2

The Contract Documents consist of this Agreement, Conditions of the Contract (General, Supplementary, and other Conditions), Drawings, Specifications, Addenda issued prior to execution of this Agreement, other documents ("Contract" or "Contract Documents") listed in this Agreement, and Modifications issued after execution of this Agreement, all of which form the Contract, and are as fully a part of the Contract as if attached to this Agreement or repeated herein. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations, or agreements, either written or oral. An enumeration of the Contract Documents, other than Modifications, appears in Article 9.

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§ 1.2 In the event that there are inconsistencies between any of the Project Contract Documents, all Contract Documents shall be construed together and shall be read with a purpose and intent to provide that the Contractor shall commit to fully complete its Project Work and services with the greater degree of commitment as referenced in the Contract Documents, including the plans and specifications, to work diligently to ensure completion of the Project in a timely and workmanlike manner and at the earliest stated times provided for in Project schedules, as they may be revised, and to ensure that Contractor, and all of its Subcontractors and suppliers complete the Project on schedule and within Project Contract Price, subject to approved change orders.

§ 1.3 Contractor acknowledges that it has had full, fair, and adequate opportunity to review all of the Project bidding and Contract Documents, that it has fully satisfied itself as to the scope and requirements of the Project, that it has fully and fairly investigated all Project site conditions and circumstances and Contract Documents, including any potential difficulties or interferences present in the same, that it has had the opportunity to ask questions during the bidding phase and that it has received adequate answers to any such questions, that it has had the opportunity to attend and fairly participate in all pre-bid conferences and pre-construction conferences, and that it has required the same of all of its Subcontractors.

PAGE 3

[**X**] A date set forth in a notice to proceed issued by the Owner.

...

Defined in EXH-D Project Schedule

§ 3.3.2 Subject to adjustments of the Contract Time as provided in the Contract Documents, if portions of the Work of all of the Contractors for the Project are to be completed prior to Substantial Completion of the entire Work of all of the Contractors for the Project, the Contractors shall achieve Substantial Completion of such portions by the following ~~dates:~~dates defined in EXH-D Project Schedule. Such portions of the Work not completed as defined in EXH-D Project Schedule shall be subject to liquidated damages as set forth in Article 4.5.

~~**Portion of Work** **Substantial Completion Date**~~

~~**§ 3.4 When the Work of this Contract, or any Portion Thereof, is Substantially Complete**~~
~~**§ 3.4.1** Subject to adjustments of the Contract Time as provided in the Contract Documents, the Contractor shall substantially complete the entire Work of this Contract:~~
~~*(Check one of the following boxes and complete the necessary information.)*~~

~~[–] Not later than ( ) calendar days from the date of commencement of the Work.~~

~~[–] By the following date:~~

~~**§ 3.4.2** Subject to adjustments of the Contract Time as provided in the Contract Documents, if portions of the Work of this Contract are to be substantially complete prior to when the entire Work of this Contract shall be substantially complete, the Contractor shall substantially complete such portions by the following dates:~~

~~**Portion of Work** **Date to be substantially complete**~~

...

§ 4.1 The Owner shall pay the Contractor the Contract Sum in current funds for the Contractor's performance of the ~~Contract. The Contract Sum shall be one of the following:~~
~~*(Check the appropriate box.)*~~

~~[–] Stipulated Sum, in accordance with Section 4.2 below~~

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~~[–] Cost of the Work plus the Contractor's Fee, in accordance with Section 4.3 below~~

~~[–] Cost of the Work plus the Contractor's Fee with a Guaranteed Maximum Price, in accordance with Section 4.4 below~~

~~*(Based on the selection above, complete Section 4.2, 4.3 or 4.4 below.)*~~
Contract as defined in EXH-B Project Charter, subject to additions and deductions as provided in the Contract Documents.

...

§ 4.2.1 The Contract Sum shall be one hundred eight thousand dollars ($ 108,000), subject to additions and deductions as provided in the Contract Documents.

...

§ 4.2.2.1 Alternates, if any, included in the Contract ~~Sum:~~
Sum are defined in EXH-B Project Charter.

~~Item~~	~~Price~~

§ 4.2.2.2 Subject to the conditions noted ~~below, the following~~ in EXH-B Project Charter, alternates may be accepted by the Owner following execution of this Agreement. Upon acceptance, the Owner shall issue a Modification to this Agreement.
~~*(Insert below each alternate and the conditions that must be met for the Owner to accept the alternate.)*~~

~~Item~~	~~Price~~	~~Conditions for Acceptance~~

§ 4.2.3 Allowances, if any, included in the Contract ~~Sum:~~Sum are defined in EXH-B Project Charter.

...

§ 4.2.4 Unit prices, if ~~any:~~
~~(Identify the item and state the unit price, and quantity limitations, if any, to which the unit price will be applicable.)~~any are defined in EXH-B Project Charter.

~~Item~~	~~Units and Limitations~~	~~Price per Unit ($0.00)~~

§ 4.3 ~~Cost of the Work Plus Contractor's Fee without a Guaranteed Maximum Price~~Allowances, if any, included in the Contract Sum are defined in EXH-B Project Charter.
~~**§ 4.3.1** The Cost of the Work is as defined in Exhibit B, Determination of the Cost of the Work.~~

~~**§ 4.3.2** The Contractor's Fee:~~
~~*(State a lump sum, percentage of Cost of the Work or other provision for determining the Contractor's Fee.)*~~

~~**§ 4.3.3** The method of adjustment of the Contractor's Fee for changes in the Work:~~

~~**§ 4.3.4** Limitations, if any, on a Subcontractor's overhead and profit for increases in the cost of its portion of the Work:~~

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~~§ 4.3.5 Rental rates for Contractor-owned equipment shall not exceed ( ) percent (%) of the standard rental rate paid at the place of the Project.~~

~~§ 4.3.6 Unit prices, if any:~~
~~*(Identify the item and state the unit price and quantity limitations, if any, to which the unit price will be applicable.)*~~

~~Item~~	~~Units and Limitations~~	~~Price per Unit ($0.00)~~

~~§ 4.3.7 The Contractor shall prepare and submit to the Construction Manager, within 14 days of executing this Agreement, a written Control Estimate for the Owner's review and approval. The Control Estimate shall include the items in Section B.1 of Exhibit B, Determination of the Cost of the Work.~~

~~§ 4.4 Cost of the Work Plus Contractor's Fee with a Guaranteed Maximum Price~~Unit prices, if any, are defined in EXH-B Project Charter.
~~§ 4.4.1 The Cost of the Work is as defined in Exhibit B, Determination of the Cost of the Work.~~

~~§ 4.4.2 The Contractor's Fee:~~
~~*(State a lump sum, percentage of Cost of the Work or other provision for determining the Contractor's Fee.)*~~

~~§ 4.4.3 The method of adjustment of the Contractor's Fee for changes in the Work:~~

~~§ 4.4.4 Limitations, if any, on a Subcontractor's overhead and profit for increases in the cost of its portion of the Work:~~

~~§ 4.4.5 Rental rates for Contractor-owned equipment shall not exceed ( ) percent (%) of the standard rental rate paid at the place of the Project.~~

~~§ 4.4.6 Unit Prices, if any:~~
~~*(Identify the item and state the unit price and quantity limitations, if any, to which the unit price will be applicable.)*~~

~~Item~~	~~Units and Limitations~~	~~Price per Unit ($0.00)~~

~~§ 4.4.7 Guaranteed Maximum Price~~
~~§ 4.4.7.1 The Contract Sum is guaranteed by the Contractor not to exceed ($), subject to additions and deductions by Change Order as provided in the Contract Documents. This maximum sum is referred to in the Contract Documents as the Guaranteed Maximum Price. Costs which would cause the Guaranteed Maximum Price to be exceeded shall be paid by the Contractor without reimbursement by the Owner.~~

~~§ 4.4.7.2 Alternates~~
~~§ 4.4.7.2.1 Alternates, if any, included in the Guaranteed Maximum Price:~~

~~Item~~	~~Price~~

~~§ 4.4.7.2.2 Subject to the conditions noted below, the following alternates may be accepted by the Owner following execution of this Agreement. Upon acceptance, the Owner shall issue a Modification to this Agreement.~~
~~*(Insert below each alternate and the conditions that must be met for the Owner to accept the alternate.)*~~

~~Item~~	~~Price~~	~~Conditions for Acceptance~~

~~§ 4.4.7.3 Allowances, if any, included in the Guaranteed Maximum Price:~~
~~*(Identify each allowance.)*~~

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~~Item~~ ~~Price~~

~~§ 4.4.7.4 Assumptions, if any, upon which the Guaranteed Maximum Price is based:~~
~~*(Identify each assumption.)*~~

~~§ 4.4.8 To the extent that the Contract Documents are anticipated to require further development, the Guaranteed Maximum Price includes the costs attributable to such further development consistent with the Contract Documents and reasonably inferable therefrom. Such further development does not include changes in scope, systems, kinds and quality of materials, finishes, or equipment, all of which, if required, shall be incorporated by Change Order.~~

~~§ 4.4.9 The Owner shall authorize preparation of revisions to the Contract Documents that incorporate the agreed-upon assumptions contained in Section 4.4.7.4. The Owner shall promptly furnish such revised Contract Documents to the Contractor. The Contractor shall notify the Owner and Architect of any inconsistencies between the agreed-upon assumptions contained in Section 4.4.7.4 and the revised Contract Documents.~~

PAGE 4

Contractor and Owner recognize that time is of the essence for the Project and the Owner will suffer financial loss if the Work is not completed in the time specified in the Contract Documents. The parties also recognize the delays, expenses, and difficulties involved in proving in a legal proceeding the actual loss suffered by the Owner if the Work is not completed on time. Accordingly, instead of requiring such proof, the Owner and Contractor agree that as liquidated damages for delay (but not as penalty), Contractor shall pay Owner One Thousand Dollars ($1,000.00) per calendar day for each day that expires after the time specified for Substantial Completion in EXH-D Project Schedule until such time the Work is determined to be substantially complete by the Owner.

After Substantial Completion, if Contractor neglects, refuses, or fails to complete the remaining Work within the Contract Time specified in the Contract Documents, the Contractor shall pay the Owner One Thousand Dollars ($1,000.00) per day that expires after the time specified in the Contract Documents for Final Completion and readiness for Final Payment until the Work is completed.

...

None

...

§ 5.1.1 Based upon Applications for Payment submitted to the Construction Manager by the Contractor, and Certificates for Payment issued by the Construction Manager and ~~Architect,~~ Architect and approval by the Owner's Representative, the Owner shall make progress payments on account of the Contract Sum, to the Contractor, as provided below and elsewhere in the Contract Documents.

§ 5.1.2 The period covered by each Application for Payment shall be one calendar month ending on the last day of the ~~month, or as follows:~~
month.

§ 5.1.3 ~~Provided that~~ When an Application for Payment is received by the Construction ~~Manager not later than the day of a month, the Owner shall make payment of the amount certified to the Contractor not later than the day of the month. If an Application for Payment is received by the Construction Manager after the application date fixed above, payment of the amount certified~~ Manager, payment of the amount certified shall be made by the Owner not later than forty-five (45) days after the Construction Manager receives the Application for Payment. Unless expressly otherwise agreed in this Contract, payments and payment disputes shall be governed by the Prompt Payment of Local Government Bills, Minnesota Statutes, Section 471.425 ("Prompt Payment Act").

...

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§ 5.1.4.1 Each Application for Payment shall be based on the most recent schedule of values submitted by the Contractor on AIA G702 Application and Certificate for Payment in accordance with the Contract Documents. The schedule of values shall allocate the entire Contract Sum among the various portions of the Work. The schedule of values shall be prepared in such form, and supported by such data to substantiate its accuracy, as the Construction Manager and Architect may require. This schedule of values shall be used as a basis for reviewing the Contractor's Applications for Payment.
PAGE 5

§ 5.1.4.3 In accordance with AIA Document A232™–2019, General Conditions of the Contract for Construction, Construction Manager as Adviser Edition, as modified and subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

...

~~**§ 5.1.5 Progress Payments Where the Contract Sum is Based on the Cost of the Work without a Guaranteed Maximum Price**~~

~~**§ 5.1.5.1** With each Application for Payment, the Contractor shall submit the cost control information required in Exhibit B, Determination of the Cost of the Work, along with payrolls, petty cash accounts, receipted invoices, or invoices with check vouchers attached, and any other evidence required by the Owner, Construction Manager or Architect to demonstrate that payments already made by the Contractor on account of the Cost of the Work equal or exceed progress payments already received by the Contractor, plus payrolls for the period covered by the present Application for Payment, less that portion of the payments attributable to the Contractor's Fee.~~

~~**§ 5.1.5.2** Applications for Payment shall show the Cost of the Work actually incurred by the Contractor through the end of the period covered by the Application for Payment and for which the Contractor has made or intends to make actual payment prior to the next Application for Payment.~~

~~**§ 5.1.5.3** In accordance with AIA Document A232–2019 and subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:~~

~~**§ 5.1.5.3.1** The amount of each progress payment shall first include:~~

- ~~**.1** The Cost of the Work as described in Exhibit B, Determination of the Cost of the Work;~~
- ~~**.2** That portion of Construction Change Directives that the Architect determines, in the Architect's professional judgment, to be reasonably justified; and~~
- ~~**.3** The Contractor's Fee computed upon the Cost of the Work described in the preceding Section 5.1.5.3.1.1 at the rate stated in Section 4.3.2; or if the Contractor's Fee is stated as a fixed sum in Section 4.3.2 an amount which bears the same ratio to that fixed-sum Fee as the Cost of the Work included in Section 5.1.5.3.1.1 bears to a reasonable estimate of the probable Cost of the Work upon its completion.~~

~~**§ 5.1.5.3.2** The amount of each progress payment shall then be reduced by:~~

- ~~**.1** The aggregate of any amounts previously paid by the Owner;~~
- ~~**.2** The amount, if any, for Work that remains uncorrected and for which the Architect has previously withheld a Certificate for Payment as provided in Article 9 of AIA Document A232–2019;~~
- ~~**.3** Any amount for which the Contractor does not intend to pay a Subcontractor or material supplier, unless the Work has been performed by others the Contractor intends to pay;~~
- ~~**.4** For Work performed or defects discovered since the last payment application, any amount for which the Architect may withhold payment, or nullify a Certificate of Payment in whole or in part, as provided in Article 9 of AIA Document A232–2019;~~
- ~~**.5** The shortfall, if any, indicated by the Contractor in the documentation required by Section 5.1.5.1 to substantiate prior Applications for Payment, or resulting from errors subsequently discovered by the Owner's auditors in such documentation; and~~
- ~~**.6** Retainage withheld pursuant to Section 5.1.7.~~

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§ 5.1.5.4 The Owner, Construction Manager and Contractor shall agree upon a mutually acceptable procedure for review and approval of payments to Subcontractors and the percentage of retainage held on Subcontracts, and the Contractor shall execute subcontracts in accordance with those agreements.

§ 5.1.5.5 In taking action on the Contractor's Applications for Payment, the Construction Manager and Architect shall be entitled to rely on the accuracy and completeness of the information furnished by the Contractor, and such action shall not be deemed to be a representation that (1) the Construction Manager and Architect have made a detailed examination, audit or arithmetic verification of the documentation submitted in accordance with Article 5 or other supporting data; (2) that the Construction Manager and Architect have made exhaustive or continuous on-site inspections; or (3) that the Construction Manager and Architect have made examinations to ascertain how or for what purposes the Contractor has used amounts previously paid on account of the Contract. Such examinations, audits and verifications, if required by the Owner, will be performed by the Owner's auditors acting in the sole interest of the Owner.

§ 5.1.5.6 Except with the Owner's prior approval, the Contractor shall not make advance payments to suppliers for materials or equipment which have not been delivered and stored at the site.

§ 5.1.5.7 If final completion of the Work is materially delayed through no fault of the Contractor, then the Owner shall pay the Contractor any additional amounts in accordance with Article 9 of AIA Document A232–2019.

§ 5.1.6 Progress Payments Where the Contract Sum is Based on the Cost of the Work with a Guaranteed Maximum Price

§ 5.1.6.1 With each Application for Payment, the Contractor shall submit payrolls, petty cash accounts, receipted invoices or invoices with check vouchers attached, and any other evidence required by the Owner, Construction Manager or Architect to demonstrate that payments already made by the Contractor on account of the Cost of the Work equal or exceed progress payments already received by the Contractor plus payrolls for the period covered by the present Application for Payment, less that portion of the progress payments attributable to the Contractor's Fee.

§ 5.1.6.2 Each Application for Payment shall be based on the most recent schedule of values submitted by the Contractor in accordance with the Contract Documents. The schedule of values shall allocate the entire Guaranteed Maximum Price among: (1) the various portions of the Work; (2) any contingency for costs that are included in the Guaranteed Maximum Price but not otherwise allocated to another line item or included in a Change Order; and (3) the Contractor's Fee.

§ 5.1.6.2.1 The schedule of values shall be prepared in such form, and supported by such data to substantiate its accuracy, as the Construction Manager and Architect may require. This schedule of values shall be used as a basis for reviewing the Contractor's Applications for Payment.

§ 5.1.6.2.2 The allocation of the Guaranteed Maximum Price under this Section 5.1.6.2 shall not constitute a separate guaranteed maximum price for the Cost of the Work of each individual line item in the schedule of values.

§ 5.1.6.2.3 When the Contractor allocates costs from a contingency to another line item in the schedule of values, the Contractor shall submit supporting documentation to the Architect and Construction Manager.

§ 5.1.6.3 Applications for Payment shall show the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment. The percentage of completion shall be the lesser of (1) the percentage of that portion of the Work which has actually been completed; or (2) the percentage obtained by dividing (a) the expense that has actually been incurred by the Contractor on account of that portion of the Work and for which the Contractor has made payment or intends to make payment prior to the next Application for Payment by (b) the share of the Guaranteed Maximum Price allocated to that portion of the Work in the schedule of values.

§ 5.1.6.4 In accordance with AIA Document A232–2019, and subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

§ 5.1.6.4.1 The amount of each progress payment shall first include:

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.1 That portion of the Guaranteed Maximum Price properly allocable to completed Work as determined by multiplying the percentage of completion of each portion of the Work by the share of the Guaranteed Maximum Price allocated to that portion of the Work in the most recent schedule of values;

.2 That portion of the Guaranteed Maximum Price properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction or, if approved in writing in advance by the Owner, suitably stored off the site at a location agreed upon in writing;

.3 That portion of Construction Change Directives that the Architect determines, in the Architect's professional judgment, to be reasonably justified; and

.4 The Contractor's Fee, computed upon the Cost of the Work described in the preceding Sections 5.1.6.4.1.1 and 5.1.6.4.1.2 at the rate stated in Section 4.4.2 or, if the Contractor's Fee is stated as a fixed sum in that Section, an amount that bears the same ratio to that fixed-sum fee as the Cost of the Work included in Sections 5.1.6.4.1.1 and 5.1.6.4.1.2 bears to a reasonable estimate of the probable Cost of the Work upon its completion.

§ 5.1.6.4.2 The amount of each progress payment shall then be reduced by:

.1 The aggregate of any amounts previously paid by the Owner;

.2 The amount, if any, for Work that remains uncorrected and for which the Architect has previously withheld a Certificate for Payment as provided in Article 9 of AIA Document A232–2019;

.3 Any amount for which the Contractor does not intend to pay a Subcontractor or material supplier, unless the Work has been performed by others the Contractor intends to pay;

.4 For Work performed or defects discovered since the last payment application, any amount for which the Architect may withhold payment, or nullify a Certificate of Payment in whole or in part, as provided in Article 9 of AIA Document A232–2019;

.5 The shortfall, if any, indicated by the Contractor in the documentation required by Section 5.1.6.1 to substantiate prior Applications for Payment, or resulting from errors subsequently discovered by the Owner's auditors in such documentation; and

.6 Retainage withheld pursuant to Section 5.1.7.

§ 5.1.6.5 The Owner and the Contractor shall agree upon a mutually acceptable procedure for review and approval of payments to Subcontractors and the percentage of retainage held on Subcontracts, and the Contractor shall execute subcontracts in accordance with those agreements.

§ 5.1.6.6 In taking action on the Contractor's Applications for Payment, the Construction Manager and Architect shall be entitled to rely on the accuracy and completeness of the information furnished by the Contractor and such action shall not be deemed to be a representation that (1) the Construction Manager or Architect have made a detailed examination, audit, or arithmetic verification of the documentation submitted in accordance with Section 5.1.6.1 or other supporting data; (2) that the Construction Manager or Architect have made exhaustive or continuous on-site inspections; or (3) that the Construction Manager or Architect have made examinations to ascertain how or for what purposes the Contractor has used amounts previously paid on account of the Contract. Such examinations, audits, and verifications, if required by the Owner, will be performed by the Owner's auditors acting in the sole interest of the Owner.

§ 5.1.6.7 Except with the Owner's prior approval, the Contractor shall not make advance payments to suppliers for materials or equipment which have not been delivered and stored at the site.

§ 5.1.6.8 If final completion of the Work is materially delayed through no fault of the Contractor, then the Owner shall pay the Contractor any additional amounts in accordance with Article 9 of AIA Document A232-2019.

...

Five Percent (5%)

...

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For major items installed into the Work, the Contractor may request full payment for the items to ensure prompt delivery and fabrication. Such items shall be recommended by the Architect and approved by the Owner as not requiring retainage. Prompt payment for the items shall be documented by the Contractor to the Owner in the subsequent payment application by submitting a full lien release for the items. Major items may include mechanical units with long lead times, structural systems with long lead times, critical path systems or items, etc. Major items will be discussed and defined by Owner, Architect, Construction Manager and Contractor.

...

Prior to Substantial Completion and at the discretion of the Owner, retainage may be reduced. If the Work has been fifty percent (50%) completed as determined by the Architect and is satisfactory to the Owner, then ninety percent (90%) of the retained amount may be released to the Contractor for completed Work (with ten percent (10%) of the total retained by the Owner).

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Upon Substantial Completion, additional retainage may be returned to the Contractor as recommended by the Architect and Construction Manager and approved by the Owner to an amount sufficient to satisfactorily complete the Work. Retainage release will comply with Minnesota Statutes, Section 15.72 after Substantial Completion and punch list acceptance by the Owner.

...

.1 the Contractor has fully performed the Contract except for the Contractor's responsibility to correct Work as provided in Article 12 of AIA Document A232–2019, and to satisfy other requirements, if any, which extend beyond final payment; ~~and~~

.2 a final Certificate for Payment or Project Certificate for Payment has been issued by ~~the Architect.~~the Architect; and

.3 all lien waivers and IC134 forms have been delivered to the Owner.

§ 5.2.1.2 The Owner's final payment to the Contractor shall be made no later than ~~30~~ forty-five (45) days after the issuance of the Architect's final Certificate for Payment or Project Certificate for Payment, or as follows:

...

§ 5.3 Payments due and unpaid under the Contract shall bear interest from the date payment is due at the rate stated ~~below, or in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located.~~below.

...

Zero %

...

The Architect will serve as Initial Decision Maker pursuant to Article 15 of AIA Document ~~A232–2019, unless the parties appoint below another individual, not a party to this Agreement, to serve as Initial Decision Maker.~~
~~*(If the parties mutually agree, insert the name, address and other contact information of the Initial Decision Maker, if other than the Architect.)*~~

A232–2019.

§ 6.1.1 Mediation

The Owner or the Contractor may request mediation of any Claim submitted to the Initial Decision Maker before the decision becomes final and binding. The mediation shall be governed by the Construction Industry Mediation Rules of the American Arbitration Association in effect at the date of this contract. The request for mediation shall be made in

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writing by the party requesting mediation and the other party of this contract. The Owner and Contractor shall participate in mediation in good faith. The mediation shall be concluded within 60 days of the request. Mediation is not a condition precedent to commencing litigation. If litigation is commenced, the Owner and Contractor agree to mediate before any dispositive motion or trial.

PAGE 7

[ ] ~~Litigation in a court of competent jurisdiction.~~ [X] Litigation in a state or federal court of competent jurisdiction located in Hennepin County, Minnesota.

...

Termination fee will be based on the percentage of Work completed and any materials purchased or in production at the time of termination. Said fee and justification shall be provided to the Owner by the Contractor within ten (10) days' notice of the termination.

...

~~**§ 7.2 Where the Contract Sum is Based on the Cost of the Work with or without a Guaranteed Maximum Price**~~

~~**§ 7.2.1 Termination**~~

~~**§ 7.2.1.1** The Contract may be terminated by the Owner or the Contractor as provided in Article 14 of AIA Document A232–2019.~~

~~**§ 7.2.1.2 Termination by the Owner for Cause**~~

~~**§ 7.2.1.2.1** If the Owner terminates the Contract for cause as provided in Article 14 of AIA Document A232–2019, the Owner shall then only pay the Contractor an amount as follows:~~

- ~~**.1** Take the Cost of the Work incurred by the Contractor to the date of termination;~~
- ~~**.2** Add the Contractor's Fee, computed upon the Cost of the Work to the date of termination at the rate stated in Section 4.3.2 or 4.4.2, as applicable, or, if the Contractor's Fee is stated as a fixed sum in that Section, an amount that bears the same ratio to that fixed-sum Fee as the Cost of the Work at the time of termination bears to a reasonable estimate of the probable Cost of the Work upon its completion;~~
- ~~**.3** Subtract the aggregate of previous payments made by the Owner; and~~
- ~~**.4** Subtract the costs and damages incurred, or to be incurred, by the Owner under Article 14 of AIA Document A232–2019.~~

~~**§ 7.2.1.2.2** When the Contract Sum is based on the Cost of the Work with a Guaranteed Maximum Price, if the Owner terminates the Contract for cause as provided in Article 14 of AIA Document A232-2019, the amount, if any, to be paid to the Contractor under Article 14 of AIA Document A232-2019 shall not cause the Guaranteed Maximum Price to be exceeded, nor shall it exceed the amount calculated in Section 7.2.1.2.1.~~

~~**§ 7.2.1.2.3** The Owner shall also pay the Contractor fair compensation, either by purchase or rental at the election of the Owner, for any equipment owned by the Contractor that the Owner elects to retain and that is not otherwise included in the Cost of the Work under Section 7.2.1.2.1.1. To the extent that the Owner elects to take legal assignment of subcontracts and purchase orders (including rental agreements), the Contractor shall, as a condition of receiving the payments referred to in this Article 7, execute and deliver all such papers and take all such steps, including the legal assignment of such subcontracts and other contractual rights of the Contractor, as the Owner may require for the purpose of fully vesting in the Owner the rights and benefits of the Contractor under such subcontracts or purchase orders. All Subcontracts, purchase orders and rental agreements entered into by the Contractor will contain provisions allowing for assignment to the Owner as described above.~~

~~**§ 7.2.1.3 Termination by the Owner for Convenience**~~

~~If the Owner terminates the Contract for convenience in accordance with Article 14 of AIA Document A232–2019, then the Owner shall pay the Contractor a termination fee as follows:~~

~~*(Insert the amount of or method for determining the fee, if any, payable to the Contractor following a termination for the Owner's convenience.)*~~

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~~§ 7.3 Suspension~~

~~The Work may be suspended by the Owner as provided in Article 14 of AIA Document A232–2019; in such case, the Contract Sum and Contract Time shall be increased as provided in Article 14 of AIA Document A232–2019, except that the term "profit" shall be understood to mean the Contractor's Fee as described in Section 4.3.2 or 4.4.2, as applicable, of this Agreement.~~

...

Curtis Hartog, PE, Executive Director
Minneapolis Public Schools, SSD#1
Capital Planning, Construction & Maintenance
1250 West Broadway Avenue, Minneapolis, MN 55411
PAGE 8

Brad Feyereisen
VP of Sales
Wasche Commercial Finishes
21335 Aberdeen St. NE
East Bethel, MN 55011

...

§ 8.5 ~~Insurance and Bonds~~**Record Keeping—Availability and Retention**

Pursuant to Minnesota Statutes, Section 16C.05, subd. 5, Contractor agrees that the books, records, documents and accounting procedures and practices of Contractor, that are relevant to the Contract or transaction, are subject to examination by the Owner, the Owner's auditor, and the state auditor for a minimum of six (6) years. Contractor shall maintain such records for a minimum of six (6) years after final payment.

§ 8.6 Data Practices

Pursuant to Minnesota Statutes, Section 13.05, subd. 11, all of the data created, collected, received, stored, used, maintained, or disseminated by Contractor in performing this contract is subject to the requirements of the Minnesota Government Data Practices Act ("MGDPA"), Minnesota Statutes Chapter 13, and Contractor must comply with those requirements as if it were a government entity. The remedies in Minnesota Statutes, Section 13.08 apply to Contractor. Contractor does not have a duty to provide access to public data to the public if the public data are available from the Owner, except as required by the terms of this contract.

§ 8.7 Non-Discrimination

Pursuant to Minnesota Statutes, Section 181.59, the Contractor will take affirmative action to ensure that applicants are selected, and that employees are treated during employment, without regard to their race, color, creed, religion, national origin, sex, sexual orientation, marital status, status with regard to public assistance, membership or activity in a local civil rights commission, disability or age. The Contractor agrees to be bound by the provisions of Minnesota Statutes, Section 181.59, that prohibits certain discriminatory practices and the terms of said section are incorporated into this contract.

§ 8.8 Prompt Payment to Subcontractors

In accordance with the Prompt Payment Act, each Prime Contractor must pay any subcontractor within ten (10) days of the Prime Contractor's receipt of payment from the municipality for undisputed services provided by the subcontractor. The Subcontract must require the Prime Contractor to pay interest of 1-1/2 percent per month or any part of a month to the subcontractor on any undisputed amount not paid on time to the subcontractor. The minimum monthly interest penalty payment for an unpaid balance of $100 or more is $10. For an unpaid balance of less than $100, the Prime Contractor shall pay the actual penalty due to the subcontractor. A subcontractor who prevails in a civil action to collect interest penalties from a Prime Contractor must be awarded its costs and disbursements, including attorney's fees, incurred in bringing the action.

§ 8.9 Prevailing Wage

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Contractor agrees that all laborers or mechanics working on the Project shall receive at least the prevailing wage rate in accordance with Minnesota Statutes Section 177.42, *et seq*. Contractor agrees further that it will incorporate any and all necessary contract language in its agreements with any subcontractors to allow Contractor to monitor and enforce the prevailing wage requirement for subcontractors of any tier.

§ 8.5 Insurance and Bonds

§ 8.5.1 The Owner and the Contractor shall purchase and maintain insurance as set forth ~~in AIA Document A132™–2019, Standard Form of Agreement Between Owner and Contractor, Construction Manager as Adviser Edition, Exhibit A, Insurance and Bonds, and elsewhere in the Contract Documents.~~EXH-C Owner Insurance.

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§ 8.6 Notice in electronic format, pursuant to Article 1 of AIA Document A232–2019, may be given in accordance with ~~a building information modeling exhibit,~~ AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, if completed, or as otherwise set forth below:
(If other than in accordance with ~~a building information modeling exhibit,~~ AIA Document E203–2013, insert requirements for delivering notice in electronic format such as name, title, and email address of the recipient and whether and how the system will be required to generate a read receipt for the transmission.)

email to Owner's representative identified in Section 8.2

...

Owner prohibits Contractor from using the Work in any marketing material or business development practice. Contractor is prohibited from communication with any news outlet or public without Owner's written approval.

Floor plans, designs, wiring, safety and security measures shall be kept confidential by the Contractor, the Subcontractors, the Sub-Subcontractors (of any tier) during and after completion of the Work.

...

.4 ~~Building Information Modeling Exhibit, if completed:~~AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, dated as indicated below:
(Insert the date of the E203-2013 incorporated into this Agreement.)

Not Applicable

...

139		North High School Renovations & CTE Center Vol 1 of 2	November 13, 2024
209		North High School Renovations & CTE Center Vol 2 of 2	November 13, 2024

...

	All Specifications	North High School Renovations and CTE Center Bid Package 4	November 13, 2024	1414

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1	December 2, 2024	70
2	December 9, 2024	165

...

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EXH-B Project Charter
EXH-C Owner Insurance
EXH-D Project Schedule
(Check all boxes that apply and include appropriate information identifying the exhibit where required.)

~~*[ ] AIA Document A132™ 2019, Exhibit B, Determination of the Cost of the Work*~~

[ ] ~~AIA Document E235™ 2019, Sustainable Projects Exhibit, Construction Manager as Adviser Edition, dated as indicated below:~~
~~*(Insert the date of the E235-2019 incorporated into this Agreement.)*~~

~~[ ] The Sustainability Plan:~~

~~Title~~	~~Date~~	~~Pages~~

...

Contractors Bid Documents

...

Tom Parent, Sr Operations Officer

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Certification of Document's Authenticity

AIA® Document D401™ – 2003

I, , hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with its associated Additions and Deletions Report and this certification at 14:40:50 CT on 02/03/2025 under Order No. 4104251278 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document A132™ – 2019, Standard Form of Agreement Between Owner and Contractor, Construction Manager as Adviser Edition, other than those additions and deletions shown in the associated Additions and Deletions Report.



(Signed)

Curtis Hartog, Executive Director

(Title)

2/3/2025

(Dated)

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AIA® Document A132® – 2019 Exhibit A

Insurance and Bonds

This Insurance and Bonds Exhibit is part of the Agreement, between the Owner and the Contractor, dated the _first_ day of _February____ in the year _2025
(In words, indicate day, month, and year.)

for the following **PROJECT**:
(Name and location or address)

North High School Phase 4 Work Scope 09-K Painting
1500 James Avenue, Minneapolis, MN 55411

THE OWNER:
(Name, legal status, and address)

Minneapolis Public Schools Special School District #1
1250 West Broadway Avenue
Minneapolis, MN 55411

THE CONTRACTOR:
(Name, legal status, and address)
Wasche Commercial Finishes
21335 Aberdeen St NE
East Bethel, MN 55011

TABLE OF ARTICLES

A.1 GENERAL

A.2 OWNER'S INSURANCE

A.3 CONTRACTOR'S INSURANCE AND BONDS

A.4 SPECIAL TERMS AND CONDITIONS

ADDITIONS AND DELETIONS:
The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

This document is intended to be used in conjunction with AIA Document A232™–2019, General Conditions of the Contract for Construction. Article 11 of A232™–2019 contains additional insurance provisions

ARTICLE A.1 GENERAL

The Owner and Contractor shall purchase and maintain insurance, and provide bonds, as set forth in this Exhibit. As used in this Exhibit, the term General Conditions refers to AIA Document A232™–2019, General Conditions of the Contract for Construction.

ARTICLE A.2 OWNER'S INSURANCE

§ A.2.1 General

Prior to commencement of the Work, the Owner shall secure the insurance, and provide evidence of the coverage, required under this Article A.2 and, upon the Contractor's request, provide a copy of the property insurance policy or policies required by Section A.2.3. The copy of the policy or policies provided shall contain all applicable conditions, definitions, exclusions, and endorsements.

§ A.2.2 Liability Insurance

The Owner shall be responsible for purchasing and maintaining the Owner's usual general liability insurance.

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§ A.2.3 Required Property Insurance

§ A.2.3.1 Unless this obligation is placed on the Contractor pursuant to Section A.3.3.2.1, the Owner shall purchase and maintain, from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located, property insurance policy form and sufficient to cover the total value of the entire Project on a replacement cost basis. The Owner's property insurance coverage shall be no less than the amount of the initial Contract Sum, plus the value of subsequent Modifications and labor performed and materials or equipment supplied by others. The property insurance shall be maintained until Substantial Completion and thereafter as provided in Section A.2.3.1.3, unless otherwise provided in the Contract Documents or otherwise agreed in writing by the parties to this Agreement. This insurance shall include the interests of the Owner, Contractor, Subcontractors, and Sub-subcontractors in the Project as insureds. This insurance shall include the interests of mortgagees as loss payees.

§ A.2.3.1.1 Causes of Loss. The insurance required by this Section A.2.3.1 shall provide coverage for direct physical loss or damage, and shall not exclude the risks of fire, explosion, theft, vandalism, malicious mischief, collapse, earthquake, flood, or windstorm. The insurance shall also provide coverage for ensuing loss or resulting damage from error, omission, or deficiency in construction methods, design, specifications, workmanship, or materials. Sub-limits, if any, are as follows:
(Indicate below the cause of loss and any applicable sub-limit.)

Causes of Loss	Sub-Limit

§ A.2.3.1.2 Specific Required Coverages. The insurance required by this Section A.2.3.1 shall provide coverage for loss or damage to false work and other temporary structures, and to building systems from testing and startup. The insurance shall also cover debris removal, including demolition occasioned by enforcement of any applicable legal requirements, and reasonable compensation for the Architect's, Construction Manager's, and Contractor's services and expenses required as a result of such insured loss, including claim preparation expenses. Sub-limits, if any, are as follows:
(Indicate below type of coverage and any applicable sub-limit for specific required coverages.)

Coverage	Sub-Limit

§ A.2.3.1.3 Unless the parties agree otherwise, upon Substantial Completion, the Owner shall continue the insurance required by Section A.2.3.1 or, if necessary, replace the insurance policy required under Section A.2.3.1 with property insurance written for the total value of the Project that shall remain in effect until expiration of the period for correction of the Work set forth in Section 12.2.2 of the General Conditions.

§ A.2.3.1.4 Deductibles and Self-Insured Retentions. If the insurance required by this Section A.2.3 is subject to deductibles or self-insured retentions, the Owner shall be responsible for all loss not covered because of such deductibles or retentions.

§ A.2.3.2 Occupancy or Use Prior to Substantial Completion. The Owner's occupancy or use of any completed or partially completed portion of the Work prior to Substantial Completion shall not commence until the insurance company or companies providing the insurance under Section A.2.3.1 have consented in writing to the continuance of coverage. The Owner and the Contractor shall take no action with respect to partial occupancy or use that would cause cancellation, lapse, or reduction of insurance, unless they agree otherwise in writing.

§ A.2.3.3 Insurance for Existing Structures

If the Work involves remodeling an existing structure or constructing an addition to an existing structure, the Owner shall purchase and maintain, until the expiration of the period for correction of Work as set forth in Section 12.2.2 of the General Conditions, "all-risks" property insurance, on a replacement cost basis, protecting the existing structure against direct physical loss or damage from the causes of loss identified in Section A.2.3.1, notwithstanding the undertaking of the Work. The Owner shall be responsible for all co-insurance penalties.

§ A.2.4 Optional Extended Property Insurance.

The Owner shall purchase and maintain the insurance selected and described below.

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(Select the types of insurance the Owner is required to purchase and maintain by placing an X in the box(es) next to the description(s) of selected insurance. For each type of insurance selected, indicate applicable limits of coverage or other conditions in the fill point below the selected item.)

[ ] **§ A.2.4.1 Loss of Use, Business Interruption, and Delay in Completion Insurance**, to reimburse the Owner for loss of use of the Owner's property, or the inability to conduct normal operations due to a covered cause of loss.

[ ] **§ A.2.4.2 Ordinance or Law Insurance**, for the reasonable and necessary costs to satisfy the minimum requirements of the enforcement of any law or ordinance regulating the demolition, construction, repair, replacement or use of the Project.

[ ] **§ A.2.4.3 Expediting Cost Insurance**, for the reasonable and necessary costs for the temporary repair of damage to insured property, and to expedite the permanent repair or replacement of the damaged property.

[ ] **§ A.2.4.4 Extra Expense Insurance**, to provide reimbursement of the reasonable and necessary excess costs incurred during the period of restoration or repair of the damaged property that are over and above the total costs that would normally have been incurred during the same period of time had no loss or damage occurred.

[ ] **§ A.2.4.5 Civil Authority Insurance**, for losses or costs arising from an order of a civil authority prohibiting access to the Project, provided such order is the direct result of physical damage covered under the required property insurance.

[ ] **§ A.2.4.6 Ingress/Egress Insurance**, for loss due to the necessary interruption of the insured's business due to physical prevention of ingress to, or egress from, the Project as a direct result of physical damage.

[ ] **§ A.2.4.7 Soft Costs Insurance**, to reimburse the Owner for costs due to the delay of completion of the Work, arising out of physical loss or damage covered by the required property insurance: including construction loan fees; leasing and marketing expenses; additional fees, including those of architects, engineers, consultants, attorneys and accountants, needed for the completion of the construction, repairs, or reconstruction; and carrying costs such as property taxes, building permits, additional interest on loans, realty taxes, and insurance premiums over and above normal expenses.

§ A.2.5 Other Optional Insurance.

The Owner shall purchase and maintain the insurance selected below.

(Select the types of insurance the Owner is required to purchase and maintain by placing an X in the box(es) next to the description(s) of selected insurance.)

[ ] **§ A.2.5.1 Cyber Security Insurance** for loss to the Owner due to data security and privacy breach, including costs of investigating a potential or actual breach of confidential or private information.

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(Indicate applicable limits of coverage or other conditions in the fill point below.)

[ ] **§ A.2.5.2 Other Insurance**
(List below any other insurance coverage to be provided by the Owner and any applicable limits.)

Coverage	Limits

ARTICLE A.3 CONTRACTOR'S INSURANCE AND BONDS

§ A.3.1 General

§ A.3.1.1 Certificates of Insurance. The Contractor shall provide certificates of insurance acceptable to the Owner evidencing compliance with the requirements in this Article A.3 at the following times: (1) prior to commencement of the Work; (2) upon renewal or replacement of each required policy of insurance; and (3) upon the Owner's written request. An additional certificate evidencing continuation of commercial liability coverage, including coverage for completed operations, shall be submitted with the final Application for Payment and thereafter upon renewal or replacement of such coverage until the expiration of the periods required by Section A.3.2.1 and Section A.3.3.1. The certificates will show the Owner as an additional insured on the Contractor's Commercial General Liability and excess or umbrella liability policy or policies.

§ A.3.1.2 Deductibles and Self-Insured Retentions. The Contractor shall disclose to the Owner any deductible or self-insured retentions applicable to any insurance required to be provided by the Contractor.

§ A.3.1.3 Additional Insured Obligations. To the fullest extent permitted by law, the Contractor shall cause the commercial general liability coverage to include (1) the Owner, the Architect and the Architect's consultants, and the Construction Manager and the Construction Manager's consultants, as additional insureds for claims caused in whole or in part by the Contractor's negligent acts or omissions during the Contractor's operations; and (2) the Owner as an additional insured for claims caused in whole or in part by the Contractor's negligent acts or omissions for which loss occurs during completed operations. The additional insured coverage shall be primary and non-contributory to any of the Owner's general liability insurance policies and shall apply to both ongoing and completed operations. To the extent commercially available, the additional insured coverage shall be no less than that provided by Insurance Services Office, Inc. (ISO) forms CG 20 10 07 04, CG 20 37 07 04, and, with respect to the Architect and the Architect's consultants, and the Construction Manager and the Construction Manager's consultants, CG 20 32 07 04.

§ A.3.2 Contractor's Required Insurance Coverage

§ A.3.2.1 The Contractor shall purchase and maintain the types and limits of insurance as defined in EXH-C Owner Insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The Contractor shall maintain the required insurance until the expiration of the period for correction of Work as set forth in Section 12.2.2 of the General Conditions, unless a different duration is stated below:
(If the Contractor is required to maintain insurance for a duration other than the expiration of the period for correction of Work, state the duration.)

§ A.3.2.2 Commercial General Liability

§ A.3.2.2.1 Commercial General Liability insurance for the Project written on an occurrence form with policy limits as defined in EXH-C Owner Insurance providing coverage for claims including

.1 damages because of bodily injury, sickness or disease, including occupational sickness or disease, and death of any person;
.2 personal injury and advertising injury;
.3 damages because of physical damage to or destruction of tangible property, including the loss of use of such property;
.4 bodily injury or property damage arising out of completed operations; and
.5 the Contractor's indemnity obligations under Section 3.18 of the General Conditions.

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§ A.3.2.2.2 The Contractor's Commercial General Liability policy under this Section A.3.2.2 shall not contain an exclusion or restriction of coverage for the following:

.1 Claims by one insured against another insured, if the exclusion or restriction is based solely on the fact that the claimant is an insured, and there would otherwise be coverage for the claim.

.2 Claims for property damage to the Contractor's Work arising out of the products-completed operations hazard where the damaged Work or the Work out of which the damage arises was performed by a Subcontractor.

.3 Claims for bodily injury other than to employees of the insured.

.4 Claims for indemnity under Section 3.18 of the General Conditions arising out of injury to employees of the insured.

.5 Claims or loss excluded under a prior work endorsement or other similar exclusionary language.

.6 Claims or loss due to physical damage under a prior injury endorsement or similar exclusionary language.

.7 Claims related to residential, multi-family, or other habitational projects, if the Work is to be performed on such a project.

.8 Claims related to roofing, if the Work involves roofing.

.9 Claims related to exterior insulation finish systems (EIFS), synthetic stucco or similar exterior coatings or surfaces, if the Work involves such coatings or surfaces.

.10 Claims related to earth subsidence or movement, where the Work involves such hazards.

.11 Claims related to explosion, collapse and underground hazards, where the Work involves such hazards.

§ A.3.2.3 Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Contractor, with policy limits as defined in EXH-C Owner Insurance.

§ A.3.2.4 The Contractor may achieve the required limits and coverage for Commercial General Liability and Automobile Liability through a combination of primary and excess or umbrella liability insurance, provided such primary and excess or umbrella insurance policies result in the same or greater coverage as the coverages required under Section A.3.2.2 and A.3.2.3, and in no event shall any excess or umbrella liability insurance provide narrower coverage than the primary policy. The excess policy shall not require the exhaustion of the underlying limits only through the actual payment by the underlying insurers. Umbrella coverage as defined in EXH-C Owner Insurance.

§ A.3.2.5 Workers' Compensation at statutory limits for Coverage A as defined in EXH-C Owner Insurance.

§ A.3.2.6 Employers' Liability Coverage B as defined in EXH-C Owner Insurance.

§ A.3.2.7 If the Contractor is required to furnish professional services as part of the Work, the Contractor shall procure Professional Liability insurance covering performance of the professional services, with policy limits as defined in EXH-C Owner Insurance.

§ A.3.2.8 Insurance for the use or operation of manned or unmanned aircraft, if the Work requires such activities, with policy limits as defined in EXH-C Owner Insurance.

(Paragraphs deleted)

§ A.3.3 Contractor's Other Insurance Coverage

§ A.3.3.1 Insurance selected and described in this Section A.3.3 shall be purchased from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The Contractor shall maintain the required insurance until the expiration of the period for correction of Work as set forth in Section 12.2.2 of the General Conditions, unless a different duration is stated below:
(If the Contractor is required to maintain any of the types of insurance selected below for a duration other than the expiration of the period for correction of Work, state the duration.)

If Professional Liability insurance is required as part of the Contract, the Contractor shall maintain coverage for one year beyond the date of Substantial Completion.

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§ A.3.3.2 The Contractor shall purchase and maintain the types and limits of insurance as defined in EXH-C Owner Insurance.

(Paragraphs deleted)

§ A.3.4 Performance Bond and Payment Bond

The Contractor shall provide surety bonds, from a company or companies lawfully authorized to issue surety bonds in the jurisdiction where the Project is located, as follows:
(Specify type and penal sum of bonds.)

Type	Penal Sum ($0.00)
Payment Bond	$108,000
Performance Bond	$108,000

Payment and Performance Bonds shall be AIA Document A312™, Payment Bond and Performance Bond, or contain provisions identical to AIA Document A312™, current as of the date of this Agreement.

ARTICLE A.4 SPECIAL TERMS AND CONDITIONS

Special terms and conditions that modify this Insurance and Bonds Exhibit, if any, are as follows:

None

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Additions and Deletions Report for

AIA® Document A132® – 2019 Exhibit A

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PAGE 1

This Insurance and Bonds Exhibit is part of the Agreement, between the Owner and the Contractor, dated the _first_ day of _February_____in the year _2025

...

North High School Phase 4 Work Scope 09-K Painting
1500 James Avenue, Minneapolis, MN 55411

...

Minneapolis Public Schools Special School District #1
1250 West Broadway Avenue
Minneapolis, MN 55411

...

Wasche Commercial Finishes
21335 Aberdeen St NE
East Bethel, MN 55011

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§ A.2.3.1 Unless this obligation is placed on the Contractor pursuant to Section A.3.3.2.1, the Owner shall purchase and maintain, from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located, property insurance ~~written on a builder's risk "all-risks" completed value or equivalent~~ policy form and sufficient to cover the total value of the entire Project on a replacement cost basis. The Owner's property insurance coverage shall be no less than the amount of the initial Contract Sum, plus the value of subsequent Modifications and labor performed and materials or equipment supplied by others. The property insurance shall be maintained until Substantial Completion and thereafter as provided in Section A.2.3.1.3, unless otherwise provided in the Contract Documents or otherwise agreed in writing by the parties to this Agreement. This insurance shall include the interests of the Owner, Contractor, Subcontractors, and Sub-subcontractors in the Project as insureds. This insurance shall include the interests of mortgagees as loss payees.

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§ A.3.2.1 The Contractor shall purchase and maintain the ~~following~~ types and limits of insurance as defined in EXH-C Owner Insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The Contractor shall maintain the required insurance until the expiration of the period for correction of Work as set forth in Section 12.2.2 of the General Conditions, unless a different duration is stated below:

...

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§ A.3.2.2.1 Commercial General Liability insurance for the Project written on an occurrence form with policy limits ~~of not less than ($) each occurrence, ($) general aggregate, and ($) aggregate for products-completed operations hazard,~~ as defined in EXH-C Owner Insurance providing coverage for claims including

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§ A.3.2.3 Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Contractor, with policy limits ~~of not less than ($) per accident, for bodily injury, death of any person, and property damage arising out of the ownership, maintenance and use of those motor vehicles along with any other statutorily required automobile coverage.~~as defined in EXH-C Owner Insurance.

§ A.3.2.4 The Contractor may achieve the required limits and coverage for Commercial General Liability and Automobile Liability through a combination of primary and excess or umbrella liability insurance, provided such primary and excess or umbrella insurance policies result in the same or greater coverage as the coverages required under Section A.3.2.2 and A.3.2.3, and in no event shall any excess or umbrella liability insurance provide narrower coverage than the primary policy. The excess policy shall not require the exhaustion of the underlying limits only through the actual payment by the underlying insurers. Umbrella coverage as defined in EXH-C Owner Insurance.

§ A.3.2.5 Workers' Compensation at statutory ~~limits.~~limits for Coverage A as defined in EXH-C Owner Insurance.

§ A.3.2.6 Employers' Liability ~~with policy limits not less than ($) each accident, ($) each employee, and ($) policy limit.~~Coverage B as defined in EXH-C Owner Insurance.

§ A.3.2.7 ~~Jones Act, and the Longshore & Harbor Workers' Compensation Act, as required, if the Work involves hazards arising from work on or near navigable waterways, including vessels and docks~~ If the Contractor is required to furnish professional services as part of the Work, the Contractor shall procure Professional Liability insurance covering performance of the professional services, with policy limits as defined in EXH-C Owner Insurance.

§ A.3.2.8 ~~If the Contractor is required to furnish professional services as part of the Work, the Contractor shall procure Professional Liability insurance covering performance of the professional services, with policy limits of not less than ($) per claim and ($) in the aggregate.~~Insurance for the use or operation of manned or unmanned aircraft, if the Work requires such activities, with policy limits as defined in EXH-C Owner Insurance.

~~**§ A.3.2.9** If the Work involves the transport, dissemination, use, or release of pollutants, the Contractor shall procure Pollution Liability insurance, with policy limits of not less than ($) per claim and ($) in the aggregate.~~

~~**§ A.3.2.10** Coverage under Sections A.3.2.8 and A.3.2.9 may be procured through a Combined Professional Liability and Pollution Liability insurance policy, with combined policy limits of not less than ($) per claim and ($) in the aggregate.~~

~~**§ A.3.2.11** Insurance for maritime liability risks associated with the operation of a vessel, if the Work requires such activities, with policy limits of not less than ($) per claim and ($) in the aggregate.~~

~~**§ A.3.2.12** Insurance for the use or operation of manned or unmanned aircraft, if the Work requires such activities, with policy limits of not less than ($) per claim and ($) in the aggregate.~~

...

If Professional Liability insurance is required as part of the Contract, the Contractor shall maintain coverage for one year beyond the date of Substantial Completion.

§ A.3.3.2 The Contractor shall purchase and maintain the ~~following~~ types and limits of insurance ~~in accordance with Section A.3.3.1.~~as defined in EXH-C Owner Insurance.

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(Select the types of insurance the Contractor is required to purchase and maintain by placing an X in the box(es) next to the description(s) of selected insurance. Where policy limits are provided, include the policy limit in the appropriate fill point.)

[–] **§ A.3.3.2.1** If there is only one Contractor performing the Work on the Project, property insurance of the same type and scope satisfying the requirements identified in Section A.2.3, which, if selected in this section A.3.3.2.1, relieves the Owner of the responsibility to purchase and maintain such insurance except insurance required by Section A.2.3.1.3 and Section A.2.3.3. The Contractor shall comply with all obligations of the Owner under Section A.2.3 except to the extent provided below. The Contractor shall disclose to the Owner the amount of any deductible, and the Owner shall be responsible for losses within the deductible. Upon request, the Contractor shall provide the Owner with a copy of the property insurance policy or policies required. The Owner shall adjust and settle the loss with the insurer and be the trustee of the proceeds of the property insurance in accordance with Article 11 of the General Conditions unless otherwise set forth below:
(Where the Contractor's obligation to provide property insurance differs from the Owner's obligations as described under Section A.2.3, indicate such differences in the space below. Additionally, if a party other than the Owner will be responsible for adjusting and settling a loss with the insurer and acting as the trustee of the proceeds of property insurance in accordance with Article 11 of the General Conditions, indicate the responsible party below.)

[–] **§ A.3.3.2.2 Railroad Protective Liability Insurance**, with policy limits of not less than ($) per claim and ($) in the aggregate, for Work within fifty (50) feet of railroad property.

[–] **§ A.3.3.2.3 Asbestos Abatement Liability Insurance**, with policy limits of not less than ($) per claim and ($) in the aggregate, for liability arising from the encapsulation, removal, handling, storage, transportation, and disposal of asbestos-containing materials.

[–] **§ A.3.3.2.4** Insurance for physical damage to property while it is in storage and in transit to the construction site on an "all-risks" completed value form.

[–] **§ A.3.3.2.5** Property insurance on an "all-risks" completed value form, covering property owned by the Contractor and used on the Project, including scaffolding and other equipment.

[–] **§ A.3.3.2.6 Other Insurance**
(List below any other insurance coverage to be provided by the Contractor and any applicable limits.)

Coverage	**Limits**

§ A.3.4 Performance Bond and Payment Bond
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Payment Bond	$108,000
Performance Bond	$108,000

...

None

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AIA® Document A232® – 2019

General Conditions of the Contract for Construction, *Construction Manager as Adviser Edition*

for the following PROJECT:
(Name, and location or address)

North High School Phase 4 Work Scope 09-K Painting
1500 James Avenue, Minneapolis, MN 55411

THE CONSTRUCTION MANAGER:
(Name, legal status, and address)

Kraus-Anderson Construction Company
501 South 8th Street, Minneapolis, MN 55404

THE OWNER:
(Name, legal status, and address)

Minneapolis Public Schools Special School District #1
1250 West Broadway Avenue
Minneapolis, MN 55411

THE ARCHITECT:
(Name, legal status, and address)

LSE Architects 1401 Glenwood Avenue
Minneapolis, MN 55405

ADDITIONS AND DELETIONS:
The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

This document is intended to be used in conjunction with AIA Documents A132™–2019, Standard Form of Agreement Between Owner and Contractor, Construction Manager as Adviser Edition; B132™–2019, Standard Form of Agreement Between Owner and Architect, Construction Manager as Adviser Edition; and C132™–2019, Standard Form of Agreement Between Owner and Construction Manager as Adviser.

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ARTICLE 1 GENERAL PROVISIONS

§ 1.1 Basic Definitions

§ 1.1.1 The Contract Documents. The Contract Documents are enumerated in the Agreement between the Owner and Contractor (hereinafter the Agreement) and consist of the Agreement, Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, Addenda issued prior to execution of the Contract, other documents listed in the Agreement, and Modifications issued after execution of the Contract. A Modification is (1) a written amendment to the Contract signed by both parties, (2) a Change Order, (3) a Construction Change Directive, or (4) a written order for a minor change in the Work issued by the Architect. Unless specifically enumerated in the Agreement, the Contract Documents do not include the advertisement or invitation to bid, Instructions to Bidders, sample forms, other information furnished by the Owner in anticipation of receiving bids or proposals, the Contractor's bid or proposal, or portions of addenda relating to bidding or proposal requirements.

§ 1.1.1.1 Notwithstanding the foregoing, it is understood and agreed that the Owner is an intended third-party beneficiary of all contracts between the Contractor and Subcontractors or suppliers who provide labor and/or materials for the Work.

§ 1.1.2 The Contract. The Contract Documents form the Contract for Construction. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations, or agreements, either written or oral. The Contract may be amended or modified only by a Modification. The Contract Documents shall not be construed to create a contractual relationship of any kind (1) between the Contractor and the Architect or the Architect's consultants, (2) between the Owner and the Construction Manager or the Construction Manager's consultants, (3) between the Owner and the Architect or the Architect's consultants, (4) between the Contractor and the Construction Manager or the Construction Manager's consultants, (5) between the Owner and a Subcontractor or Sub-subcontractor (6) between the Construction Manager and the Architect, or (7) between any persons or entities other than the Owner and Contractor. The Construction Manager and Architect shall, however, be entitled to performance and enforcement of obligations under the Contract intended to facilitate performance of their duties.

§ 1.1.3 The Work. The term "Work" means the construction and services required by the Contract Documents, whether completed or partially completed, and includes all other labor, materials, equipment, and services provided or to be provided by the Contractor to fulfill the Contractor's obligations. The Work may constitute the whole or a part of the Project.

§ 1.1.4 The Project. The Project is the total construction of which the Work performed under the Contract Documents may be the whole or a part and which may include construction by other Contractors, and by the Owner's own forces and Separate Contractors.

§ 1.1.5 Contractors. Contractors are persons or entities, other than the Contractor or Separate Contractors, who perform Work under contracts with the Owner that are administered by the Architect and Construction Manager.

§ 1.1.6 Separate Contractors. Separate Contractors are persons or entities who perform construction under separate contracts with the Owner not administered by the Architect and Construction Manager.

§ 1.1.7 The Drawings. The Drawings are the graphic and pictorial portions of the Contract Documents showing the design, location and dimensions of the Work, generally including plans, elevations, sections, details, schedules, and diagrams.

§ 1.1.8 The Specifications. The Specifications are that portion of the Contract Documents consisting of the written requirements for materials, equipment, systems, standards and workmanship for the Work, and performance of related services.

§ 1.1.9 Instruments of Service. Instruments of Service are representations, in any medium of expression now known or later developed, of the tangible and intangible creative work performed by the Architect and the Architect's consultants under their respective professional services agreements. Instruments of Service may include, without limitation, studies, surveys, models, sketches, drawings, specifications, and other similar materials.

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§ 1.1.10 Initial Decision Maker. The Initial Decision Maker is the person identified in the Agreement to render initial decisions on Claims in accordance with Section 15.2. The Architect will serve as the Initial Decision Maker pursuant to Section 15.2 of AIA Document A232–2019.

§ 1.2 Correlation and Intent of the Contract Documents

§ 1.2.1 The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work by the Contractor. The Contract Documents are complementary, and what is required by one shall be as binding as if required by all; performance by the Contractor shall be required only to the extent consistent with the Contract Documents and reasonably inferable from them as being necessary to produce the intended results.

§ 1.2.1.1 The invalidity of any provision of the Contract Documents shall not invalidate the Contract or its remaining provisions. In such case the Contract Documents shall be construed, to the fullest extent permitted by law, to give effect to the parties' intentions and purposes in executing the Contract.

§ 1.2.2 Organization of the Specifications into divisions, sections and articles, and arrangement of Drawings shall not control the Contractor in dividing the Work among Subcontractors or in establishing the extent of Work to be performed by any trade.

§ 1.2.3 Unless otherwise stated in the Contract Documents, words that have well-known technical or construction industry meanings are used in the Contract Documents in accordance with such recognized meanings.

§ 1.3 Capitalization

Terms capitalized in these General Conditions include those that are (1) specifically defined, (2) the titles of numbered articles, or (3) the titles of other documents published by the American Institute of Architects.

§ 1.4 Interpretation

In the interest of brevity the Contract Documents frequently omit modifying words such as "all" and "any" and articles such as "the" and "an," but the fact that a modifier or an article is absent from one statement and appears in another is not intended to affect the interpretation of either statement.

§ 1.4.1 In the case of inconsistency between Drawings and Specifications or within Contract Documents not clarified by Addenda, the better quality or greater quantity of Work shall be provided in accordance with the Architect's interpretation.

§ 1.5 Ownership and Use of Drawings, Specifications, and Other Instruments of Service

§ 1.5.1 The Architect and the Architect's consultants shall be deemed the authors and owners of their respective Instruments of Service, including the Drawings and Specifications, and retain all common law, statutory, and other reserved rights in their Instruments of Service, including copyrights. The Contractor, Subcontractors, sub-subcontractors, and suppliers shall not own or claim a copyright in the Instruments of Service. Submittal or distribution to meet official regulatory requirements or for other purposes in connection with the Project is not to be construed as publication in derogation of the Architect's or Architect's consultants' reserved rights. The Owner retains rights to the Instruments of Service pursuant to Article 7 of AIA Document B101-2017.

§ 1.5.2 The Contractor, Subcontractors, Sub-subcontractors, and suppliers are authorized to use and reproduce the Instruments of Service provided to them, subject to any protocols established pursuant to Sections 1.7 and 1.8, solely and exclusively for execution of the Work. All copies made under this authorization shall bear the copyright notice, if any, shown on the Instruments of Service. The Contractor, Subcontractors, Sub-subcontractors, and suppliers may not use the Instruments of Service on other projects or for additions to the Project outside the scope of the Work without the specific written consent of the Owner, Architect, and the Architect's consultants.

§ 1.5.3 The Architect shall furnish to the Contractor a version of the Instruments of Service in electronic form for the sole purpose of the construction of the Project for which the Instruments of Service were created.

§ 1.6 Notice

§ 1.6.1 Except as otherwise provided in Section 1.6.2, where the Contract Documents require one party to notify or give notice to the other party, such notice shall be provided in writing to the designated representative of the party to

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whom the notice is addressed and shall be deemed to have been duly served if delivered in person, by mail, by courier, or by electronic transmission if a method for electronic transmission is set forth in the Agreement.

§ 1.6.2 Notice of Claims as provided in Section 15.1.3 shall be provided in writing and shall be deemed to have been duly served only if delivered to the designated representative of the party to whom the notice is addressed by certified or registered mail, or by courier providing proof of delivery.

§ 1.7 Digital Data Use and Transmission

The parties shall agree upon protocols governing the transmission and use of Instruments of Service or any other information or documentation in digital form. The parties may use AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit or other form, to establish the protocols for the development, use, transmission, and exchange of digital data.

§ 1.8 Building Information Models Use and Reliance

Any use of, or reliance on, all or a portion of a building information model without agreement to protocols governing the use of, and reliance on, the information contained in the model and without having those protocols set forth in AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, and the requisite AIA Document G202™–2013, Project Building Information Modeling Protocol Form or other form, shall be at the using or relying party's sole risk and without liability to the other party and its contractors or consultants, the authors of, or contributors to, the building information model, and each of their agents and employees.

ARTICLE 2 OWNER

§ 2.1 General

§ 2.1.1 The Owner is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The Owner shall designate in writing a representative who shall have express authority to bind the Owner with respect to all matters requiring the Owner's approval or authorization in accordance with Owner's Delegation of Authority Policy, a copy of which will be provided at Contractor's request. Except as otherwise provided in Section 4.2.1, the Construction Manager and the Architect do not have such authority. The term "Owner" means the Owner or the Owner's authorized representative.

(Paragraph deleted)

§ 2.2 Evidence of the Owner's Financial Arrangements

§ 2.2.1 Prior to commencement of the Work, and upon written request by the Contractor, the Owner shall furnish to the Contractor reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Contract. The Contractor shall have no obligation to commence the Work until the Owner provides such evidence. If commencement of the Work is delayed under this Section 2.2.1, the Contract Time shall be extended appropriately.

§ 2.2.2 Following commencement of the Work and upon written request by the Contractor, the Owner shall furnish to the Contractor reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Contract only if (1) the Owner fails to make payments to the Contractor as the Contract Documents require; (2) the Contractor identifies in writing a reasonable concern regarding the Owner's ability to make payment when due; or (3) a change in the Work materially changes the Contract Sum. If the Owner fails to provide such evidence, as required, within fourteen days of the Contractor's request, the Contractor may immediately stop the Work and, in that event, shall notify the Owner that the Work has stopped. However, if the request is made because a change in the Work materially changes the Contract Sum under (3) above, the Contractor may immediately stop only that portion of the Work affected by the change until reasonable evidence is provided. If the Work is stopped under this Section 2.2.2, the Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable costs of shutdown, delay and start-up, plus interest as provided in the Contract Documents.

§ 2.2.3 After the Owner furnishes evidence of financial arrangements under this Section 2.2, the Owner shall not materially vary such financial arrangements without prior notice to the Contractor.

§ 2.2.4 Where the Owner has designated information furnished under this Section 2.2 as "confidential," the Contractor shall keep the information confidential and shall not disclose it to any other person. However, the Contractor may disclose "confidential" information, after seven (7) days' notice to the Owner, where disclosure is required by law, including a subpoena or other form of compulsory legal process issued by a court or governmental entity, or by court

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or arbitrator(s) order. The Contractor may also disclose "confidential" information to its employees, consultants, sureties, Subcontractors and their employees, Sub-subcontractors, and others who need to know the content of such information solely and exclusively for the Project and who agree to maintain the confidentiality of such information.

§ 2.3 Information and Services Required of the Owner

§ 2.3.1 Except for permits and fees that are the responsibility of the Contractor under the Contract Documents, including those required under Section 3.7.1, the Owner shall secure and pay for necessary approvals, easements, assessments and charges required for construction, use or occupancy of permanent structures or for permanent changes in existing facilities. Unless otherwise provided under the Contract Documents, the Owner, assisted by the Construction Manager, shall secure and pay for the building permit.

§ 2.3.2 The Owner shall retain an architect lawfully licensed to practice architecture, or an entity lawfully practicing architecture, in the jurisdiction where the Project is located. That person or entity is identified as the Architect in the Agreement and is referred to throughout the Contract Documents as if singular in number.

§ 2.3.3 The Owner shall retain a construction manager adviser lawfully practicing construction management in the jurisdiction where the Project is located. That person or entity is identified as the Construction Manager in the Agreement and is referred to throughout the Contract Documents as if singular in number.

§ 2.3.4 If the employment of the Construction Manager or Architect terminates, the Owner shall employ a successor construction manager or architect to whom the Contractor has no reasonable objection and whose status under the Contract Documents shall be that of the Construction Manager or Architect, respectively.

§ 2.3.5 If requested by the Contractor and reasonably required for the Project, the Owner shall furnish surveys describing physical characteristics, legal limitations and utility locations for the site of the Project, and a written legal description of the site. The Contractor shall exercise proper precautions relating to the safe performance of the Work.

§ 2.3.6 The Owner shall furnish information or services required of the Owner by the Contract Documents with reasonable promptness. The Owner shall also furnish any other information or services under the Owner's control and relevant to the Contractor's performance of the Work with reasonable promptness after receiving the Contractor's written request for such information or services. The Contractor is responsible for the timeliness of, or interference caused by, Subcontractors, Sub-subcontractors (of any tier), and others directly or indirectly under contract to the Contractor.

§ 2.3.7 Unless otherwise provided in the Contract Documents, the Owner shall furnish to the Contractor one copy of the Contract Documents for purposes of making reproductions pursuant to Section 1.5.2.

§ 2.3.8 The Owner shall forward all communications to the Contractor through the Construction Manager. Other communication shall be made as set forth in Section 4.2.6.

§ 2.4 Owner's Right to Stop the Work

If the Contractor fails to correct Work that is not in accordance with the requirements of the Contract Documents as required by Section 12.2 or repeatedly fails to carry out Work in accordance with the Contract Documents, the Owner may issue a written order to the Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, the right of the Owner to stop the Work shall not give rise to a duty on the part of the Owner to exercise this right for the benefit of the Contractor or any other person or entity, except to the extent required by Section 6.1.3.

§ 2.5 Owner's Right to Carry Out the Work

If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within a three-business-day (3) period after receipt of notice from the Owner to commence and continue correction of such default or neglect with diligence and promptness, the Owner may, without prejudice to other remedies the Owner may have, correct such default or neglect. Such action by the Owner and amounts charged to the Contractor are both subject to review by the Construction Manager and prior approval of the Architect, and the Construction Manager or Architect may, pursuant to Section 9.5.1, withhold or nullify a Certificate for Payment in whole or in part, to the extent reasonably necessary to reimburse the Owner for the reasonable cost of correcting such deficiencies, including Owner's expenses and compensation for the Construction Manager's and Architect's and their respective consultants'

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additional services and expenses made necessary by such default, neglect, or failure. If current and future payments are not sufficient to cover such amounts, the Contractor shall pay the difference to the Owner within ten (10) days following written request for payment delivered by the Owner to the Contractor. If the Contractor disagrees with the actions of the Owner or the Architect, or the amounts claimed as costs to the Owner, the Contractor may file a Claim pursuant to Article 15.

ARTICLE 3 CONTRACTOR

§ 3.1 General

§ 3.1.1 The Contractor is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The Contractor shall be lawfully licensed, if required in the jurisdiction where the Project is located. The Contractor shall designate in writing a representative who shall have express authority to bind the Contractor with respect to all matters under this Contract. The term "Contractor" means the Contractor or the Contractor's authorized representative.

§ 3.1.2 The Contractor shall perform the Work in accordance with the Contract Documents.

§ 3.1.3 The Contractor shall hire a professional utilities locator to investigate and verify all private utility locations prior to excavation and cutting into of existing Work. The Contractor is responsible for locating, terminating, and reinstallation of all private utilities. Private site utilities may not be in the Drawings and Project Manual and as such, verification of private utilities is the sole responsibility of the Contractor. Costs associated with moving and repairing of unknown and undocumented utilities will be by appropriate Change Order. The Contractor shall comply with Gopher State One Call, or other public utility service locator to locate all public utilities prior to any work on the site. This shall not relieve Contractor from obligations under Article 3.

§ 3.1.4 The Contractor shall not be relieved of its obligations to perform the Work in accordance with the Contract Documents either by activities or duties of the Construction Manager or Architect in their administration of the Contract, or by tests, inspections or approvals required or performed by persons or entities other than the Contractor.

§ 3.2 Review of Contract Documents and Field Conditions by Contractor

§ 3.2.1 The Contractor shall carefully study and compare the Contract Documents with each other and with information furnished by the Owner pursuant to Section 2.2.3, and shall immediately report to the Architect and Construction Manager errors, inconsistencies, or omissions discovered. The Contractor shall not be liable to the Owner or Architect for damage resulting from errors, inconsistencies, or omissions in the Contract Document unless the Contractor recognized such error, inconsistency, or omission and knowingly failed to report it to the Architect. If the Contractor performs any construction activity knowing or believing it involves a recognized error, inconsistency, or omission in the Contract Documents without such notice to the Architect, the Contractor shall assume full responsibility for such performance and shall bear the attributable costs for correction and shall bear responsibility for any additional costs, delays, and damages resulting from such failure to immediately report any such errors, inconsistencies, or omissions which the Contractor may discover. By executing the Contract, the Contractor represents that the Contractor has reviewed and understands the Contract Documents, has visited the Site and is familiar with local conditions under which the Work is to be performed, has correlated personal observations with the requirements of the Contract Documents, and has notified the Architect of and obtained clarification of any discrepancies which have become apparent during the bidding or proposal period.

§ 3.2.1.1 The Contractor shall take field measurements and verify field conditions and shall carefully compare such field measurements and conditions and other information known to the Contractor with the Contract Documents before commencing activities. Errors, inconsistencies, or omissions discovered shall be reported to the Architect immediately in writing.

§ 3.2.1.2 The Contractor shall carefully study and compare the Contract Documents with existing conditions at the job site and shall immediately report in writing to the Architect any error, inconsistency, or omission which the Contractor may discover or any materials, systems, procedures, or methods of construction, either shown on the Drawings or specified, which the Contractor has reason to believe are incorrect, inadequate, obsolete, unsuitable for the purpose intended or which the Contractor has reason to believe would constitute or result in a violation of the Contractor's warranty under Section 3.5 or applicable law. The Contractor shall not proceed with any work in such areas until written instructions are received from the Architect.

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§ 3.2.2 The Contractor shall perform the Work in accordance with the Contract Documents and submittals accepted pursuant to Section 3.12.

§ 3.2.3 The Owner shall be entitled to deduct from the Contract Sum amounts paid to the Architect for the Architect to evaluate and respond to the Contractor's requests for interpretation or information where such information was available to the Contractor from a careful study and comparison of the Contract Documents, Filed Conditions, Owner Provided Information, Contractor Prepared Coordination Drawings, or prior Project Correspondence or Documentation.

§ 3.2.4 If the Contractor believes that any portions of the Contract Documents do not comply with applicable laws, statutes, ordinances, building codes, and rules and regulations, or any orders by code enforcement officials or the Owner or its designees acting in the capacity of building code inspectors or Referenced Standards, the Contractor must promptly notify the Owner and the Architect of the non-compliance as provided in Section 3.2.6 and request direction before proceeding with the affected Work.

§ 3.2.5 The Contractor must promptly notify the Owner and the Architect in writing of any apparent errors, inconsistencies, omissions, ambiguities, construction impracticalities or code violations discovered as a result of the Contractor's review of the Contract Documents including any differences between actual and indicated dimensions, locations and descriptions, and must give the Owner and the Architect timely notice in writing of same and of any corrections, clarifications, additional Drawings or Specifications, or other information required to define the Work in greater detail or to permit the proper progress of the Work. The Contractor must provide similar notice with respect to any variance between its review of the Site and physical data and Site conditions observed.

§ 3.2.6 If the Contractor performs any Work involving an apparent error, inconsistency, ambiguity, construction impracticality, omission or code violation in the Contract Documents of which the Contractor is aware, or which could reasonably have been discovered by the review required by Section 3.2, without prompt written notice to the Owner and the Architect and request for correction, clarification or additional information, as appropriate, the Contractor does so at its own risk and expense and all Claims relating thereafter are specifically waived.

§ 3.3 Supervision and Construction Procedures

§ 3.3.1 The Contractor shall supervise and direct the Work, using the Contractor's best skill and attention. The Contractor shall be solely responsible for, and have control over, construction means, methods, techniques, sequences, and procedures, and for coordinating all portions of the Work under the Contract. If the Contract Documents give specific instructions concerning construction means, methods, techniques, sequences, or procedures, the Contractor shall evaluate the jobsite safety thereof and shall be solely responsible for the jobsite safety of such means, methods, techniques, sequences, or procedures. If the Contractor determines that such means, methods, techniques, sequences or procedures may not be safe, the Contractor shall give timely notice to the Owner, the Construction Manager, and the Architect, and shall propose alternative means, methods, techniques, sequences, or procedures. The Architect shall evaluate the proposed alternative solely for conformance with the design intent for the completed construction. The Construction Manager shall review the proposed alternative for sequencing, constructability, and coordination impacts on the other Contractors. Unless the Architect or the Construction Manager objects to the Contractor's proposed alternative, the Contractor shall perform the Work using its alternative means, methods, techniques, sequences, or procedures.

§ 3.3.2 The Contractor shall be responsible to the Owner for acts and omissions of the Contractor's employees, Subcontractors and their agents and employees, and other persons or entities performing portions of the Work for, or on behalf of, the Contractor or any of its Subcontractors.

§ 3.3.3 The Contractor shall be responsible for inspection of portions of the Project already performed to determine that such portions are in proper condition to receive subsequent Work.

§ 3.3.4 The Contractor shall at all times staff the Project adequately to allow the Project to be managed and completed in a timely and professional manner. The Contractor shall have competent supervision on the job during work hours and readily available at all times upon call.

§ 3.3.5 The Contractor shall at all times make reasonable provisions to protect any Work performed by any separate contractors, adjacent property, and the existing building (if any) from damage due to the Work or due to the weather.

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§ 3.3.6 The Owner or its approved representative (heretofore referred to as Owner's Representative) shall have access to the Work site and all Work. No supervision or inspection by the Owner or the Owner's Representative, nor the authority to act, nor any other actions taken by the Owner's Representative shall relieve the Contractor of any of its obligations under the Contract Documents or give rise to any duty on the part of the Owner.

§ 3.3.7 The Contract shall take appropriate precautions to ensure that the Work does not materially disrupt any ongoing operation by the Owner at the Project (if any) except to the extent any such disruption is a necessary result of performing a particular portion of the Work, in which case the Contractor shall provide the Owner with reasonable advanced written notice and shall take all commercially reasonable measures to minimize the impact on the Owner and the Owner's operations.

§ 3.4 Labor and Materials

§ 3.4.1 Unless otherwise provided in the Contract Documents, the Contractor shall provide and pay for labor, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation, and other facilities and services necessary for proper execution and completion of the Work, whether temporary or permanent and whether or not incorporated or to be incorporated in the Work. Should the Contract Documents require Work to be performed after regular working hours or should the Contractor elect to perform Work after regular working hours, the additional cost of such Work shall be borne by the Contractor.

§ 3.4.2 Except in the case of minor changes in the Work approved by the Architect in accordance with Section 3.12.8 or ordered by the Architect in accordance with Section 7.4, the Contractor may make substitutions only with the consent of the Owner, after evaluation by the Architect, in consultation with the Construction Manager, and in accordance with a Change Order or Construction Change Directive.

§ 3.4.3 The Contractor shall enforce strict discipline and good order among the Contractor's employees and other persons carrying out the Work. The Contractor shall not permit employment of unfit persons or persons not properly skilled in tasks assigned to them.

§ 3.4.4 The Contractor shall be responsible for all additional costs incurred to incorporate into the Project substitute materials, products, or equipment approved by Owner during the bidding period.

§ 3.4.5 In the event of a Change related to substitute or additional materials, and which shall comply with Article 7, the Contractor shall exercise reasonable efforts, consistent with the provisions of the Contract Documents to obtain the maximum available case discounts on all materials, provided that, in doing so, the Contractor shall not accept or use materials for incorporation into the Project which are of a type or quality not reasonably contemplated under the terms of the Contract Documents.

§ 3.4.6 After award of the Contract, a request for substitution of a material, product, or piece of equipment at no change in the Contract Sum will not be approved by the Owner or the Architect, unless the specified item is no longer manufactured, the specified item is unavailable as a result of an act of government such as a declaration of a national emergency, or delivery of the specified items is substantially delayed as a result of labor disputes affecting the manufacturer, unusual delay in transportation, or any other cause beyond control of the Contractor or a Subcontractor or material supplier which the Architect determines justified the delay. Requests will not be approved where the delay in delivery results from failure to promptly place subcontracts and material orders. Requests for substitution shall be submitted in writing to the Architect and shall clearly describe the proposed substitution, state the reason for the unavailability of a specified item and be accompanied by such additional data and information as may be necessary in the discretion of the Owner and the Architect to establish the acceptability of the proposed substitute.

§ 3.4.7 The Owner shall be entitled to deduct from the Contract Sum amounts paid to the Architect to evaluate the Contractor's proposed Substitutions and for changes made to the Contract Documents as a result of Owner's acceptance of such Substitutions.

§ 3.5 Warranty

§ 3.5.1 The Contractor warrants to the Owner, Construction Manager, and Architect that materials and equipment furnished under the Contract will be of good quality and new unless the Contract Documents require or permit otherwise. The Contractor further warrants that the Work will conform to the requirements of the Contract Documents

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and will be free from defects, except for those inherent in the quality of the Work the Contract Documents require or permit. Work, materials, or equipment not conforming to these requirements may be considered defective. The Contractor's warranty excludes remedy for damage or defect caused by abuse, alterations to the Work not executed by the Contractor, improper or insufficient maintenance, improper operation, or normal wear and tear and normal usage. If required by the Construction Manager or Architect, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment.

§ 3.5.2 All material, equipment, or other special warranties required by the Contract Documents shall be issued in the name of the Owner, or shall be transferable to the Owner, and shall commence in accordance with Section 9.8.4. The Contractor shall arrange for the Owner to have the benefit of and right to enforce all warranties by Subcontractors, Sub-subcontractors, suppliers, and manufacturers.

§ 3.5.3 Manufacturers' warranties and warranties by other shall not relieve the Contractor of any of its responsibilities.

§ 3.5.4 The Contractor's general warranty and any additional or special warranties are not limited by the Contractor's obligations to specifically correct defective or nonconforming Work as provided in Article 12, nor are they limited by any other remedies provided in the Contract Documents. The Contractor shall also be liable for any damage to property or persons (including death) including consequential and direct damages relating to any breach of the Contractor's general warranty or any additional or special warranties required by the Contract Documents.

§ 3.5.5 The Contractor must furnish all special warranties required by the Contract Documents to the Owner no later than Substantial Completion. The Owner may require additional special warranties in connection with the approval of "Or-Equals" or Substitutions, Allowance items, Work that is defective or nonconforming, or the acceptance of nonconforming Work pursuant to Article 12.

§ 3.6 Taxes

The Contractor shall pay sales, consumer, use and similar taxes for the Work or portions thereof provided by the Contractor that are legally enacted when bids are received or negotiations concluded, whether or not yet effective or merely scheduled to go into effect.

§ 3.7 Permits, Fees, Notices, and Compliance with Laws

§ 3.7.1 Unless otherwise provided in the Contract Documents, the Owner, assisted by the Construction Manager, shall secure and pay for the building permit. The Contractor shall secure and pay for other permits, fees, licenses, and inspections by government agencies necessary for proper execution and completion of the Work that are customarily secured after execution of the Contract and legally required at the time bids are received or negotiations concluded. The Contractor shall be responsible for the Sewer Access (SAC) and Water Access (WAC) fees for the Project. The Contractor shall pay the SAC/WAC costs to the authorities having jurisdiction from the Allowance in the Base Bid for such charges as defined in the Construction Documents.

§ 3.7.2 The Contractor shall comply with and give notices required by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities applicable to performance of the Work.

§ 3.7.3 If the Contractor performs Work knowing or believing it to be contrary to applicable laws, statutes, ordinances, building codes, rules and regulations, or lawful orders of public authorities, without such notice to the Architect and Owner, the Contractor shall assume full responsibility for such Work and shall bear the attributable costs, delays, and damages resulting from such failure to immediately notify the Architect and Owner of any such violation..

§ 3.7.4 Concealed or Unknown Conditions. If the Contractor encounters conditions at the site that are (1) subsurface or otherwise concealed physical conditions that differ materially from those indicated in the Contract Documents or (2) unknown physical conditions of an unusual nature that differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents, the Contractor shall promptly provide notice to the Owner, Construction Manager, and the Architect before conditions are disturbed and in no event later than ten (10) days after first observance of the conditions. The Architect and Construction Manager will promptly investigate such conditions and, if the Architect, in consultation with the Construction Manager, determines that they differ materially and cause an increase or decrease in the Contractor's cost of, or time required for, performance of any part of the Work, will recommend that an equitable adjustment be made in the Contract Sum or Contract Time, or both. If the Architect, in consultation with the Construction Manager,

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determines that the conditions at the site are not materially different from those indicated in the Contract Documents and that no change in the terms of the Contract is justified, the Architect shall promptly notify the Owner, Construction Manager, and Contractor, stating the reasons. If the Owner or Contractor disputes the Architect's determination or recommendation, either party may submit a Claim as provided in Article 15.

§ 3.7.5 If, in the course of the Work, the Contractor encounters human remains or recognizes the existence of burial markers, archaeological sites or wetlands not indicated in the Contract Documents, the Contractor shall immediately suspend any operations that would affect them and shall notify the Owner, Construction Manager, and Architect. Upon receipt of such notice, the Owner shall promptly take any action necessary to obtain governmental authorization required to resume the operations. The Contractor shall continue to suspend such operations until otherwise instructed by the Owner but shall continue with all other operations that do not affect those remains or features. Requests for adjustments in the Contract Sum and Contract Time arising from the existence of such remains or features may be made as provided in Article 15.

§ 3.8 Allowances

§ 3.8.1 The Contractor shall include in the Contract Sum all allowances stated in the Contract Documents. Items covered by allowances shall be supplied for such amounts and by such persons or entities as the Owner may direct, but the Contractor shall not be required to employ persons or entities to whom the Contractor has reasonable objection.

§ 3.8.2 Unless otherwise provided in the Contract Documents:

- **.1** allowances shall cover the cost to the Contractor of materials and equipment delivered at the site and all required taxes, less applicable trade discounts;
- **.2** Contractor's costs for unloading and handling at the site, labor, installation costs, overhead, profit, and other expenses contemplated for stated allowance amounts shall be included in the Contract Sum but not in the allowances; and
- **.3** whenever costs are more than or less than allowances, the Contract Sum shall be adjusted accordingly by Change Order. The amount of the Change Order shall reflect (1) the difference between actual costs and the allowances under Section 3.8.2.1 and (2) changes in Contractor's costs under Section 3.8.2.2.

§ 3.8.3 Materials and equipment under an allowance shall be selected by the Owner with reasonable promptness.

§ 3.9 Superintendent

§ 3.9.1 The Contractor shall employ a competent superintendent and necessary assistants who shall be in attendance at the Project site during performance of the Work, including that performed by all Subcontractors. The superintendent shall represent the Contractor, and communications given to the superintendent shall be as binding as if given to the Contractor. Important communications including and not limited to communications regarding design changes, alterations, substitutions, clarifications, cost changes, etc. shall be confirmed in writing by the Contractor. Other communications shall be similarly confirmed on written request in each case.

§ 3.9.2 The Contractor, as soon as practicable after award of the Contract, shall notify the Owner and Architect, through the Construction Manager, of the name and qualifications of a proposed superintendent. Within 14 days of receipt of the information, the Construction Manager may notify the Contractor, stating whether the Owner, the Construction Manager, or the Architect (1) has reasonable objection to the proposed superintendent or (2) require additional time for review. Failure of the Construction Manager to provide notice within the 14-day period shall constitute notice of no reasonable objection.

§ 3.9.3 The Contractor shall not employ a proposed superintendent or any other management personnel to whom the Owner, Construction Manager, or Architect has made reasonable and timely objection. The Contractor shall not change the superintendent without the Owner's consent, which shall not unreasonably be withheld or delayed.

§ 3.9.4 If requested by the Owner, the Contractor shall replace the superintendent at no additional cost to the Owner. No other change in this position shall be made without notice to and written consent of the Owner.

§ 3.10 Contractor's Construction and Submittal Schedules

§ 3.10.1 The Contractor, promptly after being awarded the Contract, shall submit for the Owner's and Architect's information, and the Construction Manager's use in developing the Project schedule, a Contractor's construction schedule for the Work. The schedule shall contain detail appropriate for the Project, including (1) the date of

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commencement of the Work, interim schedule milestone dates, critical path schedule milestones, major construction milestones, including and not limited to Civil, Demolition, Structural, Mechanical, Electrical, and Plumbing, and the date of Substantial Completion; (2) an apportionment of the Work by construction activity; and (3) the time required for completion of each portion of the Work. The schedule shall provide for the orderly progression of the Work to completion and shall not exceed time limits current under the Contract Documents. The schedule shall be revised at appropriate intervals as required by the conditions of the Work and Project. The Contractor shall cooperate with the Construction Manager in scheduling and performing the Contractor's Work to avoid conflict with, and as to cause no delay in, the work or activities of other Contractors, or the construction or operations of the Owner's own forces or Separate Contractors.

§ 3.10.2 The Contractor, promptly after being awarded the Contract and thereafter as necessary to maintain a current submittal schedule, shall submit a submittal schedule for the Construction Manager's and Architect's approval. The Architect and Construction Manager's approval shall not be unreasonably delayed or withheld. The submittal schedule shall (1) be coordinated with the Contractor's construction schedule, and (2) allow the Construction Manager and Architect reasonable time to review submittals. If the Contractor fails to submit a submittal schedule, or fails to provide submittals in accordance with the approved submittal schedule, the Contractor shall not be entitled to any increase in Contract Sum or extension of Contract Time based on the time required for review of submittals.

§ 3.10.3 The Contractor shall participate with other Contractors, the Construction Manager, and the Owner in reviewing and coordinating all schedules for incorporation into the Project schedule that is prepared by the Construction Manager. The Contractor shall make revisions to the construction schedule and submittal schedule as deemed necessary by the Construction Manager to conform to the Project schedule.

§ 3.10.4 The Contractor shall perform the Work in general accordance with the most recent schedules submitted to and accepted in writing by the Owner, Construction Manager, and Architect, and incorporated into the approved Project schedule.

§ 3.11 Documents and Samples at the Site

§ 3.11.1 The Contractor shall make available, at the Project site, one record copy of the Contract Documents, including Change Orders, Construction Change Directives, and other Modifications, in good order and updated daily to indicate field changes and selections made during construction, and in addition accepted and approved Shop Drawings, Product Data, Samples, and similar required submittals. These shall be in electronic form or paper copy, available to the Construction Manager, Architect, and Owner as required to complete routine inspections by Architect, Construction Manager and Owner prior to any approval of payments to the Contractor, and delivered to the Construction Manager for submittal to the Owner upon completion of the Work. The Architect and Contractor must verify that all "as-built" Drawings, Specifications, Addenda, Change Orders, and other Modifications are up-to-date before Contractor's Application for Payment is acceptable and before the Owner incurs any duty to pay Contractor in accordance with the Contract. The record documents shall be a separate set of documents labeled "Record Documents" and used only for record purposes and kept clean and undamaged.

§ 3.11.2 No review or receipt of such records by the Architect or Owner shall be considered a waiver of any deviation from the Contract Documents or approved shop drawings, or any way relieve the Contractor from its responsibility to perform the Work in accordance with the Contract Documents.

§ 3.12 Shop Drawings, Product Data, and Samples

§ 3.12.1 Shop Drawings are drawings, diagrams, schedules, and other data specially prepared for the Work by the Contractor or a Subcontractor, Sub-subcontractor, manufacturer, supplier, or distributor to illustrate some portion of the Work.

§ 3.12.2 Product Data are illustrations, standard schedules, performance charts, instructions, brochures, diagrams, and other information furnished by the Contractor to illustrate materials or equipment for some portion of the Work.

§ 3.12.3 Samples are physical examples that illustrate materials, equipment, or workmanship, and establish standards by which the Work will be judged.

§ 3.12.4 Shop Drawings, Product Data, Samples, and similar submittals are not Contract Documents. Their purpose is to demonstrate how the Contractor proposes to conform to the information given and the design concept expressed in the Contract Documents for those portions of the Work for which the Contract Documents require submittals. Review

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by the Architect and Construction Manager is subject to the limitations of Sections 4.2.10 through 4.2.12. Informational submittals upon which the Construction Manager and Architect are not expected to take responsive action may be so identified in the Contract Documents. Submittals that are not required by the Contract Documents may be returned by the Construction Manager or Architect without action.

§ 3.12.5 The Contractor shall review for compliance with the Contract Documents, approve, and submit to the Construction Manager, Shop Drawings, Product Data, Samples, and similar submittals required by the Contract Documents, in accordance with the Project submittal schedule approved by the Construction Manager and Architect or, in the absence of an approved Project submittal schedule, with reasonable promptness and in such sequence as to cause no delay in the Work or in the activities of other Contractors, Separate Contractors, or the Owner's own forces. The Contractor shall cooperate with the Construction Manager in the coordination of the Contractor's Shop Drawings, Product Data, Samples, and similar submittals with related documents submitted by other Contractors. The Contractor must provide the Owner and the Architect with copies of all submittals made to regulatory agencies.

§ 3.12.6 By submitting Shop Drawings, Product Data, Samples, and similar submittals, the Contractor represents to the Owner, Construction Manager, and Architect, that the Contractor has (1) reviewed and approved them, (2) determined and verified materials, field measurements and field construction criteria related thereto, or will do so, and (3) checked and coordinated the information contained within such submittals with the requirements of the Work and of the Contract Documents.

§ 3.12.7 The Contractor shall perform no portion of the Work for which the Contract Documents require submittal and review of Shop Drawings, Product Data, Samples, or similar submittals, until the respective submittal has been reviewed and accepted by the Architect. The Contractor must correct at its cost, and without any adjustment in Contract Time, any Work the correction of which is required due to the Contractor's failure to obtain approval of a submittal required to have been obtained prior to proceeding with the Work, including, but not limited to, correction of any conflicts in the Work resulting from such failure.

§ 3.12.8 The Work shall be in accordance with accepted submittals except that the Contractor shall not be relieved of responsibility for deviations from the requirements of the Contract Documents by the Architect's acceptance of Shop Drawings, Product Data, Samples, or similar submittals, unless the Contractor has specifically notified the Construction Manager and Architect of such deviation at the time of submittal and (1) the Architect has given written acceptance to the specific deviation as a minor change in the Work, or (2) a Change Order or Construction Change Directive has been issued authorizing the deviation. The Contractor shall not be relieved of responsibility for errors or omissions in Shop Drawings, Product Data, Samples, or similar submittals, by the Architect's acceptance thereof.

§ 3.12.9 The Contractor shall direct specific attention, in writing or on resubmitted Shop Drawings, Product Data, Samples, or similar submittals, to revisions other than those requested by the Construction Manager and Architect on previous submittals. In the absence of such notice, the Architect's acceptance of a resubmission shall not apply to such revisions.

§ 3.12.10 The Contractor shall not be required to provide professional services that constitute the practice of architecture or engineering unless such services are specifically required by the Contract Documents for a portion of the Work or unless the Contractor needs to provide such services in order to carry out the Contractor's responsibilities for construction means, methods, techniques, sequences, and procedures. The Contractor shall not be required to provide professional services in violation of applicable law.

§ 3.12.10.1 If professional design services or certifications by a design professional related to systems, materials, or equipment are specifically required of the Contractor by the Contract Documents, the Owner and the Architect will specify all performance and design criteria that such services must satisfy. The Contractor shall be entitled to rely upon the adequacy and accuracy of the performance and design criteria provided in the Contract Documents. The Contractor shall cause such services or certifications to be provided by an appropriately licensed design professional, whose signature and seal shall appear on all drawings, calculations, specifications, certifications, Shop Drawings, and other submittals prepared by such professional. Shop Drawings, and other submittals related to the Work, designed or certified by such professional, if prepared by others, shall bear such professional's written approval when submitted to the Architect. The Owner, the Architect, and the Construction Manager shall be entitled to rely upon the adequacy and accuracy of the services, certifications, and approvals performed or provided by such design professionals, provided the Owner and Architect have specified to the Contractor the performance and design criteria that such services must

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satisfy. Pursuant to this Section 3.12.10, the Architect will review and approve or take other appropriate action on submittals only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Construction Manager shall review submittals for sequencing, constructability, and coordination impacts on other Contractors.

§ 3.12.10.2 If the Contract Documents require the Contractor's design professional to certify that the Work has been performed in accordance with the design criteria, the Contractor shall furnish such certifications to the Construction Manager and Architect at the time and in the form specified by the Architect.

§ 3.13 Use of Site

§ 3.13.1 The Contractor shall confine operations at the site to areas permitted by applicable laws, statutes, ordinances, codes, rules and regulations, lawful orders of public authorities, and the Contract Documents and shall not unreasonably encumber the site with materials or equipment.

§ 3.13.2 The Contractor shall coordinate the Contractor's operations with, and secure the approval of, the Construction Manager before using any portion of the site.

§ 3.13.3 Except as may be specifically provided in the Contract Documents, the Contractor shall provide all necessary temporary facilities, including power, water, sanitation, scaffolding, storage, and security. If Owner makes any such facilities available to Contractor, it is without representation or warranty as to their adequacy for Contractor's use, and Contractor shall indemnify, defend, and hold Owner harmless from and against any claims arising out of Contractor's use of such facilities.

§ 3.14 Cutting and Patching

§ 3.14.1 The Contractor shall be responsible for cutting, fitting, or patching required to complete the Work or to make its parts fit together properly. All areas requiring cutting, fitting, or patching shall be restored to the condition existing prior to the cutting, fitting, or patching, unless otherwise required by the Contract Documents.

§ 3.14.2 The Contractor shall not damage or endanger a portion of the Work or fully or partially completed construction of the Owner, Separate Contractors, or of other Contractors by cutting, patching, or otherwise altering such construction, or by excavation. The Contractor shall not cut or otherwise alter construction by the Owner, Separate Contractors, or by other Contractors except with written consent of the Construction Manager, Owner, and such other Contractors or Separate Contractors. Consent shall not be unreasonably withheld. The Contractor shall hire a professional utilities locator to verify locations of all public and private utilities prior to initiating any cutting work. The Contractor shall not unreasonably withhold, from the Separate Contractors, other Contractors, or the Owner, its consent to cutting or otherwise altering the Work.

§ 3.15 Cleaning Up

§ 3.15.1 The Contractor shall keep the premises and surrounding area continuously free from accumulation of waste materials and rubbish caused by operations under the Contract. At completion of the Work, the Contractor shall remove from and about the Project waste materials, rubbish, Contractor-generated waste materials, the Contractor's generated hazardous waste materials, the Contractor's tools, construction equipment, machinery, and surplus materials from and about the Project.

§ 3.15.2 If the Contractor fails to clean up as provided in the Contract Documents, the Owner, or Construction Manager with the Owner's approval, may do so and the Owner shall be entitled to reimbursement from the Contractor.

§ 3.16 Access to Work

The Contractor shall provide the Owner, Construction Manager, and Architect with access to the Work in preparation and progress wherever located.

§ 3.17 Royalties, Patents and Copyrights

The Contractor shall pay all royalties and license fees. The Contractor shall defend suits or claims for infringement of copyrights and patent rights and shall hold the Owner, Construction Manager, and Architect harmless from loss on account thereof, but shall not be responsible for defense or loss when a particular design, process, or product of a particular manufacturer or manufacturers is required by the Contract Documents, or where the copyright violations are contained in Drawings, Specifications, or other documents prepared by the Owner, Architect, or Construction

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Manager. However, if an infringement of a copyright or patent is discovered by, or made known to, the Contractor, the Contractor shall be responsible for the loss unless the information is promptly furnished to the Architect through the Construction Manager.

§ 3.18 Indemnification

§ 3.18.1 To the fullest extent permitted by law, the Contractor shall indemnify, defend and hold harmless the Owner, Construction Manager, Architect, Construction Manager's and Architect's consultants, and agents and employees of any of them from and against claims, damages, losses, and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), but only to the extent caused by the negligent acts or omissions of the Contractor, a Subcontractor, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss, or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity which would otherwise exist as to a party or person described in this Section 3.18. The Contractor, furthermore, agrees to obtain, maintain, and pay for such general liability coverage and endorsements (including product and completed operations coverage) as will ensure the provisions of this Section 3.18.1. The Contractor agrees to reimburse the Owner, its agents and employees for all costs and disbursements, including attorneys' fees, paid or incurred to enforce the provisions of this Section 3.18.1.

§ 3.18.2 In claims against any person or entity indemnified under this Section 3.18 by an employee of the Contractor, a Subcontractor, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, the indemnification obligation under Section 3.18.1 shall not be limited by a limitation on amount or type of damages, compensation, or benefits payable by or for the Contractor or a Subcontractor under workers' compensation acts, disability benefit acts, or other employee benefit acts.

§ 3.18.3 To the fullest extent permitted by law and without limiting any other indemnification obligations of the Contractor, except to the extent caused by the uncured failure of the Owner to make payment when due and owing, the Contractor shall indemnify and defend the Owner, its officers, directors, assigns, lenders, agents, and employees from any liens, charges (including attorneys' fees) or encumbrances (including but not limited to mechanic's and materialmen's liens or bond claims) arising out of or in connection with the performance of the Work by Contractor, its Subcontractors, or its material suppliers. Upon request of the Owner, the Contractor shall within sixty (60) days remove any liens filed against the Owner or its property. If the Contractor fails to do so, the Owner is authorized by the Contractor to remove or satisfy any such liens, and the Contractor shall pay to the Owner all costs and damages incurred by the Owner to do so, including attorneys' fees.

ARTICLE 4 ARCHITECT AND CONSTRUCTION MANAGER

§ 4.1 General

§ 4.1.1 The Architect is the person or entity retained by the Owner pursuant to Section 2.3.2 and identified as such in the Agreement.

§ 4.1.2 The Construction Manager is the person or entity retained by the Owner pursuant to Section 2.3.3 and identified as such in the Agreement.

§ 4.1.3 Duties, responsibilities, and limitations of authority of the Construction Manager and Architect as set forth in the Contract Documents shall not be restricted, modified, or extended without written consent of the Owner, Construction Manager, Architect, and Contractor. Consent shall not be unreasonably withheld.

§ 4.2 Administration of the Contract

§ 4.2.1 The Construction Manager and Architect will provide administration of the Contract as described in the Contract Documents and will be the Owner's consultants (1) during construction; (2) until final payment is due; and (3) with the Owner's concurrence, from time to time during the correction period described in Section 12.2. The Architect and Construction Manager will advise and consult with the Owner. The Construction Manager and Architect will have authority to act on behalf of the Owner only to the extent provided in the Contract Documents, unless otherwise modified in writing in accordance with other provisions of the Contract.

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§ 4.2.2 The Architect will visit the site at intervals appropriate to the stage of construction, or as otherwise agreed with the Owner, to become generally familiar with the progress and quality of the Work completed, to endeavor to guard the Owner against defects and deficiencies in the Work, and to determine in general if the Work is being performed in a manner indicating that the Work, when completed, will be in accordance with the Contract Documents. However, the Architect will not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. On the basis of the site visits, the Architect will keep the Owner and the Construction Manager reasonably informed about the progress and quality of the portion of the Work completed, and promptly report to the Owner and Construction Manager known deviations from the Contract Documents and defects and deficiencies observed in the Work.

§ 4.2.2.2 The Contractor shall reimburse the Owner for compensation paid to the Architect for additional site visits made necessary by fault, neglect, or request of the Contractor.

§ 4.2.3 The Construction Manager shall provide one or more representatives who shall be in attendance at the Project site whenever the Work is being performed. The Construction Manager will determine in general if the Work observed is being performed in accordance with the Contract Documents, will keep the Owner and Architect reasonably informed of the progress of the Work, and will promptly report to the Owner and Architect known deviations from the Contract Documents and the most recent Project schedule, and defects and deficiencies observed in the Work.

§ 4.2.4 The Construction Manager will schedule and coordinate the activities of the Contractor and other Contractors in accordance with the latest approved Project schedule.

§ 4.2.5 The Construction Manager, except to the extent required by Section 4.2.4, and Architect will not have control over, charge of, or responsibility for, the construction means, methods, techniques, sequences or procedures, or for the safety precautions and programs in connection with the Work, since these are solely the Contractor's rights and responsibilities under the Contract Documents, and neither will be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. Neither the Construction Manager nor the Architect will have control over or charge of, or be responsible for acts or omissions of, the Contractor, Subcontractors, or their agents or employees, or of any other persons or entities performing portions of the Work.

§ 4.2.6 Communications. The Owner shall communicate with the Contractor and the Construction Manager's consultants through the Construction Manager about matters arising out of or relating to the Contract Documents. The Owner and Construction Manager shall include the Architect in all communications that relate to or affect the Architect's services or professional responsibilities. The Owner shall promptly notify the Architect of the substance of any direct communications between the Owner and the Construction Manager otherwise relating to the Project. Communications by and with the Architect's consultants shall be through the Architect. Communications by and with Subcontractors and suppliers shall be through the Contractor. Communications by and with other Contractors shall be through the Construction Manager. Communications by and with the Owner's own forces and Separate Contractors shall be through the Owner unless otherwise provided. The Contract Documents may specify other communication protocols. The Owner may require the Architect, Construction Manager and the Contractor to comply with Owner requirements in regards to public communications and site signage.

§ 4.2.7 The Construction Manager and Architect will review and certify all Applications for Payment by the Contractor, in accordance with the provisions of Article 9.

§ 4.2.8 The Architect and Construction Manager have authority to reject Work that does not conform to the Contract Documents, and will notify each other about the rejection. Whenever the Construction Manager considers it necessary or advisable for implementation of the intent of the Contract Documents, the Construction Manager will have authority to require additional inspection or testing of the Work in accordance with Sections 13.4.2 and 13.4.3, upon written authorization of the Owner, whether or not the Work is fabricated, installed or completed. The foregoing authority of the Construction Manager will be subject to the provisions of Sections 4.2.18 through 4.2.20 inclusive, with respect to interpretations and decisions of the Architect. However, neither the Architect's nor the Construction Manager's authority to act under this Section 4.2.8 nor a decision made by either of them in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect or the Construction Manager to the Contractor, Subcontractors, suppliers, their agents or employees, or other persons performing any of the Work.

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§ 4.2.9 Utilizing the submittal schedule provided by the Contractor, the Construction Manager shall prepare, and revise as necessary, a Project submittal schedule incorporating information from other Contractors, the Owner, Owner's consultants, Owner's Separate Contractors and vendors, governmental agencies, and participants in the Project under the management of the Construction Manager. The Project submittal schedule and any revisions shall be submitted to the Architect for approval.

§ 4.2.10 The Construction Manager will receive and promptly review for conformance with the submittal requirements of the Contract Documents, all submittals from the Contractor such as Shop Drawings, Product Data, and Samples. Where there are other Contractors, the Construction Manager will also check and coordinate the information contained within each submittal received from the Contractor and other Contractors, and transmit to the Architect those recommended for approval. By submitting Shop Drawings, Product Data, Samples, and similar submittals, the Construction Manager represents to the Owner and Architect that the Construction Manager has reviewed and recommended them for approval. The Construction Manager's actions will be taken in accordance with the Project submittal schedule approved by the Architect or, in the absence of an approved Project submittal schedule, with reasonable promptness while allowing sufficient time to permit adequate review by the Architect.

§ 4.2.11 The Architect will, and the Owner may, review and approve, or take other appropriate action upon, the Contractor's submittals such as Shop Drawings, Product Data, and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Architect's or Owner's action will be taken with such reasonable promptness as to cause no delay in the Work or in the activities of the Owner, Contractor or separate contractors, while allowing sufficient time in the Architect's professional judgment to permit adequate review. Upon the Architect's or the Owner's completed review, the Architect shall transmit its submittal review to the Construction Manager.

§ 4.2.12 Review of the Contractor's submittals by the Construction Manager and Architect is not conducted for the purpose of determining the accuracy and completeness of other details such as dimensions and quantities, or for substantiating instructions for installation or performance of equipment or systems, all of which remain the responsibility of the Contractor as required by the Contract Documents. The Construction Manager and Architect's review of the Contractor's submittals shall not relieve the Contractor of the obligations under Sections 3.3, 3.5, and 3.12. The Construction Manager and Architect's review shall not constitute approval of safety precautions or of any construction means, methods, techniques, sequences, or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

§ 4.2.13 The Construction Manager will prepare Change Orders and Construction Change Directives.

§ 4.2.14 The Construction Manager and the Architect will take appropriate action on Change Orders or Construction Change Directives in accordance with Article 7, and the Architect will have authority to order minor changes in the Work as provided in Section 7.4. The Architect, in consultation with the Construction Manager, will investigate and make determinations and recommendations regarding concealed and unknown conditions as provided in Section 3.7.4.

§ 4.2.15 Utilizing the documents provided by the Contractor, the Construction Manager will maintain at the site for the Owner one copy of all Contract Documents, approved Shop Drawings, Product Data, Samples, and similar required submittals, in good order and marked currently to record all changes and selections made during construction. These will be available to the Architect and the Contractor, and will be delivered to the Owner upon completion of the Project.

§ 4.2.16 The Construction Manager will assist the Architect in conducting inspections to determine the date or dates of Substantial Completion and the date of final completion; issue Certificates of Substantial Completion in conjunction with the Architect pursuant to Section 9.8; and receive and forward to the Owner written warranties and related documents required by the Contract and assembled by the Contractor pursuant to Section 9.10. The Construction Manager will forward to the Architect a final Application and Certificate for Payment or final Project Application and Project Certificate for Payment upon the Contractor's compliance with the requirements of the Contract Documents.

§ 4.2.17 If the Owner and Architect agree, the Architect will provide one or more Project representatives to assist in carrying out the Architect's responsibilities at the site. The Owner shall notify the Construction Manager of any change in the duties, responsibilities and limitations of authority of the Project representatives.

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§ 4.2.18 The Architect will interpret and decide matters concerning performance under the requirements of, the Contract Documents on written request of the Construction Manager, Owner, or Contractor through the Construction Manager. The Architect's response to such requests will be made with reasonable promptness and within any time limits agreed upon. If no agreement is made concerning the time within which interpretations required of the Architect shall be furnished in compliance with this Section 4.2.18, then delay shall not be recognized on account of failure by the Architect to furnish such interpretations until fifteen (15) days after written request is made to them.

§ 4.2.19 Architect's decisions on matters relating to aesthetic effect will be final if consistent with the intent expressed in the Contract Documents.

§ 4.2.20 Architect will review and respond to requests for information about the Contract Documents. The Architect's response to such requests will be made in writing within any time limits agreed upon or otherwise with reasonable promptness. If appropriate, the Architect will prepare and issue supplemental Drawings and Specifications in response to the requests for information.

(Paragraph deleted)

ARTICLE 5 SUBCONTRACTORS

§ 5.1 Definitions

§ 5.1.1 A Subcontractor is a person or entity who has a direct contract with the Contractor to perform a portion of the Work at the site. The term "Subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Subcontractor or an authorized representative of the Subcontractor. The term "Subcontractor" does not include other Contractors or Separate Contractors or the subcontractors of other Contractors or Separate Contractors.

§ 5.1.2 A Sub-subcontractor is a person or entity who has a direct or indirect contract with a Subcontractor to perform a portion of the Work at the site. The term "Sub-subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Sub-subcontractor or an authorized representative of the Sub-subcontractor.

§ 5.2 Award of Subcontracts and Other Contracts for Portions of the Work

§ 5.2.1 Unless otherwise stated in the Contract Documents, the Contractor, as soon as practicable after award of the Contract, shall notify in writing the Construction Manager, for review by the Owner, Construction Manager and Architect, of the persons or entities proposed for each principal portion of the Work, including those who are to furnish materials or equipment fabricated to a special design. Within 14 days of receipt of the information, the Construction Manager may notify the Contractor whether the Owner, the Construction Manager or the Architect (1) has reasonable objection to any such proposed person or entity or, (2) requires additional time for review. Failure of the Construction Manager to provide notice within the 14-day period shall constitute notice of no reasonable objection. The Contractor shall not employ any Subcontractor or use any material to which the Architect, Construction Manager or Owner may object. Prior to the employment of any Subcontractor, the Contractor must obtain the Owner's approval of such Subcontractor for the designated portion of the Work.

§ 5.2.2 The Contractor shall not contract with a proposed person or entity to whom the Owner, Construction Manager or Architect has made reasonable and timely objection. The Contractor shall not be required to contract with anyone to whom the Contractor has made reasonable objection.

§ 5.2.3 If the Owner, Construction Manager or Architect has reasonable objection to a person or entity proposed by the Contractor, the Contractor shall propose another to whom the Owner, Construction Manager or Architect has no reasonable objection. The Contract Sum shall be increased or decreased by the difference in cost occasioned by such change, and an appropriate Change Order shall be issued. However, no increase in the Contract Sum or Contract Time shall be allowed for such change unless the Contractor has acted promptly and responsively in submitting names as required. Notwithstanding the foregoing, the Contractor shall have a continuing duty to the Owner, Construction Manager and Architect to find and propose such persons or entities as shall not result in material increase in the Contract Sum, or a material decrease in the quality of Work contemplated under the Contract Documents.

§ 5.2.4 The Contractor shall not substitute a Subcontractor, person, or entity for one previously selected if the Owner, Construction Manager or Architect makes reasonable objection to such substitution. Any proposed substitution of a Subcontractor, person, or entity for one previously selected shall be made in a separate writing to the Owner, Construction Manager and Architect. No substitution shall be deemed approved/accepted without written

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confirmation from the Owner, Construction Manager and Architect. Neither acceptance of, nor objection to a Subcontractor or Sub-subcontractor, material supplier, or other person or organization by the Owner, Construction Manager and Architect shall limit the responsibility of the Contractor to furnish materials, products, equipment, and services in conformance with the requirements of the Contract Documents.

§ 5.3 Subcontractual Relations

§ 5.3.1 By appropriate written agreement, the Contractor shall require each Subcontractor, to the extent of the Work to be performed by the Subcontractor, to be bound to the Contractor by terms of the Contract Documents, and to assume toward the Contractor all the obligations and responsibilities, including the responsibility for safety of the Subcontractor's Work, that the Contractor, by these Contract Documents, assumes toward the Owner, Construction Manager and Architect. Each subcontract agreement shall preserve and protect the rights of the Owner, Construction Manager and Architect under the Contract Documents with respect to the Work to be performed by the Subcontractor so that subcontracting thereof will not prejudice such rights, and shall allow to the Subcontractor, unless specifically provided otherwise in the subcontract agreement, the benefit of all rights, remedies, and redress against the Contractor that the Contractor, by the Contract Documents, has against the Owner. Where appropriate, the Contractor shall require each Subcontractor to enter into similar agreements with Sub-subcontractors. The Contractor shall make available to each proposed Subcontractor, prior to the execution of the subcontract agreement, copies of the Contract Documents to which the Subcontractor will be bound, and, upon written request of the Subcontractor, identify to the Subcontractor terms and conditions of the proposed subcontract agreement that may be at variance with the Contract Documents. Subcontractors shall similarly make copies of applicable portions of such documents available to their respective proposed Sub-subcontractors.

§ 5.3.2 The Contractor is responsible for the performance of, the actions of, the timeliness of, or interference caused by, Subcontractors, Sub-subcontractors (of any tier), and others directly or indirectly under contract to the Contractor.

§ 5.4 Contingent Assignment of Subcontracts

§ 5.4.1 Each subcontract agreement for a portion of the Work is assigned by the Contractor to the Owner, provided that

.1 assignment is effective only after termination of the Contract by the Owner for cause pursuant to Section 14.2 and only for those subcontract agreements that the Owner accepts by notifying the Subcontractor and Contractor; and

.2 assignment is subject to the prior rights of the surety, if any, obligated under bond relating to the Contract.

When the Owner accepts the assignment of a subcontract agreement, the Owner assumes the Contractor's rights and obligations under the subcontract.

§ 5.4.2 Upon such assignment, if the Work has been suspended for more than 30 days, the Subcontractor's compensation shall be equitably adjusted for increases in cost resulting from the suspension.

§ 5.4.3 Upon assignment to the Owner under this Section 5.4, the Owner may further assign the subcontract to a successor Contractor or other entity. If the Owner assigns the subcontract to a successor Contractor or other entity, the Owner shall nevertheless remain legally responsible for all of the successor Contractor's obligations under the subcontract.

ARTICLE 6 CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTORS

§ 6.1 Owner's Right to Perform Construction with Own Forces and to Award Other Contracts

§ 6.1.1 The Owner reserves the right to perform construction or operations related to the Project with the Owner's own forces, and with Separate Contractors retained under Conditions of the Contract substantially similar to those of this Contract, including those provisions of the Conditions of the Contract related to insurance and waiver of subrogation.

§ 6.1.2 When the Owner performs construction or operations with the Owner's own forces or Separate Contractors, the Owner shall provide for coordination of such forces and Separate Contractors with the Work of the Contractor, who shall cooperate with them.

§ 6.1.3 Unless otherwise provided in the Contract Documents, when the Owner performs construction or operations related to the Project with the Owner's own forces or with Separate Contractors, the Owner or its Separate Contractors

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shall have the same obligations and rights that the Contractor has under the Conditions of the Contract, including, without excluding others, those stated in Article 3, this Article 6, and Articles 10, 11, and 12.

§ 6.2 Mutual Responsibility

§ 6.2.1 The Contractor shall afford the Owner's own forces, Separate Contractors, Construction Manager and other Contractors reasonable opportunity for introduction and storage of their materials and equipment and performance of their activities, and shall connect and coordinate the Contractor's construction and operations with theirs as required by the Contract Documents.

§ 6.2.2 If part of the Contractor's Work depends for proper execution or results upon construction or operations by the Owner's own forces, Separate Contractors or other Contractors, the Contractor shall, prior to proceeding with that portion of the Work, promptly notify the Construction Manager and Architect of apparent discrepancies or defects in the construction or operations by the Owner or Separate Contractor or other Contractors that would render it unsuitable for proper execution and results of the Contractor's Work. Failure of the Contractor to notify the Construction Manager and the Architect of apparent discrepancies or defects prior to proceeding with the Work shall constitute an acknowledgment that the Owner's or Separate Contractor's or other Contractors' completed or partially completed construction is fit and proper to receive the Contractor's Work. The Contractor shall not be responsible for discrepancies or defects in the construction or operations by the Owner or Separate Contractors or other Contractors that are not reasonably discoverable.

§ 6.2.3 Costs caused by delays or by improperly timed activities or defective construction shall be borne by the party responsible therefor.

§ 6.2.4 The Contractor shall promptly remedy damage that the Contractor wrongfully causes to completed or partially completed construction, or to property of the Owner, Separate Contractors, or other Contractors as provided in Section 10.2.5.

§ 6.2.5 Claims and other disputes and matters in question between the Contractor and a separate contractor shall be subject to the provisions of Article 15 provided the separate contractor has reciprocal obligations.

§ 6.2.6 The Owner, Separate Contractors, and other Contractors shall have the same responsibilities for cutting and patching as are described for the Contractor in Section 3.14.

§ 6.3 Owner's Right to Clean Up

If a dispute arises among the Contractor, Separate Contractors, other Contractors, and the Owner as to the responsibility under their respective contracts for maintaining the premises and surrounding area free from waste materials and rubbish as described in Section 3.15, the Owner may clean up allocate the cost among those responsible as the Architect determines to be just..

ARTICLE 7 CHANGES IN THE WORK

§ 7.1 General

§ 7.1.1 Changes in the Work may be accomplished after execution of the Contract, and without invalidating the Contract, by Change Order, Construction Change Directive or order for a minor change in the Work, subject to the limitations stated in this Article 7 and elsewhere in the Contract Documents.

§ 7.1.2 A Change Order shall be based upon agreement among the Owner, Construction Manager, Architect and Contractor. A Construction Change Directive requires agreement by the Owner, Construction Manager and Architect and may or may not be agreed to by the Contractor.

§ 7.1.3 Changes in the Work shall be performed under applicable provisions of the Contract Documents. The Contractor shall proceed promptly with changes in the Work, unless otherwise provided in the Change Order, Construction Change Directive, or order for a minor change in the Work.

§ 7.1.4 The amount of credit to be allowed by the Contractor to the Owner for any deletion or change which results in a net decrease in the Contract Sum will be the amount of the actual net cost as confirmed by the Architect after consultation with the Owner and Construction Manager. When both additions and credits covering related Work or

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substitutions are involved in any one change, the allowance for both overhead and profit shall be figured on the basis of the net increase or decrease, if any, with respect to that change.

§ 7.1.5 In Section 7.3.6, the allowance for the combined overhead and profit included in the total cost to the Owner shall be based on the following schedule:

.1 For the Contractor, for Work performed by the Contractor's own forces, ten percent (10%) of the cost;

.2 For the Contractor, for Work performed by the Contractor's Subcontractor, five percent (5%) of the amount due the Subcontractor;

.3 For each Subcontractor or Sub-subcontractor involved for Work performed by the Subcontractor's or Sub-subcontractor's own forces, ten percent (10%) of the cost;

.4 For each Subcontractor for Work performed by the Subcontractor's Sub-subcontractor, five percent (5%) of the amount due the Subcontractor;

.5 Costs to which overhead and profit is to be applied shall be determined in accordance with Section 7.3.6;

.6 In order to facilitate checking of quotations for extras or credits, all proposals, expect those so minor that their propriety can be seen by inspection, shall be accompanied by a complete itemization of costs, including labor, materials and subcontracts. Labor and materials shall be itemized in the manner prescribed above. Where major cost items are subcontracts, they shall be itemized also. In no case will a change involving over $500 be approved without such itemization.

§ 7.2 Change Orders and Change Proposals

§ 7.2.1 A Change Order is a written instrument prepared by the Construction Manager and signed by the Owner, Construction Manager, Architect, and Contractor, stating their agreement upon all of the following:

.1 The change in the Work;

.2 The amount of the adjustment, if any, in the Contract Sum; and

.3 The extent of the adjustment, if any, in the Contract Time.

§ 7.2.2 Change Order shall be prepared on AIA Document G731.

§ 7.2.3 The Contractor must submit Change Proposals covering a contemplated Change Order within ten (10) days after request of the Owner, or the Architect or within ten (10) days of the event, or Contractor's discovery of a condition, whichever is earlier, giving rise to the Contractor's claim for a change in the Contract Sum or Contract Time. No increase in the Contract Sum or extension of the Contract Time will be allowed the Contractor for the cost or time involved in making Change Proposals. Change Proposals will define or confirm in detail the Work which is proposed to be added, deleted, or changed and must include any adjustment which the Contractor believes to be necessary in (i) the Contract Sum, or (ii) the Contract Time. Any proposed adjustment must include detailed documentation including, but not limited to: cost, properly itemized and supported by sufficient substantiating data to permit evaluation including cost of labor, materials, supplies and equipment, rental cost of machinery and equipment, additional bond cost, plus a fixed fee for profit and overhead (which includes office overhead and Site-specific overhead and general conditions) of ten percent (10%) if the Work is performed by the Contractor, or five percent (5%) if the Work is performed by a Subcontractor or Sub-subcontractor. The Subcontractor's or Sub-subcontractor's overhead and profit in turn must not exceed a total aggregate of ten percent (10%). Change Proposals will be binding upon the Contractor and may be accepted or rejected by the Owner in its discretion. The Owner may, at its option, instruct the Contractor through a Construction Change Directive to proceed with the Work involved in the Change Proposal in accordance with Section 7.3 without accepting the Change Proposal in its entirety.

§ 7.2.4 If the Owner determines that a Change Proposal is appropriate, the Architect will prepare and submit a request for a Change Order or Contract Amendment providing for an appropriate adjustment in the Contract Sum or Contract Time, or both, for further action by the Owner. No such change is effective until the Owner and Architect sign the Change Order.

§ 7.3 Construction Change Directives

§ 7.3.1 A Construction Change Directive is a written order prepared by the Construction Manager and signed by the Owner, Construction Manager and Architect, directing a change in the Work prior to agreement on adjustment, if any, in the Contract Sum or Contract Time, or both. The Owner may by Construction Change Directive, without

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invalidating the Contract, order changes in the Work within the general scope of the Contract consisting of additions, deletions, or other revisions, the Contract Sum and Contract Time being adjusted accordingly.

§ 7.3.2 A Construction Change Directive shall be used in the absence of total agreement on the terms of a Change Order.

§ 7.3.3 If the Construction Change Directive provides for an adjustment to the Contract Sum, the adjustment shall be based on one of the following methods:

.1 Mutual acceptance of a lump sum properly itemized and supported by sufficient substantiating data to permit evaluation;

.2 Unit prices stated in the Contract Documents or subsequently agreed upon;

.3 Cost to be determined in a manner agreed upon by the parties and a mutually acceptable fixed or percentage fee; or

.4 As provided in Section 7.3.4.

§ 7.3.4 If the Contractor does not respond promptly or disagrees with the method for adjustment in the Contract Sum, the Owner and the Construction Manager shall determine the adjustment on the basis of reasonable expenditures and savings of those performing the Work attributable to the change, including, in case of an increase in the Contract Sum, an amount for overhead and profit as set forth in the Agreement, or if no such amount is set forth in the Agreement, a reasonable amount. In such case, and also under Section 7.3.3.3, the Contractor shall keep and present, in such form as the Construction Manager may prescribe, an itemized accounting together with appropriate supporting data. Unless otherwise provided in the Contract Documents, costs for the purposes of this Section 7.3.4 shall be limited to the following:

.1 Costs of labor, including applicable payroll taxes, fringe benefits required by agreement or custom, workers' compensation insurance, and other employee costs approved by the Construction Manager and Architect;

.2 Costs of materials, supplies, and equipment, including cost of transportation, whether incorporated or consumed;

.3 Rental costs of machinery and equipment, exclusive of hand tools, whether rented from the Contractor or others (at rates approved by the Owner);

.4 Costs of premiums for all bonds and insurance, permit fees, and sales, use, or similar taxes, directly related to the change; and

.5 Costs of supervision and field office personnel directly attributable to the change.

§ 7.3.5 If the Contractor disagrees with the adjustment in the Contract Time, the Contractor may make a Claim in accordance with applicable provisions of Article 15.

§ 7.3.6 Upon receipt of a Construction Change Directive, the Contractor shall promptly proceed with the change in the Work involved and advise the Construction Manager of the Contractor's agreement or disagreement with the method, if any, provided in the Construction Change Directive for determining the proposed adjustment in the Contract Sum or Contract Time.

§ 7.3.7 A Construction Change Directive signed by the Contractor indicates the Contractor's agreement therewith, including adjustment in Contract Sum and Contract Time or the method for determining them. Such agreement shall be effective immediately.

§ 7.3.8 The amount of credit to be allowed by the Contractor to the Owner for a deletion or change that results in a net decrease in the Contract Sum shall be actual net cost as confirmed by the Construction Manager and Architect. When both additions and credits covering related Work or substitutions are involved in a change, the allowance for overhead and profit shall be figured on the basis of net increase, if any, with respect to that change.

§ 7.3.9 Pending final determination of the total cost of a Construction Change Directive to the Owner, the Contractor may request payment for Work completed under the Construction Change Directive in Applications for Payment up to and not exceeding $25,000. The Construction Manager and Architect will make an interim determination for purposes of monthly certification for payment for those costs and certify for payment the amount that the Construction Manager and Architect determine to be reasonably justified. The interim determination of cost shall adjust the Contract Sum on

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the same basis as a Change Order, subject to the right of either party to disagree and assert a Claim in accordance with Article 15.

§ 7.3.10 When the Owner and Contractor agree with a determination made by the Construction Manager and Architect concerning the adjustments in the Contract Sum and Contract Time, or otherwise reach agreement upon the adjustments, such agreement shall be effective immediately and the Construction Manager shall prepare a Change Order. Change Orders may be issued for all or any part of a Construction Change Directive.

§ 7.4 Minor Changes in the Work

The Architect may order minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. The Architect's order for minor changes shall be in writing and approved by the Owner. If the Contractor believes that the proposed minor change in the Work will affect the Contract Sum or Contract Time, the Contractor shall notify the Construction Manager and shall not proceed to implement the change in the Work. If the Contractor performs the Work set forth in the Architect's order for a minor change without prior notice to the Construction Manager that such change will affect the Contract Sum or Contract Time, the Contractor waives any adjustment to the Contract Sum or extension of the Contract Time.

ARTICLE 8 TIME

§ 8.1 Definitions

§ 8.1.1 Unless otherwise provided, Contract Time is the period of time, including authorized adjustments, allotted in the Contract Documents for Substantial Completion of the Work.

§ 8.1.2 The date of commencement of the Work is the date established in the Agreement. The date shall not be postponed by the failure to act of the Contractor or of persons or entities for whom the Contractor is responsible.

§ 8.1.3 The date of Substantial Completion is the date certified by the Architect in accordance with Section 9.8.

§ 8.1.4 The term "day" shall mean calendar day of 24 hours beginning at 12:00 midnight. Calendar days as stated in the Contract Documents, shall include all days of a seven (7) day week including Saturdays, Sundays, and holidays. The term "Milestone Date" is, in each instance, the date established in the Contract Documents for the Substantial completion of all or a designated portion of the Work.

§ 8.2 Progress and Completion

§ 8.2.1 Time limits stated in the Contract Documents are of the essence of the Contract. By executing the Agreement, the Contractor confirms that the Contract Time is a reasonable period for performing the Work.

§ 8.2.2 The Contractor shall not knowingly, except by agreement or instruction of the Owner in writing, commence the Work prior to the effective date of insurance required to be furnished by the Contractor and Owner.

§ 8.2.3 The Contractor shall proceed expeditiously with adequate forces and shall achieve Substantial Completion within the Contract Time and shall achieve specific contractual Milestone Dates (if any), Substantial Completion and final Completion within the time stated in the Contract Documents.

§ 8.2.4 Contractor understands and agrees that all Work must be performed in an orderly and closely coordinated sequence so that the dates for Substantial Completion, Final Completion, and Milestone Dates (if any) may be met by the Contractor.

§ 8.2.5 Timely final completion of the Project is of critical importance to the Owner. The Contractor agrees that it shall substantially complete all Work under the Contract documents within the time established herein and that it shall finally complete the Work in the detail required and in the time required by the Contract Documents.

§ 8.2.6 To the extent that the Contract Documents contain or provide for specific contractual Milestone Dates in addition to Final and Substantial Completion dates, such dates shall be adhered to and shall be the last acceptable dates for those milestones and completions, unless modified by the Owner.

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§ 8.2.7 Notwithstanding anything to the contrary contained in the Contract Documents, in the event that any Contractor fails, or appears likely, in the reasonable opinion of the Owner and Construction Manager, to fail to complete a critical portion of their Work on time or to complete any dates for Substantial Completion, Final Completion, or Milestone Dates as evidenced by the latest update of the CPM Schedule Report, the Owner shall have the right to select and require Contractor's performance under any or all of the following operations:

.1 Require the Contractor to substantiate their capability to get back on schedule within two (2) days;

.2 Require the Contractor, at no additional cost to the Owner, to increase their work force, work overtime and/or extra shifts and do whatever else is required by the Owner until the Contractor gets back on schedule as established by the CPM Schedule Report (including any updates thereto);

.3 Withhold progress payments or portions thereof until such time as the contractor returns to schedule, but only related to Substantial Completion or Final Completion;

.4 Contact or visit the factory, plant, or distribution center whose production or delivery schedule may be critical to the scheduled completion of a portion of the contract work and expedite such production delivery at Contractor's expense; or

.5 Require the Contractor to complete, in detail, and submit weekly a Short Interval Schedule (SIS) showing: (1) planning for the next two weeks; (2) work completed for the previous week; (3) sufficient detail to evaluate daily milestone (if any) and manpower/equipment loading, and shall identify/tie into the monthly updated CPM Schedule Report.

Any costs incurred by the Contractor in fulfilling the option(s) selected by the Owner shall be at the Contractor's expense.

§ 8.3 Delays and Extensions of Time

§ 8.3.1 If the Contractor is delayed at any time in the progress of the Work by (1) an act or neglect of the Owner, Architect, Construction Manager, or an employee of any of them, or of the Owner's own forces, Separate Contractors, or other Contractors; (2) by changes ordered in the Work; (3) by labor disputes, fire, unusual delay in deliveries, unavoidable casualties, adverse weather conditions documented in accordance with Section 15.1.6.2, or other causes beyond the Contractor's control; or (4) by other causes that the Contractor asserts and the Architect, based on the recommendation of the Construction Manager, determines justify delay, then subject to the conditions hereinafter set forth, the Contract Time shall be extended by Change Order for such reasonable time as the Architect may determine. Requests for extensions of time for causes enumerated above will be considered by the Architect subject to the following:

.1 Only those conditions enumerated above over which the Contractor has no control will be considered. The burden of proof to substantiate the claim for an extension shall rest with the Contractor, including evidence that the cause was beyond their control. It shall be deemed the Contractor has control over the supply of labor, materials, equipment, methods, techniques, and over their Subcontractors and suppliers;

.2 In the event of Changes in the Work, any consideration for a time extension will be made only at the time of authorizing the changes, and no later than when the Change Order is prepared, and only if the Change Order significantly affects the time and progress of the entire Work. For changes which do not affect the entire Work, time extension may be granted only for the area, phase, unit, or element affected by the change, if due to a valid reason for a time extension;

.3 Any unusual delay in deliveries will not be considered unless it is solely due to transportation issues wholly outside of Contractor's, Subcontractor's, Sub-subcontractor's or Supplier's control. An extension of time will not be granted for delays in deliveries where said delivery was not properly scheduled or when orders were not promptly and properly placed;

.4 With respect to a claim for an extension of time as a result of climatic conditions, the Contractor shall recognize the location of the site and the existence, as normal, or variations from "average" conditions. Foul weather in itself will not be a valid reason for a time extension. Requests for time extensions because of delay resulting from weather extremes will not be considered unless a substantial variation from usual weather conditions occurs for a significant period of time, during phases of the Work when operation necessarily were suspended to a significant degree when they would otherwise have been in progress. In considering the time extension, the weather conditions both before and after the period in which the delay is claimed will be evaluated with credit given to Owner for unseasonably favorable weather;

.5 Delays resulting from a labor dispute will not result in a time extension of a longer period than the dispute, plus a reasonable time for mobilization if justified and necessary as approved by the

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Architect, and may be less depending on the impact of the dispute, including what operations were suspended or curtailed;

.6 No time extension will be granted as a result of improper scheduling or for failure to have shop drawings or samples submitted in ample time for review under a reasonable and agreed upon schedule; or

.7 Delays by Subcontractors or suppliers will not be considered justification for a time extension, except for the same valid reasons and conditions enumerated under Section 8.3.1.

§ 8.3.2 Claims relating to time shall be made in accordance with applicable provisions of Article 15.

§ 8.3.3 This Section 8.3 does not preclude recovery of damages for delay by either party under other provisions of the Contract Documents.

§ 8.3.4 The Contractor shall be responsible for all Owner incurred costs associated with a Contractor related to delay in completion of the Project. These costs may include, but are not limited to, Owner staff overtime, Consultant additional fees, additional testing, and/or additional rental or storage costs. A Change Order or Construction Change Directive will be issued to cover these costs. If a Change Order is not agreed to by the Contractor, the Owner, after presenting documentation to the Contractor, may deduct these amounts without a Change Order from the Contract Sum.

ARTICLE 9 PAYMENTS AND COMPLETION

§ 9.1 Contract Sum

§ 9.1.1 The Contract Sum is stated in the Agreement and, including authorized adjustments, is the total amount payable by the Owner to the Contractor for performance of the Work under the Contract Documents.

§ 9.1.2 If unit prices are stated in the Contract Documents or subsequently agreed upon, and if quantities originally contemplated are materially changed so that application of such unit prices to the actual quantities causes substantial inequity to the Owner or Contractor, the applicable unit prices shall be equitably adjusted.

§ 9.2 Schedule of Values

Before the first Application for Payment, the Contractor shall submit to the Architect and Construction Manager a schedule of values allocated to various portions of the Work, prepared in the form, and supported by the data to substantiate its accuracy, required by the Construction Manager and the Architect. The schedule, unless objected to by the Construction Manager or Architect, shall be used as a basis for reviewing the Contractor's Applications for Payment. The Construction Manager shall forward to the Architect the Contractor's schedule of values. Any changes to the schedule of values shall be submitted to the Construction Manager and supported by such data to substantiate its accuracy as the Construction Manager and the Architect may require, and unless objected to by the Construction Manager or the Architect, shall be used as a basis for reviewing the Contractor's subsequent Applications for Payment. The Contractor, after receipt of Notice to Proceed, shall meet with the Owner, Construction Manager and the Architect for the purpose of reviewing the Project CPM Schedule and the Contract Schedule of Values. The Contractor shall develop a CPM Schedule for completing their portion of the Work, in conjunction with all other Contractors or Bid Packages, at the Pre-Construction Meeting(s). The Schedule of Values is to be broken down into specification sections and by labor and materials.

§ 9.3 Applications for Payment

§ 9.3.1 At least fifteen days before the date established for each progress payment, the Contractor shall submit to the Construction Manager an itemized Application for Payment for operations completed in accordance with the Schedule of Values. Such application shall be notarized and supported by all data substantiating the Contractor's right to payment that the Owner, Construction Manager or Architect require, such as copies of requisitions, and releases of waivers of lien from Subcontractors and material suppliers, and reflecting retainage if provided for elsewhere in the Contract Documents. The form of Application for Payment shall be a notarized AIA Document G732–2019, Application and Certificate for Payment, supported by AIA Document G703–1992, Continuation Sheet.

§ 9.3.1.1 As provided in Section 7.3.9, such applications may include requests for payment on account of changes in the Work that have been properly authorized by Construction Change Directives, or by interim determinations of the Construction Manager and Architect, but not yet included in Change Orders.

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§ 9.3.1.2 Such applications shall not include requests for payment of amounts the Contractor does not intend to pay a Subcontractor or supplier because of a dispute or other reason, unless such Work has been performed by others whom the Contractor intends to pay.

§ 9.3.1.3 Following certification of the Application for Payment by the Architect and Construction Manager, the Owner shall pay ninety-five percent (95%) of its value, retaining five percent (5%) until Final Completion.

§ 9.3.1.4 Contractor shall provide lien waivers for itself for the current payment application and for Subcontractors, Sub-subcontractors, and suppliers for the previous payment application before the Contractor has earned or has the right to receive payment for the specific items of work or materials covered by the lien waivers. All lien waivers shall be provided in the form required by the Owner. This Section 9.3.1.4 shall not limit other obligations of the Contractor contained elsewhere to provide lien waivers.

§ 9.3.2 Unless otherwise provided in the Contract Documents, payments shall be made on account of materials and equipment delivered and suitably stored at the site for subsequent incorporation in the Work. If approved in advance by the Owner, payment may similarly be made for materials and equipment suitably stored off the site at a location agreed upon in writing. Payment for materials and equipment stored on or off the site shall be conditioned upon compliance by the Contractor with procedures satisfactory to the Owner to establish the Owner's title to such materials and equipment or otherwise protect the Owner's interest, and shall include the costs of applicable insurance, storage, and transportation to the site, for such materials and equipment stored off the site.

§ 9.3.3 The Contractor warrants that title to all Work covered by an Application for Payment will pass to the Owner no later than the time of payment. The Contractor further warrants that upon submittal of an Application for Payment all Work for which Certificates for Payment have been previously issued and payments received from the Owner shall, to the best of the Contractor's knowledge, information, and belief, be free and clear of liens, claims, security interests, or encumbrances, in favor of the Contractor, Subcontractors, suppliers, or other persons or entities that provided labor, materials and equipment relating to the Work.

§ 9.3.4 In each Application for Payment, the Contractor shall certify as follows:

> "That there are no known mechanics' or materialmen's liens or stop notice claims outstanding by the application or any of its subcontractors of any tier, or any of the applicant's or subcontractor's material suppliers, or laborers at the date of this application, that all due and payable bills with respect to the Work have been paid or are included in the amount requested in current application, and that, except for such bills, not paid by Owner, but so included, there is no known basis for the filing of any mechanics' or materialmen's liens or stop notice claims on the Work, and that waivers from Contractor, its subcontractors of any tier, or any of the applicant's or subcontractor's material suppliers and laborers have been obtained in such form as to constitute an effective waiver of liens or stop notice claims, under the laws of the State of Minnesota to the extent of payments made by Owner to Contractor."

Notwithstanding the foregoing Section 9.3.4, Contractor acknowledges its obligation to provide a Payment Bond in accordance with the Contract Documents, and that Contractor's failure to pay any of its Subcontractors, Sub-subcontractors, suppliers, or laborers will be resolved through a claim under the Payment Bond.

§ 9.4 Certificates for Payment

§ 9.4.1 Where there is only one Contractor, the Construction Manager will, within seven days after the Construction Manager's receipt of the Contractor's Application for Payment, review the Application, certify the amount the Construction Manager determines is due the Contractor, and forward the Contractor's Application and Certificate for Payment to the Architect. Within seven days after the Architect receives the Contractor's Application for Payment from the Construction Manager, the Architect will either (1) issue to the Owner a Certificate for Payment, in the full amount of the Application for Payment, with a copy to the Construction Manager; or (2) issue to the Owner a Certificate for Payment for such amount as the Architect determines is properly due, and notify the Construction Manager and Owner of the Architect's reasons for withholding certification in part as provided in Section 9.5.1; or (3) withhold certification of the entire Application for Payment, and notify the Construction Manager and Owner of the Architect's reason for withholding certification in whole as provided in Section 9.5.1. The Construction Manager will promptly forward to the Contractor the Architect's notice of withholding certification.

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§ 9.4.2 Where there is more than one Contractor performing portions of the Project, the Construction Manager will, within seven days after the Construction Manager receives all of the Contractors' Applications for Payment: (1) review the Applications and certify the amount the Construction Manager determines is due each of the Contractors; (2) prepare a Summary of Contractors' Applications for Payment by combining information from each Contractor's application with information from similar applications for progress payments from the other Contractors; (3) prepare a Project Application and Certificate for Payment; (4) certify the amount the Construction Manager determines is due all Contractors; and (5) forward the Summary of Contractors' Applications for Payment and Project Application and Certificate for Payment to the Architect.

§ 9.4.2.1 Within seven days after the Architect receives the Project Application and Project Certificate for Payment and the Summary of Contractors' Applications for Payment from the Construction Manager, the Architect will either (1) issue to the Owner a Project Certificate for Payment, with a copy to the Construction Manager; or (2) issue to the Owner a Project Certificate for Payment for such amount as the Architect determines is properly due, and notify the Construction Manager and Owner of the Architect's reasons for withholding certification in part as provided in Section 9.5.1; or (3) withhold certification of the entire Project Application for Payment, and notify the Construction Manager and Owner of the Architect's reason for withholding certification in whole as provided in Section 9.5.1. The Construction Manager will promptly forward the Architect's notice of withholding certification to the Contractors.

§ 9.4.3 The Construction Manager's certification of an Application for Payment or, in the case of more than one Contractor, a Project Application and Certificate for Payment, shall be based upon the Construction Manager's evaluation of the Work and the data in the Application or Applications for Payment. The Construction Manager's certification will constitute a representation that, to the best of the Construction Manager's knowledge, information, and belief, the Work has progressed to the point indicated, the quality of the Work is in accordance with the Contract Documents, and that the Contractor is, or Contractors are, entitled to payment in the amount certified.

§ 9.4.4 The Architect's issuance of a Certificate for Payment or, in the case of more than one Contractor, Project Application and Certificate for Payment, shall be based upon the Architect's evaluation of the Work, the recommendation of the Construction Manager, and data in the Application for Payment or Project Application for Payment. The Architect's certification will constitute a representation that, to the best of the Architect's knowledge, information, and belief, the Work has progressed to the point indicated, the quality of the Work is in accordance with the Contract Documents, and that the Contractor is, or Contractors are, entitled to payment in the amount certified.

§ 9.4.5 The representations made pursuant to Sections 9.4.3 and 9.4.4 are subject to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, to results of subsequent tests and inspections, to correction of minor deviations from the Contract Documents prior to completion, and to specific qualifications expressed by the Construction Manager or Architect.

§ 9.4.6 The issuance of a Certificate for Payment or a Project Certificate for Payment will not be a representation that the Construction Manager or Architect has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work; (2) reviewed construction means, methods, techniques, sequences, or procedures; (3) reviewed copies of requisitions received from Subcontractors and suppliers and other data requested by the Owner to substantiate the Contractor's right to payment; or (4) made examination to ascertain how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

§ 9.5 Decisions to Withhold Certification

§ 9.5.1 The Construction Manager or Architect may withhold a Certificate for Payment or Project Certificate for Payment in whole or in part, to the extent reasonably necessary to protect the Owner, if in the Construction Manager's or Architect's opinion the representations to the Owner required by Section 9.4.3 and 9.4.4 cannot be made. If the Construction Manager or Architect is unable to certify payment in the amount of the Application, the Construction Manager will notify the Contractor and Owner as provided in Section 9.4.1 and 9.4.2. If the Contractor, Construction Manager and Architect cannot agree on a revised amount, the Architect will promptly issue a Certificate for Payment or a Project Certificate for Payment for the amount for which the Architect is able to make such representations to the Owner. The Construction Manager or Architect may also withhold a Certificate for Payment or, because of subsequently discovered evidence, may nullify the whole or a part of a Certificate for Payment or Project Certificate for Payment previously issued, to such extent as may be necessary in the Construction Manager's or Architect's opinion to protect the Owner from loss for which the Contractor is responsible, including loss resulting from the acts and omissions described in Section 3.3.2 because of

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.1 defective Work not remedied;
.2 third party claims filed or reasonable evidence indicating probable filing of such claims, unless security acceptable to the Owner is provided by the Contractor;
.3 failure of the Contractor to make payments properly to Subcontractors or suppliers for labor, materials or equipment;
.4 reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Sum;
.5 damage to the Owner or a Separate Contractor or other Contractor;
.6 reasonable evidence that the Work will not be completed within the Contract Time, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay; or
.7 repeated failure to carry out the Work in accordance with the Contract Documents.

§ 9.5.2 When either party disputes the Architect's decision regarding a Certificate for Payment under Section 9.5.1, in whole or in part, that party may submit a Claim in accordance with Article 15.

§ 9.5.3 When the reasons for withholding certification are removed, certification will be made for amounts previously withheld.

§ 9.5.4 If the Architect or Construction Manager withholds certification for payment under Section 9.5.1, the Owner may, at its sole option, issue joint checks to the Contractor and to any Subcontractor or supplier to whom the Contractor failed to make payment for Work properly performed or material or equipment suitably delivered. If the Owner makes payments by joint check, the Owner shall notify the Architect and the Construction Manager, and both will reflect such payment on the next Certificate for Payment.

§ 9.6 Progress Payments

§ 9.6.1 After the Architect has issued a Certificate for Payment or Project Certificate for Payment, the Owner shall make payment within thirty (30) days of receipt by Owner of Certificate of Payment in the manner and within the time provided in the Contract Documents, and shall so notify the Construction Manager and Architect.

§ 9.6.2 The Contractor shall pay each Subcontractor, no later than seven days after receipt of payment from the Owner, the amount to which the Subcontractor is entitled, reflecting percentages actually retained from payments to the Contractor on account of the Subcontractor's portion of the Work. The Contractor shall, by appropriate agreement with each Subcontractor, require each Subcontractor to make payments to Sub-subcontractors in a similar manner. Per Minnesota Statutes, Section 471.425, within ten (10) days of Contractor's receipt of payment from Owner, the Contractor must pay any Subcontractor for any undisputed services provided by the Subcontractor. The Contractor shall pay interest of one and one-half percent (1-1/2%) per month, or any part of a month, to the Subcontractor on any undisputed amount not paid on time to the subcontractor. The minimum monthly interest penalty payment for an unpaid balance of $100 or more is $10.00. For an unpaid balance of less than $100, the Contractor shall pay the actual interest penalty due to the Subcontractor. Contractor is advised that by reason of Minnesota Statutes, Section 471.425, subd. 4a, if a Subcontractor prevails in a civil action to collect interest penalties from a prime contractor, the Subcontractor must be awarded its costs and disbursements, including attorneys' fees incurred in bringing the action.

§ 9.6.3 The Construction Manager will, on request, furnish to a Subcontractor, if practicable, information regarding percentages of completion or amounts applied for by the Contractor and action taken thereon by the Owner, Construction Manager and Architect on account of portions of the Work done by such Subcontractor.

§ 9.6.4 The Owner has the right to request written evidence from the Contractor that the Contractor has properly paid Subcontractors and suppliers amounts paid by the Owner to the Contractor for subcontracted Work. If the Contractor fails to furnish such evidence within seven days, the Owner shall have the right to contact Subcontractors and suppliers to ascertain whether they have been properly paid. Neither the Owner, Construction Manager nor Architect shall have an obligation to pay, or to see to the payment of money to, a Subcontractor or supplier, except as may otherwise be required by law.

§ 9.6.5 The Contractor's payments to material and equipment suppliers shall be treated in a manner similar to that provided in Sections 9.6.2, 9.6.3 and 9.6.4.

§ 9.6.6 A Certificate for Payment, a progress payment, or partial or entire use or occupancy of the Project by the Owner shall not constitute acceptance of Work not in accordance with the Contract Documents.

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§ 9.6.7 Unless the Contractor provides the Owner with a payment bond in the full penal sum of the Contract Sum, payments received by the Contractor for Work properly performed by Subcontractors or provided by suppliers shall be held by the Contractor for those Subcontractors or suppliers who performed Work or furnished materials, or both, under contract with the Contractor for which payment was made by the Owner. Nothing contained herein shall require money to be placed in a separate account and not commingled with money of the Contractor, create any fiduciary liability or tort liability on the part of the Contractor for breach of trust, or entitle any person or entity to an award of punitive damages against the Contractor for breach of the requirements of this provision.

§ 9.6.8 Provided the Owner has fulfilled its payment obligations under the Contract Documents, the Contractor shall defend and indemnify the Owner from all loss, liability, damage or expense, including reasonable attorney's fees and litigation expenses, arising out of any lien claim or other claim for payment by any Subcontractor or supplier of any tier. Upon receipt of notice of a lien claim or other claim for payment, the Owner shall notify the Contractor. If approved by the applicable court, when required, the Contractor may substitute a surety bond for the property against which the lien or other claim for payment has been asserted.

§ 9.7 Failure of Payment

If the Construction Manager and Architect do not issue a Certificate for Payment or a Project Certificate for Payment, through no fault of the Contractor, within fourteen days after the Construction Manager's receipt of the Contractor's Application for Payment, or if the Owner does not pay the Contractor within thirty (30) days after the date established in the Contract Documents, the amount certified by the Construction Manager and Architect then the Contractor may, upon ten (10) additional days' notice to the Owner, Construction Manager and Architect, stop the Work until payment of the amount owing has been received. The Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable costs of shutdown, delay and start-up which shall be accomplished as provided in Article 7.

§ 9.8 Substantial Completion

§ 9.8.1 Substantial Completion is the stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Contract Documents so the Owner can occupy or utilize the Work for its intended use and when the Architect issues a Certificate of Substantial Completion.

§ 9.8.2 When the Contractor considers that the Work, or a portion thereof which the Owner agrees to accept separately, is substantially complete, the Contractor shall notify the Construction Manager, and the Contractor and Construction Manager shall jointly prepare and submit to the Architect a comprehensive list of items to be completed or corrected. The Contractor shall proceed promptly to complete and correct items on the list. Failure to include an item on such list does not alter the responsibility of the Contractor to complete all Work in accordance with the Contract Documents. Upon receipt of the Contractor's list, the Architect, assisted by the Construction Manager, will make an inspection to determine whether the Work or designated portion thereof is substantially complete. If the Architect's inspection discloses any item, whether or not included on the Contractor's list, which is not in accordance with the requirements of the Contract documents, the Contractor shall, before issuance of the Certificate of Substantial Completion, complete or correct such item, upon notification by the Architect. The Contractor shall then submit a request for another inspection by the Architect, assisted by the Construction Manager, to determine Substantial Completion. When the Work or designated portion thereof is substantially complete, the Architect will prepare a Certificate of Substantial Completion which shall establish the date of Substantial Completion, shall establish responsibilities of the Owner and Contractor for security, maintenance, heat, utilities, damage to the Work and insurance, and shall fix the time within which the Contractor shall finish all items on the list accompanying the Certificate. Warranties required by the Contract Document shall commence on the date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion.

§ 9.8.3 Upon receipt of the list, the Architect, assisted by the Construction Manager, will make an inspection to determine whether the Work or designated portion thereof is substantially complete. If the Architect's inspection discloses any item, whether or not included on the list, which is not sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work or designated portion thereof for its intended use, the Contractor shall, before issuance of the Certificate of Substantial Completion, complete or correct such item upon notification by the Architect. In such case, the Contractor shall then submit a request for another inspection by the Architect, assisted by the Construction Manager, to determine Substantial Completion.

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§ 9.8.4 When the Architect, assisted by the Construction Manager, determines that the Work of all of the Contractors, or designated portion thereof, is substantially complete, the Construction Manager will prepare, and the Construction Manager and Architect shall execute, a Certificate of Substantial Completion that shall establish the date of Substantial Completion; establish responsibilities of the Owner and Contractor for security, maintenance, heat, utilities, damage to the Work and insurance; and fix the time within which the Contractor shall finish all items on the list accompanying the Certificate. Warranties required by the Contract Documents shall commence on the date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion.

§ 9.8.5 The Certificate of Substantial Completion shall be submitted to the Owner and Contractor for their written acceptance of responsibilities assigned to them in the Certificate. Upon such acceptance, and consent of surety if any, the Owner shall make payment of retainage applying to the Work or designated portion thereof. Such payment shall be adjusted for Work that is incomplete or not in accordance with the requirements of the Contract Documents.

§ 9.8.6 Upon Substantial completion of the Work or designated portion thereof and upon application by the Contractor and certification by the Architect, the Owner shall make payment, reflecting adjustment in retainage, pursuant to Minnesota Statutes, Section 15.72, for such Work or portion thereof as provided in the Contract Documents.

§ 9.8.7 The Architect, assisted by the Construction Manager, shall make one (1) inspection for Substantial Completion and Final Completion in accordance with the AIA Document B101–2017 Owner Architect Agreement. If additional inspections are required due to the Contractor's failure to complete previously listed corrective or uncompleted work, the Architect's expense for conducting such re-inspections and related time in processing, reviewing, and revision of requirements shall be charged to the Contractor and such payment shall be accomplished by a deductive Change Order to the Contractor.

§ 9.9 Partial Occupancy or Use

§ 9.9.1 The Owner may occupy or use any completed or partially completed portion of the Work at any stage when such portion is designated by separate agreement with the Contractor, provided such occupancy or use is consented to by the insurer and authorized by public authorities having jurisdiction over the Project. Such partial occupancy or use may commence whether or not the portion is substantially complete, provided the Owner and Contractor have accepted in writing the responsibilities assigned to each of them for payments, retainage if any, security, maintenance, heat, utilities, damage to the Work and insurance, and have agreed in writing concerning the period for correction of the Work and commencement of warranties required by the Contract Documents. When the Contractor considers a portion substantially complete, the Contractor and Construction Manager shall jointly prepare and submit a list to the Architect as provided under Section 9.8.2. Consent of the Contractor to partial occupancy or use shall not be unreasonably withheld. The stage of the progress of the Work shall be determined by written agreement between the Owner and Contractor or, if no agreement is reached, by decision of the Architect after consultation with the Construction Manager.

§ 9.9.2 Immediately prior to such partial occupancy or use, the Owner, Construction Manager, Contractor, and Architect shall jointly inspect the area to be occupied or portion of the Work to be used in order to determine and record the condition of the Work.

§ 9.9.3 Unless otherwise agreed upon, partial occupancy or use of a portion or portions of the Work shall not constitute acceptance of Work not complying with the requirements of the Contract Documents.

§ 9.10 Final Completion and Final Payment

§ 9.10.1 Upon completion of the Work, the Contractor shall forward to the Construction Manager a notice that the Work is ready for final inspection and acceptance, and shall also forward to the Construction Manager a final Contractor's Application for Payment. Upon receipt, the Construction Manager shall perform an inspection to confirm the completion of Work of the Contractor. The Construction Manager shall make recommendations to the Architect when the Work of all of the Contractors is ready for final inspection, and shall then forward the Contractors' notices and Application for Payment or Project Application for Payment, to the Architect, who will promptly make such inspection. When the Architect finds the Work acceptable under the Contract Documents and the Contract fully performed, the Construction Manager and Architect will promptly issue a final Certificate for Payment or Project Certificate for Payment stating that to the best of their knowledge, information and belief, and on the basis of their observations, on-site visits and inspections, the Work has been completed in accordance with the Contract Documents

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and that the entire balance found to be due the Contractor and noted in the final Certificate is due and payable. The Construction Manager's and Architect's final Certificate for Payment or Project Certificate for Payment will constitute a further representation that conditions listed in Section 9.10.2 as precedent to the Contractor's being entitled to final payment have been fulfilled.

§ 9.10.2 Neither final payment nor any remaining retained percentage shall become due until the Contractor submits to the Architect through the Construction Manager (1) an affidavit that payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which the Owner or the Owner's property might be responsible or encumbered (less amounts withheld by Owner) have been paid or otherwise satisfied, (2) a certificate evidencing that insurance required by the Contract Documents to remain in force after final payment is currently in effect and will not be cancelled or allowed to expire until at least (60) days' prior written notice has been given to the Owner, (3) a written statement that the Contractor knows of no reason that the insurance will not be renewable to cover the period required by the Contract Documents, (4) consent of surety, if any, to final payment (5) documentation of any special warranties, such as manufacturers' warranties or specific Subcontractor warranties, including a summary listing all applicable warranties both standard and extended, itemized by specification section and included at the front of the Operation and Maintenance manuals, and (6) other data establishing payment or satisfaction of obligations, such as receipts and releases and waivers of liens, claims, security interests, or encumbrances arising out of the Contract, to the extent and in such form as may be designated by the Owner. If a Subcontractor refuses to furnish a release or waiver required by the Owner, the Contractor may furnish a bond satisfactory to the Owner to indemnify the Owner against such lien, claim, security interest, or encumbrance. If a lien, claim, security interest, or encumbrance remains unsatisfied after payments are made, the Contractor shall refund to the Owner all money that the Owner may be compelled to pay in discharging the lien, claim, security interest, or encumbrance, including all costs and reasonable attorneys' fees.

§ 9.10.3 If, after Substantial Completion of the Work, final completion thereof is materially delayed through no fault of the Contractor or by issuance of Change Orders affecting final completion, and the Construction Manager and Architect so confirm, the Owner shall, upon application by the Contractor and certification by the Construction Manager and Architect, and without terminating the Contract, make payment of the balance due for that portion of the Work fully completed, corrected, and accepted. If the remaining balance for Work not fully completed or corrected is less than retainage stipulated in the Contract Documents, and if bonds have been furnished, the written consent of the surety to payment of the balance due for that portion of the Work fully completed and accepted shall be submitted by the Contractor to the Architect through the Construction Manager prior to certification of such payment. Such payment shall be made under terms and conditions governing final payment, except that it shall not constitute a waiver of Claims.

§ 9.10.4 The making of final payment shall constitute a waiver of Claims by the Owner except those arising from

- **.1** liens, Claims, security interests, or encumbrances arising out of the Contract and unsettled;
- **.2** failure of the Work to comply with the requirements of the Contract Documents;
- **.3** terms of special warranties required by the Contract Documents; or
- **.4** audits performed by the Owner, if permitted by the Contract Documents, after final payment.

§ 9.10.5 Acceptance of final payment by the Contractor, a Subcontractor, or a supplier, shall constitute a waiver of claims by that payee except those previously made in writing and identified by that payee as unsettled at the time of final Application for Payment.

§ 9.11 Damages for Delay

§ 9.11.1 The Contractor shall be responsible for damages incurred by the Owner and any other separate contractors for delay resulting from the Contractor's failure to complete the Work within the contract Time or resulting from the progress of the Work failing to substantially conform to the Project Construction Schedule. These damages are not included in liquidated damages and represent additional direct costs incurred by the Owner for the delay. These damages may include Owner incurred costs for temporary classrooms, temporary facilities, moving of programs, etc.

ARTICLE 10 PROTECTION OF PERSONS AND PROPERTY

§ 10.1 Safety Precautions and Programs

§ 10.1.1 The Contractor shall be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the performance of the Contract. The Contractor shall submit the Contractor's safety program to the Construction Manager for review and coordination with the safety programs of other Contractors. The Construction Manager's responsibilities for review and coordination of safety programs shall not extend to direct control over or charge of the acts or omissions of the Contractors, Subcontractors, agents or employees of the

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Contractors or Subcontractors, or any other persons performing portions of the Work and not directly employed by the Construction Manager.

§ 10.1.2 The Contractor shall comply with all applicable laws and regulations. Notwithstanding any language to the contrary, the Owner shall not have any responsibility for job site inspections or safety recommendations. Any inspections or observations by the Owner, Construction Manager or the Architect are solely for the benefit of the Owner and shall not create any duties or obligations to anyone else.

§ 10.2 Safety of Persons and Property

§ 10.2.1 The Contractor shall take reasonable precautions for safety of, and shall provide reasonable protection to prevent damage, injury, or loss to

- **.1** employees on the Work and other persons who may be affected thereby;
- **.2** the Work and materials and equipment to be incorporated therein, whether in storage on or off the site, under care, custody, or control of the Contractor, a Subcontractor, or a Sub-subcontractor;
- **.3** other property at the site or adjacent thereto, such as trees, shrubs, lawns, walks, pavements, roadways, structures, and utilities not designated for removal, relocation, or replacement in the course of construction; and
- **.4** construction or operations by the Owner, Separate Contractors, or other Contractors.

§ 10.2.2 The Contractor shall comply with, and give notices required by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities, bearing on safety of persons or property or their protection from damage, injury, or loss.

§ 10.2.3 The Contractor shall implement, erect, and maintain, as required by existing conditions and performance of the Contract, reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards; promulgating safety regulations; and notifying the owners and users of adjacent sites and utilities of the safeguards.

§ 10.2.4 When use or storage of explosives or other hazardous materials or equipment or unusual methods are necessary for execution of the Work, the Contractor shall exercise utmost care and carry on such activities under supervision of properly qualified personnel.

§ 10.2.5 The Contractor shall promptly remedy damage and loss (other than damage or loss insured under property insurance required by the Contract Documents) to property referred to in Sections 10.2.1.2, 10.2.1.3 and 10.2.1.4 caused in whole or in part by the Contractor, a Subcontractor, a Sub-subcontractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable and for which the Contractor is responsible under Sections 10.2.1.2, 10.2.1.3 and 10.2.1.4. The Contractor may make a Claim for the cost to remedy the damage or loss to the extent such damage or loss is attributable to acts or omissions of the Owner, Construction Manager or Architect or anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable, and not attributable to the fault or negligence of the Contractor. The foregoing obligations of the Contractor are in addition to the Contractor's obligations under Section 3.18.

§ 10.2.6 The Contractor shall designate a responsible member of the Contractor's organization at the site whose duty shall be the prevention of accidents. This person shall be the Contractor's superintendent unless otherwise designated by the Contractor in writing to the Owner, Construction Manager and Architect.

§ 10.2.7 The Contractor shall not permit any part of the construction or site to be loaded so as to cause damage or create an unsafe condition.

§ 10.2.8 Injury or Damage to Person or Property

If either party suffers injury or damages to person or property because of an act or omission of the other party, of any of the other party's employees or agents, or of others for whose acts such party is legally responsible, notice of the injury or damage, whether or not insured, shall be given to the other party within a reasonable time not exceeding ten (10) days after first observance. The notice shall provide sufficient detail to enable the other party to investigate the matter. If a Claim for additional cost or time related to this Claim is to be asserted, it shall be filed as provided in Sections 15.1.4 and 15.1.5.

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§ 10.3 Hazardous Materials

§ 10.3.1 In the event the Contractor encounters on the site material reasonably believed to be asbestos or polychlorinated biphenyl (PCB) which has not been rendered harmless, the Contractor shall immediately stop Work in the area affected and report the condition to the Owner, Construction Manager and Architect in writing. The Work in the affected area shall not thereafter be resumed except by written agreement of the Owner and Contractor if in fact the material is asbestos or polychlorinated biphenyl (PCB) and has not been rendered harmless. The Work in the affected area shall be resumed in the absence of asbestos or polychlorinated biphenyl (PCB), or when it has been rendered harmless, by written agreement of the Owner and Contractor.

.1 Except where otherwise stated in the Contract Documents, no hazardous material work of any nature shall be performed by the Contractor pursuant to this Contract.

.2 The term "hazardous materials" includes, but is not limited to, asbestos, toxic chemicals, acids, alkalis, irritants, contaminants, or other pollutants, together with any other waste, material, substance, pollutants, or contaminant, all or a portion of which is or would be designated as hazardous waste or substance under applicable local, state, or federal laws, ordinances, codes, rules, or regulations.

§ 10.3.2 To the fullest extent permitted by law, the Owner shall indemnify and hold harmless the Contractor, Construction Manager, Architect, their consultants, and agents and employees of any of them from and against claims, damages, losses, and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work on Owner's property if in fact the material is asbestos or polychlorinated biphenyl (PCB) and has not been rendered harmless, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), including loss of use resulting therefrom, but only to the extent caused in whole or in part by negligent acts or omissions of the Owner, anyone directly or indirectly employed by the Owner, or anyone for whose acts the Owner may be liable, regardless of whether or not such claim, damage, loss, or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity which would otherwise exist as to a party or person described in this Subparagraph 10.3.2.

§ 10.3.3 If reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a material or substance encountered on the site by the contractor, the Contractor shall, upon recognizing the condition, immediately stop Work on Owner's property and report the condition to the Owner, Construction Manager and Architect in writing. The Owner, Construction Manager, Contractor, and Architect shall then proceed in the same manner described in Subparagraph 10.3.1.

(Paragraph deleted)

§ 10.3.5 The Contractor shall reimburse the Owner for the cost and expense the Owner incurs (1) for remediation of hazardous materials or substances the Contractor brings to the site and negligently handles, or (2) where the Contractor fails to perform its obligations under Section 10.3.1, except to the extent that the cost and expense are due to the Owner's fault or negligence. Owner shall be responsible for obtaining the services of a licensed laboratory to verify a presence or absence of the material or substance reported by the Contractor and, in the event such material or substance is found to be present, to verify that it has been rendered harmless.

§ 10.3.6 Regulations concerning the availability of information and employee training in the use and handling of "hazardous substances" and "harmful physical agents", as set forth in the Employee Right-to-Know Act of 1983, Minnesota Statutes, Sections 182.65 to 182.676 are incorporated herein by reference as if fully set forth herein.

§ 10.3.7 The Contractor shall furnish three Material Safety Data Sheets to the Owner for each material used in the Work that is classified by the Employee Right-to-Know Act of 1983 as a "hazardous substance" or a "harmful physical agent."

§ 10.3.8 The Contractor shall label, in generally accepted and/or standardized fashion, all containers on the work site containing "hazardous substances" or as "harmful physical agents." This shall include factory containers and all subsequent containers used in the Work.

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§ 10.4 Emergencies

In an emergency affecting safety of persons or property, the Contractor shall act to prevent threatened damage, injury, or loss. Additional compensation or extension of time claimed by the Contractor on account of an emergency shall be determined as provided in Article 15 and Article 7.

ARTICLE 11 INSURANCE AND BONDS

§ 11.1 Contractor's Insurance and Bonds

§ 11.1.1 The Contractor shall purchase and maintain insurance of the types and limits of liability, containing the endorsements, and subject to the terms and conditions, as described in the Agreement, in EXH-C Owner Insurance or elsewhere in the Contract Documents. The Contractor shall purchase and maintain the required insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located and which carry a Best's rating of A- or higher or are otherwise acceptable to the Owner. The Owner, Construction Manager and Construction Manager's consultants, and the Architect and Architect's consultants, shall be named as additional insureds under the Contractor's commercial general liability policy or as otherwise described in the Contract Documents.

§ 11.1.2 The Contractor shall provide surety bonds of the types, for such penal sums, and subject to such terms and conditions as required by the Contract Documents. The Contractor shall purchase and maintain the required bonds from a company or companies lawfully authorized to issue surety bonds in the jurisdiction where the Project is located.

§ 11.1.3 Upon the request of any person or entity appearing to be a potential beneficiary of bonds covering payment of obligations arising under the Contract, the Contractor shall promptly furnish a copy of the bonds or shall authorize a copy to be furnished. The Contractor shall furnish Certificates of Insurance acceptable to the Owner which shall specifically set forth evidence of all coverage required by Article 11 and EXH-C Owner Insurance and shall be filed with the Owner and Construction Manager prior to commencement of the Work and thereafter upon renewal or replacement of each required policy of insurance.

The Contractor shall not allow insurance required by this Agreement to lapse, be canceled, reduced in limits or coverage, non-renewed, or materially changed or have restrictive modifications added during the life of this Agreement, including the periods of required coverage. The Contractor shall furnish to the Owner and Construction Manager copies of any endorsements that are subsequently issued amending coverage and limits.

If any of the foregoing insurance coverages are required to remain in force after final payment and are reasonably available, all additional certificates evidencing continuation of such coverage shall be submitted with the final Application for Payment. Information concerning reduction of coverage shall be furnished by the Contractor with reasonable promptness in accordance with the Contractor's information and belief.

§ 11.1.3.1 Acceptable insurance certificates are AIA Document G705, CICC of Minnesota Form 701, and/or ACORD form of the American Insurance Institute.

Failure of the Owner to collect certificates does not void the requirements to obtain insurance.

The acceptance of any certificate of insurance by the Owner shall not relieve or decrease the liability of the Contractor hereunder. It is to be understood the Owner, Construction Manager and Architect do not in any way represent that the insurance specified in these articles are sufficient or adequate to protect the Contractor's interest or liabilities, but are merely minimum requirements.

The Contractor shall furnish to the Owner copies of any endorsements that are subsequently issued amending coverage and limits.

§ 11.1.4 In the event the Contractor fails to procure or maintain any insurance coverage required under this Agreement, the Owner may purchase such coverage and deduct the cost thereof from any monies due to the Contractor, or terminate this Agreement under Paragraph 14.2. The Contractor shall be liable to the Owner for providing all coverage, defense, and payments that would have been provided by any insurance that the Contractor failed to procure and maintain as required by the Contract Documents.

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§ 11.1.5 Compliance by the Contractor with the foregoing insurance requirements shall not relieve it from liability for amounts in excess of the limits of insurance.

§ 11.1.6 The Contractor and any of its Subcontractors, Sub-subcontractors, agents and employees, and any separate contractors described in Article 6, if any, and any of their subcontractors, sub-subcontractors, agents and employees shall waive any of their subrogation rights on their Workers Compensation Policy in favor of the Owner, Construction Manager and Architect. The policies shall provide such waivers of subrogation by endorsement or otherwise. A waiver of subrogation shall be effective as to a person or entity even though that person or entity would otherwise have a duty of indemnification, contractual, or otherwise, did not pay the insurance premium directly or indirectly, and whether or not the person or entity had an insurable interest.

§ 11.2 Owner's Insurance

§ 11.2.1 The Owner shall purchase and maintain insurance of the types and limits of liability, containing the endorsements, and subject to the terms and conditions, as described in the Agreement or elsewhere in the Contract Documents. The Owner shall purchase and maintain the required insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The Owner may self-insure and maintain the Owner's usual liability insurance. Optionally, the Owner may purchase and maintain other insurance for self-protection against claims which may arise from operations under the Contract. The Contractor shall not be responsible for purchasing and maintaining this optional Owner's liability insurance unless specifically required by the Contract Documents.

§ 11.2.2 Failure to Purchase Required Property Insurance. If the Owner fails to purchase and maintain the required property insurance, with all of the coverages and in the amounts described in the Agreement or elsewhere in the Contract Documents, the Owner shall inform both the Contractor and the Construction Manager, separately and in writing, prior to commencement of the Work. Upon receipt of notice from the Owner, the Contractor may delay commencement of the Work and may obtain insurance that will protect the interests of the Contractor, Subcontractors, and Sub-Subcontractors in the Work. When the failure to provide coverage has been cured or resolved, the Contract Sum and Contract Time shall be equitably adjusted. In the event the Owner fails to procure coverage, the Owner waives all rights against the Contractor, Subcontractors, and Sub-subcontractors to the extent the loss to the Owner would have been covered by the insurance to have been procured by the Owner. The cost of the insurance shall be charged to the Owner by a Change Order. If the Owner does not provide written notice, and the Contractor is damaged by the failure or neglect of the Owner to purchase or maintain the required insurance, the Owner shall reimburse the Contractor for all reasonable costs and damages attributable thereto.

§ 11.2.3 Notice of Cancellation or Expiration of Owner's Required Property Insurance. Within three (3) business days of the date the Owner becomes aware of an impending or actual cancellation or expiration of any property insurance required by the Contract Documents, the Owner shall provide notice directly to the Contractor, and separately to the Construction Manager, of such impending or actual cancellation or expiration. Unless the lapse in coverage arises from an act or omission of the Contractor: (1) the Contractor, upon receipt of notice from the Owner, shall have the right to stop the Work until the lapse in coverage has been cured by the procurement of replacement coverage by either the Owner or the Contractor; (2) the Contract Time and Contract Sum shall be equitably adjusted; and (3) the Owner waives all rights against the Contractor, Subcontractors, and Sub-subcontractors to the extent any loss to the Owner would have been covered by the insurance had it not expired or been cancelled. If the Contractor purchases replacement coverage, the cost of the insurance shall be charged to the Owner by an appropriate Change Order. The furnishing of notice by the Owner shall not relieve the Owner of any contractual obligation to provide required insurance.

§ 11.3 Waivers of Subrogation

§ 11.3.1 The Owner and Contractor waive all rights against (1) each other and any of their subcontractors, sub-subcontractors, agents, and employees, each of the other; (2) the Construction Manager and Construction Manager's consultants; (3) the Architect and Architect's consultants; (4) other Contractors and any of their subcontractors, sub-subcontractors, agents, and employees; and (5) Separate Contractors, if any, and any of their subcontractors, sub-subcontractors, agents, and employees, for damages caused by fire, or other causes of loss, to the extent those losses are covered by property insurance required by the Agreement or other property insurance applicable to the Project, except such rights as they have to proceeds of such insurance. The Owner or Contractor, as appropriate, shall require similar written waivers in favor of the individuals and entities identified above from the Construction Manager, Construction Manager's consultants, Architect, Architect's consultants, other Contractors,

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Separate Contractors, subcontractors, and sub-subcontractors. The policies of insurance purchased and maintained by each person or entity agreeing to waive claims pursuant to this Section 11.3.1 shall not prohibit this waiver of subrogation. This waiver of subrogation shall be effective as to a person or entity (1) even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, (2) even though that person or entity did not pay the insurance premium directly or indirectly, or (3) whether or not the person or entity had an insurable interest in the damaged property.

(Paragraph deleted)

§ 11.4 Loss of Use, Business Interruption, and Delay in Completion Insurance

The Owner, at the Owner's option, may purchase and maintain insurance that will protect the Owner against loss of use of the Owner's property, or the inability to conduct normal operations, due to fire or other causes of loss. The Owner waives all rights of action against the Contractor, Architect, and Construction Manager for loss of use of the Owner's property, due to fire or other hazards however caused.

§ 11.5 Adjustment and Settlement of Insured Loss

§ 11.5.1 A loss insured under the property insurance required by the Agreement shall be adjusted by the Owner as fiduciary and made payable to the Owner as fiduciary for the insureds, as their interests may appear, subject to requirements of any applicable mortgagee clause and of Section 11.5.2. The Owner shall pay the Construction Manager, Architect and Contractor their just shares of insurance proceeds received by the Owner, and by appropriate agreements the Construction Manager, Architect and Contractor shall make payments to their consultants and Subcontractors in similar manner.

§ 11.5.2 Prior to settlement of an insured loss, the Owner shall notify the Contractor of the terms of the proposed settlement as well as the proposed allocation of the insurance proceeds. The Contractor shall have 14 days from receipt of notice to object to the proposed settlement or allocation of the proceeds. If the Contractor does not object, the Owner shall settle the loss and the Contractor shall be bound by the settlement and allocation. Upon receipt, the Owner shall make the appropriate distributions. Thereafter, if no other agreement is made or the Owner does not terminate the Contract for convenience, the Owner and Contractor shall execute a Change Order for reconstruction of the damaged or destroyed Work in the amount allocated for that purpose. If the Contractor timely objects to either the terms of the proposed settlement or the allocation of the proceeds, the Owner may proceed to settle the insured loss, and any dispute between the Owner and Contractor arising out of the settlement or allocation of the proceeds shall be resolved pursuant to Article 15. Pending resolution of any dispute, the Owner may issue a Construction Change Directive for the reconstruction of the damaged or destroyed Work.

§ 11.6 Bonds

§ 11.6.1 Contractor shall furnish a Performance Bond and a Payment Bond to the Owner in the amount of one hundred percent (100%) of the Contract Sum and issued by a Surety Company authorized to do business in the State of Minnesota, rated "A" or better, and approved by the Owner. The Performance Bond shall be in accordance with Minnesota Statutory requirements, and shall be in the form included in the Project Manual. The Bonds shall allow for any additions or deductions to the Contract Sum.

§ 11.6.2 In order to be acceptable as a surety, Contractor's bonding company bust hold a "Certificate of Authority acceptable to the U.S. Treasury Department and be listed in the Department's current publication of "Bond Qualifiers" with underwriting limitations not less than ten percent (10%) above the Contract Sum.

§ 11.6.3 The surety of the Bonds shall be by a corporate surety company authorized to do business in the state in which Work is being performed under this Contract and acceptable to the Owner. The conditions of the bonds shall meet requirements of the statutes of the state where Work is being performed and all other applicable provisions of state law.

§ 11.6.4 The Contractor shall furnish two (2) originals of the Bonds to the Owner, with copies to the Architect and Construction Manager, within ten (10) days after notification of award and before execution of the Contract. Failure to do so shall constitute a violation of terms of the proposal and provide grounds for forfeiture of bid security.

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ARTICLE 12 UNCOVERING AND CORRECTION OF WORK

§ 12.1 Uncovering of Work

§ 12.1.1 If a portion of the Work is covered contrary to the Construction Manager's or Architect's request or to requirements specifically expressed in the Contract Documents, it must, if requested in writing by either, be uncovered for their examination and be replaced at the Contractor's expense without change in the Contract Time.

§ 12.1.2 If a portion of the Work has been covered that the Construction Manager or Architect has not specifically requested to examine prior to its being covered, the Construction Manager or Architect may request to see such Work and it shall be uncovered by the Contractor. If such Work is in accordance with the Contract Documents, the Contractor shall be entitled to an equitable adjustment to the Contract Sum and Contract Time as may be appropriate. If such Work is not in accordance with the Contract Documents, the costs of uncovering the Work, and the cost of correction, shall be at the Contractor's expense.

§ 12.2 Correction of Work

§ 12.2.1 Before Substantial Completion

The Contractor shall promptly correct Work rejected by the Construction Manager or Architect or failing to conform to the requirements of the Contract Documents, discovered before Substantial Completion, and whether or not fabricated, installed or completed. The Contractor shall bear costs of correcting such rejected Work, including additional testing and inspections, the cost of uncovering and replacement, and compensation for the Construction Manager's and Architect's services and expenses made necessary thereby.

§ 12.2.2 After Substantial Completion

(Paragraphs deleted)

§ 12.2.2.1 If within one year after the date of Substantial Completion of the Work or designated portion thereof, or after the date for commencement of warranties established under Section 9.9.1, or by terms of any applicable special warranty required by the Contract Documents, any of the Work is found to be not in accordance with the requirements of the Contract Documents, the Contractor shall correct it promptly (and any other property damaged or removed in effecting the correction) after receipt of notice from the Owner, Construction Manager or Architect to do so, unless the Owner has previously given the Contractor a written acceptance of such condition. The Owner, Construction Manager or Architect shall give such notice promptly after discovery of the condition. This period of one year shall be extended with respect to portions of Work first performed after Substantial completion by the period of time between Substantial completion and the actual performance of the Work. This obligation under this Subparagraph 12.2.2.1 shall survive acceptance of the Work under the contract and termination of the Contract. The Owner, Construction Manager or Architect shall give such notice promptly after discovery of the condition. The expiration of the above one year or any other specified time period, or any other period prescribed by the law, shall not relieve the Contractor of the obligation form the expense to correct any latent defect in the work or deficiencies which are not readily ascertained, including but not limited to, defective materials and quality of work performed, defects attributable to material substitutions for special materials, substandard performance or otherwise not in compliance with the Contract Documents. Such latent defects or deficiencies shall be corrected as provided in this Paragraph 12.2. Following the correction or replacement of any of the Work, as above specified, the Contractor shall correct any defects or deficiencies in the corrected or replaced materials and workmanship which is found within one year after the date of correction or replacement.

§ 12.2.3 The Contractor shall remove from the site portions of the Work that are not in accordance with the requirements of the Contract Documents and are neither corrected by the Contractor nor accepted by the Owner.

§ 12.2.4 If the Contractor fails to correct nonconforming Work within a reasonable time, the Owner may correct it in accordance with Paragraph 2.4. If the Contractor does not proceed with correction of such nonconforming Work within a reasonable time fixed by written notice from the Architect or Construction Manager, the Owner may correct or remove it and store the salvageable materials or equipment all at the Contractor's expense. If the Contractor does not pay costs of such removal and storage within ten (10) days after written notice, the Owner may upon ten (10) additional days' written notice sell such materials and equipment at auction or at private sale and shall account for the proceeds thereof, after deducting costs and damages that should have been borne by the Contractor, the Contract Sum shall be reduced by the deficiency. If payments then or thereafter due the Contractor are not sufficient to cover such amount, the Contractor shall pay the difference to the Owner.

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§ 12.2.5 The Contractor shall bear the cost of correcting destroyed or damaged construction whether completed or partially completed, of the Owner or separate contractors caused by the Contractor's correction or removal of Work which is not in accordance with the requirements of the Contract Documents.

§ 12.2.6 Nothing contained in this Section 12.2 shall be construed to establish a period of limitation with respect to other obligations the Contractor has under the Contract Documents. Establishment of the one-year period for correction of Work as described in Section 12.2.2 relates only to the specific obligation of the Contractor to correct the Work, and has no relationship to the time within which the obligation to comply with the Contract Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Contractor's liability with respect to the Contractor's obligations other than specifically to correct the Work.

§ 12.3 Acceptance of Nonconforming Work

If the Owner prefers to accept Work that is not in accordance with the requirements of the Contract Documents, the Owner may do so instead of requiring its removal and correction, in which case the Contract Sum will be reduced as appropriate and equitable. Such adjustment shall be effected whether or not final payment has been made.

ARTICLE 13 MISCELLANEOUS PROVISIONS

§ 13.1 Governing Law

The Contract shall be governed by the law of the place where the Project is located excluding that jurisdiction's choice of law rules. If the parties have selected arbitration as the method of binding dispute resolution, the Federal Arbitration Act shall govern Section 15.4.

§ 13.2 Successors and Assigns

§ 13.2.1 The Owner and Contractor respectively bind themselves, their partners, successors, assigns, and legal representatives to covenants, agreements, and obligations contained in the Contract Documents. Except as provided in Section 13.2.2, neither party to the Contract shall assign the Contract as a whole without written consent of the other. If either party attempts to make an assignment without such consent, that party shall nevertheless remain legally responsible for all obligations under the Contract.

§ 13.2.2 The Owner may, without consent of the Contractor, assign the Contract to a lender providing construction financing for the Project, if the lender assumes the Owner's rights and obligations under the Contract Documents. The Contractor shall execute all consents reasonably required to facilitate the assignment.

§ 13.3 Rights and Remedies

§ 13.3.1 Duties and obligations imposed by the Contract Documents and rights and remedies available thereunder shall be in addition to and not a limitation of duties, obligations, rights, and remedies otherwise imposed or available by law.

§ 13.3.2 No action or failure to act by the Owner, Construction Manager, Architect, or Contractor shall constitute a waiver of a right or duty afforded them under the Contract, nor shall such action or failure to act constitute approval of or acquiescence in a breach thereunder, except as may be specifically agreed upon in writing.

§ 13.4 Tests and Inspections

§ 13.4.1 Tests, inspections, and approvals of portions of the Work shall be made as required by the Contract Documents and by applicable laws, statutes, ordinances, codes, rules, and regulations or lawful orders of public authorities. The Owner, Construction Manager or Architect shall make arrangements for such tests, inspections, and approvals with an independent testing laboratory or entity acceptable to the Owner, or with the appropriate public authority. Timely notice shall be given to the Construction Manager and Architect of when and where tests and inspections are to be made so that the Construction Manager and Architect may observe such procedures. The Owner shall bear costs of tests, inspections, or approvals that do not become requirements until after bids are received or negotiations concluded. The Owner shall directly arrange and pay for tests, inspections, or approvals where building codes or applicable laws or regulations so require.

§ 13.4.2 If the Construction Manager, Architect, Owner, or public authorities having jurisdiction determine that portions of the Work require additional testing, inspection, or approval not included under Section 13.4.1, the Construction Manager and Architect will, upon written authorization from the Owner, instruct the Contractor to make arrangements for such additional testing, inspection, or approval, by an entity acceptable to the Owner, and the

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Contractor shall give a minimum of two (2) working days' notice to the Construction Manager and Architect of when and where tests and inspections are to be made so that the Construction Manager and Architect may observe procedures. The Owner shall bear such costs, except as provided in Section 13.4.3.

§ 13.4.3 If procedures for testing, inspection, or approval under Sections 13.4.1 and 13.4.2 reveal failure of the portions of the Work to comply with requirements established by the Contract Documents, all costs made necessary by such failure, including those of repeated procedures and compensation for the Construction Manager's and Architect's services and expenses, shall be at the Contractor's expense.

§ 13.4.4 Required certificates of testing, inspection, or approval shall, unless otherwise required by the Contract Documents, be secured by the Contractor and promptly delivered to the Construction Manager for transmittal to the Architect.

§ 13.4.5 If the Construction Manager or Architect is to observe tests, inspections, or approvals required by the Contract Documents, the Construction Manager or Architect will do so promptly and, where practicable, at the normal place of testing.

§ 13.4.6 Tests or inspections conducted pursuant to the Contract Documents shall be made promptly to avoid unreasonable delay in the Work.

§ 13.5 Interest

All payments to the Contractor shall be governed by the Prompt Payment of Local Government Bills, Minnesota Statutes, Section 471.125 ("Prompt Payment Act") and Article 5 of the A132–2019 Agreement on this Project.

§ 13.6 Non-Discrimination

§ 13.6.1 All contracts between the Owner and companies providing goods and services under the Contract Documents shall contain the following equal opportunity and civil right clause:

> "During the performance of this Agreement, the provider agrees to the following: No contractor, material supplier, vendor, or other person shall on the basis of sex, race, creed, color, religion, national origin, age, marital status, sexual orientation, or disability be excluded from full employment rights in, participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program, service, or activity under the provisions of any and all applicable Federal and State laws against discrimination, including the Minnesota Human Rights Act and the Civil Rights Act of 1964."

Upon request, the Contractor shall furnish all information and reports required by the Owner, or by the rules and regulations of investigation to ascertain compliance with all applicable rules and regulations. The Contractor shall also comply with any applicable licensing requirements of the Minnesota Department of Human Services in employment of personnel.

The Contractor acknowledges that the violation of the above-stated paragraph is a misdemeanor pursuant to Minnesota Statutes, Section 181.59.

This Agreement may be cancelled or terminated by the Owner or any other person authorized to grant the contracts for employment under this Agreement, and all money due, or to become due under this Agreement may be forfeited for a second or any subsequent violation of the non-discriminatory terms stated above.

§ 13.6.2 During the completion of the work and all other services required by the Contract Documents, the Contractor agrees that no contractor, material supplier, vendor, or other person shall, on the basis of sex, race, creed, color, religion, national origin, age, marital status, sexual orientation, or disability be excluded from full employment rights in participation in, be denied the benefits of, or be otherwise subjected to discrimination under the provisions of any and all applicable Federal and State laws against discrimination, including the Minnesota Human Rights Act and the Civil Rights Act of 1964. Upon request, the Architect, Construction Manager and Contractor shall furnish all information and reports required by the Owner, or by the rules and regulations of investigation to ascertain compliance with all applicable rules and regulations. The Contractor shall also comply with any applicable licensing requirements of the Minnesota Department of Human Services in employment of personnel.

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Contractor acknowledges that the violation of the above-states paragraph is a misdemeanor pursuant to Minnesota Statutes Section 181.59.

The Contract Documents may be cancelled or terminated by the Owner or any other person authorized to grant the contracts for employment under this Agreement, and all money due, or to become due under the Agreement may be forfeited for a second or any subsequent violation of the non-discriminatory terms stated above.

§ 13.7 No action or failure to act by the Owner shall constitute a waiver of a right or duty afforded the Owner under the Contract Documents, nor shall such action or failure to act constitute approval of or acquiescence of the Owner in a breach of the Contract Documents, except as may be specifically agreed in writing. None of the approval of any Application for Payment, the making of any payment, the giving of any approval or consent, the use or occupancy of the Work, or any part thereof, the making of final payment, or any other action or inaction on the part of the Owner, Construction Manager or Architect shall constitute a waiver of claims by or rights of the Owner or an acceptance of any Work that is not in accordance with the Contract Documents. The Contractor shall not be relieved from its obligations to perform the Work in accordance with the Contract Documents either by the activities or duties of the representations of the Owner, Construction Manager or Architect, or by inspections, tests, or approvals required or performed by the Owner, Construction Manager or Architect or anyone else.

ARTICLE 14 TERMINATION OR SUSPENSION OF THE CONTRACT

§ 14.1 Termination by the Contractor

§ 14.1.1 The Contractor may terminate the Contract if the Work is stopped for a period of 30 consecutive days through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, their agents or employees, or any other persons or entities performing portions of the Work, for any of the following reasons:

.1 Issuance of an order of a court or other public authority having jurisdiction that requires all Work to be stopped;

.2 An act of government, such as a declaration of national emergency, that requires all Work to be stopped;

.3 Because the Construction Manager has not certified or the Architect has not issued a Certificate for Payment and has not notified the Contractor of the reason for withholding certification as provided in Section 9.4, or because the Owner has not made payment on a Certificate for Payment within the time stated in the Contract Documents; or

.4 The Owner has failed to furnish to the Contractor reasonable evidence as required by Section 2.2.

§ 14.1.2 The Contractor may terminate the Contract if, through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, their agents or employees, or any other persons or entities performing portions of the Work, repeated suspensions, delays, or interruptions of the entire Work by the Owner as described in Section 14.3, constitute in the aggregate more than 100 percent of the total number of days scheduled for completion, or 120 days in any 365-day period, whichever is less.

§ 14.1.3 If one of the reasons described in Section 14.1.1 or 14.1.2 exists, the Contractor may, upon seven days' notice to the Owner, Construction Manager and Architect, terminate the Contract and recover from the Owner payment for Work executed, as well as reasonable overhead and profit on Work not executed, and costs incurred by reason of such termination.

§ 14.1.4 If the Work is stopped for a period of 60 consecutive days through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, or their agents or employees, or any other persons performing portions of the Work because the Owner has repeatedly failed to fulfill the Owner's obligations under the Contract Documents with respect to matters important to the progress of the Work, the Contractor may, upon seven additional days' notice to the Owner, Construction Manager and Architect, terminate the Contract and recover from the Owner as provided in Section 14.1.3.

§ 14.1.5 No Right to Stop Work for Non-Payment

The Contractor has no right to stop Work as a consequence of non-payment. In the event of any disagreement between the Contractor and Owner involving the Contractor's entitlement to payment, the Contractor's only remedy is to file a Claim in accordance with Article 15. The Contractor must diligently proceed with the Work pending resolution of the Claim. If, however, an Application for Payment has been approved for payment by the Owner, and the Owner fails to make payment within sixty (60) days of the approval for payment by the Owner, the Contractor may upon ten (10)

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days written notice to the Owner, stop work if payment is not made by the Owner within ten (10) days following the notice.

§ 14.2 Termination by the Owner for Cause

§ 14.2.1 The Owner may terminate the Contract if the Contractor

.1 repeatedly refuses or fails to supply enough properly skilled workers or proper materials;

.2 fails to make payment to Subcontractors or suppliers in accordance with the respective agreements between the Contractor and the Subcontractors or suppliers;

.3 repeatedly disregards applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of a public authority; or

.4 otherwise is guilty of substantial breach of a provision of the Contract Documents.

§ 14.2.2 When any of the reasons described in Section 14.2.1 exist, after consultation with the Construction Manager, and upon certification by the Architect that sufficient cause exists to justify such action, the Owner may, without prejudice to any other rights or remedies of the Owner and after giving the Contractor and the Contractor's surety, if any, seven days' notice, terminate employment of the Contractor and may, subject to any prior rights of the surety:

.1 Exclude the Contractor from the site and take possession of all materials, equipment, tools, and construction equipment and machinery thereon owned by the Contractor;

.2 Accept assignment of subcontracts pursuant to Section 5.4; and

.3 Finish the Work by whatever reasonable method the Owner may deem expedient. Upon written request of the Contractor, the Owner shall furnish to the Contractor a detailed accounting of the costs incurred by the Owner in finishing the Work.

§ 14.2.3 When the Owner terminates the Contract for one of the reasons stated in Section 14.2.1, the Contractor shall not be entitled to receive further payment until the Work is finished.

§ 14.2.4 If the unpaid balance of the Contract Sum exceeds costs of finishing the Work, including compensation for the Construction Manager's and Architect's services and expenses made necessary thereby, and other damages incurred by the Owner and not expressly waived, such excess shall be paid to the Contractor. If such costs and damages exceed the unpaid balance, the Contractor shall pay the difference to the Owner. The amount to be paid to the Contractor or Owner, as the case may be, shall, upon application, be certified by the Initial Decision Maker after consultation with the Construction Manager, and this obligation for payment shall survive termination of the Contract.

§ 14.3 Suspension by the Owner for Convenience

§ 14.3.1 The Owner may, without cause, order the Contractor in writing to suspend, delay or interrupt the Work, in whole or in part for such period of time as the Owner may determine.

§ 14.3.2 The Contract Sum and the Contract Time shall be adjusted for increases or decreases in the cost and time caused by suspension, delay, or interruption under Section 14.3.1. Adjustment of the Contract Sum shall include reasonable profit. No adjustment shall be made to the extent:

.1 that performance is, was, or would have been, so suspended, delayed, or interrupted, by another cause for which the Contractor is responsible; or

.2 that an equitable adjustment is made or denied under another provision of this Contract.

§ 14.4 Termination by the Owner for Convenience

§ 14.4.1 The Owner may, at any time, terminate the Contract for the Owner's convenience and without cause.

§ 14.4.2 Upon receipt of notice from the Owner of such termination for the Owner's convenience, the Contractor shall

.1 cease operations as directed by the Owner in the notice;

.2 take actions necessary, or that the Owner may direct, for the protection and preservation of the Work; and

.3 except for Work directed to be performed prior to the effective date of termination stated in the notice, terminate all existing subcontracts and purchase orders and enter into no further subcontracts and purchase orders.

(Paragraph deleted)

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ARTICLE 15 CLAIMS AND DISPUTES

§ 15.1 Claims

§ 15.1.1 Definition. A Claim is a demand or assertion by the Contractor seeking, as a matter of right, payment of money, a change in the Contract Time, or other relief with respect to the terms of the Contract. The responsibility to substantiate Claims shall rest with the Contractor. Nothing in this paragraph 15.1.1 is intended to apply to or in any way limit the Owner's right to make Claims related to or arising out of the Contract. This Section 15.1.1 does not require the Owner to file a Claim in order to impose liquidated damages in accordance with the Contract Documents.

§ 15.1.2 Time Limits on Claims

The Owner and Contractor shall commence all Claims and causes of action against the other and arising out of or related to the Contract, whether in contract, tort, breach of warranty or otherwise, in accordance with the requirements of the binding dispute resolution method selected in the Agreement and within the period specified by applicable law, but in any case not more than 10 years after the date of Substantial Completion of the Work. The Owner and Contractor waive all Claims and causes of action not commenced in accordance with this Section 15.1.2.

§ 15.1.3 Notice of Claims

§ 15.1.3.1 Claims by Contractor, where the condition giving rise to the Claim is first discovered prior to expiration of the period for correction of the Work set forth in Section 12.2.2, shall be initiated by written notice to the Owner and to the Initial Decision Maker with a copy sent to the Construction Manager and Architect, if the Architect is not serving as the Initial Decision Maker. Claims by the Contractor under this Section 15.1.3.1 shall be initiated within ten (10) days after occurrence of the event giving rise to such Claim or within ten (10) days after the Contractor first recognizes the condition giving rise to the Claim, whichever is later. Any additional Claim made after and relating to the initial Claim has been implemented by Change Order will not be considered unless submitted in a timely manner. As a condition to making a claim for additional costs, the Contractor shall maintain and produce accurate records to substantiate all additional costs actually incurred. If a Claim for actual costs is approved, the Owner shall pay the Contractor actual costs incurred, plus either (a) ten percent (10%) for overhead and profit for work performed by the Contractor, or (b) five percent (5%) overhead and profit for work performed by a Subcontractor, as applicable.

§ 15.1.3.2 Claims by either the Owner or Contractor, where the condition giving rise to the Claim is first discovered after expiration of the period for correction of the Work set forth in Section 12.2.2, shall be initiated by written notice to the other party. In such event, no decision by the Initial Decision Maker is required.

§ 15.1.4 Continuing Contract Performance

§ 15.1.4.1 Pending final resolution of a Claim, except as otherwise agreed in writing or as provided in Section 9.7 and Article 14, the Contractor shall proceed diligently with performance of the Contract and the Owner shall continue to make payments in accordance with the Contract Documents. Subject to Paragraph 15.1.5, no such continuing performance by the Contractor, nor payment by the Owner shall be deemed a waiver of, or to otherwise impair any such Claim.

§ 15.1.4.2 The Contract Sum and Contract Time shall be adjusted in accordance with the Initial Decision Maker's decision, subject to the right of either party to proceed in accordance with this Article 15. The Architect will issue Certificates for Payment in accordance with the decision of the Initial Decision Maker.

§ 15.1.5 Claims for Additional Cost. If the Contractor wishes to make a Claim for an increase in the Contract Sum, notice as provided in Section 15.1.3 shall be given before proceeding to execute the portion of the Work that is the subject of the Claim. Prior notice is not required for Claims relating to an emergency endangering life or property arising under Section 10.4.

§ 15.1.6 Claims for Additional Time

§ 15.1.6.1 If the Contractor wishes to make a Claim for any increase in the Contract Time, notice as provided in Section 15.1.3 shall be given. The Contractor's Claim shall include an estimate of cost and of probable effect of delay on progress of the Work. In the case of a continuing delay only one Claim is necessary.

§ 15.1.6.2 If adverse weather conditions are the basis for a Claim for additional time, such Claim shall be documented by data substantiating that weather conditions were abnormal for the period of time, could not have been reasonably anticipated and had an adverse effect on the scheduled construction.

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(Paragraphs deleted)

§ 15.2 Initial Decision

§ 15.2.1 Claims, excluding those where the condition giving rise to the Claim is first discovered after expiration of the period for correction of the Work set forth in Section 12.2.2 or arising under Sections 10.3, 10.4, and 11.5, shall be referred to the Initial Decision Maker for initial decision. The Architect will serve as the Initial Decision Maker, unless otherwise indicated in the Agreement. Except for those Claims excluded by this Section 15.2.1, an initial decision shall be required as a condition precedent to mediation of any Claim. If an initial decision has not been rendered within 30 days after the Claim has been referred to the Initial Decision Maker, the party asserting the Claim may demand mediation and binding dispute resolution without a decision having been rendered. Unless the Initial Decision Maker and all affected parties agree, the Initial Decision Maker will not decide disputes between the Contractor and persons or entities other than the Owner.

§ 15.2.2 The Initial Decision Maker will review Claims and within ten days of the receipt of a Claim take one or more of the following actions: (1) request additional supporting data from the claimant or a response with supporting data from the other party, (2) reject the Claim in whole or in part, (3) approve the Claim, (4) suggest a compromise, or (5) advise the parties that the Initial Decision Maker is unable to resolve the Claim if the Initial Decision Maker lacks sufficient information to evaluate the merits of the Claim or if the Initial Decision Maker concludes that, in the Initial Decision Maker's sole discretion, it would be inappropriate for the Initial Decision Maker to resolve the Claim.

§ 15.2.3 In evaluating Claims, the Initial Decision Maker may, but shall not be obligated to, consult with or seek information from either party or from persons with special knowledge or expertise who may assist the Initial Decision Maker in rendering a decision. The Initial Decision Maker may request the Owner to authorize retention of such persons at the Owner's expense.

§ 15.2.4 If the Initial Decision Maker requests a party to provide a response to a Claim or to furnish additional supporting data, such party shall respond, within ten days after receipt of the request, and shall either (1) provide a response on the requested supporting data, (2) advise the Initial Decision Maker when the response or supporting data will be furnished, or (3) advise the Initial Decision Maker that no supporting data will be furnished. Upon receipt of the response or supporting data, if any, the Initial Decision Maker will either reject or approve the Claim in whole or in part.

§ 15.2.5 The Initial Decision Maker will render an initial decision approving or rejecting the Claim, or indicating that the Initial Decision Maker is unable to resolve the Claim. This initial decision shall (1) be in writing; (2) state the reasons therefor; and (3) notify the parties, the Construction Manager, and the Architect, if the Architect is not serving as the Initial Decision Maker, of any change in the Contract Sum or Contract Time or both. The initial decision shall be final and binding on the parties but subject to mediation and, if the parties fail to resolve their dispute through mediation, to binding dispute resolution.

§ 15.2.6 In the event of a Claim against the Contractor, the Owner may, but is not obligated to notify the surety, if any, of the nature and amount of the Claim. If the Claim relates to a possibility of a Contractor's default, the Owner may, but is not obligated to notify the surety and initiate a Claim on the performance bond.

(Paragraphs deleted)

§ 15.3 Mediation

§ 15.3.1 Any claim, dispute or other matter in question or arising out of or related to the Contract shall be subject to mediation. Mediation is not a condition precedent to commencing litigation, but if litigation is commenced before mediation is held, the Parties agree to mediate before any dispositive motions or trial.

§ 15.3.2 The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located unless another location is mutually agreed upon. Agreements reached in mediation and ratified by the Owner's Council shall be enforceable as settlement agreements in any court having jurisdiction thereof.

(Paragraphs deleted)

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Additions and Deletions Report for
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North High School Phase 4 Work Scope 09-K Painting
1500 James Avenue, Minneapolis, MN 55411

...

Kraus-Anderson Construction Company
501 South 8th Street, Minneapolis, MN 55404

...

Minneapolis Public Schools Special School District #1
1250 West Broadway Avenue
Minneapolis, MN 55411

...

LSE Architects 1401 Glenwood Avenue
Minneapolis, MN 55405

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§ 1.1.1.1 Notwithstanding the foregoing, it is understood and agreed that the Owner is an intended third-party beneficiary of all contracts between the Contractor and Subcontractors or suppliers who provide labor and/or materials for the Work.

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§ 1.1.10 Initial Decision Maker. The Initial Decision Maker is the person identified in the Agreement to render initial decisions on Claims in accordance with Section 15.2. The ~~Initial Decision Maker shall not show partiality to the Owner or Contractor and shall not be liable for results of interpretations or decisions rendered in good faith.~~Architect will serve as the Initial Decision Maker pursuant to Section 15.2 of AIA Document A232–2019.

...

§ 1.2.1 The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work by the Contractor. The Contract Documents are complementary, and what is required by one shall be as binding as if required by all; performance by the Contractor shall be required only to the extent consistent with the Contract Documents and reasonably inferable from them as being necessary to produce the ~~indicated~~ intended results.

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§ 1.2.1.1 The invalidity of any provision of the Contract Documents shall not invalidate the Contract or its remaining provisions. ~~If it is determined that any provision of the Contract Documents violates any law, or is otherwise invalid or unenforceable, then that provision shall be revised to the extent necessary to make that provision legal and enforceable.~~ In such case the Contract Documents shall be construed, to the fullest extent permitted by law, to give effect to the parties' intentions and purposes in executing the Contract.

...

§ 1.4.1 In the case of inconsistency between Drawings and Specifications or within Contract Documents not clarified by Addenda, the better quality or greater quantity of Work shall be provided in accordance with the Architect's interpretation.

§ 1.5.1 The Architect and the Architect's consultants shall be deemed the authors and owners of their respective Instruments of Service, including the Drawings and Specifications, and retain all common law, statutory, and other reserved rights in their Instruments of Service, including copyrights. The Contractor, Subcontractors, sub-subcontractors, and suppliers shall not own or claim a copyright in the Instruments of Service. Submittal or distribution to meet official regulatory requirements or for other purposes in connection with the Project is not to be construed as publication in derogation of the Architect's or Architect's consultants' reserved rights. The Owner retains rights to the Instruments of Service pursuant to Article 7 of AIA Document B101-2017.

...

§ 1.5.3 The Architect shall furnish to the Contractor a version of the Instruments of Service in electronic form for the sole purpose of the construction of the Project for which the Instruments of Service were created.

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The parties shall agree upon ~~written~~ protocols governing the transmission and use ~~of, and reliance on,~~ of Instruments of Service or any other information or documentation in digital form. The parties may use AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit or other form, to establish the protocols for the development, use, transmission, and exchange of digital data.

...

Any use of, or reliance on, all or a portion of a building information model without agreement to ~~written~~ protocols governing the use of, and reliance on, the information contained in the model and without having those protocols set forth in AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, and the requisite AIA Document G202™–2013, Project Building Information Modeling Protocol Form or other form, shall be at the using or relying party's sole risk and without liability to the other party and its contractors or consultants, the authors of, or contributors to, the building information model, and each of their agents and employees.

...

§ 2.1.1 The Owner is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The Owner shall designate in writing a representative who shall have express authority to bind the Owner with respect to all matters requiring the Owner's approval or ~~authorization.~~ authorization in accordance with Owner's Delegation of Authority Policy, a copy of which will be provided at Contractor's request. Except as otherwise provided in Section 4.2.1, the Construction Manager and the Architect do not have such authority. The term "Owner" means the Owner or the Owner's authorized representative.

~~**§ 2.1.2** The Owner shall furnish to the Contractor, within fifteen days after receipt of a written request, information necessary and relevant for the Contractor to evaluate, give notice of, or enforce mechanic's lien rights. Such information shall include a correct statement of the record legal title to the property on which the Project is located, usually referred to as the site, and the Owner's interest therein.~~

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§ 2.3.5 ~~The~~ If requested by the Contractor and reasonably required for the Project, the Owner shall furnish surveys describing physical characteristics, legal limitations and utility locations for the site of the Project, and a written legal description of the site. The Contractor ~~shall be entitled to rely on the accuracy of information furnished by the Owner but~~ shall exercise proper precautions relating to the safe performance of the Work.

§ 2.3.6 The Owner shall furnish information or services required of the Owner by the Contract Documents with reasonable promptness. The Owner shall also furnish any other information or services under the Owner's control and relevant to the Contractor's performance of the Work with reasonable promptness after receiving the Contractor's written request for such information or services. The Contractor is responsible for the timeliness of, or interference caused by, Subcontractors, Sub-subcontractors (of any tier), and others directly or indirectly under contract to the Contractor.

...

If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within a ~~ten-day~~ three-business-day (3) period after receipt of notice from the Owner to commence and continue correction of such default or neglect with diligence and promptness, the Owner may, without prejudice to other remedies the Owner may have, correct such default or neglect. Such action by the Owner and amounts charged to the Contractor are both subject to review by the Construction Manager and prior approval of the Architect, and the Construction Manager or Architect may, pursuant to Section 9.5.1, withhold or nullify a Certificate for Payment in whole or in part, to the extent reasonably necessary to reimburse the Owner for the reasonable cost of correcting such deficiencies, including Owner's expenses and compensation for the Construction Manager's and Architect's and their respective consultants' additional services and expenses made necessary by such default, neglect, or failure. If current and future payments are not sufficient to cover such amounts, the Contractor shall pay the difference to the ~~Owner.~~ Owner within ten (10) days following written request for payment delivered by the Owner to the Contractor. If the Contractor disagrees with the actions of the Owner or the Architect, or the amounts claimed as costs to the Owner, the Contractor may file a Claim pursuant to Article 15.

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§ 3.1.3 The Contractor shall ~~not be relieved of its obligations to perform the Work in accordance with the Contract Documents either by activities or duties of the Construction Manager or Architect in their administration of the Contract, or by tests, inspections or approvals required or performed by persons or entities other than the Contractor.~~hire a professional utilities locator to investigate and verify all private utility locations prior to excavation and cutting into of existing Work. The Contractor is responsible for locating, terminating, and reinstallation of all private utilities. Private site utilities may not be in the Drawings and Project Manual and as such, verification of private utilities is the sole responsibility of the Contractor. Costs associated with moving and repairing of unknown and undocumented utilities will be by appropriate Change Order. The Contractor shall comply with Gopher State One Call, or other public utility service locator to locate all public utilities prior to any work on the site. This shall not relieve Contractor from obligations under Article 3.

§ 3.1.4 The Contractor shall not be relieved of its obligations to perform the Work in accordance with the Contract Documents either by activities or duties of the Construction Manager or Architect in their administration of the Contract, or by tests, inspections or approvals required or performed by persons or entities other than the Contractor.

...

§ 3.2.1 ~~Execution of the Contract by the Contractor is a representation that the Contractor has visited the site, become generally~~ The Contractor shall carefully study and compare the Contract Documents with each other and with information furnished by the Owner pursuant to Section 2.2.3, and shall immediately report to the Architect and Construction Manager errors, inconsistencies, or omissions discovered. The Contractor shall not be liable to the Owner or Architect for damage resulting from errors, inconsistencies, or omissions in the Contract Document unless the Contractor recognized such error, inconsistency, or omission and knowingly failed to report it to the Architect. If the Contractor performs any construction activity knowing or believing it involves a recognized error, inconsistency, or omission in the Contract Documents without such notice to the Architect, the Contractor shall assume full responsibility for such performance and shall bear the attributable costs for correction and shall bear responsibility for any additional costs, delays, and damages resulting from such failure to immediately report any such errors,

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inconsistencies, or omissions which the Contractor may discover. By executing the Contract, the Contractor represents that the Contractor has reviewed and understands the Contract Documents, has visited the Site and is familiar with local conditions under which the Work is to be performed, ~~and correlated personal observations with requirements of the Contract Documents.~~has correlated personal observations with the requirements of the Contract Documents, and has notified the Architect of and obtained clarification of any discrepancies which have become apparent during the bidding or proposal period.

§ 3.2.1.1 The Contractor shall take field measurements and verify field conditions and shall carefully compare such field measurements and conditions and other information known to the Contractor with the Contract Documents before commencing activities. Errors, inconsistencies, or omissions discovered shall be reported to the Architect immediately in writing.

§ 3.2.1.2 The Contractor shall carefully study and compare the Contract Documents with existing conditions at the job site and shall immediately report in writing to the Architect any error, inconsistency, or omission which the Contractor may discover or any materials, systems, procedures, or methods of construction, either shown on the Drawings or specified, which the Contractor has reason to believe are incorrect, inadequate, obsolete, unsuitable for the purpose intended or which the Contractor has reason to believe would constitute or result in a violation of the Contractor's warranty under Section 3.5 or applicable law. The Contractor shall not proceed with any work in such areas until written instructions are received from the Architect.

§ 3.2.2 ~~Because the Contract Documents are complementary, the Contractor shall, before starting each portion of the Work, carefully study and compare the various Contract Documents relative to that portion of the Work, as well as the information furnished by the Owner pursuant to Section 2.3.5, shall take field measurements of any existing conditions related to that portion of the Work, and shall observe any conditions at the site affecting it. These obligations are for the purpose of facilitating coordination and construction by the Contractor and are not for the purpose of discovering errors, omissions, or inconsistencies in the Contract Documents; however, the Contractor shall promptly report to the Construction Manager and Architect any errors, inconsistencies or omissions discovered by or made known to the Contractor as a request for information submitted to the Construction Manager in such form as the Construction Manager and Architect may require. It is recognized that the Contractor's review is made in the Contractor's capacity as a contractor and not as a licensed design professional, unless otherwise specifically provided in the Contract Documents.~~The Contractor shall perform the Work in accordance with the Contract Documents and submittals accepted pursuant to Section 3.12.

§ 3.2.3 The ~~Contractor is not required to ascertain that the Contract Documents are in accordance with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, but the Contractor shall promptly report to the Construction Manager and Architect any nonconformity discovered by or made known to the Contractor as a request for information submitted to Construction Manager in such form as the Construction Manager and Architect may require.~~Owner shall be entitled to deduct from the Contract Sum amounts paid to the Architect for the Architect to evaluate and respond to the Contractor's requests for interpretation or information where such information was available to the Contractor from a careful study and comparison of the Contract Documents, Filed Conditions, Owner Provided Information, Contractor Prepared Coordination Drawings, or prior Project Correspondence or Documentation.

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§ 3.2.4 If the Contractor believes that ~~additional cost or time is involved because of clarifications or instructions the Architect issues in response to the Contractor's notices or requests for information pursuant to Sections 3.2.2 or 3.2.3, the Contractor shall submit Claims as provided in Article 15. If the Contractor fails to perform the obligations of Sections 3.2.2 or 3.2.3, the Contractor shall pay such costs and damages to the Owner, subject to section 15.1.7, as would have been avoided if the Contractor had performed such obligations. If the Contractor performs those obligations, the Contractor shall not be liable to the Owner or Architect for damages resulting from errors, inconsistencies or omissions in the Contract Documents, for differences between field measurements or conditions and the Contract Documents, or for nonconformities of the Contract Documents to applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities.~~any portions of the Contract Documents do not comply with applicable laws, statutes, ordinances, building codes, and rules and regulations, or any orders by code enforcement officials or the Owner or its designees acting in the capacity of building code inspectors or Referenced Standards, the Contractor must promptly notify the Owner and the Architect of the non-compliance as provided in Section 3.2.6 and request direction before proceeding with the affected Work.

§ 3.2.5 The Contractor must promptly notify the Owner and the Architect in writing of any apparent errors, inconsistencies, omissions, ambiguities, construction impracticalities or code violations discovered as a result of the Contractor's review of the Contract Documents including any differences between actual and indicated dimensions, locations and descriptions, and must give the Owner and the Architect timely notice in writing of same and of any corrections, clarifications, additional Drawings or Specifications, or other information required to define the Work in greater detail or to permit the proper progress of the Work. The Contractor must provide similar notice with respect to any variance between its review of the Site and physical data and Site conditions observed.

§ 3.2.6 If the Contractor performs any Work involving an apparent error, inconsistency, ambiguity, construction impracticality, omission or code violation in the Contract Documents of which the Contractor is aware, or which could reasonably have been discovered by the review required by Section 3.2, without prompt written notice to the Owner and the Architect and request for correction, clarification or additional information, as appropriate, the Contractor does so at its own risk and expense and all Claims relating thereafter are specifically waived.

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§ 3.3.4 The Contractor shall at all times staff the Project adequately to allow the Project to be managed and completed in a timely and professional manner. The Contractor shall have competent supervision on the job during work hours and readily available at all times upon call.

§ 3.3.5 The Contractor shall at all times make reasonable provisions to protect any Work performed by any separate contractors, adjacent property, and the existing building (if any) from damage due to the Work or due to the weather.

§ 3.3.6 The Owner or its approved representative (heretofore referred to as Owner's Representative) shall have access to the Work site and all Work. No supervision or inspection by the Owner or the Owner's Representative, nor the authority to act, nor any other actions taken by the Owner's Representative shall relieve the Contractor of any of its obligations under the Contract Documents or give rise to any duty on the part of the Owner.

§ 3.3.7 The Contract shall take appropriate precautions to ensure that the Work does not materially disrupt any ongoing operation by the Owner at the Project (if any) except to the extent any such disruption is a necessary result of performing a particular portion of the Work, in which case the Contractor shall provide the Owner with reasonable advanced written notice and shall take all commercially reasonable measures to minimize the impact on the Owner and the Owner's operations.

§ 3.4.1 Unless otherwise provided in the Contract Documents, the Contractor shall provide and pay for labor, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation, and other facilities and services necessary for proper execution and completion of the Work, whether temporary or permanent and whether or not incorporated or to be incorporated in the Work. Should the Contract Documents require Work to be performed after regular working hours or should the Contractor elect to perform Work after regular working hours, the additional cost of such Work shall be borne by the Contractor.

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§ 3.4.4 The Contractor shall be responsible for all additional costs incurred to incorporate into the Project substitute materials, products, or equipment approved by Owner during the bidding period.

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§ 3.4.5 In the event of a Change related to substitute or additional materials, and which shall comply with Article 7, the Contractor shall exercise reasonable efforts, consistent with the provisions of the Contract Documents to obtain the maximum available case discounts on all materials, provided that, in doing so, the Contractor shall not accept or use materials for incorporation into the Project which are of a type or quality not reasonably contemplated under the terms of the Contract Documents.

§ 3.4.6 After award of the Contract, a request for substitution of a material, product, or piece of equipment at no change in the Contract Sum will not be approved by the Owner or the Architect, unless the specified item is no longer manufactured, the specified item is unavailable as a result of an act of government such as a declaration of a national emergency, or delivery of the specified items is substantially delayed as a result of labor disputes affecting the manufacturer, unusual delay in transportation, or any other cause beyond control of the Contractor or a Subcontractor or material supplier which the Architect determines justified the delay. Requests will not be approved where the delay in delivery results from failure to promptly place subcontracts and material orders. Requests for substitution shall be submitted in writing to the Architect and shall clearly describe the proposed substitution, state the reason for the unavailability of a specified item and be accompanied by such additional data and information as may be necessary in the discretion of the Owner and the Architect to establish the acceptability of the proposed substitute.

§ 3.4.7 The Owner shall be entitled to deduct from the Contract Sum amounts paid to the Architect to evaluate the Contractor's proposed Substitutions and for changes made to the Contract Documents as a result of Owner's acceptance of such Substitutions.

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§ 3.5.2 All material, equipment, or other special warranties required by the Contract Documents shall be issued in the name of the Owner, or shall be transferable to the Owner, and shall commence in accordance with Section 9.8.4. The Contractor shall arrange for the Owner to have the benefit of and right to enforce all warranties by Subcontractors, Sub-subcontractors, suppliers, and manufacturers.

§ 3.5.3 Manufacturers' warranties and warranties by other shall not relieve the Contractor of any of its responsibilities.

§ 3.5.4 The Contractor's general warranty and any additional or special warranties are not limited by the Contractor's obligations to specifically correct defective or nonconforming Work as provided in Article 12, nor are they limited by any other remedies provided in the Contract Documents. The Contractor shall also be liable for any damage to property or persons (including death) including consequential and direct damages relating to any breach of the Contractor's general warranty or any additional or special warranties required by the Contract Documents.

§ 3.5.5 The Contractor must furnish all special warranties required by the Contract Documents to the Owner no later than Substantial Completion. The Owner may require additional special warranties in connection with the approval of "Or-Equals" or Substitutions, Allowance items, Work that is defective or nonconforming, or the acceptance of nonconforming Work pursuant to Article 12.

...

§ 3.7.1 Unless otherwise provided in the Contract Documents, the Owner, assisted by the Construction Manager, shall secure and pay for the building permit. The Contractor shall secure and pay for other permits, fees, licenses, and inspections by government agencies necessary for proper execution and completion of the Work that are customarily secured after execution of the Contract and legally required at the time bids are received or negotiations concluded. The Contractor shall be responsible for the Sewer Access (SAC) and Water Access (WAC) fees for the Project. The Contractor shall pay the SAC/WAC costs to the authorities having jurisdiction from the Allowance in the Base Bid for such charges as defined in the Construction Documents.

...

§ 3.7.3 If the Contractor performs Work knowing or believing it to be contrary to applicable laws, statutes, ordinances, building codes, rules and regulations, or lawful orders of public authorities, without such notice to the Architect and Owner, the Contractor shall assume ~~appropriate~~ full responsibility for such Work and shall bear the ~~costs attributable~~

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~~to correction.~~attributable costs, delays, and damages resulting from such failure to immediately notify the Architect and Owner of any such violation..

§ 3.7.4 Concealed or Unknown Conditions. If the Contractor encounters conditions at the site that are (1) subsurface or otherwise concealed physical conditions that differ materially from those indicated in the Contract Documents or (2) unknown physical conditions of an unusual nature that differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents, the Contractor shall promptly provide notice to the Owner, Construction Manager, and the Architect before conditions are disturbed and in no event later than ~~14~~ ten (10) days after first observance of the conditions. The Architect and Construction Manager will promptly investigate such conditions and, if the Architect, in consultation with the Construction Manager, determines that they differ materially and cause an increase or decrease in the Contractor's cost of, or time required for, performance of any part of the Work, will recommend that an equitable adjustment be made in the Contract Sum or Contract Time, or both. If the Architect, in consultation with the Construction Manager, determines that the conditions at the site are not materially different from those indicated in the Contract Documents and that no change in the terms of the Contract is justified, the Architect shall promptly notify the Owner, Construction Manager, and Contractor, stating the reasons. If the Owner or Contractor disputes the Architect's determination or recommendation, either party may submit a Claim as provided in Article 15.

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§ 3.9.1 The Contractor shall employ a competent superintendent and necessary assistants who shall be in attendance at the Project site during performance of the ~~Work.~~ Work, including that performed by all Subcontractors. The superintendent shall represent the Contractor, and communications given to the superintendent shall be as binding as if given to the Contractor. Important communications including and not limited to communications regarding design changes, alterations, substitutions, clarifications, cost changes, etc. shall be confirmed in writing by the Contractor. Other communications shall be similarly confirmed on written request in each case.

...

§ 3.9.3 The Contractor shall not employ a proposed superintendent or any other management personnel to whom the Owner, Construction Manager, or Architect has made reasonable and timely objection. The Contractor shall not change the superintendent without the Owner's consent, which shall not unreasonably be withheld or delayed.

§ 3.9.4 If requested by the Owner, the Contractor shall replace the superintendent at no additional cost to the Owner. No other change in this position shall be made without notice to and written consent of the Owner.

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§ 3.10.1 The Contractor, promptly after being awarded the Contract, shall submit for the Owner's and Architect's information, and the Construction Manager's use in developing the Project schedule, a Contractor's construction schedule for the Work. The schedule shall contain detail appropriate for the Project, including (1) the date of commencement of the Work, interim schedule milestone dates, critical path schedule milestones, major construction milestones, including and not limited to Civil, Demolition, Structural, Mechanical, Electrical, and Plumbing, and the date of Substantial Completion; (2) an apportionment of the Work by construction activity; and (3) the time required for completion of each portion of the Work. The schedule shall provide for the orderly progression of the Work to completion and shall not exceed time limits current under the Contract Documents. The schedule shall be revised at appropriate intervals as required by the conditions of the Work and Project. The Contractor shall cooperate with the Construction Manager in scheduling and performing the Contractor's Work to avoid conflict with, and as to cause no delay in, the work or activities of other Contractors, or the construction or operations of the Owner's own forces or Separate Contractors.

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§ 3.10.4 The Contractor shall perform the Work in general accordance with the most recent schedules submitted to and accepted in writing by the Owner, Construction Manager, and Architect, and incorporated into the approved Project schedule.

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~~The Contractor shall make available, at the Project site, the Contract Documents, including Change Orders, Construction Change Directives, and other Modifications, in good order and marked currently to indicate field changes and selections made during construction, and the approved Shop Drawings, Product Data, Samples, and similar required submittals. These shall be in electronic form or paper copy, available to the Construction Manager, Architect, and Owner, and delivered to the Construction Manager for submittal to the Owner upon completion of the Work as a record of the Work as constructed.~~**§ 3.11.1** The Contractor shall make available, at the Project site, one record copy of the Contract Documents, including Change Orders, Construction Change Directives, and other Modifications, in good order and updated daily to indicate field changes and selections made during construction, and in addition accepted and approved Shop Drawings, Product Data, Samples, and similar required submittals. These shall be in electronic form or paper copy, available to the Construction Manager, Architect, and Owner as required to complete routine inspections by Architect, Construction Manager and Owner prior to any approval of payments to the Contractor, and delivered to the Construction Manager for submittal to the Owner upon completion of the Work. The Architect and Contractor must verify that all "as-built" Drawings, Specifications, Addenda, Change Orders, and other Modifications are up-to-date before Contractor's Application for Payment is acceptable and before the Owner incurs any duty to pay Contractor in accordance with the Contract. The record documents shall be a separate set of documents labeled "Record Documents" and used only for record purposes and kept clean and undamaged.
§ 3.11.2 No review or receipt of such records by the Architect or Owner shall be considered a waiver of any deviation from the Contract Documents or approved shop drawings, or any way relieve the Contractor from its responsibility to perform the Work in accordance with the Contract Documents.
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§ 3.12.5 The Contractor shall review for compliance with the Contract Documents, approve, and submit to the Construction Manager, Shop Drawings, Product Data, Samples, and similar submittals required by the Contract Documents, in accordance with the Project submittal schedule approved by the Construction Manager and Architect or, in the absence of an approved Project submittal schedule, with reasonable promptness and in such sequence as to cause no delay in the Work or in the activities of other Contractors, Separate Contractors, or the Owner's own forces. The Contractor shall cooperate with the Construction Manager in the coordination of the Contractor's Shop Drawings, Product Data, Samples, and similar submittals with related documents submitted by other Contractors. The Contractor must provide the Owner and the Architect with copies of all submittals made to regulatory agencies.

...

§ 3.12.7 The Contractor shall perform no portion of the Work for which the Contract Documents require submittal and review of Shop Drawings, Product Data, Samples, or similar submittals, until the respective submittal has been reviewed and ~~approved by the Architect.~~accepted by the Architect. The Contractor must correct at its cost, and without any adjustment in Contract Time, any Work the correction of which is required due to the Contractor's failure to obtain approval of a submittal required to have been obtained prior to proceeding with the Work, including, but not limited to, correction of any conflicts in the Work resulting from such failure.

§ 3.12.8 The Work shall be in accordance with ~~approved~~ accepted submittals except that the Contractor shall not be relieved of responsibility for deviations from the requirements of the Contract Documents by the Architect's ~~approval~~ acceptance of Shop Drawings, Product Data, Samples, or similar submittals, unless the Contractor has specifically notified the Construction Manager and Architect of such deviation at the time of submittal and (1) the Architect has given written ~~approval~~ acceptance to the specific deviation as a minor change in the Work, or (2) a Change Order or Construction Change Directive has been issued authorizing the deviation. The Contractor shall not be relieved of responsibility for errors or omissions in Shop Drawings, Product Data, Samples, or similar submittals, by the Architect's ~~approval~~ acceptance thereof.

§ 3.12.9 The Contractor shall direct specific attention, in writing or on resubmitted Shop Drawings, Product Data, Samples, or similar submittals, to revisions other than those requested by the Construction Manager and Architect on previous submittals. In the absence of such notice, the Architect's ~~approval~~ acceptance of a resubmission shall not apply to such revisions.
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§ 3.13.3 Except as may be specifically provided in the Contract Documents, the Contractor shall provide all necessary temporary facilities, including power, water, sanitation, scaffolding, storage, and security. If Owner makes any such

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facilities available to Contractor, it is without representation or warranty as to their adequacy for Contractor's use, and Contractor shall indemnify, defend, and hold Owner harmless from and against any claims arising out of Contractor's use of such facilities.

...

§ 3.14.2 The Contractor shall not damage or endanger a portion of the Work or fully or partially completed construction of the Owner, Separate Contractors, or of other Contractors by cutting, patching, or otherwise altering such construction, or by excavation. The Contractor shall not cut or otherwise alter construction by the Owner, Separate Contractors, or by other Contractors except with written consent of the Construction Manager, Owner, and such other Contractors or Separate Contractors. Consent shall not be unreasonably withheld. The Contractor shall hire a professional utilities locator to verify locations of all public and private utilities prior to initiating any cutting work. The Contractor shall not unreasonably withhold, from the Separate Contractors, other Contractors, or the Owner, its consent to cutting or otherwise altering the Work.

...

§ 3.15.1 The Contractor shall keep the premises and surrounding area continuously free from accumulation of waste materials and rubbish caused by operations under the Contract. At completion of the Work, the Contractor shall remove from and about the Project waste materials, rubbish, Contractor-generated waste materials, the Contractor's generated hazardous waste materials, the Contractor's tools, construction equipment, machinery, and surplus materials from and about the Project.

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§ 3.18.1 To the fullest extent permitted by law, the Contractor shall ~~indemnify~~ indemnify, defend and hold harmless the Owner, Construction Manager, Architect, Construction Manager's and Architect's consultants, and agents and employees of any of them from and against claims, damages, losses, and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), but only to the extent caused by the negligent acts or omissions of the Contractor, a Subcontractor, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss, or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity ~~that~~ which would otherwise exist as to a party or person described in this Section 3.18. The Contractor, furthermore, agrees to obtain, maintain, and pay for such general liability coverage and endorsements (including product and completed operations coverage) as will ensure the provisions of this Section 3.18.1. The Contractor agrees to reimburse the Owner, its agents and employees for all costs and disbursements, including attorneys' fees, paid or incurred to enforce the provisions of this Section 3.18.1.

...

§ 3.18.3 To the fullest extent permitted by law and without limiting any other indemnification obligations of the Contractor, except to the extent caused by the uncured failure of the Owner to make payment when due and owing, the Contractor shall indemnify and defend the Owner, its officers, directors, assigns, lenders, agents, and employees from any liens, charges (including attorneys' fees) or encumbrances (including but not limited to mechanic's and materialmen's liens or bond claims) arising out of or in connection with the performance of the Work by Contractor, its Subcontractors, or its material suppliers. Upon request of the Owner, the Contractor shall within sixty (60) days remove any liens filed against the Owner or its property. If the Contractor fails to do so, the Owner is authorized by the Contractor to remove or satisfy any such liens, and the Contractor shall pay to the Owner all costs and damages incurred by the Owner to do so, including attorneys' fees.

...

§ 4.2.1 The Construction Manager and Architect will provide administration of the Contract as described in the Contract Documents and will be the Owner's ~~representatives during construction until the date the Architect issues the final Certificate for Payment.~~ consultants (1) during construction; (2) until final payment is due; and (3) with the

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Owner's concurrence, from time to time during the correction period described in Section 12.2. The Architect and Construction Manager will advise and consult with the Owner. The Construction Manager and Architect will have authority to act on behalf of the Owner only to the extent provided in the Contract ~~Documents.~~Documents, unless otherwise modified in writing in accordance with other provisions of the Contract.

§ 4.2.2 The Architect will visit the site at intervals appropriate to the stage of construction, or as otherwise agreed with the Owner, to become generally familiar with the progress and quality of the ~~portion of the Work completed,~~ Work completed, to endeavor to guard the Owner against defects and deficiencies in the Work, and to determine in general if the Work ~~observed~~ is being performed in a manner indicating that the Work, when ~~fully~~ completed, will be in accordance with the Contract Documents. However, the Architect will not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. On the basis of the site visits, the Architect will keep the Owner and the Construction Manager reasonably informed about the progress and quality of the portion of the Work completed, and promptly report to the Owner and Construction Manager known deviations from the Contract Documents and defects and deficiencies observed in the Work.

§ 4.2.2.2 The Contractor shall reimburse the Owner for compensation paid to the Architect for additional site visits made necessary by fault, neglect, or request of the Contractor.

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§ 4.2.6 Communications. The Owner shall communicate with the Contractor and the Construction Manager's consultants through the Construction Manager about matters arising out of or relating to the Contract Documents. The Owner and Construction Manager shall include the Architect in all communications that relate to or affect the Architect's services or professional responsibilities. The Owner shall promptly notify the Architect of the substance of any direct communications between the Owner and the Construction Manager otherwise relating to the Project. Communications by and with the Architect's consultants shall be through the Architect. Communications by and with Subcontractors and suppliers shall be through the Contractor. Communications by and with other Contractors shall be through the Construction Manager. Communications by and with the Owner's own forces and Separate Contractors shall be through the ~~Owner.~~ Owner unless otherwise provided. The Contract Documents may specify other communication protocols. The Owner may require the Architect, Construction Manager and the Contractor to comply with Owner requirements in regards to public communications and site signage.

...

§ 4.2.8 The Architect and Construction Manager have authority to reject Work that does not conform to the Contract Documents, and will notify each other about the rejection. Whenever the Construction Manager considers it necessary or ~~advisable,~~ advisable for implementation of the intent of the Contract Documents, the Construction Manager will have authority to require additional inspection or testing of the Work in accordance with Sections 13.4.2 and 13.4.3, upon written authorization of the Owner, whether or not the Work is fabricated, installed or completed. The foregoing authority of the Construction Manager will be subject to the provisions of Sections 4.2.18 through 4.2.20 inclusive, with respect to interpretations and decisions of the Architect. However, neither the Architect's nor the Construction Manager's authority to act under this Section 4.2.8 nor a decision made by either of them in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect or the Construction Manager to the Contractor, Subcontractors, suppliers, their agents or employees, or other persons performing any of the Work.

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§ 4.2.11 The Architect ~~will~~ will, and the Owner may, review and approve, or take other appropriate action upon, the Contractor's submittals such as Shop Drawings, Product Data, and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Architect's ~~action will be taken in accordance with the submittal schedule approved by the Architect or, in the absence of an approved submittal schedule, with reasonable promptness~~ or Owner's action will be taken with such reasonable promptness as to cause no delay in the Work or in the activities of the Owner, Contractor or separate contractors, while allowing sufficient time in the Architect's professional judgment to permit adequate review. Upon the Architect's or the Owner's completed review, the Architect shall transmit its submittal review to the Construction Manager.

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§ 4.2.18 The Architect will interpret and decide matters concerning performance ~~under, and~~ under the requirements of, the Contract Documents on written request of the Construction Manager, Owner, or Contractor through the Construction Manager. The Architect's response to such requests will be made ~~in writing within any time limits agreed upon or otherwise with reasonable promptness.~~ with reasonable promptness and within any time limits agreed upon. If no agreement is made concerning the time within which interpretations required of the Architect shall be furnished in compliance with this Section 4.2.18, then delay shall not be recognized on account of failure by the Architect to furnish such interpretations until fifteen (15) days after written request is made to them.

§ 4.2.19 ~~Interpretations and decisions of the Architect will be consistent with the intent of, and reasonably inferable from, the Contract Documents and will be in writing or in the form of drawings. When making such interpretations and decisions, the Architect will endeavor to secure faithful performance by both Owner and Contractor, will not show partiality to either, and will not be liable for results of interpretations or decisions so rendered in good faith.~~Architect's decisions on matters relating to aesthetic effect will be final if consistent with the intent expressed in the Contract Documents.

§ 4.2.20 ~~The Architect's decisions on matters relating to aesthetic effect will be final if consistent with the intent expressed in the Contract Documents.~~Architect will review and respond to requests for information about the Contract Documents. The Architect's response to such requests will be made in writing within any time limits agreed upon or otherwise with reasonable promptness. If appropriate, the Architect will prepare and issue supplemental Drawings and Specifications in response to the requests for information.

~~**§ 4.2.21** The Construction Manager will receive and review requests for information from the Contractor, and forward each request for information to the Architect, with the Construction Manager's recommendation. The Architect will review and respond in writing, through the Construction Manager, to requests for information about the Contract Documents. The Construction Manager's recommendation and the Architect's response to each request will be made in writing within any time limits agreed upon or otherwise with reasonable promptness. If appropriate, the Architect will prepare and issue supplemental Drawings and Specifications in response to the requests for information.~~

...

§ 5.2.1 Unless otherwise stated in the Contract Documents, the Contractor, as soon as practicable after award of the Contract, shall notify in writing the Construction Manager, for review by the Owner, Construction Manager and Architect, of the persons or entities proposed for each principal portion of the Work, including those who are to furnish materials or equipment fabricated to a special design. Within 14 days of receipt of the information, the Construction Manager may notify the Contractor whether the Owner, the Construction Manager or the Architect (1) has reasonable objection to any such proposed person or entity or, (2) requires additional time for review. Failure of the Construction Manager to provide notice within the 14-day period shall constitute notice of no reasonable objection. The Contractor shall not employ any Subcontractor or use any material to which the Architect, Construction Manager or Owner may object. Prior to the employment of any Subcontractor, the Contractor must obtain the Owner's approval of such Subcontractor for the designated portion of the Work.

...

§ 5.2.3 If the Owner, Construction Manager or Architect has reasonable objection to a person or entity proposed by the Contractor, the Contractor shall propose another to whom the Owner, Construction Manager or Architect has no reasonable objection. ~~If the proposed but rejected Subcontractor was reasonably capable of performing the Work, the Contract Sum and Contract Time~~ The Contract Sum shall be increased or decreased by the ~~difference, if any,~~ difference in cost occasioned by such change, and an appropriate Change Order shall be ~~issued before commencement of the substitute Subcontractor's Work.~~ issued. However, no increase in the Contract Sum or Contract Time shall be allowed for such change unless the Contractor has acted promptly and responsively in submitting names as required. Notwithstanding the foregoing, the Contractor shall have a continuing duty to the Owner, Construction Manager and Architect to find and propose such persons or entities as shall not result in material increase in the Contract Sum, or a material decrease in the quality of Work contemplated under the Contract Documents.

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§ 5.2.4 The Contractor shall not substitute a Subcontractor, person, or entity for one previously selected if the Owner, Construction Manager or Architect makes reasonable objection to such substitution. Any proposed substitution of a Subcontractor, person, or entity for one previously selected shall be made in a separate writing to the Owner, Construction Manager and Architect. No substitution shall be deemed approved/accepted without written confirmation from the Owner, Construction Manager and Architect. Neither acceptance of, nor objection to a Subcontractor or Sub-subcontractor, material supplier, or other person or organization by the Owner, Construction Manager and Architect shall limit the responsibility of the Contractor to furnish materials, products, equipment, and services in conformance with the requirements of the Contract Documents.

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~~By appropriate written agreement, the Contractor shall require each Subcontractor, to the extent of the Work to be performed by the Subcontractor, to be bound to the Contractor by terms of the Contract Documents, and to assume toward the Contractor all the obligations and responsibilities, including the responsibility for safety of the Subcontractor's Work, that the Contractor, by these Contract Documents, assumes toward the Owner, Construction Manager and Architect. Each subcontract agreement shall preserve and protect the rights of the Owner, Construction Manager and Architect under the Contract Documents with respect to the Work to be performed by the Subcontractor so that subcontracting thereof will not prejudice such rights, and shall allow to the Subcontractor, unless specifically provided otherwise in the subcontract agreement, the benefit of all rights, remedies, and redress against the Contractor that the Contractor, by the Contract Documents, has against the Owner. Where appropriate, the Contractor shall require each Subcontractor to enter into similar agreements with Sub-subcontractors. The Contractor shall make available to each proposed Subcontractor, prior to the execution of the subcontract agreement, copies of the Contract Documents to which the Subcontractor will be bound, and, upon written request of the Subcontractor, identify to the Subcontractor terms and conditions of the proposed subcontract agreement that may be at variance with the Contract Documents. Subcontractors will similarly make copies of applicable portions of such documents available to their respective proposed Sub-subcontractors.~~**§ 5.3.1** By appropriate written agreement, the Contractor shall require each Subcontractor, to the extent of the Work to be performed by the Subcontractor, to be bound to the Contractor by terms of the Contract Documents, and to assume toward the Contractor all the obligations and responsibilities, including the responsibility for safety of the Subcontractor's Work, that the Contractor, by these Contract Documents, assumes toward the Owner, Construction Manager and Architect. Each subcontract agreement shall preserve and protect the rights of the Owner, Construction Manager and Architect under the Contract Documents with respect to the Work to be performed by the Subcontractor so that subcontracting thereof will not prejudice such rights, and shall allow to the Subcontractor, unless specifically provided otherwise in the subcontract agreement, the benefit of all rights, remedies, and redress against the Contractor that the Contractor, by the Contract Documents, has against the Owner. Where appropriate, the Contractor shall require each Subcontractor to enter into similar agreements with Sub-subcontractors. The Contractor shall make available to each proposed Subcontractor, prior to the execution of the subcontract agreement, copies of the Contract Documents to which the Subcontractor will be bound, and, upon written request of the Subcontractor, identify to the Subcontractor terms and conditions of the proposed subcontract agreement that may be at variance with the Contract Documents. Subcontractors shall similarly make copies of applicable portions of such documents available to their respective proposed Sub-subcontractors.

§ 5.3.2 The Contractor is responsible for the performance of, the actions of, the timeliness of, or interference caused by, Subcontractors, Sub-subcontractors (of any tier), and others directly or indirectly under contract to the Contractor.

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§ 6.2.2 If part of the Contractor's Work depends for proper execution or results upon construction or operations by the Owner's own forces, Separate Contractors or other Contractors, the Contractor shall, prior to proceeding with that portion of the Work, promptly notify the Construction Manager and Architect of apparent discrepancies or defects in the construction or operations by the Owner or Separate Contractor or other Contractors that would render it unsuitable for proper execution and results of the Contractor's Work. Failure of the Contractor to notify the Construction Manager and the Architect of apparent discrepancies or defects prior to proceeding with the Work shall constitute an acknowledgment that the Owner's or Separate Contractor's or other Contractors' completed or partially completed construction is fit and proper to receive the Contractor's Work. The Contractor shall not be responsible for discrepancies or defects in the construction or operations by the Owner or Separate Contractors or other Contractors that are not ~~apparent.~~reasonably discoverable.

§ 6.2.3 ~~The Contractor shall reimburse the Owner for costs the Owner incurs, including costs that are payable to a Separate Contractors or to other Contractors, because of the Contractor's delays, improperly timed activities or~~

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~~defective construction. The Owner shall be responsible to the Contractor for costs the Contractor incurs because of delays, improperly timed activities, damage to the Work or defective construction by the Owner's own forces, Separate Contractors, or other Contractors.~~Costs caused by delays or by improperly timed activities or defective construction shall be borne by the party responsible therefor.

...

§ 6.2.5 ~~The Owner, Separate Contractors, and other Contractors shall have the same responsibilities for cutting and patching as are described for the Contractor in Section 3.14.~~Claims and other disputes and matters in question between the Contractor and a separate contractor shall be subject to the provisions of Article 15 provided the separate contractor has reciprocal obligations.

§ 6.2.6 The Owner, Separate Contractors, and other Contractors shall have the same responsibilities for cutting and patching as are described for the Contractor in Section 3.14.

...

If a dispute arises among the Contractor, Separate Contractors, other Contractors, and the Owner as to the responsibility under their respective contracts for maintaining the premises and surrounding area free from waste materials and ~~rubbish, the Owner may clean up and the Construction Manager, with notice to the Architect, will allocate the cost among those responsible.~~rubbish as described in Section 3.15, the Owner may clean up allocate the cost among those responsible as the Architect determines to be just..

...

§ 7.1.2 A Change Order shall be based upon agreement among the Owner, Construction Manager, Architect and Contractor. A Construction Change Directive requires agreement by the Owner, Construction Manager and Architect and may or may not be agreed to by the Contractor. ~~An order for a minor change in the Work may be issued by the Architect alone.~~

...

§ 7.1.4 The amount of credit to be allowed by the Contractor to the Owner for any deletion or change which results in a net decrease in the Contract Sum will be the amount of the actual net cost as confirmed by the Architect after consultation with the Owner and Construction Manager. When both additions and credits covering related Work or substitutions are involved in any one change, the allowance for both overhead and profit shall be figured on the basis of the net increase or decrease, if any, with respect to that change.

§ 7.1.5 In Section 7.3.6, the allowance for the combined overhead and profit included in the total cost to the Owner shall be based on the following schedule:

.1 For the Contractor, for Work performed by the Contractor's own forces, ten percent (10%) of the cost;

.2 For the Contractor, for Work performed by the Contractor's Subcontractor, five percent (5%) of the amount due the Subcontractor;

.3 For each Subcontractor or Sub-subcontractor involved for Work performed by the Subcontractor's or Sub-subcontractor's own forces, ten percent (10%) of the cost;

.4 For each Subcontractor for Work performed by the Subcontractor's Sub-subcontractor, five percent (5%) of the amount due the Subcontractor;

.5 Costs to which overhead and profit is to be applied shall be determined in accordance with Section 7.3.6;

.6 In order to facilitate checking of quotations for extras or credits, all proposals, expect those so minor that their propriety can be seen by inspection, shall be accompanied by a complete itemization of costs, including labor, materials and subcontracts. Labor and materials shall be itemized in the manner prescribed above. Where major cost items are subcontracts, they shall be itemized also. In no case will a change involving over $500 be approved without such itemization.

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§ 7.2 Change Orders and Change Proposals

~~A Change Order is a written instrument prepared by the Construction Manager and signed by the Owner, Construction Manager, Architect, and Contractor, stating their agreement upon all of the following:~~**§ 7.2.1** A Change Order is a written instrument prepared by the Construction Manager and signed by the Owner, Construction Manager, Architect, and Contractor, stating their agreement upon all of the following:

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.3 The extent of the adjustment, if any, in the Contract Time.

§ 7.2.2 Change Order shall be prepared on AIA Document G731.

§ 7.2.3 The Contractor must submit Change Proposals covering a contemplated Change Order within ten (10) days after request of the Owner, or the Architect or within ten (10) days of the event, or Contractor's discovery of a condition, whichever is earlier, giving rise to the Contractor's claim for a change in the Contract Sum or Contract Time. No increase in the Contract Sum or extension of the Contract Time will be allowed the Contractor for the cost or time involved in making Change Proposals. Change Proposals will define or confirm in detail the Work which is proposed to be added, deleted, or changed and must include any adjustment which the Contractor believes to be necessary in (i) the Contract Sum, or (ii) the Contract Time. Any proposed adjustment must include detailed documentation including, but not limited to: cost, properly itemized and supported by sufficient substantiating data to permit evaluation including cost of labor, materials, supplies and equipment, rental cost of machinery and equipment, additional bond cost, plus a fixed fee for profit and overhead (which includes office overhead and Site-specific overhead and general conditions) of ten percent (10%) if the Work is performed by the Contractor, or five percent (5%) if the Work is performed by a Subcontractor or Sub-subcontractor. The Subcontractor's or Sub-subcontractor's overhead and profit in turn must not exceed a total aggregate of ten percent (10%). Change Proposals will be binding upon the Contractor and may be accepted or rejected by the Owner in its discretion. The Owner may, at its option, instruct the Contractor through a Construction Change Directive to proceed with the Work involved in the Change Proposal in accordance with Section 7.3 without accepting the Change Proposal in its entirety.

§ 7.2.4 If the Owner determines that a Change Proposal is appropriate, the Architect will prepare and submit a request for a Change Order or Contract Amendment providing for an appropriate adjustment in the Contract Sum or Contract Time, or both, for further action by the Owner. No such change is effective until the Owner and Architect sign the Change Order.

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§ 7.3.4 If the Contractor does not respond promptly or disagrees with the method for adjustment in the Contract Sum, the Owner and the Construction Manager shall determine the adjustment on the basis of reasonable expenditures and savings of those performing the Work attributable to the change, including, in case of an increase in the Contract Sum, an amount for overhead and profit as set forth in the Agreement, or if no such amount is set forth in the Agreement, a reasonable amount. In such case, and also under Section 7.3.3.3, the Contractor shall keep and present, in such form as the Construction Manager may prescribe, an itemized accounting together with appropriate supporting data. Unless otherwise provided in the Contract Documents, costs for the purposes of this Section 7.3.4 shall be limited to the following:

...

.3 Rental costs of machinery and equipment, exclusive of hand tools, whether rented from the Contractor or ~~others;~~others (at rates approved by the Owner);

...

§ 7.3.7 A Construction Change Directive signed by the Contractor indicates the Contractor's agreement therewith, including adjustment in Contract Sum and Contract Time or the method for determining them. Such agreement shall be effective ~~immediately and shall be recorded as a Change Order.~~immediately.

...

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§ 7.3.9 Pending final determination of the total cost of a Construction Change Directive to the Owner, the Contractor may request payment for Work completed under the Construction Change Directive in Applications for ~~Payment.~~ Payment up to and not exceeding $25,000. The Construction Manager and Architect will make an interim determination for purposes of monthly certification for payment for those costs and certify for payment the amount that the Construction Manager and Architect determine to be reasonably justified. The interim determination of cost shall adjust the Contract Sum on the same basis as a Change Order, subject to the right of either party to disagree and assert a Claim in accordance with Article 15.

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The Architect may order minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. The Architect's order for minor changes shall be in ~~writing.~~ writing and approved by the Owner. If the Contractor believes that the proposed minor change in the Work will affect the Contract Sum or Contract Time, the Contractor shall notify the Construction Manager and shall not proceed to implement the change in the Work. If the Contractor performs the Work set forth in the Architect's order for a minor change without prior notice to the Construction Manager that such change will affect the Contract Sum or Contract Time, the Contractor waives any adjustment to the Contract Sum or extension of the Contract Time.

...

§ 8.1.2 The date of commencement of the Work is the date established in the Agreement. The date shall not be postponed by the failure to act of the Contractor or of persons or entities for whom the Contractor is responsible.

...

§ 8.1.4 The term "day" ~~as used in the Contract Documents shall mean calendar day unless otherwise specifically defined.~~shall mean calendar day of 24 hours beginning at 12:00 midnight. Calendar days as stated in the Contract Documents, shall include all days of a seven (7) day week including Saturdays, Sundays, and holidays. The term "Milestone Date" is, in each instance, the date established in the Contract Documents for the Substantial completion of all or a designated portion of the Work.

...

§ 8.2.3 The Contractor shall proceed expeditiously with adequate forces and shall achieve Substantial Completion within the Contract ~~Time.~~Time and shall achieve specific contractual Milestone Dates (if any), Substantial Completion and final Completion within the time stated in the Contract Documents.

§ 8.2.4 Contractor understands and agrees that all Work must be performed in an orderly and closely coordinated sequence so that the dates for Substantial Completion, Final Completion, and Milestone Dates (if any) may be met by the Contractor.

§ 8.2.5 Timely final completion of the Project is of critical importance to the Owner. The Contractor agrees that it shall substantially complete all Work under the Contract documents within the time established herein and that it shall finally complete the Work in the detail required and in the time required by the Contract Documents.

§ 8.2.6 To the extent that the Contract Documents contain or provide for specific contractual Milestone Dates in addition to Final and Substantial Completion dates, such dates shall be adhered to and shall be the last acceptable dates for those milestones and completions, unless modified by the Owner.

§ 8.2.7 Notwithstanding anything to the contrary contained in the Contract Documents, in the event that any Contractor fails, or appears likely, in the reasonable opinion of the Owner and Construction Manager, to fail to complete a critical portion of their Work on time or to complete any dates for Substantial Completion, Final Completion, or Milestone Dates as evidenced by the latest update of the CPM Schedule Report, the Owner shall have the right to select and require Contractor's performance under any or all of the following operations:

.1 Require the Contractor to substantiate their capability to get back on schedule within two (2) days;

.2 Require the Contractor, at no additional cost to the Owner, to increase their work force, work overtime and/or extra shifts and do whatever else is required by the Owner until the Contractor gets

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back on schedule as established by the CPM Schedule Report (including any updates thereto);

.3 Withhold progress payments or portions thereof until such time as the contractor returns to schedule, but only related to Substantial Completion or Final Completion;

.4 Contact or visit the factory, plant, or distribution center whose production or delivery schedule may be critical to the scheduled completion of a portion of the contract work and expedite such production delivery at Contractor's expense; or

.5 Require the Contractor to complete, in detail, and submit weekly a Short Interval Schedule (SIS) showing: (1) planning for the next two weeks; (2) work completed for the previous week; (3) sufficient detail to evaluate daily milestone (if any) and manpower/equipment loading, and shall identify/tie into the monthly updated CPM Schedule Report.

Any costs incurred by the Contractor in fulfilling the option(s) selected by the Owner shall be at the Contractor's expense.

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§ 8.3.1 If the Contractor is delayed at any time in the ~~commencement or~~ progress of the Work by (1) an act or neglect of the Owner, Architect, Construction Manager, or an employee of any of them, or of the Owner's own forces, Separate Contractors, or other Contractors; (2) by changes ordered in the Work; (3) by labor disputes, fire, unusual delay in deliveries, unavoidable casualties, adverse weather conditions documented in accordance with Section 15.1.6.2, or other causes beyond the Contractor's control; ~~(4) by delay authorized by the Owner pending mediation and binding dispute resolution; or (5)~~ or (4) by other causes that the Contractor asserts and the Architect, based on the recommendation of the Construction Manager, determines justify delay, then subject to the conditions hereinafter set forth, the Contract Time shall be extended by Change Order for such reasonable time as the Architect may determine. Requests for extensions of time for causes enumerated above will be considered by the Architect subject to the following:

.1 Only those conditions enumerated above over which the Contractor has no control will be considered. The burden of proof to substantiate the claim for an extension shall rest with the Contractor, including evidence that the cause was beyond their control. It shall be deemed the Contractor has control over the supply of labor, materials, equipment, methods, techniques, and over their Subcontractors and suppliers;

.2 In the event of Changes in the Work, any consideration for a time extension will be made only at the time of authorizing the changes, and no later than when the Change Order is prepared, and only if the Change Order significantly affects the time and progress of the entire Work. For changes which do not affect the entire Work, time extension may be granted only for the area, phase, unit, or element affected by the change, if due to a valid reason for a time extension;

.3 Any unusual delay in deliveries will not be considered unless it is solely due to transportation issues wholly outside of Contractor's, Subcontractor's, Sub-subcontractor's or Supplier's control. An extension of time will not be granted for delays in deliveries where said delivery was not properly scheduled or when orders were not promptly and properly placed;

.4 With respect to a claim for an extension of time as a result of climatic conditions, the Contractor shall recognize the location of the site and the existence, as normal, or variations from "average" conditions. Foul weather in itself will not be a valid reason for a time extension. Requests for time extensions because of delay resulting from weather extremes will not be considered unless a substantial variation from usual weather conditions occurs for a significant period of time, during phases of the Work when operation necessarily were suspended to a significant degree when they would otherwise have been in progress. In considering the time extension, the weather conditions both before and after the period in which the delay is claimed will be evaluated with credit given to Owner for unseasonably favorable weather;

.5 Delays resulting from a labor dispute will not result in a time extension of a longer period than the dispute, plus a reasonable time for mobilization if justified and necessary as approved by the Architect, and may be less depending on the impact of the dispute, including what operations were suspended or curtailed;

.6 No time extension will be granted as a result of improper scheduling or for failure to have shop drawings or samples submitted in ample time for review under a reasonable and agreed upon schedule; or

.7 Delays by Subcontractors or suppliers will not be considered justification for a time extension, except for the same valid reasons and conditions enumerated under Section 8.3.1.

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§ 8.3.4 The Contractor shall be responsible for all Owner incurred costs associated with a Contractor related to delay in completion of the Project. These costs may include, but are not limited to, Owner staff overtime, Consultant additional fees, additional testing, and/or additional rental or storage costs. A Change Order or Construction Change Directive will be issued to cover these costs. If a Change Order is not agreed to by the Contractor, the Owner, after presenting documentation to the Contractor, may deduct these amounts without a Change Order from the Contract Sum.

...

~~Where the Contract is based on a stipulated sum or Guaranteed Maximum Price, the Contractor shall submit a schedule of values to the Construction Manager, before the first Application for Payment, allocating the entire Contract Sum to the various portions of the Work. The schedule of values shall be~~ Before the first Application for Payment, the Contractor shall submit to the Architect and Construction Manager a schedule of values allocated to various portions of the Work, prepared in the form, and supported by the data to substantiate its accuracy, required by the Construction Manager and the Architect. ~~This~~ The schedule, unless objected to by the Construction Manager or Architect, shall be used as a basis for reviewing the Contractor's Applications for Payment. The Construction Manager shall forward to the Architect the Contractor's schedule of values. Any changes to the schedule of values shall be submitted to the Construction Manager and supported by such data to substantiate its accuracy as the Construction Manager and the Architect may require, and unless objected to by the Construction Manager or the Architect, shall be used as a basis for reviewing the Contractor's subsequent Applications for Payment. The Contractor, after receipt of Notice to Proceed, shall meet with the Owner, Construction Manager and the Architect for the purpose of reviewing the Project CPM Schedule and the Contract Schedule of Values. The Contractor shall develop a CPM Schedule for completing their portion of the Work, in conjunction with all other Contractors or Bid Packages, at the Pre-Construction Meeting(s). The Schedule of Values is to be broken down into specification sections and by labor and materials.

...

§ 9.3.1 At least fifteen days before the date established for each progress payment, the Contractor shall submit to the Construction Manager an itemized Application for Payment ~~prepared in accordance with the schedule of values, if required under Section 9.2, for completed portions of the Work. The application shall be notarized, if required,~~ for operations completed in accordance with the Schedule of Values. Such application shall be notarized and supported by all data substantiating the Contractor's right to payment that the Owner, Construction Manager or Architect require, such as copies of requisitions, and releases of waivers of lien from Subcontractors and ~~suppliers, and shall reflect retainage if provided for in the Contract Documents.~~material suppliers, and reflecting retainage if provided for elsewhere in the Contract Documents. The form of Application for Payment shall be a notarized AIA Document G732–2019, Application and Certificate for Payment, supported by AIA Document G703–1992, Continuation Sheet.

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§ 9.3.1.2 ~~Applications for Payment~~ Such applications shall not include requests for payment ~~for portions of the Work for which the~~ of amounts the Contractor does not intend to pay a Subcontractor ~~or supplier,~~ or supplier because of a dispute or other reason, unless such Work has been performed by others whom the Contractor intends to pay.

§ 9.3.1.3 Following certification of the Application for Payment by the Architect and Construction Manager, the Owner shall pay ninety-five percent (95%) of its value, retaining five percent (5%) until Final Completion.

§ 9.3.1.4 Contractor shall provide lien waivers for itself for the current payment application and for Subcontractors, Sub-subcontractors, and suppliers for the previous payment application before the Contractor has earned or has the right to receive payment for the specific items of work or materials covered by the lien waivers. All lien waivers shall be provided in the form required by the Owner. This Section 9.3.1.4 shall not limit other obligations of the Contractor contained elsewhere to provide lien waivers.

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§ 9.3.4 In each Application for Payment, the Contractor shall certify as follows:

"That there are no known mechanics' or materialmen's liens or stop notice claims outstanding by the application or any of its subcontractors of any tier, or any of the applicant's or subcontractor's material suppliers, or laborers at the date of this application, that all due and payable bills with respect to the Work have been paid or are included in the amount requested in current application, and that, except for such bills, not paid by Owner, but so included, there is no known basis for the filing of any mechanics' or materialmen's liens or stop notice claims on the Work, and that waivers from Contractor, its subcontractors of any tier, or any of the applicant's or subcontractor's material suppliers and laborers have been obtained in such form as to constitute an effective waiver of liens or stop notice claims, under the laws of the State of Minnesota to the extent of payments made by Owner to Contractor."

Notwithstanding the foregoing Section 9.3.4, Contractor acknowledges its obligation to provide a Payment Bond in accordance with the Contract Documents, and that Contractor's failure to pay any of its Subcontractors, Sub-subcontractors, suppliers, or laborers will be resolved through a claim under the Payment Bond.

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§ 9.6.1 After the Architect has issued a Certificate for Payment or Project Certificate for Payment, the Owner shall make payment within thirty (30) days of receipt by Owner of Certificate of Payment in the manner and within the time provided in the Contract Documents, and shall so notify the Construction Manager and Architect.

§ 9.6.2 The Contractor shall pay each Subcontractor, no later than seven days after receipt of payment from the Owner, the amount to which the Subcontractor is entitled, reflecting percentages actually retained from payments to the Contractor on account of the Subcontractor's portion of the Work. The Contractor shall, by appropriate agreement with each Subcontractor, require each Subcontractor to make payments to Sub-subcontractors in a similar manner. Per Minnesota Statutes, Section 471.425, within ten (10) days of Contractor's receipt of payment from Owner, the Contractor must pay any Subcontractor for any undisputed services provided by the Subcontractor. The Contractor shall pay interest of one and one-half percent (1-1/2%) per month, or any part of a month, to the Subcontractor on any undisputed amount not paid on time to the subcontractor. The minimum monthly interest penalty payment for an unpaid balance of $100 or more is $10.00. For an unpaid balance of less than $100, the Contractor shall pay the actual interest penalty due to the Subcontractor. Contractor is advised that by reason of Minnesota Statutes, Section 471.425, subd. 4a, if a Subcontractor prevails in a civil action to collect interest penalties from a prime contractor, the Subcontractor must be awarded its costs and disbursements, including attorneys' fees incurred in bringing the action.

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§ 9.6.5 The Contractor's payments to material and equipment suppliers shall be treated in a manner similar to that provided in Sections 9.6.2, 9.6.3 and 9.6.4.

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If the Construction Manager and Architect do not issue a Certificate for Payment or a Project Certificate for Payment, through no fault of the Contractor, within fourteen days after the Construction Manager's receipt of the Contractor's Application for Payment, or if the Owner does not pay the Contractor within ~~seven~~ thirty (30) days after the date established in the Contract Documents, the amount certified by the Construction Manager and Architect ~~or awarded by binding dispute resolution,~~ then the Contractor may, upon ~~seven~~ ten (10) additional days' notice to the Owner, Construction Manager and Architect, stop the Work until payment of the amount owing has been received. The Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable costs of shutdown, delay and ~~start-up, plus interest as provided for in the Contract Documents.~~start-up which shall be accomplished as provided in Article 7.

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§ 9.8.1 Substantial Completion is the stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Contract Documents so the Owner can occupy or utilize the Work for its intended ~~use.~~use and when the Architect issues a Certificate of Substantial Completion.

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§ 9.8.2 When the Contractor considers that the Work, or a portion thereof which the Owner agrees to accept separately, is substantially complete, the Contractor shall notify the Construction Manager, and the Contractor and Construction Manager shall jointly prepare and submit to the Architect a comprehensive list of items to be completed or ~~corrected prior to final payment.~~ corrected. The Contractor shall proceed promptly to complete and correct items on the list. Failure to include an item on such list does not alter the responsibility of the Contractor to complete all Work in accordance with the Contract Documents. Upon receipt of the Contractor's list, the Architect, assisted by the Construction Manager, will make an inspection to determine whether the Work or designated portion thereof is substantially complete. If the Architect's inspection discloses any item, whether or not included on the Contractor's list, which is not in accordance with the requirements of the Contract documents, the Contractor shall, before issuance of the Certificate of Substantial Completion, complete or correct such item, upon notification by the Architect. The Contractor shall then submit a request for another inspection by the Architect, assisted by the Construction Manager, to determine Substantial Completion. When the Work or designated portion thereof is substantially complete, the Architect will prepare a Certificate of Substantial Completion which shall establish the date of Substantial Completion, shall establish responsibilities of the Owner and Contractor for security, maintenance, heat, utilities, damage to the Work and insurance, and shall fix the time within which the Contractor shall finish all items on the list accompanying the Certificate. Warranties required by the Contract Document shall commence on the date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion.

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§ 9.8.6 Upon Substantial completion of the Work or designated portion thereof and upon application by the Contractor and certification by the Architect, the Owner shall make payment, reflecting adjustment in retainage, pursuant to Minnesota Statutes, Section 15.72, for such Work or portion thereof as provided in the Contract Documents.

§ 9.8.7 The Architect, assisted by the Construction Manager, shall make one (1) inspection for Substantial Completion and Final Completion in accordance with the AIA Document B101–2017 Owner Architect Agreement. If additional inspections are required due to the Contractor's failure to complete previously listed corrective or uncompleted work, the Architect's expense for conducting such re-inspections and related time in processing, reviewing, and revision of requirements shall be charged to the Contractor and such payment shall be accomplished by a deductive Change Order to the Contractor.

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§ 9.10.1 Upon completion of the Work, the Contractor shall forward to the Construction Manager a notice that the Work is ready for final inspection and acceptance, and shall also forward to the Construction Manager a final Contractor's Application for Payment. Upon receipt, the Construction Manager shall perform an inspection to confirm the completion of Work of the Contractor. The Construction Manager shall make recommendations to the Architect when the Work of all of the Contractors is ready for final inspection, and shall then forward the Contractors' notices and Application for Payment or Project Application for Payment, to the Architect, who will promptly make such inspection. When the Architect finds the Work acceptable under the Contract Documents and the Contract fully performed, the Construction Manager and Architect will promptly issue a final Certificate for Payment or Project Certificate for Payment stating that to the best of their knowledge, information and belief, and on the basis of their observations, on-site visits and inspections, the Work has been completed in accordance with the Contract Documents and that the entire balance found to be due the Contractor and noted in the final Certificate is due and payable. The Construction Manager's and Architect's final Certificate for Payment or Project Certificate for Payment will constitute a further representation that conditions listed in Section 9.10.2 as precedent to the Contractor's being entitled to final payment have been fulfilled.

§ 9.10.2 Neither final payment nor any remaining retained percentage shall become due until the Contractor submits to the Architect through the Construction Manager (1) an affidavit that payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which the Owner or the Owner's property might be responsible or encumbered (less amounts withheld by Owner) have been paid or otherwise satisfied, (2) a certificate evidencing that insurance required by the Contract Documents to remain in force after final payment is currently in ~~effect,~~ effect and will not be cancelled or allowed to expire until at least (60) days' prior written notice has been given to the Owner, (3) a written statement that the Contractor knows of no reason that the insurance will not be renewable to cover the period required by the Contract Documents, (4) consent of surety, if any, to final payment (5) documentation of any special

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warranties, such as manufacturers' warranties or specific Subcontractor warranties, ~~and (6), if required by the Owner,~~ including a summary listing all applicable warranties both standard and extended, itemized by specification section and included at the front of the Operation and Maintenance manuals, and (6) other data establishing payment or satisfaction of obligations, such as receipts and releases and waivers of liens, claims, security interests, or encumbrances arising out of the Contract, to the extent and in such form as may be designated by the Owner. If a Subcontractor refuses to furnish a release or waiver required by the Owner, the Contractor may furnish a bond satisfactory to the Owner to indemnify the Owner against such lien, claim, security interest, or encumbrance. If a lien, claim, security interest, or encumbrance remains unsatisfied after payments are made, the Contractor shall refund to the Owner all money that the Owner may be compelled to pay in discharging the lien, claim, security interest, or encumbrance, including all costs and reasonable attorneys' fees.

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§ 9.11 Damages for Delay

§ 9.11.1 The Contractor shall be responsible for damages incurred by the Owner and any other separate contractors for delay resulting from the Contractor's failure to complete the Work within the contract Time or resulting from the progress of the Work failing to substantially conform to the Project Construction Schedule. These damages are not included in liquidated damages and represent additional direct costs incurred by the Owner for the delay. These damages may include Owner incurred costs for temporary classrooms, temporary facilities, moving of programs, etc.

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~~The Contractor shall be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the performance of the Contract. The Contractor shall submit the Contractor's safety program to the Construction Manager for review and coordination with the safety programs of other Contractors. The Construction Manager's responsibilities for review and coordination of safety programs shall not extend to direct control over or charge of the acts or omissions of the Contractors, Subcontractors, agents or employees of the Contractors or Subcontractors, or any other persons performing portions of the Work and not directly employed by the Construction Manager.~~**§ 10.1.1** The Contractor shall be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the performance of the Contract. The Contractor shall submit the Contractor's safety program to the Construction Manager for review and coordination with the safety programs of other Contractors. The Construction Manager's responsibilities for review and coordination of safety programs shall not extend to direct control over or charge of the acts or omissions of the Contractors, Subcontractors, agents or employees of the Contractors or Subcontractors, or any other persons performing portions of the Work and not directly employed by the Construction Manager.

§ 10.1.2 The Contractor shall comply with all applicable laws and regulations. Notwithstanding any language to the contrary, the Owner shall not have any responsibility for job site inspections or safety recommendations. Any inspections or observations by the Owner, Construction Manager or the Architect are solely for the benefit of the Owner and shall not create any duties or obligations to anyone else.

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If either party suffers injury or ~~damage~~ damages to person or property because of an act or omission of the other party, of any of the other party's employees or agents, or of others for whose acts such party is legally responsible, notice of the injury or damage, whether or not insured, shall be given to the other party within a reasonable time not exceeding ~~21~~ ten (10) days after ~~discovery.~~ first observance. The notice shall provide sufficient detail to enable the other party to investigate the matter. If a Claim for additional cost or time related to this Claim is to be asserted, it shall be filed as provided in Sections 15.1.4 and 15.1.5.

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§ 10.3.1 ~~The Contractor is responsible for compliance with any requirements included in the Contract Documents regarding hazardous materials or substances. If the Contractor encounters a hazardous material or substance not addressed in the Contract Documents and if reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a material or substance, including but not limited to asbestos or polychlorinated biphenyl (PCB), encountered on the site by the Contractor, the Contractor shall, upon recognizing the condition, immediately stop Work in the affected area and notify~~ In the event the Contractor encounters on the site material reasonably believed to be asbestos or polychlorinated biphenyl (PCB) which has not been rendered harmless,

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the Contractor shall immediately stop Work in the area affected and report the condition to the Owner, Construction Manager and Architect ~~of the condition.~~in writing. The Work in the affected area shall not thereafter be resumed except by written agreement of the Owner and Contractor if in fact the material is asbestos or polychlorinated biphenyl (PCB) and has not been rendered harmless. The Work in the affected area shall be resumed in the absence of asbestos or polychlorinated biphenyl (PCB), or when it has been rendered harmless, by written agreement of the Owner and Contractor.

.1 Except where otherwise stated in the Contract Documents, no hazardous material work of any nature shall be performed by the Contractor pursuant to this Contract.

.2 The term "hazardous materials" includes, but is not limited to, asbestos, toxic chemicals, acids, alkalis, irritants, contaminants, or other pollutants, together with any other waste, material, substance, pollutants, or contaminant, all or a portion of which is or would be designated as hazardous waste or substance under applicable local, state, or federal laws, ordinances, codes, rules, or regulations.

§ 10.3.2 ~~Upon receipt of the Contractor's notice, the Owner shall obtain the services of a licensed laboratory to verify the presence or absence of the material or substance reported by the Contractor and, in the event such material or substance is found to be present, to cause it to be rendered harmless. Unless otherwise required by the Contract Documents, the Owner shall furnish in writing to the Contractor, Construction Manager and Architect the names and qualifications of persons or entities who are to perform tests verifying the presence or absence of the material or substance or who are to perform the task of removal or safe containment of the material or substance. The Contractor, the Construction Manager and the Architect will promptly reply to the Owner in writing stating whether or not any of them has reasonable objection to the persons or entities proposed by the Owner. If the Contractor, Construction Manager or Architect has an objection to a person or entity proposed by the Owner, the Owner shall propose another to whom the Contractor, the Construction Manager and the Architect have no reasonable objection. When the material or substance has been rendered harmless, Work in the affected area shall resume upon written agreement of the Owner and Contractor. By Change Order, the Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable additional costs of shutdown, delay, and start-up.~~To the fullest extent permitted by law, the Owner shall indemnify and hold harmless the Contractor, Construction Manager, Architect, their consultants, and agents and employees of any of them from and against claims, damages, losses, and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work on Owner's property if in fact the material is asbestos or polychlorinated biphenyl (PCB) and has not been rendered harmless, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), including loss of use resulting therefrom, but only to the extent caused in whole or in part by negligent acts or omissions of the Owner, anyone directly or indirectly employed by the Owner, or anyone for whose acts the Owner may be liable, regardless of whether or not such claim, damage, loss, or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity which would otherwise exist as to a party or person described in this Subparagraph 10.3.2.

§ 10.3.3 ~~To the fullest extent permitted by law, the Owner shall indemnify and hold harmless the Contractor, Subcontractors, Construction Manager, Architect, their consultants, and agents and employees of any of them from and against claims, damages, losses, and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work in the affected area if in fact the material or substance presents the risk of bodily injury or death as described in Section 10.3.1 and has not been rendered harmless, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), except to the extent that such damage, loss, or expense is due to the fault or negligence of the party seeking indemnity.~~If reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a material or substance encountered on the site by the contractor, the Contractor shall, upon recognizing the condition, immediately stop Work on Owner's property and report the condition to the Owner, Construction Manager and Architect in writing. The Owner, Construction Manager, Contractor, and Architect shall then proceed in the same manner described in Subparagraph 10.3.1.

§ 10.3.4 ~~The Owner shall not be responsible under this Section 10.3 for hazardous materials or substances the Contractor brings to the site unless such materials or substances are required by the Contract Documents. The Owner shall be responsible for hazardous materials or substances required by the Contract Documents, except to the extent of the Contractor's fault or negligence in the use and handling of such materials or substances.~~

§ 10.3.5 The Contractor shall reimburse the Owner for the cost and expense the Owner incurs (1) for remediation of hazardous materials or substances the Contractor brings to the site and negligently handles, or (2) where the

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Contractor fails to perform its obligations under Section 10.3.1, except to the extent that the cost and expense are due to the Owner's fault or negligence. Owner shall be responsible for obtaining the services of a licensed laboratory to verify a presence or absence of the material or substance reported by the Contractor and, in the event such material or substance is found to be present, to verify that it has been rendered harmless.

§ 10.3.6 ~~If, without negligence on the part of the Contractor, the Contractor is held liable by a government agency for the cost of remediation of a hazardous material or substance solely by reason of performing Work as required by the Contract Documents, the Owner shall reimburse the Contractor for all cost and expense thereby incurred.~~Regulations concerning the availability of information and employee training in the use and handling of "hazardous substances" and "harmful physical agents", as set forth in the Employee Right-to-Know Act of 1983, Minnesota Statutes, Sections 182.65 to 182.676 are incorporated herein by reference as if fully set forth herein.

§ 10.3.7 The Contractor shall furnish three Material Safety Data Sheets to the Owner for each material used in the Work that is classified by the Employee Right-to-Know Act of 1983 as a "hazardous substance" or a "harmful physical agent."

§ 10.3.8 The Contractor shall label, in generally accepted and/or standardized fashion, all containers on the work site containing "hazardous substances" or as "harmful physical agents." This shall include factory containers and all subsequent containers used in the Work.

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In an emergency affecting safety of persons or property, the Contractor shall ~~act, at the Contractor's discretion,~~ act to prevent threatened damage, injury, or loss. Additional compensation or extension of time claimed by the Contractor on account of an emergency shall be determined as provided in Article 15 and Article 7.

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§ 11.1.1 The Contractor shall purchase and maintain insurance of the types and limits of liability, containing the endorsements, and subject to the terms and conditions, as described in the ~~Agreement~~ Agreement, in EXH-C Owner Insurance or elsewhere in the Contract Documents. The Contractor shall purchase and maintain the required insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is ~~located.~~ located and which carry a Best's rating of A- or higher or are otherwise acceptable to the Owner. The Owner, Construction Manager and Construction Manager's consultants, and the Architect and Architect's consultants, shall be named as additional insureds under the Contractor's commercial general liability policy or as otherwise described in the Contract Documents.

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§ 11.1.3 Upon the request of any person or entity appearing to be a potential beneficiary of bonds covering payment of obligations arising under the Contract, the Contractor shall promptly furnish a copy of the bonds or shall authorize a copy to be furnished. The Contractor shall furnish Certificates of Insurance acceptable to the Owner which shall specifically set forth evidence of all coverage required by Article 11 and EXH-C Owner Insurance and shall be filed with the Owner and Construction Manager prior to commencement of the Work and thereafter upon renewal or replacement of each required policy of insurance.

The Contractor shall not allow insurance required by this Agreement to lapse, be canceled, reduced in limits or coverage, non-renewed, or materially changed or have restrictive modifications added during the life of this Agreement, including the periods of required coverage. The Contractor shall furnish to the Owner and Construction Manager copies of any endorsements that are subsequently issued amending coverage and limits.

If any of the foregoing insurance coverages are required to remain in force after final payment and are reasonably available, all additional certificates evidencing continuation of such coverage shall be submitted with the final Application for Payment. Information concerning reduction of coverage shall be furnished by the Contractor with reasonable promptness in accordance with the Contractor's information and belief.

§ 11.1.3.1 Acceptable insurance certificates are AIA Document G705, CICC of Minnesota Form 701, and/or ACORD form of the American Insurance Institute.

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Failure of the Owner to collect certificates does not void the requirements to obtain insurance.

The acceptance of any certificate of insurance by the Owner shall not relieve or decrease the liability of the Contractor hereunder. It is to be understood the Owner, Construction Manager and Architect do not in any way represent that the insurance specified in these articles are sufficient or adequate to protect the Contractor's interest or liabilities, but are merely minimum requirements.

The Contractor shall furnish to the Owner copies of any endorsements that are subsequently issued amending coverage and limits.

§ 11.1.4 ~~Notice of Cancellation or Expiration of Contractor's Required Insurance.~~ ~~Within three (3) business days of the date the Contractor becomes aware of an impending or actual cancellation or expiration of any insurance required by the Contract Documents, the Contractor shall provide notice directly to the Owner, and separately to the Construction Manager, of such impending or actual cancellation or expiration. Upon receipt of notice from the Contractor, the Owner shall, unless the lapse in coverage arises from an act or omission of the Owner, have the right to stop the Work until the lapse in coverage has been cured by the procurement of replacement coverage by the Contractor. The furnishing of notice by the Contractor shall not relieve the Contractor of any contractual obligation to provide any required coverage.~~In the event the Contractor fails to procure or maintain any insurance coverage required under this Agreement, the Owner may purchase such coverage and deduct the cost thereof from any monies due to the Contractor, or terminate this Agreement under Paragraph 14.2. The Contractor shall be liable to the Owner for providing all coverage, defense, and payments that would have been provided by any insurance that the Contractor failed to procure and maintain as required by the Contract Documents.

§ 11.1.5 Compliance by the Contractor with the foregoing insurance requirements shall not relieve it from liability for amounts in excess of the limits of insurance.

§ 11.1.6 The Contractor and any of its Subcontractors, Sub-subcontractors, agents and employees, and any separate contractors described in Article 6, if any, and any of their subcontractors, sub-subcontractors, agents and employees shall waive any of their subrogation rights on their Workers Compensation Policy in favor of the Owner, Construction Manager and Architect. The policies shall provide such waivers of subrogation by endorsement or otherwise. A waiver of subrogation shall be effective as to a person or entity even though that person or entity would otherwise have a duty of indemnification, contractual, or otherwise, did not pay the insurance premium directly or indirectly, and whether or not the person or entity had an insurable interest.

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§ 11.2.1 The Owner shall purchase and maintain insurance of the types and limits of liability, containing the endorsements, and subject to the terms and conditions, as described in the Agreement or elsewhere in the Contract Documents. The Owner shall purchase and maintain the required insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The Owner may self-insure and maintain the Owner's usual liability insurance. Optionally, the Owner may purchase and maintain other insurance for self-protection against claims which may arise from operations under the Contract. The Contractor shall not be responsible for purchasing and maintaining this optional Owner's liability insurance unless specifically required by the Contract Documents.

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~~§ 11.3.2~~ ~~If during the Project construction period the Owner insures properties, real or personal or both, at or adjacent to the site by property insurance under policies separate from those insuring the Project, or if after final payment property insurance is to be provided on the completed Project through a policy or policies other than those insuring the Project during the construction period, to the extent permissible by such policies, the Owner waives all rights in accordance with the terms of Section 11.3.1 for damages caused by fire or other causes of loss covered by this separate property insurance.~~

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§ 11.5.2 Prior to settlement of an insured loss, the Owner shall notify the Contractor of the terms of the proposed settlement as well as the proposed allocation of the insurance proceeds. The Contractor shall have 14 days from receipt of notice to object to the proposed settlement or allocation of the proceeds. If the Contractor does not object, the Owner shall settle the loss and the Contractor shall be bound by the settlement and allocation. Upon receipt, the Owner shall ~~deposit the insurance proceeds in a separate account and~~ make the appropriate distributions. Thereafter, if no other agreement is made or the Owner does not terminate the Contract for convenience, the Owner and Contractor shall execute a Change Order for reconstruction of the damaged or destroyed Work in the amount allocated for that purpose. If the Contractor timely objects to either the terms of the proposed settlement or the allocation of the proceeds, the Owner may proceed to settle the insured loss, and any dispute between the Owner and Contractor arising out of the settlement or allocation of the proceeds shall be resolved pursuant to Article 15. Pending resolution of any dispute, the Owner may issue a Construction Change Directive for the reconstruction of the damaged or destroyed Work.

§ 11.6 Bonds

§ 11.6.1 Contractor shall furnish a Performance Bond and a Payment Bond to the Owner in the amount of one hundred percent (100%) of the Contract Sum and issued by a Surety Company authorized to do business in the State of Minnesota, rated "A" or better, and approved by the Owner. The Performance Bond shall be in accordance with Minnesota Statutory requirements, and shall be in the form included in the Project Manual. The Bonds shall allow for any additions or deductions to the Contract Sum.

§ 11.6.2 In order to be acceptable as a surety, Contractor's bonding company bust hold a "Certificate of Authority acceptable to the U.S. Treasury Department and be listed in the Department's current publication of "Bond Qualifiers" with underwriting limitations not less than ten percent (10%) above the Contract Sum.

§ 11.6.3 The surety of the Bonds shall be by a corporate surety company authorized to do business in the state in which Work is being performed under this Contract and acceptable to the Owner. The conditions of the bonds shall meet requirements of the statutes of the state where Work is being performed and all other applicable provisions of state law.

§ 11.6.4 The Contractor shall furnish two (2) originals of the Bonds to the Owner, with copies to the Architect and Construction Manager, within ten (10) days after notification of award and before execution of the Contract. Failure to do so shall constitute a violation of terms of the proposal and provide grounds for forfeiture of bid security.

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The Contractor shall promptly correct Work rejected by the Construction Manager or Architect or failing to conform to the requirements of the Contract Documents, discovered before Substantial Completion, and whether or not fabricated, installed or completed. ~~Costs~~ The Contractor shall bear costs of correcting such rejected Work, including additional testing and inspections, the cost of uncovering and replacement, and compensation for the Construction Manager's and Architect's services and expenses made necessary ~~thereby, shall be at the Contractor's expense.~~thereby.

...

~~**§ 12.2.2.1** In addition to the Contractor's obligations under Section 3.5, if, within one year after the date of Substantial Completion of the Work or designated portion thereof, or after the date for commencement of warranties established under Section 9.9.1, or by terms of any applicable special warranty required by the Contract Documents, any of the Work is found to be not in accordance with the requirements of the Contract Documents, the Contractor shall correct it promptly after receipt of notice from the Owner to do so, unless the Owner has previously given the Contractor a written acceptance of such condition. The Owner shall give such notice promptly after discovery of the condition. During the one-year period for correction of Work, if the Owner fails to notify the Contractor and give the Contractor an opportunity to make the correction, the Owner waives the rights to require correction by the Contractor and to make a claim for breach of warranty. If the Contractor fails to correct nonconforming Work within a reasonable time during that period after receipt of notice from the Owner, Construction Manager or Architect, the Owner may correct it in accordance with Section 2.5.~~

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~~**§ 12.2.2.2** The one-year period for correction of Work shall be extended with respect to portions of Work first performed after Substantial Completion by the period of time between Substantial Completion and the actual completion of that portion of the Work.~~

~~**§ 12.2.2.3** The one-year period for correction of Work shall not be extended by corrective Work performed by the Contractor pursuant to this Section 12.2.~~

§ 12.2.2.1 If within one year after the date of Substantial Completion of the Work or designated portion thereof, or after the date for commencement of warranties established under Section 9.9.1, or by terms of any applicable special warranty required by the Contract Documents, any of the Work is found to be not in accordance with the requirements of the Contract Documents, the Contractor shall correct it promptly (and any other property damaged or removed in effecting the correction) after receipt of notice from the Owner, Construction Manager or Architect to do so, unless the Owner has previously given the Contractor a written acceptance of such condition. The Owner, Construction Manager or Architect shall give such notice promptly after discovery of the condition. This period of one year shall be extended with respect to portions of Work first performed after Substantial completion by the period of time between Substantial completion and the actual performance of the Work. This obligation under this Subparagraph 12.2.2.1 shall survive acceptance of the Work under the contract and termination of the Contract. The Owner, Construction Manager or Architect shall give such notice promptly after discovery of the condition. The expiration of the above one year or any other specified time period, or any other period prescribed by the law, shall not relieve the Contractor of the obligation form the expense to correct any latent defect in the work or deficiencies which are not readily ascertained, including but not limited to, defective materials and quality of work performed, defects attributable to material substitutions for special materials, substandard performance or otherwise not in compliance with the Contract Documents. Such latent defects or deficiencies shall be corrected as provided in this Paragraph 12.2. Following the correction or replacement of any of the Work, as above specified, the Contractor shall correct any defects or deficiencies in the corrected or replaced materials and workmanship which is found within one year after the date of correction or replacement.

§ 12.2.4 ~~The Contractor shall bear the cost of correcting destroyed or damaged construction of the Owner, Separate Contractors, or other Contractors, whether completed or partially completed, caused by the Contractor's correction or removal of Work that is not in accordance with the requirements of the Contract Documents.~~ If the Contractor fails to correct nonconforming Work within a reasonable time, the Owner may correct it in accordance with Paragraph 2.4. If the Contractor does not proceed with correction of such nonconforming Work within a reasonable time fixed by written notice from the Architect or Construction Manager, the Owner may correct or remove it and store the salvageable materials or equipment all at the Contractor's expense. If the Contractor does not pay costs of such removal and storage within ten (10) days after written notice, the Owner may upon ten (10) additional days' written notice sell such materials and equipment at auction or at private sale and shall account for the proceeds thereof, after deducting costs and damages that should have been borne by the Contractor, the Contract Sum shall be reduced by the deficiency. If payments then or thereafter due the Contractor are not sufficient to cover such amount, the Contractor shall pay the difference to the Owner.

§ 12.2.5 ~~Nothing contained in this Section 12.2 shall be construed to establish a period of limitation with respect to other obligations the Contractor has under the Contract Documents. Establishment of the one-year period for correction of Work as described in Section 12.2.2 relates only to the specific obligation of the Contractor to correct the Work, and has no relationship to the time within which the obligation to comply with the Contract Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Contractor's liability with respect to the Contractor's obligations other than specifically to correct the Work.~~ The Contractor shall bear the cost of correcting destroyed or damaged construction whether completed or partially completed, of the Owner or separate contractors caused by the Contractor's correction or removal of Work which is not in accordance with the requirements of the Contract Documents.

§ 12.2.6 Nothing contained in this Section 12.2 shall be construed to establish a period of limitation with respect to other obligations the Contractor has under the Contract Documents. Establishment of the one-year period for correction of Work as described in Section 12.2.2 relates only to the specific obligation of the Contractor to correct the Work, and has no relationship to the time within which the obligation to comply with the Contract Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Contractor's liability with respect to the Contractor's obligations other than specifically to correct the Work.

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§ 13.4.1 Tests, inspections, and approvals of portions of the Work shall be made as required by the Contract Documents and by applicable laws, statutes, ordinances, codes, rules, and regulations or lawful orders of public authorities. ~~Unless otherwise provided, the Contractor~~ The Owner, Construction Manager or Architect shall make arrangements for such tests, inspections, and approvals with an independent testing laboratory or entity acceptable to the Owner, or with the appropriate public ~~authority, and shall bear all related costs of tests, inspections, and approvals. The Contractor shall give the Construction Manager and Architect timely notice~~ authority. Timely notice shall be given to the Construction Manager and Architect of when and where tests and inspections are to be made so that the Construction Manager and Architect may ~~be present for~~ observe such procedures. The Owner shall bear costs of tests, inspections, or approvals that do not become requirements until after bids are received or negotiations concluded. The Owner shall directly arrange and pay for tests, inspections, or approvals where building codes or applicable laws or regulations so require.

§ 13.4.2 If the Construction Manager, Architect, Owner, or public authorities having jurisdiction determine that portions of the Work require additional testing, inspection, or approval not included under Section 13.4.1, the Construction Manager and Architect will, upon written authorization from the Owner, instruct the Contractor to make arrangements for such additional testing, inspection, or approval, by an entity acceptable to the Owner, and the Contractor shall give ~~timely~~ a minimum of two (2) working days' notice to the Construction Manager and Architect of when and where tests and inspections are to be made so that the Construction Manager and Architect may ~~be present for such procedures. Such~~ observe procedures. The Owner shall bear such costs, except as provided in Section ~~13.4.3, shall be at the Owner's expense.~~13.4.3.

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~~Payments due and unpaid under the Contract Documents shall bear interest from the date payment is due at the rate the parties agree upon in writing or, in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located.~~All payments to the Contractor shall be governed by the Prompt Payment of Local Government Bills, Minnesota Statutes, Section 471.125 ("Prompt Payment Act") and Article 5 of the A132–2019 Agreement on this Project.

§ 13.6 Non-Discrimination

§ 13.6.1 All contracts between the Owner and companies providing goods and services under the Contract Documents shall contain the following equal opportunity and civil right clause:

> "During the performance of this Agreement, the provider agrees to the following: No contractor, material supplier, vendor, or other person shall on the basis of sex, race, creed, color, religion, national origin, age, marital status, sexual orientation, or disability be excluded from full employment rights in, participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program, service, or activity under the provisions of any and all applicable Federal and State laws against discrimination, including the Minnesota Human Rights Act and the Civil Rights Act of 1964."

Upon request, the Contractor shall furnish all information and reports required by the Owner, or by the rules and regulations of investigation to ascertain compliance with all applicable rules and regulations. The Contractor shall also comply with any applicable licensing requirements of the Minnesota Department of Human Services in employment of personnel.

The Contractor acknowledges that the violation of the above-stated paragraph is a misdemeanor pursuant to Minnesota Statutes, Section 181.59.

This Agreement may be cancelled or terminated by the Owner or any other person authorized to grant the contracts for employment under this Agreement, and all money due, or to become due under this Agreement may be forfeited for a second or any subsequent violation of the non-discriminatory terms stated above.

§ 13.6.2 During the completion of the work and all other services required by the Contract Documents, the Contractor agrees that no contractor, material supplier, vendor, or other person shall, on the basis of sex, race, creed, color, religion, national origin, age, marital status, sexual orientation, or disability be excluded from full employment rights in participation in, be denied the benefits of, or be otherwise subjected to discrimination under the provisions of any and all applicable Federal and State laws against discrimination, including the Minnesota Human Rights Act and the

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Civil Rights Act of 1964. Upon request, the Architect, Construction Manager and Contractor shall furnish all information and reports required by the Owner, or by the rules and regulations of investigation to ascertain compliance with all applicable rules and regulations. The Contractor shall also comply with any applicable licensing requirements of the Minnesota Department of Human Services in employment of personnel.

Contractor acknowledges that the violation of the above-states paragraph is a misdemeanor pursuant to Minnesota Statutes Section 181.59.

The Contract Documents may be cancelled or terminated by the Owner or any other person authorized to grant the contracts for employment under this Agreement, and all money due, or to become due under the Agreement may be forfeited for a second or any subsequent violation of the non-discriminatory terms stated above.

§ 13.7 No action or failure to act by the Owner shall constitute a waiver of a right or duty afforded the Owner under the Contract Documents, nor shall such action or failure to act constitute approval of or acquiescence of the Owner in a breach of the Contract Documents, except as may be specifically agreed in writing. None of the approval of any Application for Payment, the making of any payment, the giving of any approval or consent, the use or occupancy of the Work, or any part thereof, the making of final payment, or any other action or inaction on the part of the Owner, Construction Manager or Architect shall constitute a waiver of claims by or rights of the Owner or an acceptance of any Work that is not in accordance with the Contract Documents. The Contractor shall not be relieved from its obligations to perform the Work in accordance with the Contract Documents either by the activities or duties of the representations of the Owner, Construction Manager or Architect, or by inspections, tests, or approvals required or performed by the Owner, Construction Manager or Architect or anyone else.

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§ 14.1.5 No Right to Stop Work for Non-Payment

The Contractor has no right to stop Work as a consequence of non-payment. In the event of any disagreement between the Contractor and Owner involving the Contractor's entitlement to payment, the Contractor's only remedy is to file a Claim in accordance with Article 15. The Contractor must diligently proceed with the Work pending resolution of the Claim. If, however, an Application for Payment has been approved for payment by the Owner, and the Owner fails to make payment within sixty (60) days of the approval for payment by the Owner, the Contractor may upon ten (10) days written notice to the Owner, stop work if payment is not made by the Owner within ten (10) days following the notice.

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§ 14.3.2 The Contract Sum and the Contract Time shall be adjusted for increases or decreases in the cost and time caused by suspension, delay, or interruption under Section 14.3.1. Adjustment of the Contract Sum shall include reasonable profit. No adjustment shall be made to the extent:

...

~~**§ 14.4.3** In case of such termination for the Owner's convenience, the Owner shall pay the Contractor for Work properly executed; costs incurred by reason of the termination, including costs attributable to termination of Subcontracts; and the termination fee, if any, set forth in the Agreement.~~

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§ 15.1.1 Definition. A Claim is a demand or assertion by ~~one of the parties~~ the Contractor seeking, as a matter of right, payment of money, a change in the Contract Time, or other relief with respect to the terms ~~of the Contract. The term "Claim" also includes other disputes and matters in question between the Owner and Contractor arising out~~ of ~~or relating to~~ the Contract. The responsibility to substantiate Claims shall rest with ~~the party making the Claim.~~ the Contractor. Nothing in this paragraph 15.1.1 is intended to apply to or in any way limit the Owner's right to make Claims related to or arising out of the Contract. This Section 15.1.1 does not require the Owner to file a Claim in order to impose liquidated damages in accordance with the Contract Documents.

...

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§ 15.1.3.1 Claims by ~~either the Owner or~~ Contractor, where the condition giving rise to the Claim is first discovered prior to expiration of the period for correction of the Work set forth in Section 12.2.2, shall be initiated by written notice to the ~~other party~~ Owner and to the Initial Decision Maker with a copy sent to the Construction Manager and Architect, if the Architect is not serving as the Initial Decision Maker. Claims by ~~either party~~ the Contractor under this Section 15.1.3.1 shall be initiated within ~~21~~ ten (10) days after occurrence of the event giving rise to such Claim or within ~~21~~ ten (10) days after the ~~claimant~~ Contractor first recognizes the condition giving rise to the Claim, whichever is later. Any additional Claim made after and relating to the initial Claim has been implemented by Change Order will not be considered unless submitted in a timely manner. As a condition to making a claim for additional costs, the Contractor shall maintain and produce accurate records to substantiate all additional costs actually incurred. If a Claim for actual costs is approved, the Owner shall pay the Contractor actual costs incurred, plus either (a) ten percent (10%) for overhead and profit for work performed by the Contractor, or (b) five percent (5%) overhead and profit for work performed by a Subcontractor, as applicable.

§ 15.1.3.2 Claims by either the Owner or Contractor, where the condition giving rise to the Claim is first discovered after expiration of the period for correction of the Work set forth in Section 12.2.2, shall be initiated by written notice to the other party. In such event, no decision by the Initial Decision Maker is required.

...

§ 15.1.4.1 Pending final resolution of a Claim, except as otherwise agreed in writing or as provided in Section 9.7 and Article 14, the Contractor shall proceed diligently with performance of the Contract and the Owner shall continue to make payments in accordance with the Contract Documents. Subject to Paragraph 15.1.5, no such continuing performance by the Contractor, nor payment by the Owner shall be deemed a waiver of, or to otherwise impair any such Claim.

...

§ 15.1.6.1 If the Contractor wishes to make a Claim for ~~an~~ any increase in the Contract Time, notice as provided in Section 15.1.3 shall be given. The Contractor's Claim shall include an estimate of cost and of probable effect of delay on progress of the Work. In the case of a continuing delay only one Claim is necessary.
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~~**§ 15.1.7 Waiver of Claims for Consequential Damages.** The Contractor and Owner waive Claims against each other for consequential damages arising out of or relating to this Contract. This mutual waiver includes~~

- ~~.1 damages incurred by the Owner for rental expenses, for losses of use, income, profit, financing, business and reputation, and for loss of management or employee productivity or of the services of such persons; and~~
- ~~.2 damages incurred by the Contractor for principal office expenses including the compensation of personnel stationed there, for losses of financing, business and reputation, and for loss of profit except anticipated profit arising directly from the Work.~~

~~This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination in accordance with Article 14. Nothing contained in this Section 15.1.7 shall be deemed to preclude assessment of liquidated damages, when applicable, in accordance with the requirements of the Contract Documents.~~

...

§ 15.2.6 ~~Either party may file for mediation of an initial decision at any time, subject to the terms of Section 15.2.6.1.~~ In the event of a Claim against the Contractor, the Owner may, but is not obligated to notify the surety, if any, of the nature and amount of the Claim. If the Claim relates to a possibility of a Contractor's default, the Owner may, but is not obligated to notify the surety and initiate a Claim on the performance bond.

~~**§ 15.2.6.1** Either party may, within 30 days from the date of receipt of an initial decision, demand in writing that the other party file for mediation. If such a demand is made and the party receiving the demand fails to file for mediation~~

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~~within 30 days of receipt thereof, then both parties waive their rights to mediate or pursue binding dispute resolution proceedings with respect to the initial decision.~~

~~**§ 15.2.7** In the event of a Claim against the Contractor, the Owner may, but is not obligated to, notify the surety, if any, of the nature and amount of the Claim. If the Claim relates to a possibility of a Contractor's default, the Owner may, but is not obligated to, notify the surety and request the surety's assistance in resolving the controversy.~~

~~**§ 15.2.8** If a Claim relates to or is the subject of a mechanic's lien, the party asserting such Claim may proceed in accordance with applicable law to comply with the lien notice or filing deadlines.~~

§ 15.3.1 ~~Claims, disputes, or other matters in controversy~~ Any claim, dispute or other matter in question or arising out of or related to the ~~Contract, except those waived as provided for in Sections 9.10.4, 9.10.5, and 15.1.7, shall be subject to mediation as a condition precedent to binding dispute resolution.~~Contract shall be subject to mediation. Mediation is not a condition precedent to commencing litigation, but if litigation is commenced before mediation is held, the Parties agree to mediate before any dispositive motions or trial.

§ 15.3.2 The parties shall ~~endeavor to resolve their Claims by mediation which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Mediation Procedures in effect on the date of the Agreement. A request for mediation shall be made in writing, delivered to the other party to the Contract, and filed with the person or entity administering the mediation. The request may be made concurrently with the filing of binding dispute resolution proceedings but, in such event, mediation shall proceed in advance of binding dispute resolution proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order. If an arbitration is stayed pursuant to this Section 15.3.2, the parties may nonetheless proceed to the selection of the arbitrator(s) and agree upon a schedule for later proceedings.~~share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located unless another location is mutually agreed upon. Agreements reached in mediation and ratified by the Owner's Council shall be enforceable as settlement agreements in any court having jurisdiction thereof.

~~**§ 15.3.3** Either party may, within 30 days from the date that mediation has been concluded without resolution of the dispute or 60 days after mediation has been demanded without resolution of the dispute, demand in writing that the other party file for binding dispute resolution. If such a demand is made and the party receiving the demand fails to file for binding dispute resolution within 60 days after receipt thereof, then both parties waive their rights to binding dispute resolution proceedings with respect to the initial decision.~~

~~**§ 15.3.4** The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.~~

~~**§ 15.4 Arbitration**~~

~~**§ 15.4.1** If the parties have selected arbitration as the method for binding dispute resolution in the Agreement, any Claim subject to, but not resolved by, mediation shall be subject to arbitration which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Arbitration Rules in effect on the date of the Agreement. The Arbitration shall be conducted in the place where the Project is located, unless another location is mutually agreed upon. A demand for arbitration shall be made in writing, delivered to the other party to the Contract, and filed with the person or entity administering the arbitration. The party filing a notice of demand for arbitration must assert in the demand all Claims then known to that party on which arbitration is permitted to be demanded.~~

~~**§ 15.4.1.1** A demand for arbitration shall be made no earlier than concurrently with the filing of a request for mediation, but in no event shall it be made after the date when the institution of legal or equitable proceedings based on the Claim would be barred by the applicable statute of limitations. For statute of limitations purposes, receipt of a written demand for arbitration by the person or entity administering the arbitration shall constitute the institution of legal or equitable proceedings based on the Claim.~~

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~~**§ 15.4.2** The award rendered by the arbitrator or arbitrators shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.~~

~~**§ 15.4.3** The foregoing agreement to arbitrate and other agreements to arbitrate with an additional person or entity duly consented to by parties to the Agreement, shall be specifically enforceable under applicable law in any court having jurisdiction thereof.~~

~~**§ 15.4.4 Consolidation or Joinder**~~

~~**§ 15.4.4.1** Subject to the rules of the American Arbitration Association or other applicable arbitration rules, either party may consolidate an arbitration conducted under this Agreement with any other arbitration to which it is a party provided that (1) the arbitration agreement governing the other arbitration permits consolidation, (2) the arbitrations to be consolidated substantially involve common questions of law or fact, and (3) the arbitrations employ materially similar procedural rules and methods for selecting arbitrator(s).~~

~~**§ 15.4.4.2** Subject to the rules of the American Arbitration Association or other applicable arbitration rules, either party may include by joinder persons or entities substantially involved in a common question of law or fact whose presence is required if complete relief is to be accorded in arbitration, provided that the party sought to be joined consents in writing to such joinder. Consent to arbitration involving an additional person or entity shall not constitute consent to arbitration of any claim, dispute or other matter in question not described in the written consent.~~

~~**§ 15.4.4.3** The Owner and Contractor grant to any person or entity made a party to an arbitration conducted under this Section 15.4, whether by joinder or consolidation, the same rights of joinder and consolidation as those of the Owner and Contractor under this Agreement.~~

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Certification of Document's Authenticity

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I, , hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with its associated Additions and Deletions Report and this certification at 14:42:29 CT on 02/03/2025 under Order No. 4104251278 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document A232™ – 2019, General Conditions of the Contract for Construction, Construction Manager as Adviser Edition, other than those additions and deletions shown in the associated Additions and Deletions Report.



(Signed)

Curtis Hartog, Executive Director

(Title)

2/3/2025

(Dated)

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Exhibit B – Project Charter

FY21 North High School Renovations-Bid Pack 4

Work Scope 09-K Painting

Description

Perform painting in accordance with Work Scope 09-K for the North High School Phase 4 renovations

Contract Sum

The Contract Sum shall be $108,000

Alternates

Item	Price	Status
Alt #1: Health Office	$13,800	rejected
Alt #2: Athletic and Counseling Offices	$20,500	rejected
Alt #3: Electrical panel replacements	$0	accepted
Alt #4: AHU-41 replacement	$0	accepted
Alt #5: Direct digital controls	$0	accepted

EXHIBIT C Owner Insurance

Insurance Requirements

1. CONSULTANT'S INSURANCE – to be used with AIA B101-2017, AIA C103-2015, or similar non-contractor consultants:
   The Consultant shall at its own expense maintain in effect at all times during the performance of the Work under the Agreement at least the following coverage and limits of insurance:

   a. Worker's Compensation and Employer's Liability Insurance

      i. Coverage A is statutory.

      ii. Coverage B
      $500,000 Each Accident
      $500,000 Each Employee
      $500,000 Policy Limit (Disease)

   b. Comprehensive General Liability Insurance *

General Aggregate	$1,000,000
Products/Completed Operations Aggregate	$1,000,000
Per Occurrence	$1,000,000
Medical Payments	$10,000

   * The Owner should be named as an additional insured for Comprehensive General Liability Insurance.

   c. Automobile Insurance

Per Occurrence	$1,000,000
PIP	Basic
Underinsured Motorist	$1,000,000
Uninsured Motorist	$1,000,000

   d. Professional Liability Insurance

      i. Per Claim $2,000,000

ii. For projects with an estimated construction Contract Sum of over $10,000,000 or major structural work an aggregate is required as follows:
Aggregate $4,000,000

e. Umbrella Liability Insurance

i. Per Occurrence $2,000,000

ii. For projects with an estimated construction Contract Sum of over $10,000,000 or major structural work an aggregate is required as follows:
Aggregate $2,000,000

f. Manned or Unmanned Aircraft Coverage (if used)

i. Per Claim $1,000,000

ii. Aggregate $1,000,000

For specialty consultants used for commissioning activities, studies, asbestos surveys and security, items A, B, C and F shall apply.

Special Asbestos Abatement Liability Insurance is required for Asbestos Abatement Contractors. The limits are $1,500,000 per claim, for liability arising from the encapsulation, removal, handling, storage, transportation, and disposal of asbestos-containing materials.

2. CONSULTANT'S OBLIGATIONS

Consultant shall not violate or knowingly permit any violation of any conditions or terms of the policies of insurance required to be carried under the terms hereof and shall endeavor to satisfy the requirements of the insurance companies issuing them. In the event Consultant neglects, refuses or fails to provide or maintain any of the insurance required to be carried under the Agreement, or if such insurance is canceled for any reason, the Owner or the Owner's lender(s) shall have the right, but not the duty, to procure or maintain the same.

In the event the Owner or the Owner's lender(s) do procure or maintain such insurance, the Owner or the Owner's lender(s) shall have, in additional to any and all other available remedies, the right to recover from the Consultant (including the right of set-off against sums otherwise due the Consultant) all of the costs associated with procuring or maintaining such insurance.

3. PROFESSIONAL LIABILITY INSURANCE

   a. Professional Liability Coverage of $2,000,000 shall be maintained for one (1) year from the date of Substantial Completion. If the Consultant discontinues its business and if directed by Owner in writing, Consultant shall purchase such insurance in such amount for an extended discovery period beyond the one (1) year after the date of Substantial Completion, with the premium cost to be a reimbursable expense paid by the Owner. The limit of liability for such policy may not be reduced below $2,000,000 without the Owner giving its prior, written consent. All policies of insurance that Consultant is required under the terms of this Exhibit C Owner's Insurance to secure and maintain shall bear the endorsement "Not to be canceled until sixty (60) calendar days after Owner has received a written notice from insurer as evidence by a return receipt of registered or certified mail."

   b. The Owner shall not be responsible for obtaining or paying premiums or other expenses in connection with insurance required to be carried under the Agreement or normally carried by the Consultant's consultants, and the obligation to obtain such insurance and to pay such premiums and other expenses shall be solely that of the Consultant.

   c. The Consultant shall bear all the costs of any and all deductible amounts under any insurance policies required to be carried under the Agreement and shall remain solely and fully liable for the full amount of any claim or item not compensated by insurance (to the extent that any amount resulted from damages that arose out of the Consultant's sole negligence.)

4. COVERAGE
   The coverage's referred to above are set forth in full in the respective policy forms, and the foregoing descriptions of such policies are not intended to be complete.

5. GENERALLY

   a. The Consultant thereby represents and warrants to the Owner that, as of the date of the execution of the Agreement, the Consultant is not aware of any claims or potential claims which have been made, filed or threatened against any of the insurance or for damages covered by any of the insurance required to be carried under the Agreement that would affect the Consultant's ability to provide the insurance coverage required by this agreement.

b. It is understood that the provisions in the Agreement requiring the Consultant to carry insurance shall not be construed as in any manner waiving or restricting the liability of the Consultant as to any obligations imposed under the Agreement, including, but not limited to, obligations imposed under the provisions of Article 11 of the AIA A201-2017 General Conditions.

Insurance requirements for Contractors

1. CONTRACTOR'S INSURANCE – to be used with AIA A101-2017
   The Contractor shall at its own expense maintain in effect at all times during the performance of the Work under the Agreement at least the following coverage and limits of insurance:

   a. Commercial General Liability

      i. General Aggregate $1,500,000

      ii. Products/Completed Operations Aggregate $1,500,000

      iii. Per Occurrence $1,500,000

      The Owner shall be named as additional insured for Commercial General Liability Insurance

   b. Automobile Insurance

      i. Per Occurrence $1,000,000

      ii. PIP Basic

      iii. Underinsured Motorist $1,000,000

      iv. Uninsured Motorist $1,000,000

   c. Workers Compensation

      i. Coverage A is statutory.

      ii. Coverage B $500,000 Each Accident

      iii. $500,000 Each Employee

d. Professional Liability (if the Contractor is hiring professionals)

   i. Per Claim $2,000,000

   For Projects with an estimated construction cost of over $10,000,000 or major structural work, additional Aggregate coverage of $4,000,000 is required.

e. Manned or Unmanned Aircraft Coverage (if used)

   i. Per Claim $1,000,000

   ii. Aggregate $1,000,000

f. Property Insurance

   i. Per Claim $1,000,000

   ii. Aggregate $1,000,000

   This insurance is only required for materials stored offsite and not incorporated into the project at delivery. For material stored on site, no additional insurance is required.

g. Builders “all risk” Insurance

   i. Per Claim $2,000,000

   ii. Aggregate $4,000,000

   This insurance is only required for additions exceeding $10,000,000. Renovations to existing schools are not required to have builders all risk insurance.

h. Umbrella Liability

   i. Aggregate limit $5,000,000

   This insurance is required only for projects larger than $10,000,000 in total construction costs.

Exhibit D – Project Schedule

FY21 North High School Renovations-Bid Pack 4 Work Scope 09-K-Painting

OP#:25-2512

Description

Perform painting in accordance with Work Scope 09-K for the North High School Phase 4 renovations.

Schedule

Start Construction: On or about March 2025 but within 5 days of notice to proceed as directed by the Construction Manager. Please refer to schedule provided in Specifications.

To be completed in 2025-June 2025 to August 2025

Base Bid Level 1 Area E

Base Bid Level 2 Area F, Area G, Area E

Area D Bathrooms March 2025 – May 2025 and September 2025 to December 2025.

Base Bid Level 2 Area E classrooms March 2025-May 2025

Base Bid Area Level 1 Area C – June 2026-August 2026

Base Bid Level 2 Area G – June 2026-August 2026

Bae Bid Level2 Area D – January 2026-August 2026

Alternate #3 – March 2025 through August 2026

Alternate #4 – June 2025-August 2025

Alternate #5 – June 2025-August 2026

Substantial Completion: August 21, 2026.

Major School Days

Recordkeeping Day – March 28, 2025

Spring Break – March 31 – April 4, 2025

Memorial Day – May 26, 2025

Last Day of School – June 6, 2025

Juneteenth – June 19, 2025

Independence Day – July 4, 2025

Last day for Staff – June 30, 2025

Labor Day – September 1, 2025

First Day of School – September 2, 2025

Rosh Hashanah – September 23, 2025
Yom Kippur – October 2, 2025
MEA – October 16-17, 2025
Recordkeeping Day – November 4, 2025
Thanksgiving – November 26-28, 2025
Winter Break – December 22, 2025 to January 2, 2026
Martin Luther King Day – January 19, 2026
Recordkeeping Day – January 23, 2026
Presidents Day – February 16, 2026
Professional Development – February 17, 2026
Eid al-Fitr – March 20, 2026
Recordkeeping Day – March 27, 2026
Memorial Day – May 25, 2026
Professional Development – May 26, 2026
Eid al Adha – May 27, 2026
Juneteenth – June 19, 2026
Independence Day – July 4, 2026
Labor Day – September 7, 2026
First day of School – September 8, 2026

Substantial Completion

The Work will be substantially complete on or before August 21, 2026

FIRST AMENDMENT TO PURCHASE AGREEMENT

THIS FIRST AMENDMENT TO PURCHASE AGREEMENT (this **"First Amendment**") is made and entered into as of February 11, 2025 ("**Effective Date**"**),** by and between Minneapolis Public Schools aka SP School District No. 1, a special school district in the State of Minnesota ("**Seller**") and The Link Holdings LLC, a Minnesota nonprofit limited liability company ("**Buyer**").

RECITALS:

WHEREAS, Seller and Buyer are parties to that certain Purchase Agreement dated October 16, 2024 (the "**Purchase Agreement**") concerning the purchase and sale of the property located at and commonly known as 2220 16th Avenue North, Minneapolis, Minnesota, as more particularly described in the Purchase Agreement (the "**Property**").

WHEREAS, Seller and Buyer desire to amend the Purchase Agreement on the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the promises and the mutual covenants of the parties hereinafter expressed, it is hereby agreed as follows:

1. **Recitals; Defined Terms.** The foregoing recitals are true and correct and are incorporated herein as part of this First Amendment. Unless otherwise defined herein, capitalized terms have the meanings ascribed to them in the Purchase Agreement.

2. **Due Diligence.** Buyer and Seller agree that the Due Diligence Period shall be extended to expire on May 16, 2025.

3. **Miscellaneous.** Except as amended by this First Amendment, the Agreement remains effective in accordance with its terms. The terms of this First Amendment will control over any conflicts between it and the terms of the original Agreement. This First Amendment may be executed in two or more identical counterparts, and a facsimile or electronic transmission shall be binding on the party or parties whose signatures appear thereon. If so executed, each of such counterparts is to be deemed an original for all purposes, and all such counterparts shall, collectively, constitute one amendment, but in making proof of this First Amendment, it shall not be necessary to produce or account for more than one such counterpart.

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IN WITNESS WHEREOF, Buyer and Seller have executed this First Amendment as of the date first above written.

BUYER:

The Link Holdings LLC

Beth Holger (Feb 13, 2025 17:56 CST)

By: Beth Holger
Its: Executive Director

SELLER:

Minneapolis Public Schools aka SP School District No. 1

_____

By: _____
Its: Board Chair

Minneapolis Public Schools aka SP School District No. 1

_____

By: _____
Its: Board Clerk

First Amendment to Purchase Agreement(8570623.1)

Final Audit Report 2025-02-13

Created:	2025-02-13
By:	Cerena Vang (clvang@jbvang.com)
Status:	Signed
Transaction ID:	CBJCHBCAABAAkEJPyj8Dgsx0Yi2gp7KcmGJ_7-2RimGg

"First Amendment to Purchase Agreement(8570623.1)" History

Document created by Cerena Vang (clvang@jbvang.com)
2025-02-13 - 0:35:09 AM GMT

Document emailed to Beth Holger (bholger@thelinkmn.org) for signature
2025-02-13 - 0:35:13 AM GMT

Email viewed by Beth Holger (bholger@thelinkmn.org)
2025-02-13 - 11:55:25 PM GMT

Document e-signed by Beth Holger (bholger@thelinkmn.org)
Signature Date: 2025-02-13 - 11:56:13 PM GMT - Time Source: server

Agreement completed.
2025-02-13 - 11:56:13 PM GMT

Adobe Acrobat Sign

Docusign Envelope ID: 3C8F5411-4E50-4F66-93A0-8E126855C03A

REAL ESTATE PURCHASE AGREEMENT

THIS AGREEMENT ("**Agreement**") is dated, for reference purposes, October 22, 2024 ("**Contract Date**"). It is being entered into by and between Minneapolis Public Schools aka SP School District No. 1, a special school district in the State of Minnesota ("**Seller**"), and The Link Holdings LLC, a Minnesota nonprofit limited liability company, or its assignee ("**Buyer**").

RECITALS

Seller owns and is offering for sale that portion of the real property located at 2220 16th Avenue North in the City of Minneapolis, County of Hennepin, State of Minnesota, identified as Parcel ID #17-029-24-41-0196 and as depicted on Exhibit A attached hereto (the "**Land**").

The Land is improved with various buildings, structures, parking areas, drive lanes, and other improvements (collectively, the "**Facilities**").

Buyer has offered to purchase approximately 3.7 acres of the Property, as defined below, and Seller has agreed to sell same to Buyer. The parties are entering into this Agreement to set forth the terms and conditions of the sale to Buyer.

Seller will be solely responsible for all costs and expenses incurred in connection with the lot split for the sale of the 3.7 acres from the 5.2 acres covered by Parcel ID #17-029-24-41-0196.

Buyer seeks to acquire the Property for the sole purpose of leasing it to The Link, a Minnesota nonprofit corporation, in order to expand its support for youth and young families who are experiencing homelessness, are victims of sex trafficking and/or who are involved in the juvenile justice or foster care systems. Buyer will rehab and repurpose the Property to provide a multi-use building which will include programming space where youth and families can have access to basic need items, food and support, programming space, administrative and program office and meeting space and an additional 40-45 units of housing for youth and young families who are transitioning out of homelessness. Buyer will use the Property to provide supportive housing for its clients as well as its headquarters.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing, the parties hereto agree as follows:

1. Agreement of Sale.

Seller hereby agrees to sell to Buyer, and Buyer hereby agrees to purchase from Seller, the Land and Facilities as described on Exhibit A hereto comprised of approximately 3.7 acres, together with all assignable rights of access and ownership associated with the Land or the Facilities, and all other rights held by Seller appurtenant to the Land (collectively, the "**Property**").

Seller and Buyer understand and agree that the Property does not currently exist as a separate, transferrable parcel of real estate. During the Due Diligence Period, Seller and Buyer will work together to create a subdivision of the Land in a manner mutually acceptable to both Seller and Buyer that causes the Property to be transferrable to Buyer as a separate parcel of real estate. The foregoing may be accomplished by a Registered Land Survey, CIC Plat, or other similar subdivision method. This process is more specifically described in Paragraph 4.3, below, and is referred to herein as the "**Subdivision**".

2. Purchase Price.

The purchase price for the Property is One Million Six Hundred Thousand and 00/100 Dollars ($1,600,000.00) to be paid by Buyer as set forth below.

3. Deposit (Earnest Money).

Upon full execution of this Agreement by both parties, Buyer shall make an earnest money deposit in the amount of Twenty Thousand and 00/100 Dollars ($20,000.00) (the "**Deposit**") in escrow with Land Title, Inc. (the "**Title Company**"), attention Larry Mountain, email address: lmountain@landtitleinc.com; telephone: (612) 697-6116, to be held in accordance with the terms of this Agreement.

3.1. In the event the sale of the Property is consummated, the Deposit and Additional Deposit, if applicable, as hereinafter defined, shall be applied to the Purchase Price.

3.2. If Buyer timely elects to terminate this Agreement (i) during the Due Diligence Period or any extension thereof as defined below, or (ii) pursuant to its terms (including, without limitation, any Buyer's condition described in Section 6, below, not being satisfied or fulfilled), or (iii) if the transaction fails to close due to a Seller default, then the Deposit and Additional Deposit, if applicable, shall be returned to Buyer and Buyer shall have no further obligations under this Agreement; provided, however, that any claim that Buyer may have under Sections 4.2 and 12 that exceed the Deposit shall survive termination of this Agreement under this Section 3.2.

3.3. If, after the expiration of the Due Diligence Period or earlier waiver of all contingencies (as provided in Sections 4 and 5) and all conditions to Buyer's obligation to close have been satisfied, but Buyer fails to consummate this transaction, or in the event of a Buyer default, Seller shall be entitled to the Deposit as liquidated damages. The parties have agreed that Seller's damages, in the event of a default by Buyer, would be extremely difficult or impracticable to determine. Therefore, the parties acknowledge that the Deposit has been agreed upon, after negotiation, as the parties' reasonable estimate of Seller's damages. Receipt of the Deposit shall constitute Seller's exclusive remedy against Buyer at law or in equity and shall terminate all of Buyer's liability and obligations to Seller under this Agreement. The foregoing notwithstanding, any obligations that Buyer may have under Section 4.2 are separate and distinct from receipt of the Deposit as liquidated damages and any claim that Seller may have under Section 4.2 shall survive termination of this Agreement under this Section 3.3.

4. Due Diligence.

Buyer shall have One Hundred Twenty (120) days from the Contract Date of this Agreement (the "**Due Diligence Period**"), to inspect and investigate the Property and all other aspects of this transaction, including, without limitation: legal status and requirements pertaining thereto (such as building codes, zoning, environmental, public health, and fire safety laws) confirming the suitability of the Property for Buyer's intended use as stated above and otherwise for Buyer's purposes; hazardous substance inspections including soil borings and environmental assessments; and all other matters of significance to the Buyer in Buyer's sole and absolute discretion. Buyer shall have the option to extend the Due Diligence Period for one (1) One Hundred Eighty (180) day period by (i) depositing in escrow with the Title Company an additional earnest money deposit in the amount of Ten Thousand and 00/100 ($10,000.00) which shall be non-refundable (the

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"**Additional Deposit**"), (ii) providing documentation to Seller showing Buyer's good faith efforts to obtain all necessary governmental permits, regulatory and zoning approvals for the construction, rehabilitation and repurposing the Property, and (iii) providing a reasonable explanation for the extension, including the additional items needed to satisfy all of Buyer's contingencies and concerns in its sole discretion with regard to the Property.

4.1. Documents and Items to be Delivered to Buyer. Seller will, within five (5) days of the Contract Date of this Agreement, furnish Buyer with copies of (or otherwise provide an opportunity to review, copy and inspect) such information about the Property as reasonably requested by Buyer to the extent the same is in Seller's actual possession or control, including, without limitation, the information specified on Exhibit B hereto, as well as any Phase I or Phase II Environmental Reports, geotechnical reports or studies, surveys, insurance information, rent rolls, property tax information, environmental assessments and reports, service contracts, and other information in Seller's possession relating to the Property (collectively, the "**Due Diligence Items**").

4.2. Access and Cooperation. Seller shall afford Buyer and authorized representatives of Buyer reasonable access to the Property, at reasonable times, for the purposes of satisfying Buyer with respect to the condition of said Property. Buyer shall use commercially reasonable efforts not to disrupt Seller's business activities from the Property when performing its diligence activities. Buyer's inspection may not include intrusive testing (including, without limitation, so called Phase II testing) without Seller's prior written approval, which may be withheld or conditioned in Seller's reasonable discretion. Buyer shall repair and restore the Property promptly after such testing, and shall indemnify, defend, and protect Seller against and hold Seller harmless from all losses, costs, damages, liabilities and expenses resulting from any acts or omissions of Buyer or Buyer's representatives in connection with their entry upon, or inspection or investigation of, the Property. Buyer's obligations under this Section 4.2 shall survive any termination of this Agreement.

4.3. Subdivision. During the Due Diligence Period, Seller will engage a registered land surveyor, at Seller's sole cost and expense, to prepare a survey of the area to be subdivided showing the existing and proposed boundaries and a tabulation showing the land area and legal description of each new parcel. Buyer's obligations under this Agreement are conditioned upon Buyer's approval of the Subdivision in Buyer's reasonable discretion. Seller and Buyer shall work with such surveyor to assure the Property being purchased is reflected and properly shown on the survey. Seller shall be solely responsible for the timely filing of the subdivision application to the City of Minneapolis, submitting all required information and the payment of all fees. Seller and Buyer shall work together so that the subdivision is planned and implemented in a manner that is acceptable to Buyer in Buyer's reasonable discretion. The parties understand that Buyer cannot obtain any permits or other approvals required for the improvement of the subdivided land until after the final subdivision approval has been recorded with the Hennepin County Recorder or Registrar. The documents and items that are completed and approved by Buyer and Seller in this process will be referred to herein as the "**Subdivision Documents**".

Buyer's obligation to purchase the Property is conditioned upon Buyer's approval of every aspect of the Property, and the Due Diligence Items, in Buyer's sole and absolute discretion, as set forth in Sections 4.1-4.3. If, prior to the expiration of the Due Diligence Period, Buyer notifies Seller in writing that it disapproves of the Property or any Due Diligence Item set forth in Section 4.1-4.3, for any reason in Buyer's sole discretion, then this Agreement shall be terminated and the Deposit and Additional Deposit, if applicable, disbursed as set forth in Section 3.2. All materials, reports,

surveys, and other information generated by Buyer during Buyer's Due Diligence ("**Buyer's Diligence Items**") will remain the sole property of the Buyer; provided that if Buyer's termination is based upon the results of one or more such Buyer's Diligence Items, then Buyer shall deliver the same to Seller along with its notice of termination.

5. Title and Survey Review.

Seller shall cause the Title Company, at Seller's expense, to deliver to Buyer a current preliminary title report and commitment (the "**Title Commitment**") for an owner's policy of title insurance policy (the "**Title Policy**"), in the full amount of the Purchase Price, showing fee simple title to the Property in Seller, together with legible and complete copies of all recorded documents evidencing title exceptions raised in Schedule B of the Title Commitment. Subject to Buyer's survey rights below, Buyer shall have ten (10) days after Buyer's receipt of the Title Commitment and the Survey as defined below (the "**Title Review Period**") to review the title and survey to the Property, including, without limitation: the boundary lines; all easements and appurtenances; all liens and encumbrances; and all other matters of significance to Buyer.

Within Ten (10) days after the Contract Date, Seller, at Seller's sole cost, shall have prepared a new or updated survey of the Property made by a registered land surveyor and conforming to the 2021 Minimum Standard Detail Requirements for ALTA/ACSM Land Title Surveys, and certified and delivered to buyer, Buyer's Lender, Title Company and such other party/ies as Buyer requests (the "**Survey**").

5.1. Permitted Exceptions. Seller shall, on or before Closing, cause all mortgages, mechanics liens, and other monetary encumbrances created by or through Seller; as well as all encumbrances created after the date of this Agreement which are not created by Buyer, but prior to Closing, to be removed. If, prior to the end of the Title Review Period, Buyer disapproves of any title exception or survey item in writing, Seller shall have five (5) business days after receipt of written notice of the disapproved exception(s) and survey item to notify Buyer that Seller will attempt to remove the disapproved exception(s) or resolve the survey item prior to Closing or that Seller will not remove the exception(s) or resolve the survey item. Seller's failure to deliver such notice shall be deemed to mean that Seller will not remove the exception(s) or resolve the survey item. If Seller elects to remove an exception to title or survey item that Buyer has disapproved, Seller shall be obligated to use diligent, good faith efforts to remove that exception or survey item at Seller's sole cost and expense.

If Seller elects not to remove any disapproved exception or survey item, Buyer shall have five (5) business days from the receipt of Seller's notice or the expiration of the five (5) business days without notice from Seller either to: (a) terminate this Agreement, in which event the Deposit and Additional Deposit shall be returned to Buyer as set forth in Section 3.2; or (b) waive its disapproval of such exception(s) and agree to complete the Closing subject to the disapproved exception(s). Buyer's failure to deliver such notice will be deemed a waiver of such disapproved exception. All exceptions that Buyer has approved hereunder shall be termed the "**Permitted Exceptions**."

If Seller elects to remove an exception or resolve a survey item pursuant to the foregoing but has failed to complete such removal or resolved such survey item by the Closing Date, Buyer may (c) refuse to complete the Closing, in which event the Deposit and Additional Deposit, if applicable, shall immediately be returned to Buyer, and Buyer will have no further obligations under this Agreement; or (d) waive its disapproval of such exception(s)

and agree to complete the Closing, subject to a credit to Buyer from the Purchase Price for the reasonably estimated amount necessary to eliminate such exception(s) and resolve such survey items.

5.2. The Title Commitment and Title Policy issued at Closing shall have all standard and general printed exceptions deleted so as to afford full "extended form coverage," and shall further include any and all title endorsements that buyer requires including, without limitation: zoning; access; contiguity; survey; and mechanic's lien coverage. As a condition precedent to Buyer's obligation to purchase the Property, the title commitment shall be later-dated to cover the Closing Date and the recording of the limited warranty deed, and the Title Company shall deliver a "Marked-up" Title commitment to the Buyer concurrently with the Closing. At the Closing, Buyer will pay the premium for the basic ALTA policy and any lender's policy required by Buyer's lender. Buyer will pay the portion of the premium for extended coverage as well as any additional endorsements required by Buyer or Buyer's lender.

6. Conditions to Closing.

6.1. Buyer's Conditions to Closing. Buyer's obligation to complete the Closing is conditioned upon the satisfaction of each of the following conditions, the failure of any of which will enable Buyer to terminate this Agreement, in which event the Deposit and Additional Deposit, if applicable, shall be returned to Buyer pursuant to Section 3.2.

6.1.1. Buyer obtaining, at its expense and with the cooperation of Seller, all regulatory and zoning approvals required to operate the Property for Buyer's intended purpose.

6.1.2. Buyer obtaining, at its expense, an as-is appraisal for the Property in an amount not less than the Purchase Price and/or as required to obtain successful financing for the project.

6.1.3. Buyer obtaining, at its expense and with the cooperation of Seller, a commitment for financing for the purchase on terms and conditions acceptable to Buyer in Buyer's sole discretion. Buyer will be seeking financing with loans, deferred funding sources, grants, and other sources of financing funds from the local and state financing agencies.

The Buyer must secure full financing before Buyer can close. In the event the above-mentioned financing is not awarded to Buyer by December 31, 2025, Buyer may elect to extend or terminate the Purchase Agreement. Buyer may extend this agreement until December 31, 2026 by (i) depositing in escrow with the Title Company an additional earnest money deposit in the amount of Twenty Thousand and 00/100 ($20,000.00) which shall be non-refundable (the "**Additional Financing Deposit**"), (ii) providing documentation to Seller showing Buyer's good faith efforts to obtain all necessary financing, and (iii) providing a reasonable explanation for the extension, including the additional items needed to satisfy all of Buyer's financing in its sole discretion with regard to the Property. If Buyer elects to terminate the Purchase Agreement the Deposit shall be refunded to Buyer, and neither party shall have any further obligations under this Agreement.

6.1.4. The delivery to Buyer, at Closing, of good and marketable fee simple title to the Property subject only to the Permitted Exceptions.

6.1.5. All leases for the Property, if any, will be terminated as of the Closing Date. All tenants and occupants will have vacated the Property.

6.1.6. The issuance at Closing of the Title Policy.

6.1.7. That no material adverse change in the Property, or its future use or operation, shall have occurred after the end of the Due Diligence Period.

6.2. Seller's Conditions to Closing. Seller's obligation to complete the Closing is conditioned upon the satisfaction of each of the following conditions each of which is for the exclusive benefit of Seller. Seller may at any time or times before the Closing, waive one or more of the following conditions, without affecting its rights and remedies with respect to the remaining conditions;

6.2.1. The performance by Buyer of all its obligations hereunder, and the truth, completeness and accuracy of each representation and warranty made by Buyer as of the Contract Date and the Closing.

7. Closing.

The consummation of the purchase and sale (the "**Closing**") shall be held at the offices of the Title Company on or before the day that is no later than Thirty (30) days after the later of (i) the date upon which Buyer has notified Seller that Buyer has completed its Due Diligence, or (ii) the date upon which all Buyer Conditions described in Section 6.1 have been satisfied (the "**Closing Date**").

7.1. Seller's Deposits Into Escrow. Seller shall deposit the following documents and items into escrow:

7.1.1. all duly executed and acknowledged documents, including, without limitation, a Limited Warranty Deed conveying fee title in the Property to Buyer or Buyer's assignee, subject only to the Permitted Exceptions;

7.1.2. fully executed and recorded copies of all Subdivision Documents;

7.1.3. a duly executed Seller's Certificate in the form of Exhibit C;

7.1.4. a Seller's Affidavit of Title in the standard Minnesota form, and the Closing Statement (as defined below), each executed by Seller;

7.1.5. an affidavit reasonably acceptable to Buyer stating that Seller is not a "foreign person" under IRC Section 1445(f)(3);

7.1.6. information necessary to complete an electronic Minnesota Certificate of Real Estate Value;

7.1.7. Seller's share of the closing costs as described in Section 7.5 below or instructions to Title Company to deduct same from the Purchase Price; and

7.1.8. such other documents and items as may reasonably be required to complete the Closing.

7.2. Buyer's Deposits into Escrow. Buyer shall deposit the following into escrow:

7.2.1. the remaining Purchase Price;

7.2.2. Buyer's share of the closing costs as described herein; and

7.2.3. The Closing Statement and such other documents and items as may reasonably be required to complete the Closing.

7.3. Prorations. All expenses for the Property will be prorated on the Closing Date (based on actual days of the month and a 365-day year) and the Purchase Price will be adjusted on the following basis:

7.3.1. Property Taxes and Assessments. Seller will be responsible for all real estate taxes and all installments of special assessments owing as of the Closing Date, based on the latest available tax rate and assessed valuation.

7.3.2. Utility Charges. All utility (including electricity, gas, water, sewer and telephone) charges will be prorated to the Closing date. All utility security deposits, if any, will be retained by Seller.

7.4. Post Closing. If the amount of any proration cannot be determined at the Closing, the adjustments will be made between the parties within sixty (60) days after Closing.

7.5. Closing Costs. The Closing costs for this transaction shall be paid as follows:

7.5.1. Seller shall pay the following:

7.5.1.1. Cost of the Title Commitment;

7.5.1.2. One half of escrow and recording fees to record documents to place title to the Property in the condition required by this Agreement;

7.5.1.3. County and City transfer taxes, if any; and

7.5.1.4. Minnesota Deed Tax.

7.5.2. Buyer shall pay the following:

7.5.2.1. Cost of Owner's Title Insurance Premium, the premium of any extended coverage or additional endorsements, Lender's Title Insurance Premium and all endorsements;

7.5.2.2. One half of escrow cost and recording fees for the recording of the Limited Warranty Deed and financing documents;

7.5.2.3. All costs of Buyer's due diligence activities, to the extent not paid outside of closing; and

7.5.2.4. All costs related to Buyer's financing, including, without limitation payment of Mortgage Registration Tax.

7.6. Closing. Title Company shall close the escrow for this transaction when it is in a position to issue the Title Policy and has received from Seller and Buyer the items required of each in Sections 7.1 and 7.2 above. Title Company shall close escrow by doing the following:

7.6.1. Recording the Limited Warranty Deed(s) and/or other documents in the Official Records of the Hennepin County Recorder or the Hennepin County Registrar of Titles, as applicable;

7.6.2. Delivering to Buyer the Title Policy (a marked-up commitment shall suffice), the original documents and items listed above, and a closing statement for the escrow consistent with this Agreement and satisfactory to Buyer and Seller (the "**Closing Statement**"); and

7.6.3. Deliver to Seller the Purchase Price and a signed original of Seller's Closing Statement.

8. Representations and Warranties.

8.1. Representations and Warranties of Seller. Seller hereby makes the following representations and warranties to Buyer, which representations and warranties shall survive the Closing and all of which: (i) are material and are being relied upon by Buyer; and (ii) are true, complete and accurate as of the Contract Date and shall be true, complete and accurate at the Closing date.

8.1.1. This Agreement and all documents executed by Seller which are to be delivered to Buyer at the Closing are, or at the time of Closing will be, (i) duly authorized, executed, and delivered by Seller, (ii) are, or at the Closing will be, legal, valid, and binding obligations of Seller, and (iii) do not, and at the time of Closing will not, violate any provision of any agreement to which Seller is a party or to which it is subject or any law, judgment or order applicable to Seller including, without limitation, any option or right of first refusal.

8.1.2. There is no tenant or other occupant with rights to possession or use of the Property.

8.1.3. No proceedings under any federal or state bankruptcy or insolvency laws have been commenced by or against Seller which have not been terminated; no general assignment for the benefit of creditors has been made by Seller; and no trustee or receiver of Seller's interest in the Property has been appointed.

8.1.4. There is no litigation or proceeding pending, or, to Seller's knowledge, threatened, nor is there any unsatisfied judgment against or involving Seller, any entity owned or controlled by Seller, or the Property which might materially and adversely affect the Property or Seller's ability to consummate the transactions contemplated by this Agreement.

8.1.5. There are underground storage tanks located on the Property. Said tanks hold diesel fuel for use in the boilers in the building on the Property. The boilers no

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longer use diesel fuel as they use natural gas instead, but they may still be operated with diesel fuel, if necessary.

8.1.6. There are no minimum valuation agreements, special assessment proceedings, or other property tax or assessment agreements or proceedings affecting the Property.

8.2. Material Changes: Survival. If, prior to the Closing, Seller becomes aware of any fact or circumstance that would materially change a representation or warranty of Seller in this Agreement, then Seller shall promptly, and in all events at least five (5) days prior to the Closing Date (which date shall be extended if necessary to give Buyer five days to review such material change), give written notice of such changed fact or circumstance to Buyer. If, prior to Closing, upon Seller's notice or otherwise, Buyer becomes aware of the untruth or inaccuracy of, or facts or circumstances that would change materially, any representation or warranty of Seller in this Agreement, then Buyer shall have the option of: (i) waiving such breach of representation or warranty and completing the Closing pursuant to this Agreement; (ii) reaching agreement with Seller to adjust the terms of this Agreement to compensate Buyer for such change; or (iii) refusing to complete the Closing. Seller's representations and warranties shall survive the Closing for a period of six (6) months.

8.3. Limits on Seller's Obligations and Liabilities. AS A MATERIAL PART OF THE CONSIDERATION FOR THIS AGREEMENT, BUYER AGREES TO ACCEPT THE PROPERTY "AS IS" AND "WHERE IS" BASIS, WITH ALL FAULTS. EXCEPT FOR THOSE WARRANTIES AND REPRESENTATIONS SPECIFICALLY MADE BY SELLER IN THIS AGREEMENT, NO WARRANTY OR REPRESENTATION IS MADE BY SELLER WITH RESPECT TO THE PROPERTY. THE PROVISIONS OF THIS SECTION 8.3 SHALL SURVIVE INDEFINITELY ANY CLOSING OR TERMINATION OF THIS AGREEMENT AND SHALL NOT BE MERGED INTO ANY DOCUMENTS, EXECUTED OR DELIVERED AT CLOSING.

8.4. Representations and Warranties of Buyer. Buyer hereby makes the following representations and warranties to Seller, which representations and warranties shall survive the Closing and all of which (i) are material and are being relied upon by Seller; and (ii) are true, complete and accurate as of the date hereof and shall be true, complete and accurate at the Closing date.

8.4.1. This Agreement and all documents executed by Buyer which are to be delivered to Seller at the Closing are, or at the time of Closing will be, duly authorized, executed, and delivered by Buyer, and are, or at the Closing will be, legal, valid, and binding obligations of Buyer, and do not, and at the time of Closing will not, violate any provision of any agreement to which Buyer is a party or to which it is subject or any law, judgment or order applicable to Buyer.

8.4.2. There is no litigation or proceeding pending, or, to Buyer's knowledge, threatened, nor is there any unsatisfied judgment against or involving Buyer, any entity owned or controlled by Buyer, or the Property which might materially and adversely affect the Property or Buyer's ability to consummate the transactions contemplated by this Agreement.

9. Risk of Loss: Insurance Proceeds: Condemnation.

9.1. Insurance. Seller represents to Buyer that the Land is presently insured by a commercial general liability policy. Seller agrees to maintain the policy in effect through the Closing Date, and upon Buyer's request, to provide Buyer evidence of such insurance.

9.2. Eminent Domain. If, prior to the Closing, all of the Property and Improvements are taken by eminent domain, this Agreement shall be deemed canceled. If only part of the Property or Improvements are so taken, Buyer shall have the option of (a) proceeding with the Closing and acquiring the Property as affected by such taking, together with all compensation and damage awarded or the right to receive same, or (b) canceling this Agreement, in which event the Deposit and Additional Deposit, if applicable, shall be returned to Buyer. If Buyer elects option (a) above, Seller agrees to assign to Buyer at the Closing its rights to such compensation and damages, and will not settle any proceedings relating to such taking without Buyer's prior written consent. Seller shall promptly (and in any event prior to the Closing) notify Buyer of any actual or threatened condemnation affecting the Property.

9.3. Casualty. If, prior to the Closing Date, all or any part of the Property is damaged by fire, casualty, the elements or any other cause ("**Damages**"), Seller will immediately give notice to Buyer of such Damages, and, at Buyer's option (to be exercised by notice to Seller within thirty (30) days after receipt of Seller's notice), this Agreement will terminate in which case Buyer will be entitled to the return of the Deposit and Additional Deposit, if applicable, and neither Seller nor Buyer will have any further rights or obligations under this Agreement, except for obligations that expressly survive termination. If Buyer does not elect to terminate this Agreement, Seller will promptly and diligently commence to repair the Damage and return the Property to its condition before to the Damage. If the Damage is completely repaired before the Closing Date, then the Purchase Price will not be reduced, and Seller will retain the proceeds of all insurance related to the Damage. If the Damage is not completely repaired prior to the Closing Date, then Buyer will complete the repairs after the Closing Date and will be entitled to receive the proceeds of all insurance related to Buyer's completion of the repairs.

10. Seller's Covenants During Contract Period.

Between Seller's execution of this Agreement and the Closing, or earlier termination of this Agreement as permitted hereunder, Seller shall: (i) maintain the Property in good order, condition and repair, reasonable wear and tear excepted; (ii) not enter into any contracts or agreements affecting the Property unless such contracts can be completed or terminated on or before Closing; and (iii) not offer or enter into agreement with a third party to sell any portion of the Land for sale publicly or, once the Property is identified and demarcated, otherwise solicit, make, pursue, negotiate or accept offers for the sale of the Property to or from any party.

11. Indemnification.

Each party hereby agrees to indemnify, defend, protect and hold harmless the other party from and against any and all claims, demands, liabilities, costs and damages, including without limitation, reasonable attorneys' fees (collectively, "**Claims**"), resulting from any misrepresentations or breach of warranty or covenant made by such party in this Agreement or in any document, certificate, or exhibit given or delivered to the other party pursuant to or in connection with this Agreement.

12. Default. If Seller fails to perform any of its obligations under this Agreement and fails to cure such default within five (5) business days after receipt of written notice thereof, Buyer may: (i) terminate this Agreement and obtain a full refund of the Deposit and Additional Deposit, if applicable ; or (ii) commence an action for specific performance of this Agreement within six (6) months after Seller's default. In both cases, Buyer will also have the ability to maintain a claim against Seller for damages, including all out-of-pocket expenses incurred by Buyer in connection with Buyer's due diligence and other actions under this agreement, as well as consequential damages due to Buyer's inability to open a facility in a timely manner. If Buyer defaults in performance of its obligations under Section 4.2, Seller may bring an action to enforce its Buyer's obligation under such Section. If Buyer defaults in performance of its obligations under any other Sections of this Agreement and fails to cure such default within five (5) business days after receipt of written notice thereof, Seller will have the right to terminate this Agreement in the manner provided by Minn. Stat. Sec. 559.21 and to retain the Deposit as liquidated damages. Termination of this Agreement and retention of the Deposit will be the only remedy available to Seller for a default by Buyer, and Buyer will not be liable for damages or specific performance, except as to claims under Section 4.2. The parties hereby acknowledge that the Property is not residential property and is not subject to Minn. Stat. Section 559.217.

13. Miscellaneous.

13.1. Notice. All notices and any other communications permitted or required under this Agreement must be in writing and will be effective: (i) immediately upon delivery in person or by electronic communication/facsimile, provided delivery is made during regular business hours or receipt is acknowledged by a person reasonably believed by the delivering party to be employed by the recipient; or (ii) 48 hours after deposit with a commercial courier or delivery service for overnight delivery, provided delivery is made during regular business hours or receipt is acknowledged by a person reasonably believed by the delivering party to be employed by the recipient; or (iii) five days after deposit with the United States Postal Service, first class postage prepaid. All notices must be properly addressed and delivered to the parties at the addresses set forth below, or at such other addresses as either party may subsequently designate by written notice given in the manner provided in this Section:

Seller:	Minneapolis Public Schools SP School District No. 1, et al Willard School 1250 West Broadway Avenue Minneapolis, MN 55411 Attn: Curtis Hartog E-Mail: curtis.hartog@mpls.k12.mn.us	Sarah Sonsalla Kennedy & Graven, Chartered Fifth Street Towers, Suite 700 150 South Fifth Street Minneapolis, MN 55402 Email: Ssonsalla@kennedy-graven.com
Buyer	The Link Holdings LLC 1210 Glenwood Avenue Minneapolis, MN 55405 Attn: Beth Holger Email: bholger@thelinkmn.org	Craig Kepler Best & Flanagan LLP 60 S 6th Street, Ste. 2700 Minneapolis, MN 55402 Email: ckepler@bestlaw.com

13.2. Covenant of Further Assurances. The parties hereby agree to execute such other documents and perform such other acts as may be necessary or desirable to carry out the purposes of this Agreement.

13.3. Entire Agreement. This document represents the entire agreement between the parties with respect to the subject matter hereof and supersedes all other prior and contemporaneous agreements, whether oral or written, express or implied. This Agreement may only be modified by a written instrument signed by both parties.

13.4. Partial Invalidity. If any term, covenant or condition of this Agreement or its application to any person or circumstances shall be held to be invalid or unenforceable, the remainder of this Agreement or the application of such term or provisions to other persons or circumstances shall not be affected, and each term hereof shall be valid and enforceable to the fullest extent permitted by law.

13.5. No Waiver. No consent or waiver by either party to or of any breach of any representation, covenant or warranty shall be construed as a consent to or waiver of any other breach of the same or any other representation, covenant, or warranty.

13.6. Brokers and Finders. Seller is represented by Commercial Equities Group, Inc., Jeff Salzbrun ("**Seller's Broker**") and Seller shall be solely responsible for payment of all brokerage fees and/or commissions due to Seller's Broker pursuant to a separate agreement. Buyer is represented by Suntide Commercial Realty, Kevin Peck ("**Buyer's Broker**"). Buyer's Broker shall receive a commission equal to three percent of the Purchase Price. Each party will indemnify the other from and against any and all liability to which the indemnified party may be subjected by any broker's, finder's, or similar fee with respect to the transactions contemplated by this Agreement to the extent such fee is attributable to any action undertaken by or on behalf of the indemnifying party or any affiliate thereof.

13.7. Time of the Essence. Time is of the essence of this Agreement. If the final day of a period or date of performance under this Agreement falls on a Saturday, Sunday or legal holiday, then the final day of the period or the date of performance will fall on the next day that is not a Saturday, Sunday or legal holiday. Performance shall be due by 5:00 pm local time on any applicable deadline date.

13.8. Governing Law: Forum; Attorney's Fees. This Agreement is entered into and shall be governed by and construed in accordance with the laws of the State of Minnesota. Any disputes regarding this Agreement shall be resolved in the Courts of Hennepin County, Minnesota. THE PARTIES HEREBY WAIVE ANY RIGHT TO TRIAL BY JURY AND ANY RIGHT EACH MAY HAVE TO ASSERT THE DOCTRINE OF FORUM NON CONVENIENS OR TO OBJECT TO VENUE ON ANY BASIS WHATSOEVER IN ANY ACTION ARISING FROM OR RELATING TO THIS AGREEMENT. In the event of any litigation between the parties concerning this Agreement, the prevailing party shall be entitled to an award of his or her reasonable attorneys' fees.

13.9. Specific Performance. Seller acknowledges that Buyer will be irreparably and irremediably damaged if Seller fails to fulfill Seller's obligations under this Agreement. Accordingly, Seller agrees that, in addition to remedies at law, Buyer is entitled to an award of injunctive relief compelling Seller to perform Seller's obligations hereunder.

13.10. Interpretation. All parties have had an opportunity to consult with legal counsel in the preparation and negotiation of this Agreement, and this Agreement shall be construed according to the fair meaning of its language. The rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not be employed in

interpreting this Agreement. Whenever the term "days" is used in this Agreement, it shall mean calendar days unless specifically provided otherwise. Whenever the term "including" is used in this Agreement, it shall mean "including, but not limited to," the items thereafter enumerated.

13.11. IRS Form 1099-S Designation. In order to comply with information reporting requirements of Section 6045(e) of the Internal Revenue Code of 1986, as amended, and the Treasury Regulations thereunder, the parties agree (i) to execute an IRS Form 1099-S Designation Agreement to designate the Title Company (the "**Designee**") as the party who shall be responsible for reporting the contemplated sale to the Internal Revenue Service on IRS Form 1099-S; and (ii) to provide the Designee with the information necessary to complete Form 1099-S.

13.12. Compliance With Laws. Each party shall comply with all applicable laws, rules, regulations, orders, consents and permits in the performance of all of their obligations under this Agreement.

13.13. Assignment. Neither Seller nor Buyer may assign its rights under this Agreement to any third party, without the prior written consent of the other party, which shall not be unreasonably withheld or conditioned; provided, however, that Buyer may assign this Agreement to an affiliated building company without prior consent of Seller.

13.14. Counterparts. This Agreement may be executed in any number of original counterparts, all of which evidence only one agreement, binding on all parties, even though all parties are not signatory to the same counterpart. A signature sent via fax or by email will be deemed to be an original signature.

[The remainder of this page is intentionally left blank.]

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[SIGNATURES TO REAL ESTATE PURCHASE AGREEMENT]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the Contract Date.

Seller:

Minneapolis Public Schools
SP School District No. 1

By:
Its: Board Chair

By:
Its: Board Clerk

Buyer:

The Link Holdings LLC
a Minnesota nonprofit limited liability company

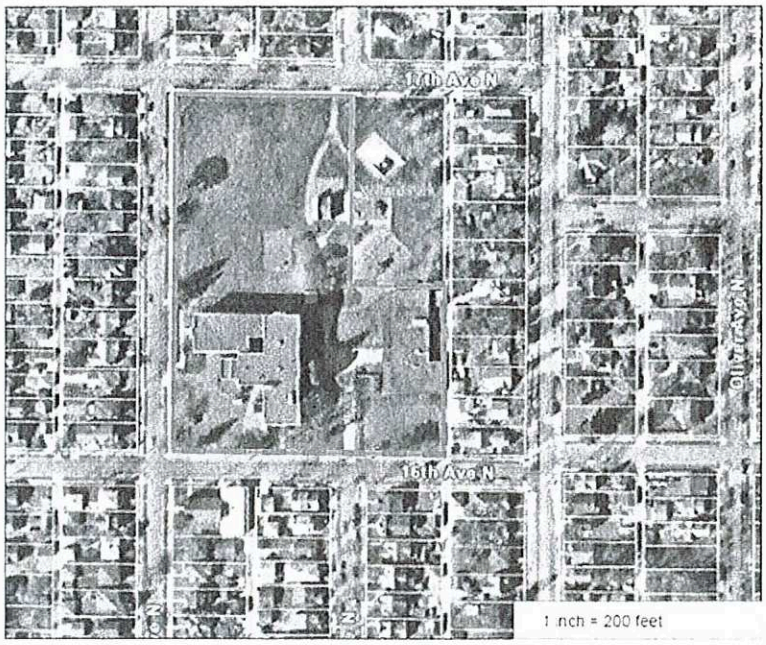
DocuSigned by:
Beth Holger
E962DE003E63475...

By: Beth Holger 9/3/2024
Its: Chief Executive Officer

Docusign Envelope ID: 3C8F5411-4E50-4F66-93A0-8E126855C03A

EXHIBIT A

Depiction of the Land



Blue Line = Current boundary line of 5.2 acres

Red Line = Boundary line of approximately 3.7 acres being purchased

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EXHIBIT B

Due Diligence Items

Seller shall provide Purchaser with copies of, or the ability to copy, all pertinent documents relating to the Property which the Seller currently has in its possession, including but not limited to, the following information:

1. A complete list of all warranties and guaranties and complete copies of all such warranties and guaranties.

2. Seller will provide copies of, or access to Purchaser to copy, the following in Seller's possession:

(a) All soil tests, structural engineering tests, ADA surveys, masonry tests, percolation tests, water, oil, gas or mineral assessments, tests or reports, radon, formaldehyde, PCB, asbestos or other environmental tests reports, abatement and/or containment plans, audits or reports, market studies and site plans related to the Property.

(b) Parking, structural, mechanical or other reports and engineering reports or studies related to the Property and any and all as-built drawings, architectural plans or studies, grading plans, topographical maps and similar data respecting the Property.

(c) All authorizations, including, without limitation, all certificates of occupancy, permits, authorizations, approvals and licenses issued by Governmental Authorities having jurisdiction over the Property, all certificates issued by the local board of fire underwriters (or other body exercising similar functions) relating to the Property and the results of any and all inspections, investigations, tests and studies with regard to zoning, building codes and other governmental regulations or entitlement matters.

(d) Receipts for all ad valorem taxes and special assessments assessed against the Property for the current calendar year and prior three (3) calendar years, statements for utilities payable for the current calendar year and prior three calendar years, and any information regarding current renditions or assessments on the Property or notices relative to change in valuation for ad valorem taxes.

(e) A schedule of all current or pending litigation against Seller with respect to the Property or any part thereof, if any, together with a brief description of each such proceeding.

(f) Any other relevant documentation, such as tax abatement agreements, easement agreements, railroad agreements, drainage agreements, special improvement or metropolitan district agreements, ground leases and the like, if applicable.

3. Copies of the previous 12 months of utility bills, if applicable.

4. Income and expense information concerning the Property and the business activities located at the Property sufficient for Purchaser to fully understand the income and expenses associated therewith.

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EXHIBIT C

Seller's Certificate

This Seller's Certificate is being given pursuant to and in consideration of that certain Real Estate Purchase Agreement, dated _____, 2024, for the purchase of 2220 16th Avenue North, Minneapolis, Minnesota between Minneapolis Public Schools, SP School District No. 1 ("**Seller**"), and The Link Holdings LLC, a Minnesota nonprofit limited liability company, or assignee ("**Buyer**") (the "**Agreement**"), and in accordance therewith, Seller hereby certifies, represents and warrants to Buyer as of _____ ____, 202__, that:

1. There has been no change in or damage to the Property (as defined in the Agreement) or its use or operation from _____, 2024;

2. All the representations and warranties described in Section 8.1 of the Agreement are true, complete and accurate as of the date hereof, except as specifically set forth on Exhibit A to this Seller's Certificate.

IN WITNESS WHEREOF, this Seller's Certificate was executed by the Seller as of the date stated above.

SELLER:

Minneapolis Public Schools,
SP School District No. 1

By:_____
Name:
Title:

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EXHIBIT A
TO
SELLER'S CERTIFICATE

Description of all exceptions and qualifications to Seller's representations and warranties. If none, so state.

Minnesota State High School League
2100 Freeway Blvd., Brooklyn Center, MN 55430-1735
763-560-2262, Fax: 763-569-0499

Application for Cooperative Sponsorship

Deadline: Not Later than 30 days prior to the first day of practice for that sport season.
PLESAE SEE BYLAW 403.2(a-c) and 403.4 (A-D) (amended May 15, 2017) FOR INFORMATION REGARDING REQUIRED DOCUMENTATION AND APPLICATION PROCEDURE

On behalf of the following schools, we hereby apply for cooperative sponsorship of..... Roosevelt, South and Southwest
beginning with the..... 2024-25 school year

List ALL schools included in the cooperative sponsorship.

	School	Enrollment (9-12)*	City	Administrative Region**	Competitive Section**
High School #1	Minneapolis Roosevelt		Mpls	6AA	6AA
High School #2	Minneapolis South		Mpls	6AA	6AA
High School #3	Minneapolis Southwest		Mpls	6AA	6AA
High School #4					
High School #5					
High School #6					
High School #7					
High School #8					
High School #9					
High School #10					

*Enrollment reported to the State of Minnesota on October 1st of the previous school year. **Current (Number and Class)

1. Do any of the above schools belong to a conference in this activity?
   - ☑ Yes (This application must include a review and comments from the conference(s) of which the schools are members)
   - ☐ No
2. Do any of the above schools currently have a cooperatie agreement in this activity?
   - ☐ Yes (An application for dissolution must be submitted for the existing agreement)
   - ☑ No
3. Decscribe the conditions in the space provided belwo which have prompted your request to co-sponsor this activity.
   See model resolution at www.mshsl.org/AboutMSHSL/Membership Information: A History & Model Resolution for School Boards

   None of the schools independently have the number of participants needed to have a successful and competitive boys volleyball program.

4. List the number of students, by grade level, who participated in this activity duirng the previous year.
   If the school did not sponsor the program last year, indicate the number of students expected to participate in this cooperatively sponsored activyt this year if approved.

	7th	8th	9th	10th	11th	12th	Totals
High School #1	0	0	6	4	6	5	21
High School #2	0	0	0	0	0	1	1
High School #3	0	0	1	2	4	3	10
High School #4							0
High School #5							0
High School #6							0
High School #7							0
High School #8							0
High School #9							0
High School #10							0

5. Team Identification: Southside Volleyball Club

(Indicate how cooped schools should be identified in tournament programs)

6. Team Colors: Black/white/purple/orange/marro Team Mascot: None

7. Host School: Minneapolis Roosevelt

(School that will receive revenue share check)

Required Approvals School Principal(s) and appropriate Associate Superintendent(s)	School	Date
Signed: _____ Host School #1 Principal	Minneapolis Roosevelt	03/10/2025
Signed: _____ Host School #2 Principal	Minneapolis South	03/10/2025
Signed: _____ Host School #3 Principal	Minneapolis Southwest	03/10/2025
Signed: _____ Host School #4 Principal		
Signed: Shawn Harris-Berry Associate Superintendent Dr. Shawn Harris-Berry	DAVIS	3/10/25
Signed: _____ Associate Superintendent Yusuf Abdullah	Davis	3-10-25
Signed: _____ Associate Superintendent Laura Cavender	Davis	3-10-25
Signed: _____ MPS Board of Education (or designee)		
Signed: _____ MPS Board of Education (or designee)		

Official Action of the MSHSL Board of Directors

☐ Approved ☐ Not Approved

Signed: _____ Date: _____

MSHSL Executive Director

FY25MULTI008
Project Name: Justice Page-Washburn Multi-Site Fire Protection

Contract Sum: $226,400.00

Contractor: Derau Construction

Project Name and Number
Justice Page-Washburn Multi-Site Fire Protection

Justice Page Middle School
1 West 49th St.
Minneapolis, MN 55419

Washburn High School
201 W. 49th St.
Minneapolis, MN 55419

Minneapolis Public Schools Project Number
OP 25-2509
RFP 20-41

Description
Multi-site fire protection upgrade project at Justice Page Middle School and Washburn High School per the project bid documents prepared by KFI Engineers.

Contract Sum details

Item	Price	Status
Base Bid	$203,000.00	accepted
Alt #1: Washburn fire pump and controller	$23,400.00	accepted

Contract Documents
AIA Document A101-2017
AIA Document A101 Exhibit A-2017
Exhibit B – Project Charter
Exhibit C – Owner Insurance
Exhibit D – Project Schedule
AIA Document A201-2017
AIA Document E402-2022 (optional BIM models)

AIA® Document A101® – 2017

Standard Form of Agreement Between Owner and Contractor where the basis of payment is a Stipulated Sum

AGREEMENT made as of the Thirteenth day of January in the year Two Thousand Twenty-Five
(In words, indicate day, month and year.)

BETWEEN the Owner:
(Name, legal status, address and other information)

Minneapolis Public Schools Special School District #1
1250 West Broadway Avenue
Minneapolis, MN 55411

and the Contractor:
(Name, legal status, address and other information)

Derau Construction LLC
1407 East Cliff Road
Burnsville, MN 55337

for the following Project:
(Name, location and detailed description)

Justice Page Middle School
1 West 49th St.
Minneapolis, MN 55419

Washburn High School
201 W. 49th St.
Minneapolis, MN 55419

The Architect:
(Name, legal status, address and other information)

KFI Engineers
670 County Road B West
St. Paul, MN 55113

The Owner and Contractor agree as follows.

ADDITIONS AND DELETIONS:
The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

The parties should complete A101®–2017, Exhibit A, Insurance and Bonds, contemporaneously with this Agreement. AIA Document A201®–2017, General Conditions of the Contract for Construction, is adopted in this document by reference. Do not use with other general conditions unless this document is modified.

Init.
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User Notes: (3B9ADA38)

TABLE OF ARTICLES

1 THE CONTRACT DOCUMENTS

2 THE WORK OF THIS CONTRACT

3 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

4 CONTRACT SUM

5 PAYMENTS

6 DISPUTE RESOLUTION

7 TERMINATION OR SUSPENSION

8 MISCELLANEOUS PROVISIONS

9 ENUMERATION OF CONTRACT DOCUMENTS

EXHIBIT A INSURANCE AND BONDS

ARTICLE 1 THE CONTRACT DOCUMENTS

The Contract Documents consist of this Agreement, Conditions of the Contract (General, Supplementary, and other Conditions), Drawings, Specifications, Addenda issued prior to execution of this Agreement, other documents listed in this Agreement, and Modifications issued after execution of this Agreement, all of which form the Contract, and are as fully a part of the Contract as if attached to this Agreement or repeated herein. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations, or agreements, either written or oral. An enumeration of the Contract Documents, other than a Modification, appears in Article 9.

ARTICLE 2 THE WORK OF THIS CONTRACT

The Contractor shall fully execute the Work described in the Contract Documents, except as specifically indicated in the Contract Documents to be the responsibility of others.

ARTICLE 3 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

§ 3.1 The date of commencement of the Work shall be:
(Check one of the following boxes.)

[ ] The date of this Agreement.

[X] A date set forth in a notice to proceed issued by the Owner.

[ ] Established as follows:
(Insert a date or a means to determine the date of commencement of the Work.)

If a date of commencement of the Work is not selected, then the date of commencement shall be the date of this Agreement.

§ 3.2 The Contract Time shall be measured from the date of commencement of the Work.

§ 3.3 Substantial Completion

§ 3.3.1 The Contractor shall achieve Substantial Completion of the entire Work:
(Check one of the following boxes and complete the necessary information.)

Init.
/

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User Notes: (3B9ADA38)

[ ] Not later than ( ) calendar days from the date of commencement of the Work.

[X] By the following date: Defined in EXH-D Project Schedule

§ 3.3.2 Subject to adjustments of the Contract Time as provided in the Contract Documents, if portions of the Work are to be completed prior to Substantial Completion of the entire Work, the Contractor shall achieve Substantial Completion of such portions by the following dates are defined in EXH-D Project Schedule. Such portions of the work not completed as defined in EXH-D Project Schedule shall be subject to liquidated damages as set forth in Article 4.5.

(Table Deleted)

§ 3.3.3 If the Contractor fails to achieve Substantial Completion as provided in this Section 3.3, liquidated damages, if any, shall be assessed as set forth in Section 4.5.

ARTICLE 4 CONTRACT SUM

§ 4.1 The Owner shall pay the Contractor the Contract Sum in current funds for the Contractor's performance of the Contract as defined in EXH-B Project Charter, subject to additions and deductions as provided in the Contract Documents.

§ 4.2 Alternates

§ 4.2.1 Alternates, if any, included in the Contract Sum are defined in EXH-B Project Charter.

(Table Deleted)

§ 4.2.2 Subject to the conditions noted in EXH-B Project Charter, alternates may be accepted by the Owner following execution of this Agreement. Upon acceptance, the Owner shall issue a Modification to this Agreement.

(Paragraph Deleted)

(Table Deleted)

§ 4.3 Allowances, if any, included in the Contract Sum are defined in EXH-B Project Charter.

(Paragraph Deleted)

(Table Deleted)

§ 4.4 Unit prices, if any are defined in EXH-B Project Charter.

(Paragraph Deleted)

(Table Deleted)

§ 4.5 Liquidated damages

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Contractor and Owner recognized that time is of the essence for the Project and the Owner will suffer financial loss if the Work is not completed in the time specified in the Contract Documents. The parties also recognized the delays, expenses, and difficulties involved in proving in a legal or arbitration proceeding the actual loss suffered by the Owner if the Work is not completed on time. Accordingly, instead of requiring such proof, the Owner and Contractor agree that as liquidated
damages for delay (but not as penalty), Contractor shall pay Owner $1,000.00 per calendar day for each day that expires after the time specified for Substantial Completion in EXH-D Project Schedule until such time the Work is determined to be substantially complete by the
Owner.

(Paragraph Deleted)

After Substantial Completion, if Contractor shall neglect, refuse, or fail to complete the remaining work within the Contract time specified in the Contract Documents, the contractor shall pay the Owner $1,000.00 per day that expires after the time specified in the Contract Documents for Final Completion and readiness for Final Payment until the Work is completed.

ARTICLE 5 PAYMENTS

§ 5.1 Progress Payments

§ 5.1.1 Based upon Applications for Payment submitted to the Architect by the Contractor and Certificates for Payment issued by the Architect, the Owner shall make progress payments on account of the Contract Sum to the Contractor as provided below and elsewhere in the Contract Documents.

§ 5.1.2 The period covered by each Application for Payment shall be one calendar month ending on the last day of the
month.

§ 5.1.3 When an Application for Payment is received by the Architect, payment of the amount certified shall be made by the Owner not later than 45 (forty-five) days after the Architect receives the Application for Payment.

(Paragraph Deleted)

§ 5.1.4 Each Application for Payment shall be based on the most recent schedule of values submitted by the Contractor on AIA G702 Application and Certificate for Payment in accordance with the Contract Documents. The schedule of values shall allocate the entire Contract Sum among the various portions of the Work. The schedule of values shall be prepared in such form, and supported by such data to substantiate its accuracy, as the Architect may require. This schedule of values shall be used as a basis for reviewing the Contractor's Applications for Payment.

§ 5.1.5 Applications for Payment shall show the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment.

§ 5.1.6 In accordance with AIA Document A201™–2017, General Conditions of the Contract for Construction, and subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

§ 5.1.6.1 The amount of each progress payment shall first include:

- **.1** That portion of the Contract Sum properly allocable to completed Work;
- **.2** That portion of the Contract Sum properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction, or, if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing; and
- **.3** That portion of Construction Change Directives that the Architect determines, in the Architect's professional judgment, to be reasonably justified.

§ 5.1.6.2 The amount of each progress payment shall then be reduced by:

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.1 The aggregate of any amounts previously paid by the Owner;
.2 The amount, if any, for Work that remains uncorrected and for which the Architect has previously withheld a Certificate for Payment as provided in Article 9 of AIA Document A201–2017;
.3 Any amount for which the Contractor does not intend to pay a Subcontractor or material supplier, unless the Work has been performed by others the Contractor intends to pay;
.4 For Work performed or defects discovered since the last payment application, any amount for which the Architect may withhold payment, or nullify a Certificate of Payment in whole or in part, as provided in Article 9 of AIA Document A201–2017; and
.5 Retainage withheld pursuant to Section 5.1.7.

§ 5.1.7 Retainage

§ 5.1.7.1 For each progress payment made prior to Substantial Completion of the Work, the Owner may withhold the following amount, as retainage, from the payment otherwise due:

(Paragraph Deleted)

5% (five percent)

§ 5.1.7.1.1 The following items are not subject to retainage:
(Insert any items not subject to the withholding of retainage, such as general conditions, insurance, etc.)

For major items installed into the Work, the Contractor may request full payment for the items to ensure prompt delivery and fabrication. Such items shall be recommended by the Architect and approved by the Owner as not requiring retainage. Prompt payment for the items shall be documented by the Contractor to the Owner in the subsequent payment application by submitting a full lien release for the items. Major items may include mechanical units with long lead times, structural systems with long lead times, critical path systems or items, etc. Major items will be discussed and defined by Owner, Architect, and Contractor.

§ 5.1.7.2 Reduction or limitation of retainage, if any, shall be as follows:
Prior to Substantial Completion and at the discretion of the Owner, retainage may be reduced. If the Work has been 50% completed as
determined by the Architect and is satisfactory to the Owner, then 90% of the retained amount may be released to the Contractor for completed work (with 10% of the total retained by the Owner.) Upon Substantial Completion, additional retainage may be returned to the Contractor as recommended by the Architect and approved by the Owner to an amount sufficient to satisfactorily complete the Work. Retainage release will comply with Minnesota Statute 15.72 after Substantial Completion and punch list acceptance by the Owner.

(Paragraph Deleted)

§ 5.1.8 If final completion of the Work is materially delayed through no fault of the Contractor, the Owner shall pay the Contractor any additional amounts in accordance with Article 9 of AIA Document A201–2017.

§ 5.1.9 Except with the Owner's prior approval, the Contractor shall not make advance payments to suppliers for materials or equipment which have not been delivered and stored at the site or otherwise stored offsite with adequate Owner approved insurance provided to the Owner.

§ 5.2 Final Payment

§ 5.2.1 Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Contractor when

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.1 the Contractor has fully performed the Contract except for the Contractor's responsibility to correct Work as provided in Article 12 of AIA Document A201–2017, and to satisfy other requirements, if any, which extend beyond final payment; and

.2 a final Certificate for Payment has been issued by the Architect.

.3 all lien waivers and IC134 forms have been delivered to the Owner.

§ 5.2.2 The Owner's final payment to the Contractor shall be made no later than 45 days after the issuance of the Architect's final Certificate for Payment.

§ 5.3 Interest

Payments due and unpaid under the Contract shall bear interest from the date payment is due at the rate stated below, or in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located. Owner will pay the Contractor 0% interest for Payments not due made within forty five (45) days.
(Paragraph Deleted)

§ 5.4 Prompt Payment to Subcontractors

This Contract requires the Contractor and all Subcontractors and Sub-subcontractors (of any tier) to promptly pay any subcontractor or material supplier contract within ten (10) days of receipt of payment by Owner for undisputed services provided by the party requesting payment. The party responsible for payment (other than the Owner) shall pay interest of one and one half (1-1/2) percent per month to the party requesting payment on any undisputed amount not paid on time. The minimum monthly interest penalty payment for an unpaid balance of $100 or more is $10. For an unpaid balance of less than $100, the party responsible for payment shall pay the actual penalty due to the party requesting payment.

ARTICLE 6 DISPUTE RESOLUTION

§ 6.1 Initial Decision Maker

The Architect will serve as the Initial Decision Maker pursuant to Article 15 of AIA Document A201–2017.

§ 6.1.1 Mediation

Either the Owner or the Contractor may request mediation of any Claim submitted to the Architect for decision before such decision becomes final and binding. The mediation will be governed by the Construction Industry Mediation Rules of the American Arbitration Association in effect at the date of this contract. The request for mediation shall be made in writing to the American Arbitration Association and to the other party of this contract.

Owner and Contractor shall participate in the mediation process in good faith. The process shall be concluded within sixty (60) days of the date of filing the request.

If the Claim is not resolved by mediation, the Architect's action shall become final and binding thirty (30) days after termination of the mediation proceedings. Within the time period, the Owner and Contractor mayrequest Binding Dispute Resolution.

The Work must continue, at the Owner's discretion, in accordance with paragraph 15.1.4.1 of AIA Document A201-2017.

§ 6.2 Binding Dispute Resolution

For any Claim subject to, but not resolved by, mediation pursuant to Article 15 of AIA Document A201–2017, the method of binding dispute resolution shall be as follows:

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(Check the appropriate box.)

[ ] Arbitration pursuant to Section 15.4 of AIA Document A201–2017

[X] Litigation in a court of competent jurisdiction

[ ] Other *(Specify)*

If the Owner and Contractor do not select a method of binding dispute resolution, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, Claims will be resolved by litigation in a court of competent jurisdiction.

ARTICLE 7 TERMINATION OR SUSPENSION

§ 7.1 The Contract may be terminated by the Owner or the Contractor as provided in Article 14 of AIA Document A201–2017.

§ 7.1.1 If the Contract is terminated for the Owner's convenience in accordance with Article 14 of AIA Document A201–2017, then the Owner shall pay the Contractor a termination fee as follows:
(Insert the amount of, or method for determining, the fee, if any, payable to the Contractor following a termination for the Owner's convenience.)

Termination fee will be based on the percentage of work completed and any materials purchased or in production at the time of termination. Said fee and justification shall be provided to the Owner by the Contractor within ten (10) days of the notice of termination.

§ 7.2 The Work may be suspended by the Owner as provided in Article 14 of AIA Document A201–2017.

ARTICLE 8 MISCELLANEOUS PROVISIONS

§ 8.1 Where reference is made in this Agreement to a provision of AIA Document A201–2017 or another Contract Document, the reference refers to that provision as amended or supplemented by other provisions of the Contract Documents.

§ 8.2 The Owner's representative:
(Name, address, email address, and other information)

Don Bielinski
1250 West Broadway Avenue
Minneapolis, MN 55411

§ 8.3 The Contractor's representative:
(Name, address, email address, and other information)

Patrick Rauch
President
Derau Construction, LLC
1407 East Cliff Road
Burnsville, MN 55337

§ 8.4 Neither the Owner's nor the Contractor's representative shall be changed without ten days' prior notice to the other party.

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§ 8.5 Insurance and Bonds

§ 8.5.1 The Owner and the Contractor shall purchase and maintain insurance as set forth in AIA Document A101™–2017, Standard Form of Agreement Between Owner and Contractor where the basis of payment is a Stipulated Sum, Exhibit A, Insurance and Bonds, and elsewhere in the Contract Documents.

§ 8.5.2 The Contractor shall provide bonds as set forth in AIA Document A101™–2017 Exhibit A, and elsewhere in the Contract Documents.

§ 8.6 Notice in electronic format, pursuant to Article 1 of AIA Document A201–2017, may be given in accordance with AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, if completed, or as otherwise set forth below:

(If other than in accordance with AIA Document E203–2013, insert requirements for delivering notice in electronic format such as name, title, and email address of the recipient and whether and how the system will be required to generate a read receipt for the transmission.)

§ 8.7 Other provisions:

Owner prohibits Contractor from using the Work in any marketing material or business developement practice. Contractor is prohibited from communication with any news outlet or public without Owner's written approval.

Floor plans, designs, wiring, safety and security measures shall be kept confidential by the Contractor, the Subcontractors, the Sub-subcontractors (of any tier) during and after completion of the Work.

ARTICLE 9 ENUMERATION OF CONTRACT DOCUMENTS

§ 9.1 This Agreement is comprised of the following documents:

.1 AIA Document A101™–2017, Standard Form of Agreement Between Owner and Contractor

.2 AIA Document A101™–2017, Exhibit A, Insurance and Bonds

.3 AIA Document A201™–2017, General Conditions of the Contract for Construction

.4 AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, dated as indicated below:

(Insert the date of the E203-2013 incorporated into this Agreement.)

January 31, 2020

.5 Drawings

Number	Title	Date

.6 Specifications

Section	Title	Date	Pages

.7 Addenda, if any:

Number	Date	Pages

Portions of Addenda relating to bidding or proposal requirements are not part of the Contract Documents unless the bidding or proposal requirements are also enumerated in this Article 9.

.8 Other Exhibits:

(Paragraphs Deleted)

EXH-B Project Charter

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(Paragraph Deleted)

EXH-C Owner Insurance
EXH-D Project Schedule

(Paragraph Deleted)

(Table Deleted)

[ ] Supplementary and other Conditions of the Contract:

Document	Title	Date	Pages

.9 Other documents, if any, listed below:
(List here any additional documents that are intended to form part of the Contract Documents. AIA Document A201™–2017 provides that the advertisement or invitation to bid, Instructions to Bidders, sample forms, the Contractor's bid or proposal, portions of Addenda relating to bidding or proposal requirements, and other information furnished by the Owner in anticipation of receiving bids or proposals, are not part of the Contract Documents unless enumerated in this Agreement. Any such documents should be listed here only if intended to be part of the Contract Documents.)

This Agreement entered into as of the day and year first written above.

OWNER *(Signature)*	**CONTRACTOR** *(Signature)*
(Printed name and title)	Pat Rauch President *(Printed name and title)*

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Additions and Deletions Report for
AIA® Document A101® – 2017

This Additions and Deletions Report, as defined on page 1 of the associated document, reproduces below all text the author has added to the standard form AIA document in order to complete it, as well as any text the author may have added to or deleted from the original AIA text. Added text is shown underlined. Deleted text is indicated with a horizontal line through the original AIA text.

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PAGE 1

AGREEMENT made as of the Thirteenth day of January in the year Two Thousand Twenty-Five

...

Minneapolis Public Schools Special School District #1
1250 West Broadway Avenue
Minneapolis, MN 55411

...

Derau Construction LLC
1407 East Cliff Road
Burnsville, MN 55337

...

Justice Page Middle School
1 West 49th St.
Minneapolis, MN 55419

Washburn High School
201 W. 49th St.
Minneapolis, MN 55419

...

KFI Engineers
670 County Road B West
St. Paul, MN 55113

PAGE 2

[X] A date set forth in a notice to proceed issued by the Owner.

...

§ 3.3.1 ~~Subject to adjustments of the Contract Time as provided in the Contract Documents, the~~ The Contractor shall achieve Substantial Completion of the entire Work:

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[X] By the following date: Defined in EXH-D Project Schedule

...

§ 3.3.2 Subject to adjustments of the Contract Time as provided in the Contract Documents, if portions of the Work are to be completed prior to Substantial Completion of the entire Work, the Contractor shall achieve Substantial Completion of such portions by the following ~~dates:~~dates are defined in EXH-D Project Schedule. Such portions of the work not completed as defined in EXH-D Project Schedule shall be subject to liquidated damages as set forth in Article 4.5.

...

~~**Portion of Work** **Substantial Completion Date**~~

...

§ 4.1 The Owner shall pay the Contractor the Contract Sum in current funds for the Contractor's performance of the ~~Contract. The Contract Sum shall be ($),~~ Contract as defined in EXH-B Project Charter, subject to additions and deductions as provided in the Contract Documents.

...

§ 4.2.1 Alternates, if any, included in the Contract ~~Sum:~~Sum are defined in EXH-B Project Charter.

...

~~**Item** **Price**~~

...

§ 4.2.2 Subject to the conditions noted ~~below, the following~~ in EXH-B Project Charter, alternates may be accepted by the Owner following execution of this Agreement. Upon acceptance, the Owner shall issue a Modification to this Agreement.

...

~~*(Insert below each alternate and the conditions that must be met for the Owner to accept the alternate.)*~~

...

~~**Item** **Price** **Conditions for Acceptance**~~

...

§ 4.3 Allowances, if any, included in the Contract ~~Sum:~~Sum are defined in EXH-B Project Charter.

...

~~*(Identify each allowance.)*~~

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...

~~Item~~ ~~Price~~

...

§ 4.4 Unit prices, if ~~any:~~any are defined in EXH-B Project Charter.

...

~~*(Identify the item and state the unit price and quantity limitations, if any, to which the unit price will be applicable.)*~~

...

~~Item~~ ~~Units and Limitations~~ ~~Price per Unit ($0.00)~~

...

§ 4.5 Liquidated ~~damages, if any:~~damages

PAGE 4

~~*(Insert terms and conditions for liquidateddamages, if any.)*~~*Contractor and Owner recognized that time is of the essence for the Project and the Owner will suffer financial loss if the Work is not completed in the time specified in the Contract Documents. The parties also recognized the delays, expenses, and difficulties involved in proving in a legal or arbitration proceeding the actual loss suffered by the Owner if the Work is not completed on time. Accordingly, instead of requiring such proof, the Owner and Contractor agree that as liquidated*

...

damages for delay (but not as penalty), Contractor shall pay Owner $1,000.00 per calendar day for each day that expires after the time specified for Substantial Completion in EXH-D Project Schedule until such time the Work is determined to be substantially complete by the

...

Owner.

...

~~**§ 4.6** Other:~~

...

~~*(Insert provisions for bonus or other incentives, if any, that might result in a change to the Contract Sum.)*~~*After Substantial Completion, if Contractor shall neglect, refuse, or fail to complete the remaining work within the Contract time specified in the Contract Documents, the contractor shall pay the Owner $1,000.00 per day that expires after the time specified in the Contract Documents for Final Completion and readiness for Final Payment until the Work is completed.*

...

§ 5.1.2 The period covered by each Application for Payment shall be one calendar month ending on the last day of the ~~month, or as follows:~~

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...

month.

...

§ 5.1.3 ~~Provided that~~ When an Application for Payment is received by the Architect~~not later than the day of a month, the Owner shall make payment of the amount certified to the Contractor not later than the day of the month. If an Application for Payment is received by the Architect after the application date fixed above,~~ , payment of the amount certified shall be made by the Owner not later than 45 (forty-five) days after the Architect receives the Application for Payment.

...

~~*(Federal, state or local laws may require payment within a certain period of time.)*~~

...

§ 5.1.4 Each Application for Payment shall be based on the most recent schedule of values submitted by the Contractor on AIA G702 Application and Certificate for Payment in accordance with the Contract Documents. The schedule of values shall allocate the entire Contract Sum among the various portions of the Work. The schedule of values shall be prepared in such form, and supported by such data to substantiate its accuracy, as the Architect may require. This schedule of values shall be used as a basis for reviewing the Contractor's Applications for Payment.

PAGE 5

~~*(Insert a percentage or amount to be withheld as retainage from each Application for Payment. The amount of retainage may be limited by governing law.)*~~

...

5% (five percent)

...

For major items installed into the Work, the Contractor may request full payment for the items to ensure prompt delivery and fabrication. Such items shall be recommended by the Architect and approved by the Owner as not requiring retainage. Prompt payment for the items shall be documented by the Contractor to the Owner in the subsequent payment application by submitting a full lien release for the items. Major items may include mechanical units with long lead times, structural systems with long lead times, critical path systems or items, etc. Major items will be discussed and defined by Owner, Architect, and Contractor.

...

~~*(If the retainage established in Section 5.1.7.1 is to be modified prior to Substantial Completion of the entire Work, including modifications for Substantial Completion of portions of the Work asprovided in Section 3.3.2, insert provisions for such modifications.)*~~*Prior to Substantial Completion and at the discretion of the Owner, retainage may be reduced. If the Work has been 50% completed as*

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...

~~**§ 5.1.7.3** Except as set forth in this Section 5.1.7.3, upon Substantial Completion of the Work, the Contractor may submit an Application for Payment that includes the retainage withheld from prior Applications for Payment pursuant to this Section 5.1.7. The Application for Payment submitted at Substantial Completion shall not include retainage as follows:~~determined by the Architect and is satisfactory to the Owner, then 90% of the retained amount may be released to the Contractor for completed work (with 10% of the total retained by the Owner.) Upon Substantial Completion, additional retainage may be returned to the Contractor as recommended by the Architect and approved by the Owner to an amount sufficient to satisfactorily complete the Work. Retainage release will comply with Minnesota Statute 15.72 after Substantial Completion and punch list acceptance by the Owner.

...

~~*(Insert any other conditions for release of retainage upon Substantial Completion.)*~~

...

§ 5.1.9 Except with the Owner's prior approval, the Contractor shall not make advance payments to suppliers for materials or equipment which have not been delivered and stored at the ~~site.~~site or otherwise stored offsite with adequate Owner approved insurance provided to the Owner.

PAGE 6

.3 all lien waivers and IC134 forms have been delivered to the Owner.

...

§ 5.2.2 The Owner's final payment to the Contractor shall be made no later than ~~30~~ 45 days after the issuance of the Architect's final Certificate for ~~Payment, or as follows:~~Payment.

...

Payments due and unpaid under the Contract shall bear interest from the date payment is due at the rate stated below, or in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located. Owner will pay the Contractor 0% interest for Payments not due made within forty five (45) days.

...

~~*(Insert rate*~~

...

§ 5.4 Prompt Payment to Subcontractors

...

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This Contract requires the Contractor and all Subcontractors and Sub-subcontractors (of any tier) to promptly pay any subcontractor or material supplier contract within ten (10) days of receipt of payment by Owner for undisputed services provided by the party requesting payment. The party responsible for payment (other than the Owner) shall pay interest of ~~interest agreed upon, if any.~~)one and one half (1-1/2) percent per month to the party requesting payment on any undisputed amount not paid on time. The minimum monthly interest penalty payment for an unpaid balance of $100 or more is $10. For an unpaid balance of less than $100, the party responsible for payment shall pay the actual penalty due to the party requesting payment.

...

The Architect will serve as the Initial Decision Maker pursuant to Article 15 of AIA Document ~~A201–2017, unless~~ A201–2017.

...

§ 6.1.1 Mediation

...

~~the parties appoint below another individual, not a party to this Agreement, to serve as the Initial Decision Maker.~~Either the Owner or the Contractor may request mediation of any Claim submitted to the Architect for decision before such decision becomes final and binding. The mediation will be governed by the Construction Industry Mediation Rules of the American Arbitration Association in effect at the date of this contract. The request for mediation shall be made in writing to the American Arbitration Association and to the other party of this contract.

...

Owner and Contractor shall participate in the mediation process in good faith. The process shall be concluded within sixty (60) days of the date of filing the request.

...

~~(If the parties mutually agree, insert the name, address and other contact information of the Initial Decision Maker, if other than the Architect.)~~If the Claim is not resolved by mediation, the Architect's action shall become final and binding thirty (30) days after termination of the mediation proceedings. Within the time period, the Owner and Contractor mayrequest Binding Dispute Resolution.

...

The Work must continue, at the Owner's discretion, in accordance with paragraph 15.1.4.1 of AIA Document A201-2017.

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[**X**] Litigation in a court of competent jurisdiction

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...

Termination fee will be based on the percentage of work completed and any materials purchased or in production at the time of termination. Said fee and justification shall be provided to the Owner by the Contractor within ten (10) days of the notice of termination.

...

Don Bielinski
1250 West Broadway Avenue
Minneapolis, MN 55411

...

Patrick Rauch
President
Derau Construction, LLC
1407 East Cliff Road
Burnsville, MN 55337

PAGE 8

§ 8.6 Notice in electronic format, pursuant to Article 1 of AIA Document A201–2017, may be given in accordance with ~~a building information modeling exhibit,~~ AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, if completed, or as otherwise set forth below:

...

(If other than in accordance with ~~a building information modeling exhibit,~~ AIA Document E203–2013, insert requirements for delivering notice in electronic format such as name, title, and email address of the recipient and whether and how the system will be required to generate a read receipt for the transmission.)

...

Owner prohibits Contractor from using the Work in any marketing material or business developement practice. Contractor is prohibited from communication with any news outlet or public without Owner's written approval.

Floor plans, designs, wiring, safety and security measures shall be kept confidential by the Contractor, the Subcontractors, the Sub-subcontractors (of any tier) during and after completion of the Work.

...

.4 ~~Building information modeling exhibit,~~ AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, dated as indicated below:

...

(Insert the date of the ~~building information modeling exhibit~~ E203-2013 incorporated into this Agreement.)

...

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January 31, 2020

...

~~*(Check all boxes that apply and include appropriate information identifying the exhibit where required.)*~~

...

~~[-] AIA Document E204™ 2017, Sustainable Projects Exhibit, dated as indicated below:~~

...

EXH-B Project Charter

PAGE 9

~~(Insert the date of the E204-2017 incorporated into this Agreement.)~~

...

EXH-C Owner Insurance

...

EXH-D Project Schedule

...

~~[-] The Sustainability Plan:~~

...

~~Title~~	~~Date~~	~~Pages~~

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Certification of Document's Authenticity

AIA® Document D401™ – 2003

I, , hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with its associated Additions and Deletions Report and this certification at 13:17:45 CT on 01/13/2025 under Order No. 4104251278 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document A101™ - 2017, Standard Form of Agreement Between Owner and Contractor where the basis of payment is a Stipulated Sum, other than those additions and deletions shown in the associated Additions and Deletions Report.



(Signed)

Curtis Hartog, Executive Director

(Title)

1/13/2025

(Dated)

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AIA® Document A101® – 2017 Exhibit A

Insurance and Bonds

This Insurance and Bonds Exhibit is part of the Agreement, between the Owner and the Contractor, dated the Thirteenth day of January in the year Two Thousand Twenthy-Five
(In words, indicate day, month and year.)

for the following **PROJECT**:
(Name and location or address)

Justice Page-Washburn Multi-Site Fire Protection

Justice Page Middle School
1 West 49th St.
Minneapolis, MN 55419

Washburn High School
201 W. 49th St.
Minneapolis, MN 55419

THE OWNER:
(Name, legal status and address)

Minneapolis Public Schools Special School District No. 1
1250 West Broadway Avenue
Minneapolis, MN 55411

THE CONTRACTOR:
(Name, legal status and address)

Derau Construction, LLC
1407 East Cliff Road
Burnsville, MN 55337

TABLE OF ARTICLES

A.1 GENERAL

A.2 OWNER'S INSURANCE

A.3 CONTRACTOR'S INSURANCE AND BONDS

A.4 SPECIAL TERMS AND CONDITIONS

ARTICLE A.1 GENERAL

The Owner and Contractor shall purchase and maintain insurance, and provide bonds, as set forth in this Exhibit. As used in this Exhibit, the term General Conditions refers to AIA Document A201™–2017, General Conditions of the Contract for Construction.

ADDITIONS AND DELETIONS:
The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

This document is intended to be used in conjunction with AIA Document A201®–2017, General Conditions of the Contract for Construction. Article 11 of A201®–2017 contains additional insurance provisions.

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ARTICLE A.2 OWNER'S INSURANCE

§ A.2.1 General

Prior to commencement of the Work, the Owner shall secure the insurance, and provide evidence of the coverage, required under this Article A.2 and, upon the Contractor's request, provide a copy of the property insurance policy or policies required by Section A.2.3. The copy of the policy or policies provided shall contain all applicable conditions, definitions, exclusions, and endorsements.

§ A.2.2 Liability Insurance

The Owner shall be responsible for purchasing and maintaining the Owner's usual general liability insurance.

§ A.2.3 Required Property Insurance

§ A.2.3.1 Unless this obligation is placed on the Contractor pursuant to Section A.3.3.2.1, the Owner shall purchase and maintain, from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located, property insurance written on a builder's risk "all-risks" completed value or equivalent policy form and sufficient to cover the total value of the entire Project on a replacement cost basis. The Owner's property insurance coverage shall be no less than the amount of the initial Contract Sum, plus the value of subsequent Modifications and labor performed and materials or equipment supplied by others. The property insurance shall be maintained until Substantial Completion and thereafter as provided in Section A.2.3.1.3, unless otherwise provided in the Contract Documents or otherwise agreed in writing by the parties to this Agreement. This insurance shall include the interests of the Owner, Contractor, Subcontractors, and Sub-subcontractors in the Project as insureds. This insurance shall include the interests of mortgagees as loss payees.

§ A.2.3.1.1 Causes of Loss. The insurance required by this Section A.2.3.1 shall provide coverage for direct physical loss or damage, and shall not exclude the risks of fire, explosion, theft, vandalism, malicious mischief, collapse, earthquake, flood, or windstorm. The insurance shall also provide coverage for ensuing loss or resulting damage from error, omission, or deficiency in construction methods, design, specifications, workmanship, or materials. Sub-limits, if any, are as follows:
(Indicate below the cause of loss and any applicable sub-limit.)

Causes of Loss	Sub-Limit

§ A.2.3.1.2 Specific Required Coverages. The insurance required by this Section A.2.3.1 shall provide coverage for loss or damage to falsework and other temporary structures, and to building systems from testing and startup. The insurance shall also cover debris removal, including demolition occasioned by enforcement of any applicable legal requirements, and reasonable compensation for the Architect's and Contractor's services and expenses required as a result of such insured loss, including claim preparation expenses. Sub-limits, if any, are as follows:
(Indicate below type of coverage and any applicable sub-limit for specific required coverages.)

Coverage	Sub-Limit

§ A.2.3.1.3 Unless the parties agree otherwise, upon Substantial Completion, the Owner shall continue the insurance required by Section A.2.3.1 or, if necessary, replace the insurance policy required under Section A.2.3.1 with property insurance written for the total value of the Project that shall remain in effect until expiration of the period for correction of the Work set forth in Section 12.2.2 of the General Conditions.

§ A.2.3.1.4 Deductibles and Self-Insured Retentions. If the insurance required by this Section A.2.3 is subject to deductibles or self-insured retentions, the Owner shall be responsible for all loss not covered because of such deductibles or retentions.

§ A.2.3.2 Occupancy or Use Prior to Substantial Completion. The Owner's occupancy or use of any completed or partially completed portion of the Work prior to Substantial Completion shall not commence until the insurance company or companies providing the insurance under Section A.2.3.1 have consented in writing to the continuance of coverage. The Owner and the Contractor shall take no action with respect to partial occupancy or use that would cause cancellation, lapse, or reduction of insurance, unless they agree otherwise in writing.

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§ A.2.3.3 Insurance for Existing Structures
If the Work involves remodeling an existing structure or constructing an addition to an existing structure, the Owner shall purchase and maintain, until the expiration of the period for correction of Work as set forth in Section 12.2.2 of the General Conditions, "all-risks" property insurance, on a replacement cost basis, protecting the existing structure against direct physical loss or damage from the causes of loss identified in Section A.2.3.1, notwithstanding the undertaking of the Work. The Owner shall be responsible for all co-insurance penalties.

§ A.2.4 Optional Extended Property Insurance.
The Owner shall purchase and maintain the insurance selected and described below.
(Select the types of insurance the Owner is required to purchase and maintain by placing an X in the box(es) next to the description(s) of selected insurance. For each type of insurance selected, indicate applicable limits of coverage or other conditions in the fill point below the selected item.)

[ ] **§ A.2.4.1 Loss of Use, Business Interruption, and Delay in Completion Insurance**, to reimburse the Owner for loss of use of the Owner's property, or the inability to conduct normal operations due to a covered cause of loss.

[ ] **§ A.2.4.2 Ordinance or Law Insurance**, for the reasonable and necessary costs to satisfy the minimum requirements of the enforcement of any law or ordinance regulating the demolition, construction, repair, replacement or use of the Project.

[ ] **§ A.2.4.3 Expediting Cost Insurance**, for the reasonable and necessary costs for the temporary repair of damage to insured property, and to expedite the permanent repair or replacement of the damaged property.

[ ] **§ A.2.4.4 Extra Expense Insurance**, to provide reimbursement of the reasonable and necessary excess costs incurred during the period of restoration or repair of the damaged property that are over and above the total costs that would normally have been incurred during the same period of time had no loss or damage occurred.

[ ] **§ A.2.4.5 Civil Authority Insurance**, for losses or costs arising from an order of a civil authority prohibiting access to the Project, provided such order is the direct result of physical damage covered under the required property insurance.

[ ] **§ A.2.4.6 Ingress/Egress Insurance**, for loss due to the necessary interruption of the insured's business due to physical prevention of ingress to, or egress from, the Project as a direct result of physical damage.

[ ] **§ A.2.4.7 Soft Costs Insurance**, to reimburse the Owner for costs due to the delay of completion of the Work, arising out of physical loss or damage covered by the required property insurance: including construction loan fees; leasing and marketing expenses; additional fees, including those of architects, engineers, consultants, attorneys and accountants, needed for the completion of the construction, repairs, or reconstruction; and carrying costs such as property taxes, building permits, additional

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interest on loans, realty taxes, and insurance premiums over and above normal expenses.

§ A.2.5 Other Optional Insurance.
The Owner shall purchase and maintain the insurance selected below.
(Select the types of insurance the Owner is required to purchase and maintain by placing an X in the box(es) next to the description(s) of selected insurance.)

[ ] **§ A.2.5.1 Cyber Security Insurance** for loss to the Owner due to data security and privacy breach, including costs of investigating a potential or actual breach of confidential or private information.
(Indicate applicable limits of coverage or other conditions in the fill point below.)

[ ] **§ A.2.5.2 Other Insurance**
(List below any other insurance coverage to be provided by the Owner and any applicable limits.)

Coverage	Limits

ARTICLE A.3 CONTRACTOR'S INSURANCE AND BONDS
§ A.3.1 General
§ A.3.1.1 Certificates of Insurance. The Contractor shall provide certificates of insurance acceptable to the Owner evidencing compliance with the requirements in this Article A.3 at the following times: (1) prior to commencement of the Work; (2) upon renewal or replacement of each required policy of insurance; and (3) upon the Owner's written request. An additional certificate evidencing continuation of commercial liability coverage, including coverage for completed operations, shall be submitted with the final Application for Payment and thereafter upon renewal or replacement of such coverage until the expiration of the periods required by Section A.3.2.1 and Section A.3.3.1. The certificates will show the Owner as an additional insured on the Contractor's Commercial General Liability and excess or umbrella liability policy or policies.

§ A.3.1.2 Deductibles and Self-Insured Retentions. The Contractor shall disclose to the Owner any deductible or self-insured retentions applicable to any insurance required to be provided by the Contractor.

§ A.3.1.3 Additional Insured Obligations. To the fullest extent permitted by law, the Contractor shall cause the commercial general liability coverage to include (1) the Owner, the Architect, and the Architect's consultants as additional insureds for claims caused in whole or in part by the Contractor's negligent acts or omissions during the Contractor's operations; and (2) the Owner as an additional insured for claims caused in whole or in part by the Contractor's negligent acts or omissions for which loss occurs during completed operations. The additional insured coverage shall be primary and non-contributory to any of the Owner's general liability insurance policies and shall apply to both ongoing and completed operations. To the extent commercially available, the additional insured coverage shall be no less than that provided by Insurance Services Office, Inc. (ISO) forms CG 20 10 07 04, CG 20 37 07 04, and, with respect to the Architect and the Architect's consultants, CG 20 32 07 04.

§ A.3.2 Contractor's Required Insurance Coverage
§ A.3.2.1 The Contractor shall purchase and maintain the following types and limits of insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The Contractor shall maintain the required insurance until the expiration of the period for correction of Work as set forth in Section 12.2.2 of the General Conditions, unless a different duration is stated below:
(If the Contractor is required to maintain insurance for a duration other than the expiration of the period for correction of Work, state the duration.)

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§ A.3.2.2 Commercial General Liability

§ A.3.2.2.1 Commercial General Liability insurance for the Project written on an occurrence form with policy limits as defined is ECH-C Owner Insurance, providing coverage for claims including

.1 damages because of bodily injury, sickness or disease, including occupational sickness or disease, and death of any person;

.2 personal injury and advertising injury;

.3 damages because of physical damage to or destruction of tangible property, including the loss of use of such property;

.4 bodily injury or property damage arising out of completed operations; and

.5 the Contractor's indemnity obligations under Section 3.18 of the General Conditions.

§ A.3.2.2.2 The Contractor's Commercial General Liability policy under this Section A.3.2.2 shall not contain an exclusion or restriction of coverage for the following:

.1 Claims by one insured against another insured, if the exclusion or restriction is based solely on the fact that the claimant is an insured, and there would otherwise be coverage for the claim.

.2 Claims for property damage to the Contractor's Work arising out of the products-completed operations hazard where the damaged Work or the Work out of which the damage arises was performed by a Subcontractor.

.3 Claims for bodily injury other than to employees of the insured.

.4 Claims for indemnity under Section 3.18 of the General Conditions arising out of injury to employees of the insured.

.5 Claims or loss excluded under a prior work endorsement or other similar exclusionary language.

.6 Claims or loss due to physical damage under a prior injury endorsement or similar exclusionary language.

.7 Claims related to residential, multi-family, or other habitational projects, if the Work is to be performed on such a project.

.8 Claims related to roofing, if the Work involves roofing.

.9 Claims related to exterior insulation finish systems (EIFS), synthetic stucco or similar exterior coatings or surfaces, if the Work involves such coatings or surfaces.

.10 Claims related to earth subsidence or movement, where the Work involves such hazards.

.11 Claims related to explosion, collapse and underground hazards, where the Work involves such hazards.

§ A.3.2.3 Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Contractor, with policy limits as defined in EXH-C Owner Insurance .

§ A.3.2.4 The Contractor may achieve the required limits and coverage for Commercial General Liability and Automobile Liability through a combination of primary and excess or umbrella liability insurance, provided such primary and excess or umbrella insurance policies result in the same or greater coverage as the coverages required under Section A.3.2.2 and A.3.2.3, and in no event shall any excess or umbrella liability insurance provide narrower coverage than the primary policy. The excess policy shall not require the exhaustion of the underlying limits only through the actual payment by the underlying insurers. Umbrella coverage as defined in EXH-C Owner Insurance

§ A.3.2.5 Workers' Compensation at statutory limits for Coverage A as defined in EXH-C Owner Insurance.

§ A.3.2.6 Employers' Liability Coverage B as defined in EXH-C Owner Insurance .

(Paragraph deleted)

§ A.3.2.8 If the Contractor is required to furnish professional services as part of the Work, the Contractor shall procure Professional Liability insurance covering performance of the professional services, with policy limits as defined in EXH-C Owner Insurance .

.

(Paragraphs deleted)

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§ A.3.2.12 Insurance for the use or operation of manned or unmanned aircraft, if the Work requires such activities, with policy limits as defined in EXH-C Owner Insurance.

§ A.3.3 Contractor's Other Insurance Coverage

§ A.3.3.1 Insurance selected and described in this Section A.3.3 shall be purchased from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The Contractor shall maintain the required insurance until the expiration of the period for correction of Work as set forth in Section 12.2.2 of the General Conditions, unless a different duration is stated below:
(If the Contractor is required to maintain any of the types of insurance selected below for a duration other than the expiration of the period for correction of Work, state the duration.)

If Professional Liability Insurance is required as part of this contract or becomes required during the course of the project coverage shall be in accordance with A.3.2.8, the insurance coverage shall be maintained for one calendar year after the date of Substantial Completion

§ A.3.3.2 The Contractor shall purchase and maintain the following types and limits of insurance in accordance with Section A.3.3.1 as defined in EXH-C Owner Insurance.

(Paragraphs deleted)

§ A.3.4 Performance Bond and Payment Bond

The Contractor shall provide surety bonds, from a company or companies lawfully authorized to issue surety bonds in the jurisdiction where the Project is located, as follows:
(Specify type and penal sum of bonds.)

Type	Penal Sum ($0.00)
Payment Bond	Full contract value
Performance Bond	Full contract value

Payment and Performance Bonds shall be AIA Document A312™, Payment Bond and Performance Bond, or contain provisions identical to AIA Document A312™, current as of the date of this Agreement.

ARTICLE A.4 SPECIAL TERMS AND CONDITIONS

Special terms and conditions that modify this Insurance and Bonds Exhibit, if any, are as follows:

None

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Additions and Deletions Report for

AIA® Document A101® – 2017 Exhibit A

This Additions and Deletions Report, as defined on page 1 of the associated document, reproduces below all text the author has added to the standard form AIA document in order to complete it, as well as any text the author may have added to or deleted from the original AIA text. Added text is shown underlined. Deleted text is indicated with a horizontal line through the original AIA text.

Note: This Additions and Deletions Report is provided for information purposes only and is not incorporated into or constitute any part of the associated AIA document. This Additions and Deletions Report and its associated document were generated simultaneously by AIA software at 13:18:50 CT on 01/13/2025.

PAGE 1

This Insurance and Bonds Exhibit is part of the Agreement, between the Owner and the Contractor, dated the Thirteenth day of January in the year Two Thousand Twenthy-Five

...

Justice Page-Washburn Multi-Site Fire Protection
Justice Page Middle School
1 West 49th St.
Minneapolis, MN 55419

Washburn High School
201 W. 49th St.
Minneapolis, MN 55419

...

Minneapolis Public Schools Special School District No. 1
1250 West Broadway Avenue
Minneapolis, MN 55411

...

Derau Construction, LLC
1407 East Cliff Road
Burnsville, MN 55337

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§ A.3.2.2.1 Commercial General Liability insurance for the Project written on an occurrence form with policy limits ~~of not less than ($) each occurrence, ($) general aggregate, and ($) aggregate for products-completed operations hazard,~~ as defined is ECH-C Owner Insurance, providing coverage for claims including

...

§ A.3.2.3 Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Contractor, with policy limits ~~of not less than ($) per accident, for bodily injury, death of any person, and property damage arising out of the ownership, maintenance and use of those motor vehicles along with any other statutorily required automobile coverage.~~as defined in EXH-C Owner Insurance .

§ A.3.2.4 The Contractor may achieve the required limits and coverage for Commercial General Liability and Automobile Liability through a combination of primary and excess or umbrella liability insurance, provided such primary and excess or umbrella insurance policies result in the same or greater coverage as the coverages required

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under Section A.3.2.2 and A.3.2.3, and in no event shall any excess or umbrella liability insurance provide narrower coverage than the primary policy. The excess policy shall not require the exhaustion of the underlying limits only through the actual payment by the underlying insurers. Umbrella coverage as defined in EXH-C Owner Insurance

§ A.3.2.5 Workers' Compensation at statutory ~~limits.~~limits for Coverage A as defined in EXH-C Owner Insurance.

§ A.3.2.6 Employers' Liability ~~with policy limits not less than ($) each accident, ($) each employee, and ($) policy limit.~~Coverage B as defined in EXH-C Owner Insurance .

~~**§ A.3.2.7** Jones Act, and the Longshore & Harbor Workers' Compensation Act, as required, if the Work involves hazards arising from work on or near navigable waterways, including vessels and docks~~

§ A.3.2.8 If the Contractor is required to furnish professional services as part of the Work, the Contractor shall procure Professional Liability insurance covering performance of the professional services, with policy limits ~~of not less than ($) per claim and ($) in the aggregate.~~as defined in EXH-C Owner Insurance .

.

~~**§ A.3.2.9** If the Work involves the transport, dissemination, use, or release of pollutants, the Contractor shall procure Pollution Liability insurance, with policy limits of not less than ($) per claim and ($) in the aggregate.~~

~~**§ A.3.2.10** Coverage under Sections A.3.2.8 and A.3.2.9 may be procured through a Combined Professional Liability and Pollution Liability insurance policy, with combined policy limits of not less than ($) per claim and ($) in the aggregate.~~

~~**§ A.3.2.11** Insurance for maritime liability risks associated with the operation of a vessel, if the Work requires such activities, with policy limits of not less than ($) per claim and ($) in the aggregate.~~

§ A.3.2.12 Insurance for the use or operation of manned or unmanned aircraft, if the Work requires such activities, with policy limits ~~of not less than ($) per claim and ($) in the aggregate.~~as defined in EXH-C Owner Insurance.
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If Professional Liability Insurance is required as part of this contract or becomes required during the course of the project coverage shall be in accordance with A.3.2.8, the insurance coverage shall be maintained for one calendar year after the date of Substantial Completion

§ A.3.3.2 The Contractor shall purchase and maintain the following types and limits of insurance in accordance with Section ~~A.3.3.1.~~
~~*(Select the types of insurance the Contractor is required to purchase and maintain by placing an X in the box(es) next to the description(s) of selected insurance. Where policy limits are provided, include the policy limit in the appropriate fill point.)*~~A.3.3.1 as defined in EXH-C Owner Insurance.

~~[–] **§ A.3.3.2.1** Property insurance of the same type and scope satisfying the requirements identified in Section A.2.3, which, if selected in this section A.3.3.2.1, relieves the Owner of the responsibility to purchase and maintain such insurance except insurance required by Section A.2.3.1.3 and Section A.2.3.3. The Contractor shall comply with all obligations of the Owner under Section A.2.3 except to the extent provided below. The Contractor shall disclose to the Owner the amount of any deductible, and the Owner shall be responsible for losses within the deductible. Upon request, the Contractor shall provide the Owner with a copy of the property insurance policy or policies required. The Owner shall adjust and settle the loss with the insurer and be the trustee of the proceeds of the property insurance in accordance with Article 11 of the General Conditions unless otherwise set forth below:
(Where the Contractor's obligation to provide property insurance differs from the Owner's obligations as described under Section A.2.3, indicate such differences in the space below. Additionally, if a party other than the Owner will be responsible for adjusting and settling a loss with the insurer and acting as the trustee of the proceeds of property insurance in accordance with Article 11 of the General Conditions, indicate the responsible party below.)~~

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[–] **§ A.3.3.2.2 Railroad Protective Liability Insurance**, with policy limits of not less than ($) per claim and ($) in the aggregate, for Work within fifty (50) feet of railroad property.

[–] **§ A.3.3.2.3 Asbestos Abatement Liability Insurance**, with policy limits of not less than ($) per claim and ($) in the aggregate, for liability arising from the encapsulation, removal, handling, storage, transportation, and disposal of asbestos-containing materials.

[–] **§ A.3.3.2.4** Insurance for physical damage to property while it is in storage and in transit to the construction site on an "all-risks" completed value form.

[–] **§ A.3.3.2.5** Property insurance on an "all-risks" completed value form, covering property owned by the Contractor and used on the Project, including scaffolding and other equipment.

[–] **§ A.3.3.2.6 Other Insurance**

(List below any other insurance coverage to be provided by the Contractor and any applicable limits.)

Coverage	**Limits**

§ A.3.4 Performance Bond and Payment Bond

...

Payment Bond	Full contract value
Performance Bond	Full contract value

...

None

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General Conditions of the Contract for Construction

for the following PROJECT:
(Name and location or address)

Justice Page-Washburn Multi-Site Fire Protection

Justice Page Middle School
1 West 49th St.
Minneapolis, MN 55419

Washburn High School
201 W. 49th St.
Minneapolis, MN 55419

THE OWNER:
(Name, legal status and address)

Minneapolis Public Schools Special School District 1
1250 West Broadway Avenue
Minneapolis, MN 55411

THE ARCHITECT:
(Name, legal status and address)

KFI Engineers670 County Road B West
St. Paul, MN 55113

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ARTICLE 1 GENERAL PROVISIONS

§ 1.1 Basic Definitions

§ 1.1.1 The Contract Documents

The Contract Documents are enumerated in the Agreement between the Owner and Contractor (hereinafter the Agreement) and consist of the Agreement, Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, Addenda issued prior to execution of the Contract, other documents listed in the Agreement, and Modifications issued after execution of the Contract. A Modification is (1) a written amendment to the Contract signed by both parties, (2) a Change Order, (3) a Construction Change Directive, or (4) a written order for a minor change in the Work issued by the Architect. Unless specifically enumerated in the Agreement, the Contract Documents do not include the advertisement or invitation to bid, Instructions to Bidders, sample forms, other information furnished by the Owner in anticipation of receiving bids or proposals, the Contractor's bid or proposal, or portions of Addenda relating to bidding or proposal requirements.

§ 1.1.2 The Contract

The Contract Documents form the Contract for Construction. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations, or agreements, either written or oral. The Contract may be amended or modified only by a Modification. The Contract Documents shall not be construed to create a contractual relationship of any kind (1) between the Contractor and the Architect or the Architect's consultants, (2) between the Owner and a Subcontractor or a Sub-subcontractor, (3) between the Owner and the Architect or the Architect's consultants, or (4) between any persons or entities other than the Owner and the Contractor. The Architect shall, however, be entitled to performance and enforcement of obligations under the Contract intended to facilitate performance of the Architect's duties.

§ 1.1.3 The Work

The term "Work" means the construction and services required by the Contract Documents, whether completed or partially completed, and includes all other labor, materials, equipment, and services provided or to be provided by the Contractor to fulfill the Contractor's obligations. The Work may constitute the whole or a part of the Project.

§ 1.1.4 The Project

The Project is the total construction of which the Work performed under the Contract Documents may be the whole or a part and which may include construction by the Owner and by Separate Contractors.

§ 1.1.5 The Drawings

The Drawings are the graphic and pictorial portions of the Contract Documents showing the design, location and dimensions of the Work, generally including plans, elevations, sections, details, schedules, and diagrams.

§ 1.1.6 The Specifications

The Specifications are that portion of the Contract Documents consisting of the written requirements for materials, equipment, systems, standards and workmanship for the Work, and performance of related services.

§ 1.1.7 Instruments of Service

Instruments of Service are representations, in any medium of expression now known or later developed, of the tangible and intangible creative work performed by the Architect and the Architect's consultants under their respective professional services agreements. Instruments of Service may include, without limitation, studies, surveys, models, sketches, drawings, specifications, and other similar materials.

§ 1.1.8 Initial Decision Maker

The Initial Decision Maker is the person identified in the Agreement to render initial decisions on Claims in accordance with Section 15.2. The Initial Decision Maker shall not show partiality to the Owner or Contractor and shall not be liable for results of interpretations or decisions rendered in good faith.

§ 1.2 Correlation and Intent of the Contract Documents

§ 1.2.1 The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work by the Contractor. The Contract Documents are complementary, and what is required by one shall be as binding as if required by all; performance by the Contractor shall be required only to the extent consistent with the Contract Documents and reasonably inferable from them as being necessary to produce the indicated results.

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§ 1.2.1.1 The invalidity of any provision of the Contract Documents shall not invalidate the Contract or its remaining provisions. If it is determined that any provision of the Contract Documents violates any law, or is otherwise invalid or unenforceable, then that provision shall be revised to the extent necessary to make that provision legal and enforceable. In such case the Contract Documents shall be construed, to the fullest extent permitted by law, to give effect to the parties' intentions and purposes in executing the Contract.

§ 1.2.2 Organization of the Specifications into divisions, sections and articles, and arrangement of Drawings shall not control the Contractor in dividing the Work among Subcontractors or in establishing the extent of Work to be performed by any trade.

§ 1.2.3 Unless otherwise stated in the Contract Documents, words that have well-known technical or construction industry meanings are used in the Contract Documents in accordance with such recognized meanings.

§ 1.3 Capitalization

Terms capitalized in these General Conditions include those that are (1) specifically defined, (2) the titles of numbered articles, or (3) the titles of other documents published by the American Institute of Architects.

§ 1.4 Interpretation

In the interest of brevity the Contract Documents frequently omit modifying words such as "all" and "any" and articles such as "the" and "an," but the fact that a modifier or an article is absent from one statement and appears in another is not intended to affect the interpretation of either statement.

§ 1.5 Ownership and Use of Drawings, Specifications, and Other Instruments of Service

§ 1.5.1 The Architect and the Architect's consultants shall be deemed the authors and owners of their respective Instruments of Service, including the Drawings and Specifications, and retain all common law, statutory, and other reserved rights in their Instruments of Service, including copyrights. The Contractor, Subcontractors, Sub-subcontractors, and suppliers shall not own or claim a copyright in the Instruments of Service. Submittal or distribution to meet official regulatory requirements or for other purposes in connection with the Project is not to be construed as publication in derogation of the Architect's or Architect's consultants' reserved rights.

§ 1.5.2 The Contractor, Subcontractors, Sub-subcontractors, and suppliers are authorized to use and reproduce the Instruments of Service provided to them, subject to any protocols established pursuant to Sections 1.7 and 1.8, solely and exclusively for execution of the Work. All copies made under this authorization shall bear the copyright notice, if any, shown on the Instruments of Service. The Contractor, Subcontractors, Sub-subcontractors, and suppliers may not use the Instruments of Service on other projects or for additions to the Project outside the scope of the Work without the specific written consent of the Owner, Architect, and the Architect's consultants.

§ 1.6 Notice

§ 1.6.1 Except as otherwise provided in Section 1.6.2, where the Contract Documents require one party to notify or give notice to the other party, such notice shall be provided in writing to the designated representative of the party to whom the notice is addressed and shall be deemed to have been duly served if delivered in person, by mail, by courier, or by electronic transmission if a method for electronic transmission is set forth in the Agreement.

§ 1.6.2 Notice of Claims as provided in Section 15.1.3 shall be provided in writing and shall be deemed to have been duly served only if delivered to the designated representative of the party to whom the notice is addressed by certified or registered mail, or by courier providing proof of delivery.

§ 1.7 Digital Data Use and Transmission

The parties shall agree upon protocols governing the transmission and use of Instruments of Service or any other information or documentation in digital form. The parties will use AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, to establish the protocols for the development, use, transmission, and exchange of digital data.

§ 1.8 Building Information Models Use and Reliance

Any use of, or reliance on, all or a portion of a building information model without agreement to protocols governing the use of, and reliance on, the information contained in the model and without having those protocols set forth in AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, and the requisite AIA Document

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G202™–2013, Project Building Information Modeling Protocol Form, shall be at the using or relying party's sole risk and without liability to the other party and its contractors or consultants, the authors of, or contributors to, the building information model, and each of their agents and employees.

ARTICLE 2 OWNER

§ 2.1 General

§ 2.1.1 The Owner is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The Owner shall designate in writing a representative who shall have express authority to bind the Owner with respect to all matters requiring the Owner's approval or authorization. Except as otherwise provided in Section 4.2.1, the Architect does not have such authority. The term "Owner" means the Owner or the Owner's authorized representative.

§ 2.1.2 The Owner shall furnish to the Contractor, within fifteen days after receipt of a written request, information necessary and relevant for the Contractor to evaluate, give notice of, or enforce mechanic's lien rights. Such information shall include a correct statement of the record legal title to the property on which the Project is located, usually referred to as the site, and the Owner's interest therein.

§ 2.2 Evidence of the Owner's Financial Arrangements

§ 2.2.1 Prior to commencement of the Work and upon written request by the Contractor, the Owner shall furnish to the Contractor reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Contract. The Contractor shall have no obligation to commence the Work until the Owner provides such evidence. If commencement of the Work is delayed under this Section 2.2.1, the Contract Time shall be extended appropriately.

§ 2.2.2 Following commencement of the Work and upon written request by the Contractor, the Owner shall furnish to the Contractor reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Contract only if (1) the Owner fails to make payments to the Contractor as the Contract Documents require; (2) the Contractor identifies in writing a reasonable concern regarding the Owner's ability to make payment when due; or (3) a change in the Work materially changes the Contract Sum. If the Owner fails to provide such evidence, as required, within fourteen days of the Contractor's request, the Contractor may immediately stop the Work and, in that event, shall notify the Owner that the Work has stopped. However, if the request is made because a change in the Work materially changes the Contract Sum under (3) above, the Contractor may immediately stop only that portion of the Work affected by the change until reasonable evidence is provided. If the Work is stopped under this Section 2.2.2, the Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable costs of shutdown, delay and start-up, plus interest as provided in the Contract Documents.

§ 2.2.3 After the Owner furnishes evidence of financial arrangements under this Section 2.2, the Owner shall not materially vary such financial arrangements without prior notice to the Contractor.

§ 2.2.4 Where the Owner has designated information furnished under this Section 2.2 as "confidential," the Contractor shall keep the information confidential and shall not disclose it to any other person. However, the Contractor may disclose "confidential" information, after seven (7) days' notice to the Owner, where disclosure is required by law, including a subpoena or other form of compulsory legal process issued by a court or governmental entity, or by court or arbitrator(s) order. The Contractor may also disclose "confidential" information to its employees, consultants, sureties, Subcontractors and their employees, Sub-subcontractors, and others who need to know the content of such information solely and exclusively for the Project and who agree to maintain the confidentiality of such information.

§ 2.3 Information and Services Required of the Owner

§ 2.3.1 Except for permits and fees that are the responsibility of the Contractor under the Contract Documents, including those required under Section 3.7.1, the Owner shall secure and pay for necessary approvals, easements, assessments and charges required for construction, use or occupancy of permanent structures or for permanent changes in existing facilities.

§ 2.3.2 The Owner shall retain an architect lawfully licensed to practice architecture, or an entity lawfully practicing architecture, in the jurisdiction where the Project is located. That person or entity is identified as the Architect in the Agreement and is referred to throughout the Contract Documents as if singular in number.

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§ 2.3.3 If the employment of the Architect terminates, the Owner shall employ a successor to whom the Contractor has no reasonable objection and whose status under the Contract Documents shall be that of the Architect.

§ 2.3.4 The Owner shall furnish surveys describing physical characteristics, legal limitations and utility locations for the site of the Project, and a legal description of the site. The Contractor shall be entitled to rely on the accuracy of information furnished by the Owner but shall exercise proper precautions relating to the safe performance of the Work.

§ 2.3.5 The Owner shall furnish information or services required of the Owner by the Contract Documents with reasonable promptness. The Owner shall also furnish any other information or services under the Owner's control and relevant to the Contractor's performance of the Work with reasonable promptness after receiving the Contractor's written request for such information or services.

§ 2.3.6 Unless otherwise provided in the Contract Documents, the Owner shall furnish to the Contractor one copy of the Contract Documents for purposes of making reproductions pursuant to Section 1.5.2.

§ 2.4 Owner's Right to Stop the Work

If the Contractor fails to correct Work that is not in accordance with the requirements of the Contract Documents as required by Section 12.2 or repeatedly fails to carry out Work in accordance with the Contract Documents, the Owner may issue a written order to the Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, the right of the Owner to stop the Work shall not give rise to a duty on the part of the Owner to exercise this right for the benefit of the Contractor or any other person or entity, except to the extent required by Section 6.1.3.

§ 2.5 Owner's Right to Carry Out the Work

If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within a ten-day period after receipt of notice from the Owner to commence and continue correction of such default or neglect with diligence and promptness, the Owner may, without prejudice to other remedies the Owner may have, correct such default or neglect. Such action by the Owner and amounts charged to the Contractor are both subject to prior approval of the Architect and the Architect may, pursuant to Section 9.5.1, withhold or nullify a Certificate for Payment in whole or in part, to the extent reasonably necessary to reimburse the Owner for the reasonable cost of correcting such deficiencies, including Owner's expenses and compensation for the Architect's additional services made necessary by such default, neglect, or failure. If current and future payments are not sufficient to cover such amounts, the Contractor shall pay the difference to the Owner. If the Contractor disagrees with the actions of the Owner or the Architect, or the amounts claimed as costs to the Owner, the Contractor may file a Claim pursuant to Article 15.

ARTICLE 3 CONTRACTOR

§ 3.1 General

§ 3.1.1 The Contractor is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The Contractor shall be lawfully licensed, if required in the jurisdiction where the Project is located. The Contractor shall designate in writing a representative who shall have express authority to bind the Contractor with respect to all matters under this Contract. The term "Contractor" means the Contractor or the Contractor's authorized representative.

§ 3.1.2 The Contractor shall perform the Work in accordance with the Contract Documents.

§ 3.1.3 The Contractor shall not be relieved of its obligations to perform the Work in accordance with the Contract Documents either by activities or duties of the Architect in the Architect's administration of the Contract, or by tests, inspections or approvals required or performed by persons or entities other than the Contractor.

§ 3.2 Review of Contract Documents and Field Conditions by Contractor

§ 3.2.1 Execution of the Contract by the Contractor is a representation that the Contractor has visited the site, become generally familiar with local conditions under which the Work is to be performed, and correlated personal observations with requirements of the Contract Documents.

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§ 3.2.2 Because the Contract Documents are complementary, the Contractor shall, before starting each portion of the Work, carefully study and compare the various Contract Documents relative to that portion of the Work, as well as the information furnished by the Owner pursuant to Section 2.3.4, shall take field measurements of any existing conditions related to that portion of the Work, and shall observe any conditions at the site affecting it. These obligations are for the purpose of facilitating coordination and construction by the Contractor and are not for the purpose of discovering errors, omissions, or inconsistencies in the Contract Documents; however, the Contractor shall promptly report to the Architect any errors, inconsistencies or omissions discovered by or made known to the Contractor as a request for information in such form as the Architect may require. It is recognized that the Contractor's review is made in the Contractor's capacity as a contractor and not as a licensed design professional, unless otherwise specifically provided in the Contract Documents.

§ 3.2.3 The Contractor is not required to ascertain that the Contract Documents are in accordance with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, but the Contractor shall promptly report to the Architect any nonconformity discovered by or made known to the Contractor as a request for information in such form as the Architect may require.

§ 3.2.4 If the Contractor believes that additional cost or time is involved because of clarifications or instructions the Architect issues in response to the Contractor's notices or requests for information pursuant to Sections 3.2.2 or 3.2.3, the Contractor shall submit Claims as provided in Article 15. If the Contractor fails to perform the obligations of Sections 3.2.2 or 3.2.3, the Contractor shall pay such costs and damages to the Owner, subject to Section 15.1.7, as would have been avoided if the Contractor had performed such obligations. If the Contractor performs those obligations, the Contractor shall not be liable to the Owner or Architect for damages resulting from errors, inconsistencies or omissions in the Contract Documents, for differences between field measurements or conditions and the Contract Documents, or for nonconformities of the Contract Documents to applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities.

§ 3.3 Supervision and Construction Procedures

§ 3.3.1 The Contractor shall supervise and direct the Work, using the Contractor's best skill and attention. The Contractor shall be solely responsible for, and have control over, construction means, methods, techniques, sequences, and procedures, and for coordinating all portions of the Work under the Contract. If the Contract Documents give specific instructions concerning construction means, methods, techniques, sequences, or procedures, the Contractor shall evaluate the jobsite safety thereof and shall be solely responsible for the jobsite safety of such means, methods, techniques, sequences, or procedures. If the Contractor determines that such means, methods, techniques, sequences or procedures may not be safe, the Contractor shall give timely notice to the Owner and Architect, and shall propose alternative means, methods, techniques, sequences, or procedures. The Architect shall evaluate the proposed alternative solely for conformance with the design intent for the completed construction. Unless the Architect objects to the Contractor's proposed alternative, the Contractor shall perform the Work using its alternative means, methods, techniques, sequences, or procedures.

§ 3.3.2 The Contractor shall be responsible to the Owner for acts and omissions of the Contractor's employees, Subcontractors and their agents and employees, and other persons or entities performing portions of the Work for, or on behalf of, the Contractor or any of its Subcontractors.

§ 3.3.3 The Contractor shall be responsible for inspection of portions of Work already performed to determine that such portions are in proper condition to receive subsequent Work.

§ 3.4 Labor and Materials

§ 3.4.1 Unless otherwise provided in the Contract Documents, the Contractor shall provide and pay for labor, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation, and other facilities and services necessary for proper execution and completion of the Work, whether temporary or permanent and whether or not incorporated or to be incorporated in the Work.

§ 3.4.2 Except in the case of minor changes in the Work approved by the Architect in accordance with Section 3.12.8 or ordered by the Architect in accordance with Section 7.4, the Contractor may make substitutions only with the consent of the Owner, after evaluation by the Architect and in accordance with a Change Order or Construction Change Directive.

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§ 3.4.3 The Contractor shall enforce strict discipline and good order among the Contractor's employees and other persons carrying out the Work. The Contractor shall not permit employment of unfit persons or persons not properly skilled in tasks assigned to them.

§ 3.5 Warranty

§ 3.5.1 The Contractor warrants to the Owner and Architect that materials and equipment furnished under the Contract will be of good quality and new unless the Contract Documents require or permit otherwise. The Contractor further warrants that the Work will conform to the requirements of the Contract Documents and will be free from defects, except for those inherent in the quality of the Work the Contract Documents require or permit. Work, materials, or equipment not conforming to these requirements may be considered defective. The Contractor's warranty excludes remedy for damage or defect caused by abuse, alterations to the Work not executed by the Contractor, improper or insufficient maintenance, improper operation, or normal wear and tear and normal usage. If required by the Architect, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment.

§ 3.5.2 All material, equipment, or other special warranties required by the Contract Documents shall be issued in the name of the Owner, or shall be transferable to the Owner, and shall commence in accordance with Section 9.8.4.

§ 3.6 Taxes

The Contractor shall pay sales, consumer, use and similar taxes for the Work provided by the Contractor that are legally enacted when bids are received or negotiations concluded, whether or not yet effective or merely scheduled to go into effect.

§ 3.7 Permits, Fees, Notices and Compliance with Laws

§ 3.7.1 Unless otherwise provided in the Contract Documents, the Contractor shall secure and pay for the building permit as well as for other permits, fees, licenses, and inspections by government agencies necessary for proper execution and completion of the Work that are customarily secured after execution of the Contract and legally required at the time bids are received or negotiations concluded.

§ 3.7.2 The Contractor shall comply with and give notices required by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities applicable to performance of the Work.

§ 3.7.3 If the Contractor performs Work knowing it to be contrary to applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, the Contractor shall assume appropriate responsibility for such Work and shall bear the costs attributable to correction.

§ 3.7.4 Concealed or Unknown Conditions

If the Contractor encounters conditions at the site that are (1) subsurface or otherwise concealed physical conditions that differ materially from those indicated in the Contract Documents or (2) unknown physical conditions of an unusual nature that differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents, the Contractor shall promptly provide notice to the Owner and the Architect before conditions are disturbed and in no event later than 14 days after first observance of the conditions. The Architect will promptly investigate such conditions and, if the Architect determines that they differ materially and cause an increase or decrease in the Contractor's cost of, or time required for, performance of any part of the Work, will recommend that an equitable adjustment be made in the Contract Sum or Contract Time, or both. If the Architect determines that the conditions at the site are not materially different from those indicated in the Contract Documents and that no change in the terms of the Contract is justified, the Architect shall promptly notify the Owner and Contractor, stating the reasons. If either party disputes the Architect's determination or recommendation, that party may submit a Claim as provided in Article 15.

§ 3.7.5 If, in the course of the Work, the Contractor encounters human remains or recognizes the existence of burial markers, archaeological sites or wetlands not indicated in the Contract Documents, the Contractor shall immediately suspend any operations that would affect them and shall notify the Owner and Architect. Upon receipt of such notice, the Owner shall promptly take any action necessary to obtain governmental authorization required to resume the operations. The Contractor shall continue to suspend such operations until otherwise instructed by the Owner but shall continue with all other operations that do not affect those remains or features. Requests for adjustments in the Contract Sum and Contract Time arising from the existence of such remains or features may be made as provided in Article 15.

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§ 3.8 Allowances

§ 3.8.1 The Contractor shall include in the Contract Sum all allowances stated in the Contract Documents. Items covered by allowances shall be supplied for such amounts and by such persons or entities as the Owner may direct, but the Contractor shall not be required to employ persons or entities to whom the Contractor has reasonable objection.

§ 3.8.2 Unless otherwise provided in the Contract Documents,

- **.1** allowances shall cover the cost to the Contractor of materials and equipment delivered at the site and all required taxes, less applicable trade discounts;
- **.2** Contractor's costs for unloading and handling at the site, labor, installation costs, overhead, profit, and other expenses contemplated for stated allowance amounts shall be included in the Contract Sum but not in the allowances; and
- **.3** whenever costs are more than or less than allowances, the Contract Sum shall be adjusted accordingly by Change Order. The amount of the Change Order shall reflect (1) the difference between actual costs and the allowances under Section 3.8.2.1 and (2) changes in Contractor's costs under Section 3.8.2.2.

§ 3.8.3 Materials and equipment under an allowance shall be selected by the Owner with reasonable promptness.

§ 3.9 Superintendent

§ 3.9.1 The Contractor shall employ a competent superintendent and necessary assistants who shall be in attendance at the Project site during performance of the Work. The superintendent shall represent the Contractor, and communications given to the superintendent shall be as binding as if given to the Contractor.

§ 3.9.2 The Contractor, as soon as practicable after award of the Contract, shall notify the Owner and Architect of the name and qualifications of a proposed superintendent. Within 14 days of receipt of the information, the Architect may notify the Contractor, stating whether the Owner or the Architect (1) has reasonable objection to the proposed superintendent or (2) requires additional time for review. Failure of the Architect to provide notice within the 14-day period shall constitute notice of no reasonable objection.

§ 3.9.3 The Contractor shall not employ a proposed superintendent to whom the Owner or Architect has made reasonable and timely objection. The Contractor shall not change the superintendent without the Owner's consent, which shall not unreasonably be withheld or delayed.

§ 3.10 Contractor's Construction and Submittal Schedules

§ 3.10.1 The Contractor, promptly after being awarded the Contract, shall submit for the Owner's and Architect's information a Contractor's construction schedule for the Work. The schedule shall contain detail appropriate for the Project, including (1) the date of commencement of the Work, interim schedule milestone dates, and the date of Substantial Completion; (2) an apportionment of the Work by construction activity; and (3) the time required for completion of each portion of the Work. The schedule shall provide for the orderly progression of the Work to completion and shall not exceed time limits current under the Contract Documents. The schedule shall be revised at appropriate intervals as required by the conditions of the Work and Project.

§ 3.10.2 The Contractor, promptly after being awarded the Contract and thereafter as necessary to maintain a current submittal schedule, shall submit a submittal schedule for the Architect's approval. The Architect's approval shall not be unreasonably delayed or withheld. The submittal schedule shall (1) be coordinated with the Contractor's construction schedule, and (2) allow the Architect reasonable time to review submittals. If the Contractor fails to submit a submittal schedule, or fails to provide submittals in accordance with the approved submittal schedule, the Contractor shall not be entitled to any increase in Contract Sum or extension of Contract Time based on the time required for review of submittals.

§ 3.10.3 The Contractor shall perform the Work in general accordance with the most recent schedules submitted to the Owner and Architect.

§ 3.11 Documents and Samples at the Site

The Contractor shall make available, at the Project site, the Contract Documents, including Change Orders, Construction Change Directives, and other Modifications, in good order and marked currently to indicate field changes and selections made during construction, and the approved Shop Drawings, Product Data, Samples, and similar required submittals. These shall be in electronic form or paper copy, available to the Architect and Owner, and

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delivered to the Architect for submittal to the Owner upon completion of the Work as a record of the Work as constructed.

§ 3.12 Shop Drawings, Product Data and Samples

§ 3.12.1 Shop Drawings are drawings, diagrams, schedules, and other data specially prepared for the Work by the Contractor or a Subcontractor, Sub-subcontractor, manufacturer, supplier, or distributor to illustrate some portion of the Work.

§ 3.12.2 Product Data are illustrations, standard schedules, performance charts, instructions, brochures, diagrams, and other information furnished by the Contractor to illustrate materials or equipment for some portion of the Work.

§ 3.12.3 Samples are physical examples that illustrate materials, equipment, or workmanship, and establish standards by which the Work will be judged.

§ 3.12.4 Shop Drawings, Product Data, Samples, and similar submittals are not Contract Documents. Their purpose is to demonstrate how the Contractor proposes to conform to the information given and the design concept expressed in the Contract Documents for those portions of the Work for which the Contract Documents require submittals. Review by the Architect is subject to the limitations of Section 4.2.7. Informational submittals upon which the Architect is not expected to take responsive action may be so identified in the Contract Documents. Submittals that are not required by the Contract Documents may be returned by the Architect without action.

§ 3.12.5 The Contractor shall review for compliance with the Contract Documents, approve, and submit to the Architect, Shop Drawings, Product Data, Samples, and similar submittals required by the Contract Documents, in accordance with the submittal schedule approved by the Architect or, in the absence of an approved submittal schedule, with reasonable promptness and in such sequence as to cause no delay in the Work or in the activities of the Owner or of Separate Contractors.

§ 3.12.6 By submitting Shop Drawings, Product Data, Samples, and similar submittals, the Contractor represents to the Owner and Architect that the Contractor has (1) reviewed and approved them, (2) determined and verified materials, field measurements and field construction criteria related thereto, or will do so, and (3) checked and coordinated the information contained within such submittals with the requirements of the Work and of the Contract Documents.

§ 3.12.7 The Contractor shall perform no portion of the Work for which the Contract Documents require submittal and review of Shop Drawings, Product Data, Samples, or similar submittals, until the respective submittal has been approved by the Architect.

§ 3.12.8 The Work shall be in accordance with approved submittals except that the Contractor shall not be relieved of responsibility for deviations from the requirements of the Contract Documents by the Architect's approval of Shop Drawings, Product Data, Samples, or similar submittals, unless the Contractor has specifically notified the Architect of such deviation at the time of submittal and (1) the Architect has given written approval to the specific deviation as a minor change in the Work, or (2) a Change Order or Construction Change Directive has been issued authorizing the deviation. The Contractor shall not be relieved of responsibility for errors or omissions in Shop Drawings, Product Data, Samples, or similar submittals, by the Architect's approval thereof.

§ 3.12.9 The Contractor shall direct specific attention, in writing or on resubmitted Shop Drawings, Product Data, Samples, or similar submittals, to revisions other than those requested by the Architect on previous submittals. In the absence of such notice, the Architect's approval of a resubmission shall not apply to such revisions.

§ 3.12.10 The Contractor shall not be required to provide professional services that constitute the practice of architecture or engineering unless such services are specifically required by the Contract Documents for a portion of the Work or unless the Contractor needs to provide such services in order to carry out the Contractor's responsibilities for construction means, methods, techniques, sequences, and procedures. The Contractor shall not be required to provide professional services in violation of applicable law.

§ 3.12.10.1 If professional design services or certifications by a design professional related to systems, materials, or equipment are specifically required of the Contractor by the Contract Documents, the Owner and the Architect will

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specify all performance and design criteria that such services must satisfy. The Contractor shall be entitled to rely upon the adequacy and accuracy of the performance and design criteria provided in the Contract Documents. The Contractor shall cause such services or certifications to be provided by an appropriately licensed design professional, whose signature and seal shall appear on all drawings, calculations, specifications, certifications, Shop Drawings, and other submittals prepared by such professional. Shop Drawings, and other submittals related to the Work, designed or certified by such professional, if prepared by others, shall bear such professional's written approval when submitted to the Architect. The Owner and the Architect shall be entitled to rely upon the adequacy and accuracy of the services, certifications, and approvals performed or provided by such design professionals, provided the Owner and Architect have specified to the Contractor the performance and design criteria that such services must satisfy. Pursuant to this Section 3.12.10, the Architect will review and approve or take other appropriate action on submittals only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents.

§ 3.12.10.2 If the Contract Documents require the Contractor's design professional to certify that the Work has been performed in accordance with the design criteria, the Contractor shall furnish such certifications to the Architect at the time and in the form specified by the Architect.

§ 3.13 Use of Site

The Contractor shall confine operations at the site to areas permitted by applicable laws, statutes, ordinances, codes, rules and regulations, lawful orders of public authorities, and the Contract Documents and shall not unreasonably encumber the site with materials or equipment.

§ 3.14 Cutting and Patching

§ 3.14.1 The Contractor shall be responsible for cutting, fitting, or patching required to complete the Work or to make its parts fit together properly. All areas requiring cutting, fitting, or patching shall be restored to the condition existing prior to the cutting, fitting, or patching, unless otherwise required by the Contract Documents.

§ 3.14.2 The Contractor shall not damage or endanger a portion of the Work or fully or partially completed construction of the Owner or Separate Contractors by cutting, patching, or otherwise altering such construction, or by excavation. The Contractor shall not cut or otherwise alter construction by the Owner or a Separate Contractor except with written consent of the Owner and of the Separate Contractor. Consent shall not be unreasonably withheld. The Contractor shall not unreasonably withhold, from the Owner or a Separate Contractor, its consent to cutting or otherwise altering the Work.

§ 3.15 Cleaning Up

§ 3.15.1 The Contractor shall keep the premises and surrounding area free from accumulation of waste materials and rubbish caused by operations under the Contract. At completion of the Work, the Contractor shall remove waste materials, rubbish, the Contractor's tools, construction equipment, machinery, and surplus materials from and about the Project.

§ 3.15.2 If the Contractor fails to clean up as provided in the Contract Documents, the Owner may do so and the Owner shall be entitled to reimbursement from the Contractor.

§ 3.16 Access to Work

The Contractor shall provide the Owner and Architect with access to the Work in preparation and progress wherever located.

§ 3.17 Royalties, Patents and Copyrights

The Contractor shall pay all royalties and license fees. The Contractor shall defend suits or claims for infringement of copyrights and patent rights and shall hold the Owner and Architect harmless from loss on account thereof, but shall not be responsible for defense or loss when a particular design, process, or product of a particular manufacturer or manufacturers is required by the Contract Documents, or where the copyright violations are contained in Drawings, Specifications, or other documents prepared by the Owner or Architect. However, if an infringement of a copyright or patent is discovered by, or made known to, the Contractor, the Contractor shall be responsible for the loss unless the information is promptly furnished to the Architect.

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§ 3.18 Indemnification

§ 3.18.1 To the fullest extent permitted by law, the Contractor shall indemnify and hold harmless the Owner, Architect, Architect's consultants, and agents and employees of any of them from and against claims, damages, losses, and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), but only to the extent caused by the negligent acts or omissions of the Contractor, a Subcontractor, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss, or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity that would otherwise exist as to a party or person described in this Section 3.18.

§ 3.18.2 In claims against any person or entity indemnified under this Section 3.18 by an employee of the Contractor, a Subcontractor, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, the indemnification obligation under Section 3.18.1 shall not be limited by a limitation on amount or type of damages, compensation, or benefits payable by or for the Contractor or a Subcontractor under workers' compensation acts, disability benefit acts, or other employee benefit acts.

ARTICLE 4 ARCHITECT

§ 4.1 General

§ 4.1.1 The Architect is the person or entity retained by the Owner pursuant to Section 2.3.2 and identified as such in the Agreement.

§ 4.1.2 Duties, responsibilities, and limitations of authority of the Architect as set forth in the Contract Documents shall not be restricted, modified, or extended without written consent of the Owner, Contractor, and Architect. Consent shall not be unreasonably withheld.

§ 4.2 Administration of the Contract

§ 4.2.1 The Architect will provide administration of the Contract as described in the Contract Documents and will be an Owner's representative during construction until the date the Architect issues the final Certificate for Payment. The Architect will have authority to act on behalf of the Owner only to the extent provided in the Contract Documents.

§ 4.2.2 The Architect will visit the site at intervals appropriate to the stage of construction, or as otherwise agreed with the Owner, to become generally familiar with the progress and quality of the portion of the Work completed, and to determine in general if the Work observed is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the Architect will not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. The Architect will not have control over, charge of, or responsibility for the construction means, methods, techniques, sequences or procedures, or for the safety precautions and programs in connection with the Work, since these are solely the Contractor's rights and responsibilities under the Contract Documents.

§ 4.2.3 On the basis of the site visits, the Architect will keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, and promptly report to the Owner (1) known deviations from the Contract Documents, (2) known deviations from the most recent construction schedule submitted by the Contractor, and (3) defects and deficiencies observed in the Work. The Architect will not be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The Architect will not have control over or charge of, and will not be responsible for acts or omissions of, the Contractor, Subcontractors, or their agents or employees, or any other persons or entities performing portions of the Work.

§ 4.2.4 Communications

The Owner and Contractor shall include the Architect in all communications that relate to or affect the Architect's services or professional responsibilities. The Owner shall promptly notify the Architect of the substance of any direct communications between the Owner and the Contractor otherwise relating to the Project. Communications by and with the Architect's consultants shall be through the Architect. Communications by and with Subcontractors and suppliers shall be through the Contractor. Communications by and with Separate Contractors shall be through the Owner. The Contract Documents may specify other communication protocols.

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§ 4.2.5 Based on the Architect's evaluations of the Contractor's Applications for Payment, the Architect will review and certify the amounts due the Contractor and will issue Certificates for Payment in such amounts.

§ 4.2.6 The Architect has authority to reject Work that does not conform to the Contract Documents. Whenever the Architect considers it necessary or advisable, the Architect will have authority to require inspection or testing of the Work in accordance with Sections 13.4.2 and 13.4.3, whether or not the Work is fabricated, installed or completed. However, neither this authority of the Architect nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect to the Contractor, Subcontractors, suppliers, their agents or employees, or other persons or entities performing portions of the Work.

§ 4.2.7 The Architect will review and approve, or take other appropriate action upon, the Contractor's submittals such as Shop Drawings, Product Data, and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Architect's action will be taken in accordance with the submittal schedule approved by the Architect or, in the absence of an approved submittal schedule, with reasonable promptness while allowing sufficient time in the Architect's professional judgment to permit adequate review. Review of such submittals is not conducted for the purpose of determining the accuracy and completeness of other details such as dimensions and quantities, or for substantiating instructions for installation or performance of equipment or systems, all of which remain the responsibility of the Contractor as required by the Contract Documents. The Architect's review of the Contractor's submittals shall not relieve the Contractor of the obligations under Sections 3.3, 3.5, and 3.12. The Architect's review shall not constitute approval of safety precautions or of any construction means, methods, techniques, sequences, or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

§ 4.2.8 The Architect will prepare Change Orders and Construction Change Directives, and may order minor changes in the Work as provided in Section 7.4. The Architect will investigate and make determinations and recommendations regarding concealed and unknown conditions as provided in Section 3.7.4.

§ 4.2.9 The Architect will conduct inspections to determine the date or dates of Substantial Completion and the date of final completion; issue Certificates of Substantial Completion pursuant to Section 9.8; receive and forward to the Owner, for the Owner's review and records, written warranties and related documents required by the Contract and assembled by the Contractor pursuant to Section 9.10; and issue a final Certificate for Payment pursuant to Section 9.10.

§ 4.2.10 If the Owner and Architect agree, the Architect will provide one or more Project representatives to assist in carrying out the Architect's responsibilities at the site. The Owner shall notify the Contractor of any change in the duties, responsibilities and limitations of authority of the Project representatives.

§ 4.2.11 The Architect will interpret and decide matters concerning performance under, and requirements of, the Contract Documents on written request of either the Owner or Contractor. The Architect's response to such requests will be made in writing within any time limits agreed upon or otherwise with reasonable promptness.

§ 4.2.12 Interpretations and decisions of the Architect will be consistent with the intent of, and reasonably inferable from, the Contract Documents and will be in writing or in the form of drawings. When making such interpretations and decisions, the Architect will endeavor to secure faithful performance by both Owner and Contractor, will not show partiality to either, and will not be liable for results of interpretations or decisions rendered in good faith.

§ 4.2.13 The Architect's decisions on matters relating to aesthetic effect will be final if consistent with the intent expressed in the Contract Documents.

§ 4.2.14 The Architect will review and respond to requests for information about the Contract Documents. The Architect's response to such requests will be made in writing within any time limits agreed upon or otherwise with reasonable promptness. If appropriate, the Architect will prepare and issue supplemental Drawings and Specifications in response to the requests for information.

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ARTICLE 5 SUBCONTRACTORS

§ 5.1 Definitions

§ 5.1.1 A Subcontractor is a person or entity who has a direct contract with the Contractor to perform a portion of the Work at the site. The term "Subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Subcontractor or an authorized representative of the Subcontractor. The term "Subcontractor" does not include a Separate Contractor or the subcontractors of a Separate Contractor.

§ 5.1.2 A Sub-subcontractor is a person or entity who has a direct or indirect contract with a Subcontractor to perform a portion of the Work at the site. The term "Sub-subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Sub-subcontractor or an authorized representative of the Sub-subcontractor.

§ 5.2 Award of Subcontracts and Other Contracts for Portions of the Work

§ 5.2.1 Unless otherwise stated in the Contract Documents, the Contractor, as soon as practicable after award of the Contract, shall notify the Owner and Architect of the persons or entities proposed for each principal portion of the Work, including those who are to furnish materials or equipment fabricated to a special design. Within 14 days of receipt of the information, the Architect may notify the Contractor whether the Owner or the Architect (1) has reasonable objection to any such proposed person or entity or (2) requires additional time for review. Failure of the Architect to provide notice within the 14-day period shall constitute notice of no reasonable objection.

§ 5.2.2 The Contractor shall not contract with a proposed person or entity to whom the Owner or Architect has made reasonable and timely objection. The Contractor shall not be required to contract with anyone to whom the Contractor has made reasonable objection.

§ 5.2.3 If the Owner or Architect has reasonable objection to a person or entity proposed by the Contractor, the Contractor shall propose another to whom the Owner or Architect has no reasonable objection. If the proposed but rejected Subcontractor was reasonably capable of performing the Work, the Contract Sum and Contract Time shall be increased or decreased by the difference, if any, occasioned by such change, and an appropriate Change Order shall be issued before commencement of the substitute Subcontractor's Work. However, no increase in the Contract Sum or Contract Time shall be allowed for such change unless the Contractor has acted promptly and responsively in submitting names as required.

§ 5.2.4 The Contractor shall not substitute a Subcontractor, person, or entity for one previously selected if the Owner or Architect makes reasonable objection to such substitution.

§ 5.3 Subcontractual Relations

By appropriate written agreement, the Contractor shall require each Subcontractor, to the extent of the Work to be performed by the Subcontractor, to be bound to the Contractor by terms of the Contract Documents, and to assume toward the Contractor all the obligations and responsibilities, including the responsibility for safety of the Subcontractor's Work that the Contractor, by these Contract Documents, assumes toward the Owner and Architect. Each subcontract agreement shall preserve and protect the rights of the Owner and Architect under the Contract Documents with respect to the Work to be performed by the Subcontractor so that subcontracting thereof will not prejudice such rights, and shall allow to the Subcontractor, unless specifically provided otherwise in the subcontract agreement, the benefit of all rights, remedies, and redress against the Contractor that the Contractor, by the Contract Documents, has against the Owner. Where appropriate, the Contractor shall require each Subcontractor to enter into similar agreements with Sub-subcontractors. The Contractor shall make available to each proposed Subcontractor, prior to the execution of the subcontract agreement, copies of the Contract Documents to which the Subcontractor will be bound, and, upon written request of the Subcontractor, identify to the Subcontractor terms and conditions of the proposed subcontract agreement that may be at variance with the Contract Documents. Subcontractors will similarly make copies of applicable portions of such documents available to their respective proposed Sub-subcontractors.

§ 5.4 Contingent Assignment of Subcontracts

§ 5.4.1 Each subcontract agreement for a portion of the Work is assigned by the Contractor to the Owner, provided that

- **.1** assignment is effective only after termination of the Contract by the Owner for cause pursuant to Section 14.2 and only for those subcontract agreements that the Owner accepts by notifying the Subcontractor and Contractor; and
- **.2** assignment is subject to the prior rights of the surety, if any, obligated under bond relating to the Contract.

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When the Owner accepts the assignment of a subcontract agreement, the Owner assumes the Contractor's rights and obligations under the subcontract.

§ 5.4.2 Upon such assignment, if the Work has been suspended for more than 30 days, the Subcontractor's compensation shall be equitably adjusted for increases in cost resulting from the suspension.

§ 5.4.3 Upon assignment to the Owner under this Section 5.4, the Owner may further assign the subcontract to a successor contractor or other entity. If the Owner assigns the subcontract to a successor contractor or other entity, the Owner shall nevertheless remain legally responsible for all of the successor contractor's obligations under the subcontract.

ARTICLE 6 CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTORS

§ 6.1 Owner's Right to Perform Construction and to Award Separate Contracts

§ 6.1.1 The term "Separate Contractor(s)" shall mean other contractors retained by the Owner under separate agreements. The Owner reserves the right to perform construction or operations related to the Project with the Owner's own forces, and with Separate Contractors retained under Conditions of the Contract substantially similar to those of this Contract, including those provisions of the Conditions of the Contract related to insurance and waiver of subrogation.

§ 6.1.2 When separate contracts are awarded for different portions of the Project or other construction or operations on the site, the term "Contractor" in the Contract Documents in each case shall mean the Contractor who executes each separate Owner-Contractor Agreement.

§ 6.1.3 The Owner shall provide for coordination of the activities of the Owner's own forces and of each Separate Contractor with the Work of the Contractor, who shall cooperate with them. The Contractor shall participate with any Separate Contractors and the Owner in reviewing their construction schedules. The Contractor shall make any revisions to its construction schedule deemed necessary after a joint review and mutual agreement. The construction schedules shall then constitute the schedules to be used by the Contractor, Separate Contractors, and the Owner until subsequently revised.

§ 6.1.4 Unless otherwise provided in the Contract Documents, when the Owner performs construction or operations related to the Project with the Owner's own forces or with Separate Contractors, the Owner or its Separate Contractors shall have the same obligations and rights that the Contractor has under the Conditions of the Contract, including, without excluding others, those stated in Article 3, this Article 6, and Articles 10, 11, and 12.

§ 6.2 Mutual Responsibility

§ 6.2.1 The Contractor shall afford the Owner and Separate Contractors reasonable opportunity for introduction and storage of their materials and equipment and performance of their activities, and shall connect and coordinate the Contractor's construction and operations with theirs as required by the Contract Documents.

§ 6.2.2 If part of the Contractor's Work depends for proper execution or results upon construction or operations by the Owner or a Separate Contractor, the Contractor shall, prior to proceeding with that portion of the Work, promptly notify the Architect of apparent discrepancies or defects in the construction or operations by the Owner or Separate Contractor that would render it unsuitable for proper execution and results of the Contractor's Work. Failure of the Contractor to notify the Architect of apparent discrepancies or defects prior to proceeding with the Work shall constitute an acknowledgment that the Owner's or Separate Contractor's completed or partially completed construction is fit and proper to receive the Contractor's Work. The Contractor shall not be responsible for discrepancies or defects in the construction or operations by the Owner or Separate Contractor that are not apparent.

§ 6.2.3 The Contractor shall reimburse the Owner for costs the Owner incurs that are payable to a Separate Contractor because of the Contractor's delays, improperly timed activities or defective construction. The Owner shall be responsible to the Contractor for costs the Contractor incurs because of a Separate Contractor's delays, improperly timed activities, damage to the Work or defective construction.

§ 6.2.4 The Contractor shall promptly remedy damage that the Contractor wrongfully causes to completed or partially completed construction or to property of the Owner or Separate Contractor as provided in Section 10.2.5.

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§ 6.2.5 The Owner and each Separate Contractor shall have the same responsibilities for cutting and patching as are described for the Contractor in Section 3.14.

§ 6.3 Owner's Right to Clean Up

If a dispute arises among the Contractor, Separate Contractors, and the Owner as to the responsibility under their respective contracts for maintaining the premises and surrounding area free from waste materials and rubbish, the Owner may clean up and the Architect will allocate the cost among those responsible.

ARTICLE 7 CHANGES IN THE WORK

§ 7.1 General

§ 7.1.1 Changes in the Work may be accomplished after execution of the Contract, and without invalidating the Contract, by Change Order, Construction Change Directive or order for a minor change in the Work, subject to the limitations stated in this Article 7 and elsewhere in the Contract Documents.

§ 7.1.2 A Change Order shall be based upon agreement among the Owner, Contractor, and Architect. A Construction Change Directive requires agreement by the Owner and Architect and may or may not be agreed to by the Contractor. An order for a minor change in the Work may be issued by the Architect alone.

§ 7.1.3 Changes in the Work shall be performed under applicable provisions of the Contract Documents. The Contractor shall proceed promptly with changes in the Work, unless otherwise provided in the Change Order, Construction Change Directive, or order for a minor change in the Work.

§ 7.2 Change Orders

§ 7.2.1 A Change Order is a written instrument prepared by the Architect and signed by the Owner, Contractor, and Architect stating their agreement upon all of the following:

- **.1** The change in the Work;
- **.2** The amount of the adjustment, if any, in the Contract Sum; and
- **.3** The extent of the adjustment, if any, in the Contract Time.

§ 7.3 Construction Change Directives

§ 7.3.1 A Construction Change Directive is a written order prepared by the Architect and signed by the Owner and Architect, directing a change in the Work prior to agreement on adjustment, if any, in the Contract Sum or Contract Time, or both. The Owner may by Construction Change Directive, without invalidating the Contract, order changes in the Work within the general scope of the Contract consisting of additions, deletions, or other revisions, the Contract Sum and Contract Time being adjusted accordingly.

§ 7.3.2 A Construction Change Directive shall be used in the absence of total agreement on the terms of a Change Order.

§ 7.3.3 If the Construction Change Directive provides for an adjustment to the Contract Sum, the adjustment shall be based on one of the following methods:

- **.1** Mutual acceptance of a lump sum properly itemized and supported by sufficient substantiating data to permit evaluation;
- **.2** Unit prices stated in the Contract Documents or subsequently agreed upon;
- **.3** Cost to be determined in a manner agreed upon by the parties and a mutually acceptable fixed or percentage fee; or
- **.4** As provided in Section 7.3.4.

§ 7.3.4 If the Contractor does not respond promptly or disagrees with the method for adjustment in the Contract Sum, the Architect shall determine the adjustment on the basis of reasonable expenditures and savings of those performing the Work attributable to the change, including, in case of an increase in the Contract Sum, an amount for overhead and profit as set forth in the Agreement, or if no such amount is set forth in the Agreement, a reasonable amount. In such case, and also under Section 7.3.3.3, the Contractor shall keep and present, in such form as the Architect may prescribe, an itemized accounting together with appropriate supporting data. Unless otherwise provided in the Contract Documents, costs for the purposes of this Section 7.3.4 shall be limited to the following:

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.1 Costs of labor, including applicable payroll taxes, fringe benefits required by agreement or custom, workers' compensation insurance, and other employee costs approved by the Architect;

.2 Costs of materials, supplies, and equipment, including cost of transportation, whether incorporated or consumed;

.3 Rental costs of machinery and equipment, exclusive of hand tools, whether rented from the Contractor or others;

.4 Costs of premiums for all bonds and insurance, permit fees, and sales, use, or similar taxes, directly related to the change; and

.5 Costs of supervision and field office personnel directly attributable to the change.

§ 7.3.5 If the Contractor disagrees with the adjustment in the Contract Time, the Contractor may make a Claim in accordance with applicable provisions of Article 15.

§ 7.3.6 Upon receipt of a Construction Change Directive, the Contractor shall promptly proceed with the change in the Work involved and advise the Architect of the Contractor's agreement or disagreement with the method, if any, provided in the Construction Change Directive for determining the proposed adjustment in the Contract Sum or Contract Time.

§ 7.3.7 A Construction Change Directive signed by the Contractor indicates the Contractor's agreement therewith, including adjustment in Contract Sum and Contract Time or the method for determining them. Such agreement shall be effective immediately and shall be recorded as a Change Order.

§ 7.3.8 The amount of credit to be allowed by the Contractor to the Owner for a deletion or change that results in a net decrease in the Contract Sum shall be actual net cost as confirmed by the Architect. When both additions and credits covering related Work or substitutions are involved in a change, the allowance for overhead and profit shall be figured on the basis of net increase, if any, with respect to that change.

§ 7.3.9 Pending final determination of the total cost of a Construction Change Directive to the Owner, the Contractor may request payment for Work completed under the Construction Change Directive in Applications for Payment. The Architect will make an interim determination for purposes of monthly certification for payment for those costs and certify for payment the amount that the Architect determines, in the Architect's professional judgment, to be reasonably justified. The Architect's interim determination of cost shall adjust the Contract Sum on the same basis as a Change Order, subject to the right of either party to disagree and assert a Claim in accordance with Article 15.

§ 7.3.10 When the Owner and Contractor agree with a determination made by the Architect concerning the adjustments in the Contract Sum and Contract Time, or otherwise reach agreement upon the adjustments, such agreement shall be effective immediately and the Architect will prepare a Change Order. Change Orders may be issued for all or any part of a Construction Change Directive.

§ 7.4 Minor Changes in the Work

The Architect may order minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. The Architect's order for minor changes shall be in writing. If the Contractor believes that the proposed minor change in the Work will affect the Contract Sum or Contract Time, the Contractor shall notify the Architect and shall not proceed to implement the change in the Work. If the Contractor performs the Work set forth in the Architect's order for a minor change without prior notice to the Architect that such change will affect the Contract Sum or Contract Time, the Contractor waives any adjustment to the Contract Sum or extension of the Contract Time.

ARTICLE 8 TIME

§ 8.1 Definitions

§ 8.1.1 Unless otherwise provided, Contract Time is the period of time, including authorized adjustments, allotted in the Contract Documents for Substantial Completion of the Work.

§ 8.1.2 The date of commencement of the Work is the date established in the Agreement.

§ 8.1.3 The date of Substantial Completion is the date certified by the Architect in accordance with Section 9.8.

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§ 8.1.4 The term "day" as used in the Contract Documents shall mean calendar day unless otherwise specifically defined.

§ 8.2 Progress and Completion

§ 8.2.1 Time limits stated in the Contract Documents are of the essence of the Contract. By executing the Agreement, the Contractor confirms that the Contract Time is a reasonable period for performing the Work.

§ 8.2.2 The Contractor shall not knowingly, except by agreement or instruction of the Owner in writing, commence the Work prior to the effective date of insurance required to be furnished by the Contractor and Owner.

§ 8.2.3 The Contractor shall proceed expeditiously with adequate forces and shall achieve Substantial Completion within the Contract Time.

§ 8.3 Delays and Extensions of Time

§ 8.3.1 If the Contractor is delayed at any time in the commencement or progress of the Work by (1) an act or neglect of the Owner or Architect, of an employee of either, or of a Separate Contractor; (2) by changes ordered in the Work; (3) by labor disputes, fire, unusual delay in deliveries, unavoidable casualties, adverse weather conditions documented in accordance with Section 15.1.6.2, or other causes beyond the Contractor's control; (4) by delay authorized by the Owner pending mediation and binding dispute resolution; or (5) by other causes that the Contractor asserts, and the Architect determines, justify delay, then the Contract Time shall be extended for such reasonable time as the Architect may determine.

§ 8.3.2 Claims relating to time shall be made in accordance with applicable provisions of Article 15.

§ 8.3.3 This Section 8.3 does not preclude recovery of damages for delay by either party under other provisions of the Contract Documents.

ARTICLE 9 PAYMENTS AND COMPLETION

§ 9.1 Contract Sum

§ 9.1.1 The Contract Sum is stated in the Agreement and, including authorized adjustments, is the total amount payable by the Owner to the Contractor for performance of the Work under the Contract Documents.

§ 9.1.2 If unit prices are stated in the Contract Documents or subsequently agreed upon, and if quantities originally contemplated are materially changed so that application of such unit prices to the actual quantities causes substantial inequity to the Owner or Contractor, the applicable unit prices shall be equitably adjusted.

§ 9.2 Schedule of Values

Where the Contract is based on a stipulated sum or Guaranteed Maximum Price, the Contractor shall submit a schedule of values to the Architect before the first Application for Payment, allocating the entire Contract Sum to the various portions of the Work. The schedule of values shall be prepared in the form, and supported by the data to substantiate its accuracy, required by the Architect. This schedule, unless objected to by the Architect, shall be used as a basis for reviewing the Contractor's Applications for Payment. Any changes to the schedule of values shall be submitted to the Architect and supported by such data to substantiate its accuracy as the Architect may require, and unless objected to by the Architect, shall be used as a basis for reviewing the Contractor's subsequent Applications for Payment.

§ 9.3 Applications for Payment

§ 9.3.1 At least ten days before the date established for each progress payment, the Contractor shall submit to the Architect an itemized Application for Payment prepared in accordance with the schedule of values, if required under Section 9.2, for completed portions of the Work. The application shall be notarized, if required, and supported by all data substantiating the Contractor's right to payment that the Owner or Architect require, such as copies of requisitions, and releases and waivers of liens from Subcontractors and suppliers, and shall reflect retainage if provided for in the Contract Documents.

§ 9.3.1.1 As provided in Section 7.3.9, such applications may include requests for payment on account of changes in the Work that have been properly authorized by Construction Change Directives, or by interim determinations of the Architect, but not yet included in Change Orders.

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§ 9.3.1.2 Applications for Payment shall not include requests for payment for portions of the Work for which the Contractor does not intend to pay a Subcontractor or supplier, unless such Work has been performed by others whom the Contractor intends to pay.

§ 9.3.2 Unless otherwise provided in the Contract Documents, payments shall be made on account of materials and equipment delivered and suitably stored at the site for subsequent incorporation in the Work. If approved in advance by the Owner, payment may similarly be made for materials and equipment suitably stored off the site at a location agreed upon in writing. Payment for materials and equipment stored on or off the site shall be conditioned upon compliance by the Contractor with procedures satisfactory to the Owner to establish the Owner's title to such materials and equipment or otherwise protect the Owner's interest, and shall include the costs of applicable insurance, storage, and transportation to the site, for such materials and equipment stored off the site.

§ 9.3.3 The Contractor warrants that title to all Work covered by an Application for Payment will pass to the Owner no later than the time of payment. The Contractor further warrants that upon submittal of an Application for Payment all Work for which Certificates for Payment have been previously issued and payments received from the Owner shall, to the best of the Contractor's knowledge, information, and belief, be free and clear of liens, claims, security interests, or encumbrances, in favor of the Contractor, Subcontractors, suppliers, or other persons or entities that provided labor, materials, and equipment relating to the Work.

§ 9.4 Certificates for Payment

§ 9.4.1 The Architect will, within seven days after receipt of the Contractor's Application for Payment, either (1) issue to the Owner a Certificate for Payment in the full amount of the Application for Payment, with a copy to the Contractor; or (2) issue to the Owner a Certificate for Payment for such amount as the Architect determines is properly due, and notify the Contractor and Owner of the Architect's reasons for withholding certification in part as provided in Section 9.5.1; or (3) withhold certification of the entire Application for Payment, and notify the Contractor and Owner of the Architect's reason for withholding certification in whole as provided in Section 9.5.1.

§ 9.4.2 The issuance of a Certificate for Payment will constitute a representation by the Architect to the Owner, based on the Architect's evaluation of the Work and the data in the Application for Payment, that, to the best of the Architect's knowledge, information, and belief, the Work has progressed to the point indicated, the quality of the Work is in accordance with the Contract Documents, and that the Contractor is entitled to payment in the amount certified. The foregoing representations are subject to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, to results of subsequent tests and inspections, to correction of minor deviations from the Contract Documents prior to completion, and to specific qualifications expressed by the Architect. However, the issuance of a Certificate for Payment will not be a representation that the Architect has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work; (2) reviewed construction means, methods, techniques, sequences, or procedures; (3) reviewed copies of requisitions received from Subcontractors and suppliers and other data requested by the Owner to substantiate the Contractor's right to payment; or (4) made examination to ascertain how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

§ 9.5 Decisions to Withhold Certification

§ 9.5.1 The Architect may withhold a Certificate for Payment in whole or in part, to the extent reasonably necessary to protect the Owner, if in the Architect's opinion the representations to the Owner required by Section 9.4.2 cannot be made. If the Architect is unable to certify payment in the amount of the Application, the Architect will notify the Contractor and Owner as provided in Section 9.4.1. If the Contractor and Architect cannot agree on a revised amount, the Architect will promptly issue a Certificate for Payment for the amount for which the Architect is able to make such representations to the Owner. The Architect may also withhold a Certificate for Payment or, because of subsequently discovered evidence, may nullify the whole or a part of a Certificate for Payment previously issued, to such extent as may be necessary in the Architect's opinion to protect the Owner from loss for which the Contractor is responsible, including loss resulting from acts and omissions described in Section 3.3.2, because of

- **.1** defective Work not remedied;
- **.2** third party claims filed or reasonable evidence indicating probable filing of such claims, unless security acceptable to the Owner is provided by the Contractor;
- **.3** failure of the Contractor to make payments properly to Subcontractors or suppliers for labor, materials or equipment;

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.4 reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Sum;
.5 damage to the Owner or a Separate Contractor;
.6 reasonable evidence that the Work will not be completed within the Contract Time, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay; or
.7 repeated failure to carry out the Work in accordance with the Contract Documents.

§ 9.5.2 When either party disputes the Architect's decision regarding a Certificate for Payment under Section 9.5.1, in whole or in part, that party may submit a Claim in accordance with Article 15.

§ 9.5.3 When the reasons for withholding certification are removed, certification will be made for amounts previously withheld.

§ 9.5.4 If the Architect withholds certification for payment under Section 9.5.1.3, the Owner may, at its sole option, issue joint checks to the Contractor and to any Subcontractor or supplier to whom the Contractor failed to make payment for Work properly performed or material or equipment suitably delivered. If the Owner makes payments by joint check, the Owner shall notify the Architect and the Contractor shall reflect such payment on its next Application for Payment.

§ 9.6 Progress Payments

§ 9.6.1 After the Architect has issued a Certificate for Payment, the Owner shall make payment in the manner and within the time provided in the Contract Documents, and shall so notify the Architect.

§ 9.6.2 The Contractor shall pay each Subcontractor, no later than seven days after receipt of payment from the Owner, the amount to which the Subcontractor is entitled, reflecting percentages actually retained from payments to the Contractor on account of the Subcontractor's portion of the Work. The Contractor shall, by appropriate agreement with each Subcontractor, require each Subcontractor to make payments to Sub-subcontractors in a similar manner.

§ 9.6.3 The Architect will, on request, furnish to a Subcontractor, if practicable, information regarding percentages of completion or amounts applied for by the Contractor and action taken thereon by the Architect and Owner on account of portions of the Work done by such Subcontractor.

§ 9.6.4 The Owner has the right to request written evidence from the Contractor that the Contractor has properly paid Subcontractors and suppliers amounts paid by the Owner to the Contractor for subcontracted Work. If the Contractor fails to furnish such evidence within seven days, the Owner shall have the right to contact Subcontractors and suppliers to ascertain whether they have been properly paid. Neither the Owner nor Architect shall have an obligation to pay, or to see to the payment of money to, a Subcontractor or supplier, except as may otherwise be required by law.

§ 9.6.5 The Contractor's payments to suppliers shall be treated in a manner similar to that provided in Sections 9.6.2, 9.6.3 and 9.6.4.

§ 9.6.6 A Certificate for Payment, a progress payment, or partial or entire use or occupancy of the Project by the Owner shall not constitute acceptance of Work not in accordance with the Contract Documents.

§ 9.6.7 Unless the Contractor provides the Owner with a payment bond in the full penal sum of the Contract Sum, payments received by the Contractor for Work properly performed by Subcontractors or provided by suppliers shall be held by the Contractor for those Subcontractors or suppliers who performed Work or furnished materials, or both, under contract with the Contractor for which payment was made by the Owner. Nothing contained herein shall require money to be placed in a separate account and not commingled with money of the Contractor, create any fiduciary liability or tort liability on the part of the Contractor for breach of trust, or entitle any person or entity to an award of punitive damages against the Contractor for breach of the requirements of this provision.

§ 9.6.8 Provided the Owner has fulfilled its payment obligations under the Contract Documents, the Contractor shall defend and indemnify the Owner from all loss, liability, damage or expense, including reasonable attorney's fees and litigation expenses, arising out of any lien claim or other claim for payment by any Subcontractor or supplier of any tier. Upon receipt of notice of a lien claim or other claim for payment, the Owner shall notify the Contractor. If approved by the applicable court, when required, the Contractor may substitute a surety bond for the property against which the lien or other claim for payment has been asserted.

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§ 9.7 Failure of Payment

If the Architect does not issue a Certificate for Payment, through no fault of the Contractor, within seven days after receipt of the Contractor's Application for Payment, or if the Owner does not pay the Contractor within seven days after the date established in the Contract Documents, the amount certified by the Architect or awarded by binding dispute resolution, then the Contractor may, upon seven additional days' notice to the Owner and Architect, stop the Work until payment of the amount owing has been received. The Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable costs of shutdown, delay and start-up, plus interest as provided for in the Contract Documents.

§ 9.8 Substantial Completion

§ 9.8.1 Substantial Completion is the stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work for its intended use.

§ 9.8.2 When the Contractor considers that the Work, or a portion thereof which the Owner agrees to accept separately, is substantially complete, the Contractor shall prepare and submit to the Architect a comprehensive list of items to be completed or corrected prior to final payment. Failure to include an item on such list does not alter the responsibility of the Contractor to complete all Work in accordance with the Contract Documents.

§ 9.8.3 Upon receipt of the Contractor's list, the Architect will make an inspection to determine whether the Work or designated portion thereof is substantially complete. If the Architect's inspection discloses any item, whether or not included on the Contractor's list, which is not sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work or designated portion thereof for its intended use, the Contractor shall, before issuance of the Certificate of Substantial Completion, complete or correct such item upon notification by the Architect. In such case, the Contractor shall then submit a request for another inspection by the Architect to determine Substantial Completion.

§ 9.8.4 When the Work or designated portion thereof is substantially complete, the Architect will prepare a Certificate of Substantial Completion that shall establish the date of Substantial Completion; establish responsibilities of the Owner and Contractor for security, maintenance, heat, utilities, damage to the Work and insurance; and fix the time within which the Contractor shall finish all items on the list accompanying the Certificate. Warranties required by the Contract Documents shall commence on the date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion.

§ 9.8.5 The Certificate of Substantial Completion shall be submitted to the Owner and Contractor for their written acceptance of responsibilities assigned to them in the Certificate. Upon such acceptance, and consent of surety if any, the Owner shall make payment of retainage applying to the Work or designated portion thereof. Such payment shall be adjusted for Work that is incomplete or not in accordance with the requirements of the Contract Documents.

§ 9.9 Partial Occupancy or Use

§ 9.9.1 The Owner may occupy or use any completed or partially completed portion of the Work at any stage when such portion is designated by separate agreement with the Contractor, provided such occupancy or use is consented to by the insurer and authorized by public authorities having jurisdiction over the Project. Such partial occupancy or use may commence whether or not the portion is substantially complete, provided the Owner and Contractor have accepted in writing the responsibilities assigned to each of them for payments, retainage, if any, security, maintenance, heat, utilities, damage to the Work and insurance, and have agreed in writing concerning the period for correction of the Work and commencement of warranties required by the Contract Documents. When the Contractor considers a portion substantially complete, the Contractor shall prepare and submit a list to the Architect as provided under Section 9.8.2. Consent of the Contractor to partial occupancy or use shall not be unreasonably withheld. The stage of the progress of the Work shall be determined by written agreement between the Owner and Contractor or, if no agreement is reached, by decision of the Architect.

§ 9.9.2 Immediately prior to such partial occupancy or use, the Owner, Contractor, and Architect shall jointly inspect the area to be occupied or portion of the Work to be used in order to determine and record the condition of the Work.

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§ 9.9.3 Unless otherwise agreed upon, partial occupancy or use of a portion or portions of the Work shall not constitute acceptance of Work not complying with the requirements of the Contract Documents.

§ 9.10 Final Completion and Final Payment

§ 9.10.1 Upon receipt of the Contractor's notice that the Work is ready for final inspection and acceptance and upon receipt of a final Application for Payment, the Architect will promptly make such inspection. When the Architect finds the Work acceptable under the Contract Documents and the Contract fully performed, the Architect will promptly issue a final Certificate for Payment stating that to the best of the Architect's knowledge, information and belief, and on the basis of the Architect's on-site visits and inspections, the Work has been completed in accordance with the Contract Documents and that the entire balance found to be due the Contractor and noted in the final Certificate is due and payable. The Architect's final Certificate for Payment will constitute a further representation that conditions listed in Section 9.10.2 as precedent to the Contractor's being entitled to final payment have been fulfilled.

§ 9.10.2 Neither final payment nor any remaining retained percentage shall become due until the Contractor submits to the Architect (1) an affidavit that payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which the Owner or the Owner's property might be responsible or encumbered (less amounts withheld by Owner) have been paid or otherwise satisfied, (2) a certificate evidencing that insurance required by the Contract Documents to remain in force after final payment is currently in effect, (3) a written statement that the Contractor knows of no reason that the insurance will not be renewable to cover the period required by the Contract Documents, (4) consent of surety, if any, to final payment, (5) documentation of any special warranties, such as manufacturers' warranties or specific Subcontractor warranties, and (6) if required by the Owner, other data establishing payment or satisfaction of obligations, such as receipts and releases and waivers of liens, claims, security interests, or encumbrances arising out of the Contract, to the extent and in such form as may be designated by the Owner. If a Subcontractor refuses to furnish a release or waiver required by the Owner, the Contractor may furnish a bond satisfactory to the Owner to indemnify the Owner against such lien, claim, security interest, or encumbrance. If a lien, claim, security interest, or encumbrance remains unsatisfied after payments are made, the Contractor shall refund to the Owner all money that the Owner may be compelled to pay in discharging the lien, claim, security interest, or encumbrance, including all costs and reasonable attorneys' fees.

§ 9.10.3 If, after Substantial Completion of the Work, final completion thereof is materially delayed through no fault of the Contractor or by issuance of Change Orders affecting final completion, and the Architect so confirms, the Owner shall, upon application by the Contractor and certification by the Architect, and without terminating the Contract, make payment of the balance due for that portion of the Work fully completed, corrected, and accepted. If the remaining balance for Work not fully completed or corrected is less than retainage stipulated in the Contract Documents, and if bonds have been furnished, the written consent of the surety to payment of the balance due for that portion of the Work fully completed and accepted shall be submitted by the Contractor to the Architect prior to certification of such payment. Such payment shall be made under terms and conditions governing final payment, except that it shall not constitute a waiver of Claims.

§ 9.10.4 The making of final payment shall constitute a waiver of Claims by the Owner except those arising from

- **.1** liens, Claims, security interests, or encumbrances arising out of the Contract and unsettled;
- **.2** failure of the Work to comply with the requirements of the Contract Documents;
- **.3** terms of special warranties required by the Contract Documents; or
- **.4** audits performed by the Owner, if permitted by the Contract Documents, after final payment.

§ 9.10.5 Acceptance of final payment by the Contractor, a Subcontractor, or a supplier, shall constitute a waiver of claims by that payee except those previously made in writing and identified by that payee as unsettled at the time of final Application for Payment.

ARTICLE 10 PROTECTION OF PERSONS AND PROPERTY

§ 10.1 Safety Precautions and Programs

The Contractor shall be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the performance of the Contract.

§ 10.2 Safety of Persons and Property

§ 10.2.1 The Contractor shall take reasonable precautions for safety of, and shall provide reasonable protection to prevent damage, injury, or loss to

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.1 employees on the Work and other persons who may be affected thereby;
.2 the Work and materials and equipment to be incorporated therein, whether in storage on or off the site, under care, custody, or control of the Contractor, a Subcontractor, or a Sub-subcontractor; and
.3 other property at the site or adjacent thereto, such as trees, shrubs, lawns, walks, pavements, roadways, structures, and utilities not designated for removal, relocation, or replacement in the course of construction.

§ 10.2.2 The Contractor shall comply with, and give notices required by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities, bearing on safety of persons or property or their protection from damage, injury, or loss.

§ 10.2.3 The Contractor shall implement, erect, and maintain, as required by existing conditions and performance of the Contract, reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards; promulgating safety regulations; and notifying the owners and users of adjacent sites and utilities of the safeguards.

§ 10.2.4 When use or storage of explosives or other hazardous materials or equipment, or unusual methods are necessary for execution of the Work, the Contractor shall exercise utmost care and carry on such activities under supervision of properly qualified personnel.

§ 10.2.5 The Contractor shall promptly remedy damage and loss (other than damage or loss insured under property insurance required by the Contract Documents) to property referred to in Sections 10.2.1.2 and 10.2.1.3 caused in whole or in part by the Contractor, a Subcontractor, a Sub-subcontractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable and for which the Contractor is responsible under Sections 10.2.1.2 and 10.2.1.3. The Contractor may make a Claim for the cost to remedy the damage or loss to the extent such damage or loss is attributable to acts or omissions of the Owner or Architect or anyone directly or indirectly employed by either of them, or by anyone for whose acts either of them may be liable, and not attributable to the fault or negligence of the Contractor. The foregoing obligations of the Contractor are in addition to the Contractor's obligations under Section 3.18.

§ 10.2.6 The Contractor shall designate a responsible member of the Contractor's organization at the site whose duty shall be the prevention of accidents. This person shall be the Contractor's superintendent unless otherwise designated by the Contractor in writing to the Owner and Architect.

§ 10.2.7 The Contractor shall not permit any part of the construction or site to be loaded so as to cause damage or create an unsafe condition.

§ 10.2.8 Injury or Damage to Person or Property
If either party suffers injury or damage to person or property because of an act or omission of the other party, or of others for whose acts such party is legally responsible, notice of the injury or damage, whether or not insured, shall be given to the other party within a reasonable time not exceeding 21 days after discovery. The notice shall provide sufficient detail to enable the other party to investigate the matter.

§ 10.3 Hazardous Materials and Substances
§ 10.3.1 The Contractor is responsible for compliance with any requirements included in the Contract Documents regarding hazardous materials or substances. If the Contractor encounters a hazardous material or substance not addressed in the Contract Documents and if reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a material or substance, including but not limited to asbestos or polychlorinated biphenyl (PCB), encountered on the site by the Contractor, the Contractor shall, upon recognizing the condition, immediately stop Work in the affected area and notify the Owner and Architect of the condition.

§ 10.3.2 Upon receipt of the Contractor's notice, the Owner shall obtain the services of a licensed laboratory to verify the presence or absence of the material or substance reported by the Contractor and, in the event such material or substance is found to be present, to cause it to be rendered harmless. Unless otherwise required by the Contract Documents, the Owner shall furnish in writing to the Contractor and Architect the names and qualifications of persons or entities who are to perform tests verifying the presence or absence of the material or substance or who are to perform the task of removal or safe containment of the material or substance. The Contractor and the Architect will

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promptly reply to the Owner in writing stating whether or not either has reasonable objection to the persons or entities proposed by the Owner. If either the Contractor or Architect has an objection to a person or entity proposed by the Owner, the Owner shall propose another to whom the Contractor and the Architect have no reasonable objection. When the material or substance has been rendered harmless, Work in the affected area shall resume upon written agreement of the Owner and Contractor. By Change Order, the Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable additional costs of shutdown, delay, and start-up.

§ 10.3.3 To the fullest extent permitted by law, the Owner shall indemnify and hold harmless the Contractor, Subcontractors, Architect, Architect's consultants, and agents and employees of any of them from and against claims, damages, losses, and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work in the affected area if in fact the material or substance presents the risk of bodily injury or death as described in Section 10.3.1 and has not been rendered harmless, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), except to the extent that such damage, loss, or expense is due to the fault or negligence of the party seeking indemnity.

§ 10.3.4 The Owner shall not be responsible under this Section 10.3 for hazardous materials or substances the Contractor brings to the site unless such materials or substances are required by the Contract Documents. The Owner shall be responsible for hazardous materials or substances required by the Contract Documents, except to the extent of the Contractor's fault or negligence in the use and handling of such materials or substances.

§ 10.3.5 The Contractor shall reimburse the Owner for the cost and expense the Owner incurs (1) for remediation of hazardous materials or substances the Contractor brings to the site and negligently handles, or (2) where the Contractor fails to perform its obligations under Section 10.3.1, except to the extent that the cost and expense are due to the Owner's fault or negligence.

§ 10.3.6 If, without negligence on the part of the Contractor, the Contractor is held liable by a government agency for the cost of remediation of a hazardous material or substance solely by reason of performing Work as required by the Contract Documents, the Owner shall reimburse the Contractor for all cost and expense thereby incurred.

§ 10.4 Emergencies

In an emergency affecting safety of persons or property, the Contractor shall act, at the Contractor's discretion, to prevent threatened damage, injury, or loss. Additional compensation or extension of time claimed by the Contractor on account of an emergency shall be determined as provided in Article 15 and Article 7.

ARTICLE 11 INSURANCE AND BONDS

§ 11.1 Contractor's Insurance and Bonds

§ 11.1.1 The Contractor shall purchase and maintain insurance of the types and limits of liability, containing the endorsements, and subject to the terms and conditions, as described in the Agreement or elsewhere in the Contract Documents. The Contractor shall purchase and maintain the required insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The Owner, Architect, and Architect's consultants shall be named as additional insureds under the Contractor's commercial general liability policy or as otherwise described in the Contract Documents.

§ 11.1.2 The Contractor shall provide surety bonds of the types, for such penal sums, and subject to such terms and conditions as required by the Contract Documents. The Contractor shall purchase and maintain the required bonds from a company or companies lawfully authorized to issue surety bonds in the jurisdiction where the Project is located.

§ 11.1.3 Upon the request of any person or entity appearing to be a potential beneficiary of bonds covering payment of obligations arising under the Contract, the Contractor shall promptly furnish a copy of the bonds or shall authorize a copy to be furnished.

§ 11.1.4 Notice of Cancellation or Expiration of Contractor's Required Insurance. Within three (3) business days of the date the Contractor becomes aware of an impending or actual cancellation or expiration of any insurance required by the Contract Documents, the Contractor shall provide notice to the Owner of such impending or actual cancellation or expiration. Upon receipt of notice from the Contractor, the Owner shall, unless the lapse in coverage arises from an act

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or omission of the Owner, have the right to stop the Work until the lapse in coverage has been cured by the procurement of replacement coverage by the Contractor. The furnishing of notice by the Contractor shall not relieve the Contractor of any contractual obligation to provide any required coverage.

§ 11.2 Owner's Insurance

§ 11.2.1 The Owner shall purchase and maintain insurance of the types and limits of liability, containing the endorsements, and subject to the terms and conditions, as described in the Agreement or elsewhere in the Contract Documents. The Owner shall purchase and maintain the required insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located.

§ 11.2.2 Failure to Purchase Required Property Insurance. If the Owner fails to purchase and maintain the required property insurance, with all of the coverages and in the amounts described in the Agreement or elsewhere in the Contract Documents, the Owner shall inform the Contractor in writing prior to commencement of the Work. Upon receipt of notice from the Owner, the Contractor may delay commencement of the Work and may obtain insurance that will protect the interests of the Contractor, Subcontractors, and Sub-Subcontractors in the Work. When the failure to provide coverage has been cured or resolved, the Contract Sum and Contract Time shall be equitably adjusted. In the event the Owner fails to procure coverage, the Owner waives all rights against the Contractor, Subcontractors, and Sub-subcontractors to the extent the loss to the Owner would have been covered by the insurance to have been procured by the Owner. The cost of the insurance shall be charged to the Owner by a Change Order. If the Owner does not provide written notice, and the Contractor is damaged by the failure or neglect of the Owner to purchase or maintain the required insurance, the Owner shall reimburse the Contractor for all reasonable costs and damages attributable thereto.

§ 11.2.3 Notice of Cancellation or Expiration of Owner's Required Property Insurance. Within three (3) business days of the date the Owner becomes aware of an impending or actual cancellation or expiration of any property insurance required by the Contract Documents, the Owner shall provide notice to the Contractor of such impending or actual cancellation or expiration. Unless the lapse in coverage arises from an act or omission of the Contractor: (1) the Contractor, upon receipt of notice from the Owner, shall have the right to stop the Work until the lapse in coverage has been cured by the procurement of replacement coverage by either the Owner or the Contractor; (2) the Contract Time and Contract Sum shall be equitably adjusted; and (3) the Owner waives all rights against the Contractor, Subcontractors, and Sub-subcontractors to the extent any loss to the Owner would have been covered by the insurance had it not expired or been cancelled. If the Contractor purchases replacement coverage, the cost of the insurance shall be charged to the Owner by an appropriate Change Order. The furnishing of notice by the Owner shall not relieve the Owner of any contractual obligation to provide required insurance.

§ 11.3 Waivers of Subrogation

§ 11.3.1 The Owner and Contractor waive all rights against (1) each other and any of their subcontractors, sub-subcontractors, agents, and employees, each of the other; (2) the Architect and Architect's consultants; and (3) Separate Contractors, if any, and any of their subcontractors, sub-subcontractors, agents, and employees, for damages caused by fire, or other causes of loss, to the extent those losses are covered by property insurance required by the Agreement or other property insurance applicable to the Project, except such rights as they have to proceeds of such insurance. The Owner or Contractor, as appropriate, shall require similar written waivers in favor of the individuals and entities identified above from the Architect, Architect's consultants, Separate Contractors, subcontractors, and sub-subcontractors. The policies of insurance purchased and maintained by each person or entity agreeing to waive claims pursuant to this section 11.3.1 shall not prohibit this waiver of subrogation. This waiver of subrogation shall be effective as to a person or entity (1) even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, (2) even though that person or entity did not pay the insurance premium directly or indirectly, or (3) whether or not the person or entity had an insurable interest in the damaged property.

§ 11.3.2 If during the Project construction period the Owner insures properties, real or personal or both, at or adjacent to the site by property insurance under policies separate from those insuring the Project, or if after final payment property insurance is to be provided on the completed Project through a policy or policies other than those insuring the Project during the construction period, to the extent permissible by such policies, the Owner waives all rights in accordance with the terms of Section 11.3.1 for damages caused by fire or other causes of loss covered by this separate property insurance.

§ 11.4 Loss of Use, Business Interruption, and Delay in Completion Insurance

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The Owner, at the Owner's option, may purchase and maintain insurance that will protect the Owner against loss of use of the Owner's property, or the inability to conduct normal operations, due to fire or other causes of loss. The Owner waives all rights of action against the Contractor and Architect for loss of use of the Owner's property, due to fire or other hazards however caused.

§11.5 Adjustment and Settlement of Insured Loss

§ 11.5.1 A loss insured under the property insurance required by the Agreement shall be adjusted by the Owner as fiduciary and made payable to the Owner as fiduciary for the insureds, as their interests may appear, subject to requirements of any applicable mortgagee clause and of Section 11.5.2. The Owner shall pay the Architect and Contractor their just shares of insurance proceeds received by the Owner, and by appropriate agreements the Architect and Contractor shall make payments to their consultants and Subcontractors in similar manner.

§ 11.5.2 Prior to settlement of an insured loss, the Owner shall notify the Contractor of the terms of the proposed settlement as well as the proposed allocation of the insurance proceeds. The Contractor shall have 14 days from receipt of notice to object to the proposed settlement or allocation of the proceeds. If the Contractor does not object, the Owner shall settle the loss and the Contractor shall be bound by the settlement and allocation. Upon receipt, the Owner shall deposit the insurance proceeds in a separate account and make the appropriate distributions. Thereafter, if no other agreement is made or the Owner does not terminate the Contract for convenience, the Owner and Contractor shall execute a Change Order for reconstruction of the damaged or destroyed Work in the amount allocated for that purpose. If the Contractor timely objects to either the terms of the proposed settlement or the allocation of the proceeds, the Owner may proceed to settle the insured loss, and any dispute between the Owner and Contractor arising out of the settlement or allocation of the proceeds shall be resolved pursuant to Article 15. Pending resolution of any dispute, the Owner may issue a Construction Change Directive for the reconstruction of the damaged or destroyed Work.

ARTICLE 12 UNCOVERING AND CORRECTION OF WORK

§ 12.1 Uncovering of Work

§ 12.1.1 If a portion of the Work is covered contrary to the Architect's request or to requirements specifically expressed in the Contract Documents, it must, if requested in writing by the Architect, be uncovered for the Architect's examination and be replaced at the Contractor's expense without change in the Contract Time.

§ 12.1.2 If a portion of the Work has been covered that the Architect has not specifically requested to examine prior to its being covered, the Architect may request to see such Work and it shall be uncovered by the Contractor. If such Work is in accordance with the Contract Documents, the Contractor shall be entitled to an equitable adjustment to the Contract Sum and Contract Time as may be appropriate. If such Work is not in accordance with the Contract Documents, the costs of uncovering the Work, and the cost of correction, shall be at the Contractor's expense.

§ 12.2 Correction of Work

§ 12.2.1 Before Substantial Completion

The Contractor shall promptly correct Work rejected by the Architect or failing to conform to the requirements of the Contract Documents, discovered before Substantial Completion and whether or not fabricated, installed or completed. Costs of correcting such rejected Work, including additional testing and inspections, the cost of uncovering and replacement, and compensation for the Architect's services and expenses made necessary thereby, shall be at the Contractor's expense.

§ 12.2.2 After Substantial Completion

§ 12.2.2.1 In addition to the Contractor's obligations under Section 3.5, if, within one year after the date of Substantial Completion of the Work or designated portion thereof or after the date for commencement of warranties established under Section 9.9.1, or by terms of any applicable special warranty required by the Contract Documents, any of the Work is found to be not in accordance with the requirements of the Contract Documents, the Contractor shall correct it promptly after receipt of notice from the Owner to do so, unless the Owner has previously given the Contractor a written acceptance of such condition. The Owner shall give such notice promptly after discovery of the condition. During the one-year period for correction of Work, if the Owner fails to notify the Contractor and give the Contractor an opportunity to make the correction, the Owner waives the rights to require correction by the Contractor and to make a claim for breach of warranty. If the Contractor fails to correct nonconforming Work within a reasonable time during that period after receipt of notice from the Owner or Architect, the Owner may correct it in accordance with Section 2.5.

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§ 12.2.2.2 The one-year period for correction of Work shall be extended with respect to portions of Work first performed after Substantial Completion by the period of time between Substantial Completion and the actual completion of that portion of the Work.

§ 12.2.2.3 The one-year period for correction of Work shall not be extended by corrective Work performed by the Contractor pursuant to this Section 12.2.

§ 12.2.3 The Contractor shall remove from the site portions of the Work that are not in accordance with the requirements of the Contract Documents and are neither corrected by the Contractor nor accepted by the Owner.

§ 12.2.4 The Contractor shall bear the cost of correcting destroyed or damaged construction of the Owner or Separate Contractors, whether completed or partially completed, caused by the Contractor's correction or removal of Work that is not in accordance with the requirements of the Contract Documents.

§ 12.2.5 Nothing contained in this Section 12.2 shall be construed to establish a period of limitation with respect to other obligations the Contractor has under the Contract Documents. Establishment of the one-year period for correction of Work as described in Section 12.2.2 relates only to the specific obligation of the Contractor to correct the Work, and has no relationship to the time within which the obligation to comply with the Contract Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Contractor's liability with respect to the Contractor's obligations other than specifically to correct the Work.

§ 12.3 Acceptance of Nonconforming Work

If the Owner prefers to accept Work that is not in accordance with the requirements of the Contract Documents, the Owner may do so instead of requiring its removal and correction, in which case the Contract Sum will be reduced as appropriate and equitable. Such adjustment shall be effected whether or not final payment has been made.

ARTICLE 13 MISCELLANEOUS PROVISIONS

§ 13.1 Governing Law

The Contract shall be governed by the law of the place where the Project is located, excluding that jurisdiction's choice of law rules. If the parties have selected arbitration as the method of binding dispute resolution, the Federal Arbitration Act shall govern Section 15.4.

§ 13.2 Successors and Assigns

§ 13.2.1 The Owner and Contractor respectively bind themselves, their partners, successors, assigns, and legal representatives to covenants, agreements, and obligations contained in the Contract Documents. Except as provided in Section 13.2.2, neither party to the Contract shall assign the Contract as a whole without written consent of the other. If either party attempts to make an assignment without such consent, that party shall nevertheless remain legally responsible for all obligations under the Contract.

§ 13.2.2 The Owner may, without consent of the Contractor, assign the Contract to a lender providing construction financing for the Project, if the lender assumes the Owner's rights and obligations under the Contract Documents. The Contractor shall execute all consents reasonably required to facilitate the assignment.

§ 13.3 Rights and Remedies

§ 13.3.1 Duties and obligations imposed by the Contract Documents and rights and remedies available thereunder shall be in addition to and not a limitation of duties, obligations, rights, and remedies otherwise imposed or available by law.

§ 13.3.2 No action or failure to act by the Owner, Architect, or Contractor shall constitute a waiver of a right or duty afforded them under the Contract, nor shall such action or failure to act constitute approval of or acquiescence in a breach thereunder, except as may be specifically agreed upon in writing.

§ 13.4 Tests and Inspections

§ 13.4.1 Tests, inspections, and approvals of portions of the Work shall be made as required by the Contract Documents and by applicable laws, statutes, ordinances, codes, rules, and regulations or lawful orders of public authorities. Unless otherwise provided, the Contractor shall make arrangements for such tests, inspections, and

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approvals with an independent testing laboratory or entity acceptable to the Owner, or with the appropriate public authority, and shall bear all related costs of tests, inspections, and approvals. The Contractor shall give the Architect timely notice of when and where tests and inspections are to be made so that the Architect may be present for such procedures. The Owner shall bear costs of tests, inspections, or approvals that do not become requirements until after bids are received or negotiations concluded. The Owner shall directly arrange and pay for tests, inspections, or approvals where building codes or applicable laws or regulations so require.

§ 13.4.2 If the Architect, Owner, or public authorities having jurisdiction determine that portions of the Work require additional testing, inspection, or approval not included under Section 13.4.1, the Architect will, upon written authorization from the Owner, instruct the Contractor to make arrangements for such additional testing, inspection, or approval, by an entity acceptable to the Owner, and the Contractor shall give timely notice to the Architect of when and where tests and inspections are to be made so that the Architect may be present for such procedures. Such costs, except as provided in Section 13.4.3, shall be at the Owner's expense.

§ 13.4.3 If procedures for testing, inspection, or approval under Sections 13.4.1 and 13.4.2 reveal failure of the portions of the Work to comply with requirements established by the Contract Documents, all costs made necessary by such failure, including those of repeated procedures and compensation for the Architect's services and expenses, shall be at the Contractor's expense.

§ 13.4.4 Required certificates of testing, inspection, or approval shall, unless otherwise required by the Contract Documents, be secured by the Contractor and promptly delivered to the Architect.

§ 13.4.5 If the Architect is to observe tests, inspections, or approvals required by the Contract Documents, the Architect will do so promptly and, where practicable, at the normal place of testing.

§ 13.4.6 Tests or inspections conducted pursuant to the Contract Documents shall be made promptly to avoid unreasonable delay in the Work.

§ 13.5 Interest

Payments due and unpaid under the Contract Documents shall bear interest from the date payment is due at the rate the parties agree upon in writing or, in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located.

ARTICLE 14 TERMINATION OR SUSPENSION OF THE CONTRACT

§ 14.1 Termination by the Contractor

§ 14.1.1 The Contractor may terminate the Contract if the Work is stopped for a period of 30 consecutive days through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, their agents or employees, or any other persons or entities performing portions of the Work, for any of the following reasons:

- **.1** Issuance of an order of a court or other public authority having jurisdiction that requires all Work to be stopped;
- **.2** An act of government, such as a declaration of national emergency, that requires all Work to be stopped;
- **.3** Because the Architect has not issued a Certificate for Payment and has not notified the Contractor of the reason for withholding certification as provided in Section 9.4.1, or because the Owner has not made payment on a Certificate for Payment within the time stated in the Contract Documents; or
- **.4** The Owner has failed to furnish to the Contractor reasonable evidence as required by Section 2.2.

§ 14.1.2 The Contractor may terminate the Contract if, through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, their agents or employees, or any other persons or entities performing portions of the Work, repeated suspensions, delays, or interruptions of the entire Work by the Owner as described in Section 14.3, constitute in the aggregate more than 100 percent of the total number of days scheduled for completion, or 120 days in any 365-day period, whichever is less.

§ 14.1.3 If one of the reasons described in Section 14.1.1 or 14.1.2 exists, the Contractor may, upon seven days' notice to the Owner and Architect, terminate the Contract and recover from the Owner payment for Work executed, as well as reasonable overhead and profit on Work not executed, and costs incurred by reason of such termination.

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§ 14.1.4 If the Work is stopped for a period of 60 consecutive days through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, or their agents or employees or any other persons or entities performing portions of the Work because the Owner has repeatedly failed to fulfill the Owner's obligations under the Contract Documents with respect to matters important to the progress of the Work, the Contractor may, upon seven additional days' notice to the Owner and the Architect, terminate the Contract and recover from the Owner as provided in Section 14.1.3.

§ 14.2 Termination by the Owner for Cause

§ 14.2.1 The Owner may terminate the Contract if the Contractor

- **.1** repeatedly refuses or fails to supply enough properly skilled workers or proper materials;
- **.2** fails to make payment to Subcontractors or suppliers in accordance with the respective agreements between the Contractor and the Subcontractors or suppliers;
- **.3** repeatedly disregards applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of a public authority; or
- **.4** otherwise is guilty of substantial breach of a provision of the Contract Documents.

§ 14.2.2 When any of the reasons described in Section 14.2.1 exist, and upon certification by the Architect that sufficient cause exists to justify such action, the Owner may, without prejudice to any other rights or remedies of the Owner and after giving the Contractor and the Contractor's surety, if any, seven days' notice, terminate employment of the Contractor and may, subject to any prior rights of the surety:

- **.1** Exclude the Contractor from the site and take possession of all materials, equipment, tools, and construction equipment and machinery thereon owned by the Contractor;
- **.2** Accept assignment of subcontracts pursuant to Section 5.4; and
- **.3** Finish the Work by whatever reasonable method the Owner may deem expedient. Upon written request of the Contractor, the Owner shall furnish to the Contractor a detailed accounting of the costs incurred by the Owner in finishing the Work.

§ 14.2.3 When the Owner terminates the Contract for one of the reasons stated in Section 14.2.1, the Contractor shall not be entitled to receive further payment until the Work is finished.

§ 14.2.4 If the unpaid balance of the Contract Sum exceeds costs of finishing the Work, including compensation for the Architect's services and expenses made necessary thereby, and other damages incurred by the Owner and not expressly waived, such excess shall be paid to the Contractor. If such costs and damages exceed the unpaid balance, the Contractor shall pay the difference to the Owner. The amount to be paid to the Contractor or Owner, as the case may be, shall be certified by the Initial Decision Maker, upon application, and this obligation for payment shall survive termination of the Contract.

§ 14.3 Suspension by the Owner for Convenience

§ 14.3.1 The Owner may, without cause, order the Contractor in writing to suspend, delay or interrupt the Work, in whole or in part for such period of time as the Owner may determine.

§ 14.3.2 The Contract Sum and Contract Time shall be adjusted for increases in the cost and time caused by suspension, delay, or interruption under Section 14.3.1. Adjustment of the Contract Sum shall include profit. No adjustment shall be made to the extent

- **.1** that performance is, was, or would have been, so suspended, delayed, or interrupted, by another cause for which the Contractor is responsible; or
- **.2** that an equitable adjustment is made or denied under another provision of the Contract.

§ 14.4 Termination by the Owner for Convenience

§ 14.4.1 The Owner may, at any time, terminate the Contract for the Owner's convenience and without cause.

§ 14.4.2 Upon receipt of notice from the Owner of such termination for the Owner's convenience, the Contractor shall

- **.1** cease operations as directed by the Owner in the notice;
- **.2** take actions necessary, or that the Owner may direct, for the protection and preservation of the Work; and
- **.3** except for Work directed to be performed prior to the effective date of termination stated in the notice, terminate all existing subcontracts and purchase orders and enter into no further subcontracts and purchase orders.

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§ 14.4.3 In case of such termination for the Owner's convenience, the Owner shall pay the Contractor for Work properly executed; costs incurred by reason of the termination, including costs attributable to termination of Subcontracts; and the termination fee, if any, set forth in the Agreement.

ARTICLE 15 CLAIMS AND DISPUTES

§ 15.1 Claims

§ 15.1.1 Definition

A Claim is a demand or assertion by one of the parties seeking, as a matter of right, payment of money, a change in the Contract Time, or other relief with respect to the terms of the Contract. The term "Claim" also includes other disputes and matters in question between the Owner and Contractor arising out of or relating to the Contract. The responsibility to substantiate Claims shall rest with the party making the Claim. This Section 15.1.1 does not require the Owner to file a Claim in order to impose liquidated damages in accordance with the Contract Documents.

§ 15.1.2 Time Limits on Claims

The Owner and Contractor shall commence all Claims and causes of action against the other and arising out of or related to the Contract, whether in contract, tort, breach of warranty or otherwise, in accordance with the requirements of the binding dispute resolution method selected in the Agreement and within the period specified by applicable law, but in any case not more than 10 years after the date of Substantial Completion of the Work. The Owner and Contractor waive all Claims and causes of action not commenced in accordance with this Section 15.1.2.

§ 15.1.3 Notice of Claims

§ 15.1.3.1 Claims by either the Owner or Contractor, where the condition giving rise to the Claim is first discovered prior to expiration of the period for correction of the Work set forth in Section 12.2.2, shall be initiated by notice to the other party and to the Initial Decision Maker with a copy sent to the Architect, if the Architect is not serving as the Initial Decision Maker. Claims by either party under this Section 15.1.3.1 shall be initiated within 21 days after occurrence of the event giving rise to such Claim or within 21 days after the claimant first recognizes the condition giving rise to the Claim, whichever is later.

§ 15.1.3.2 Claims by either the Owner or Contractor, where the condition giving rise to the Claim is first discovered after expiration of the period for correction of the Work set forth in Section 12.2.2, shall be initiated by notice to the other party. In such event, no decision by the Initial Decision Maker is required.

§ 15.1.4 Continuing Contract Performance

§ 15.1.4.1 Pending final resolution of a Claim, except as otherwise agreed in writing or as provided in Section 9.7 and Article 14, the Contractor shall proceed diligently with performance of the Contract and the Owner shall continue to make payments in accordance with the Contract Documents.

§ 15.1.4.2 The Contract Sum and Contract Time shall be adjusted in accordance with the Initial Decision Maker's decision, subject to the right of either party to proceed in accordance with this Article 15. The Architect will issue Certificates for Payment in accordance with the decision of the Initial Decision Maker.

§ 15.1.5 Claims for Additional Cost

If the Contractor wishes to make a Claim for an increase in the Contract Sum, notice as provided in Section 15.1.3 shall be given before proceeding to execute the portion of the Work that is the subject of the Claim. Prior notice is not required for Claims relating to an emergency endangering life or property arising under Section 10.4.

§ 15.1.6 Claims for Additional Time

§ 15.1.6.1 If the Contractor wishes to make a Claim for an increase in the Contract Time, notice as provided in Section 15.1.3 shall be given. The Contractor's Claim shall include an estimate of cost and of probable effect of delay on progress of the Work. In the case of a continuing delay, only one Claim is necessary.

§ 15.1.6.2 If adverse weather conditions are the basis for a Claim for additional time, such Claim shall be documented by data substantiating that weather conditions were abnormal for the period of time, could not have been reasonably anticipated, and had an adverse effect on the scheduled construction.

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§ 15.1.7 Waiver of Claims for Consequential Damages

The Contractor and Owner waive Claims against each other for consequential damages arising out of or relating to this Contract. This mutual waiver includes

.1 damages incurred by the Owner for rental expenses, for losses of use, income, profit, financing, business and reputation, and for loss of management or employee productivity or of the services of such persons; and

.2 damages incurred by the Contractor for principal office expenses including the compensation of personnel stationed there, for losses of financing, business and reputation, and for loss of profit, except anticipated profit arising directly from the Work.

This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination in accordance with Article 14. Nothing contained in this Section 15.1.7 shall be deemed to preclude assessment of liquidated damages, when applicable, in accordance with the requirements of the Contract Documents.

§ 15.2 Initial Decision

§ 15.2.1 Claims, excluding those where the condition giving rise to the Claim is first discovered after expiration of the period for correction of the Work set forth in Section 12.2.2 or arising under Sections 10.3, 10.4, and 11.5, shall be referred to the Initial Decision Maker for initial decision. The Architect will serve as the Initial Decision Maker, unless otherwise indicated in the Agreement. Except for those Claims excluded by this Section 15.2.1, an initial decision shall be required as a condition precedent to mediation of any Claim. If an initial decision has not been rendered within 30 days after the Claim has been referred to the Initial Decision Maker, the party asserting the Claim may demand mediation and binding dispute resolution without a decision having been rendered. Unless the Initial Decision Maker and all affected parties agree, the Initial Decision Maker will not decide disputes between the Contractor and persons or entities other than the Owner.

§ 15.2.2 The Initial Decision Maker will review Claims and within ten days of the receipt of a Claim take one or more of the following actions: (1) request additional supporting data from the claimant or a response with supporting data from the other party, (2) reject the Claim in whole or in part, (3) approve the Claim, (4) suggest a compromise, or (5) advise the parties that the Initial Decision Maker is unable to resolve the Claim if the Initial Decision Maker lacks sufficient information to evaluate the merits of the Claim or if the Initial Decision Maker concludes that, in the Initial Decision Maker's sole discretion, it would be inappropriate for the Initial Decision Maker to resolve the Claim.

§ 15.2.3 In evaluating Claims, the Initial Decision Maker may, but shall not be obligated to, consult with or seek information from either party or from persons with special knowledge or expertise who may assist the Initial Decision Maker in rendering a decision. The Initial Decision Maker may request the Owner to authorize retention of such persons at the Owner's expense.

§ 15.2.4 If the Initial Decision Maker requests a party to provide a response to a Claim or to furnish additional supporting data, such party shall respond, within ten days after receipt of the request, and shall either (1) provide a response on the requested supporting data, (2) advise the Initial Decision Maker when the response or supporting data will be furnished, or (3) advise the Initial Decision Maker that no supporting data will be furnished. Upon receipt of the response or supporting data, if any, the Initial Decision Maker will either reject or approve the Claim in whole or in part.

§ 15.2.5 The Initial Decision Maker will render an initial decision approving or rejecting the Claim, or indicating that the Initial Decision Maker is unable to resolve the Claim. This initial decision shall (1) be in writing; (2) state the reasons therefor; and (3) notify the parties and the Architect, if the Architect is not serving as the Initial Decision Maker, of any change in the Contract Sum or Contract Time or both. The initial decision shall be final and binding on the parties but subject to mediation and, if the parties fail to resolve their dispute through mediation, to binding dispute resolution.

§ 15.2.6 Either party may file for mediation of an initial decision at any time, subject to the terms of Section 15.2.6.1.

§ 15.2.6.1 Either party may, within 30 days from the date of receipt of an initial decision, demand in writing that the other party file for mediation. If such a demand is made and the party receiving the demand fails to file for mediation within 30 days after receipt thereof, then both parties waive their rights to mediate or pursue binding dispute resolution proceedings with respect to the initial decision.

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§ 15.2.7 In the event of a Claim against the Contractor, the Owner may, but is not obligated to, notify the surety, if any, of the nature and amount of the Claim. If the Claim relates to a possibility of a Contractor's default, the Owner may, but is not obligated to, notify the surety and request the surety's assistance in resolving the controversy.

§ 15.2.8 If a Claim relates to or is the subject of a mechanic's lien, the party asserting such Claim may proceed in accordance with applicable law to comply with the lien notice or filing deadlines.

§ 15.3 Mediation

§ 15.3.1 Claims, disputes, or other matters in controversy arising out of or related to the Contract, except those waived as provided for in Sections 9.10.4, 9.10.5, and 15.1.7, shall be subject to mediation as a condition precedent to binding dispute resolution.

§ 15.3.2 The parties shall endeavor to resolve their Claims by mediation which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Mediation Procedures in effect on the date of the Agreement. A request for mediation shall be made in writing, delivered to the other party to the Contract, and filed with the person or entity administering the mediation. The request may be made concurrently with the filing of binding dispute resolution proceedings but, in such event, mediation shall proceed in advance of binding dispute resolution proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order. If an arbitration is stayed pursuant to this Section 15.3.2, the parties may nonetheless proceed to the selection of the arbitrator(s) and agree upon a schedule for later proceedings.

§ 15.3.3 Either party may, within 30 days from the date that mediation has been concluded without resolution of the dispute or 60 days after mediation has been demanded without resolution of the dispute, demand in writing that the other party file for binding dispute resolution. If such a demand is made and the party receiving the demand fails to file for binding dispute resolution within 60 days after receipt thereof, then both parties waive their rights to binding dispute resolution proceedings with respect to the initial decision.

§ 15.3.4 The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

§ 15.4 Arbitration

§ 15.4.1 If the parties have selected arbitration as the method for binding dispute resolution in the Agreement, any Claim subject to, but not resolved by, mediation shall be subject to arbitration which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Arbitration Rules in effect on the date of the Agreement. The Arbitration shall be conducted in the place where the Project is located, unless another location is mutually agreed upon. A demand for arbitration shall be made in writing, delivered to the other party to the Contract, and filed with the person or entity administering the arbitration. The party filing a notice of demand for arbitration must assert in the demand all Claims then known to that party on which arbitration is permitted to be demanded.

§ 15.4.1.1 A demand for arbitration shall be made no earlier than concurrently with the filing of a request for mediation, but in no event shall it be made after the date when the institution of legal or equitable proceedings based on the Claim would be barred by the applicable statute of limitations. For statute of limitations purposes, receipt of a written demand for arbitration by the person or entity administering the arbitration shall constitute the institution of legal or equitable proceedings based on the Claim.

§ 15.4.2 The award rendered by the arbitrator or arbitrators shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.

§ 15.4.3 The foregoing agreement to arbitrate and other agreements to arbitrate with an additional person or entity duly consented to by parties to the Agreement, shall be specifically enforceable under applicable law in any court having jurisdiction thereof.

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§ 15.4.4 Consolidation or Joinder

§ 15.4.4.1 Subject to the rules of the American Arbitration Association or other applicable arbitration rules, either party may consolidate an arbitration conducted under this Agreement with any other arbitration to which it is a party provided that (1) the arbitration agreement governing the other arbitration permits consolidation, (2) the arbitrations to be consolidated substantially involve common questions of law or fact, and (3) the arbitrations employ materially similar procedural rules and methods for selecting arbitrator(s).

§ 15.4.4.2 Subject to the rules of the American Arbitration Association or other applicable arbitration rules, either party may include by joinder persons or entities substantially involved in a common question of law or fact whose presence is required if complete relief is to be accorded in arbitration, provided that the party sought to be joined consents in writing to such joinder. Consent to arbitration involving an additional person or entity shall not constitute consent to arbitration of any claim, dispute or other matter in question not described in the written consent.

§ 15.4.4.3 The Owner and Contractor grant to any person or entity made a party to an arbitration conducted under this Section 15.4, whether by joinder or consolidation, the same rights of joinder and consolidation as those of the Owner and Contractor under this Agreement.

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Additions and Deletions Report for
AIA® Document A201® – 2017

This Additions and Deletions Report, as defined on page 1 of the associated document, reproduces below all text the author has added to the standard form AIA document in order to complete it, as well as any text the author may have added to or deleted from the original AIA text. Added text is shown underlined. Deleted text is indicated with a horizontal line through the original AIA text.

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PAGE 1

Justice Page-Washburn Multi-Site Fire Protection

Justice Page Middle School
1 West 49th St.
Minneapolis, MN 55419

Washburn High School
201 W. 49th St.
Minneapolis, MN 55419

...

Minneapolis Public Schools Special School District 1
1250 West Broadway Avenue
Minneapolis, MN 55411

...

KFI Engineers670 County Road B West
St. Paul, MN 55113

PAGE 11

The parties shall agree upon ~~written~~ protocols governing the transmission and use ~~of, and reliance on,~~ of Instruments of Service or any other information or documentation in digital form. The parties will use AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, to establish the protocols for the development, use, transmission, and exchange of digital data.

...

Any use of, or reliance on, all or a portion of a building information model without agreement to ~~written~~ protocols governing the use of, and reliance on, the information contained in the model and without having those protocols set forth in AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, and the requisite AIA Document G202™–2013, Project Building Information Modeling Protocol Form, shall be at the using or relying party's sole risk and without liability to the other party and its contractors or consultants, the authors of, or contributors to, the building information model, and each of their agents and employees.

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Certification of Document's Authenticity

AIA® Document D401™ – 2003

I, , hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with its associated Additions and Deletions Report and this certification at 13:19:44 CT on 01/13/2025 under Order No. 4104251278 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document A201™ – 2017, General Conditions of the Contract for Construction, other than those additions and deletions shown in the associated Additions and Deletions Report.



(Signed)

Curtis Hartog, Executive Director

(Title)

1/13/2025

(Dated)

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Exhibit B – Project Charter

Justice Page-Washburn Multi-Site Fire Protection

FY25MULTI008

Description: Multi-site fire projection at Justice Page Middle School and Washburn High School per the project bid documents prepared by KFI Engineers.

Contract Sum

The Contract Sum shall be $226,400.00

Alternates

Item	Price	Status
Alt No. 1 – Washburn fire pump and controller	$23,400	Accepted

EXHIBIT C Owner Insurance

Insurance Requirements

1. CONSULTANT'S INSURANCE – to be used with AIA B101-2017, AIA C103-2015, or similar non-contractor consultants:
   The Consultant shall at its own expense maintain in effect at all times during the performance of the Work under the Agreement at least the following coverage and limits of insurance:

   a. Worker's Compensation and Employer's Liability Insurance

      i. Coverage A is statutory.

      ii. Coverage B
      $500,000 Each Accident
      $500,000 Each Employee
      $500,000 Policy Limit (Disease)

   b. Comprehensive General Liability Insurance *

General Aggregate	$1,000,000
Products/Completed Operations Aggregate	$1,000,000
Per Occurrence	$1,000,000
Medical Payments	$10,000

   * The Owner should be named as an additional insured for Comprehensive General Liability Insurance.

   c. Automobile Insurance

Per Occurrence	$1,000,000
PIP	Basic
Underinsured Motorist	$1,000,000
Uninsured Motorist	$1,000,000

   d. Professional Liability Insurance

      i. Per Claim $2,000,000

ii. For projects with an estimated construction Contract Sum of over $10,000,000 or major structural work an aggregate is required as follows:
Aggregate $4,000,000

e. Umbrella Liability Insurance

i. Per Occurrence $2,000,000

ii. For projects with an estimated construction Contract Sum of over $10,000,000 or major structural work an aggregate is required as follows:
Aggregate $2,000,000

f. Manned or Unmanned Aircraft Coverage (if used)

i. Per Claim $1,000,000

ii. Aggregate $1,000,000

For specialty consultants used for commissioning activities, studies, asbestos surveys and security, items A, B, C and F shall apply.

Special Asbestos Abatement Liability Insurance is required for Asbestos Abatement Contractors. The limits are $1,500,000 per claim, for liability arising from the encapsulation, removal, handling, storage, transportation, and disposal of asbestos-containing materials.

2. CONSULTANT'S OBLIGATIONS

Consultant shall not violate or knowingly permit any violation of any conditions or terms of the policies of insurance required to be carried under the terms hereof and shall endeavor to satisfy the requirements of the insurance companies issuing them. In the event Consultant neglects, refuses or fails to provide or maintain any of the insurance required to be carried under the Agreement, or if such insurance is canceled for any reason, the Owner or the Owner's lender(s) shall have the right, but not the duty, to procure or maintain the same.

In the event the Owner or the Owner's lender(s) do procure or maintain such insurance, the Owner or the Owner's lender(s) shall have, in additional to any and all other available remedies, the right to recover from the Consultant (including the right of set-off against sums otherwise due the Consultant) all of the costs associated with procuring or maintaining such insurance.

3. PROFESSIONAL LIABILITY INSURANCE

   a. Professional Liability Coverage of $2,000,000 shall be maintained for one (1) year from the date of Substantial Completion. If the Consultant discontinues its business and if directed by Owner in writing, Consultant shall purchase such insurance in such amount for an extended discovery period beyond the one (1) year after the date of Substantial Completion, with the premium cost to be a reimbursable expense paid by the Owner. The limit of liability for such policy may not be reduced below $2,000,000 without the Owner giving its prior, written consent. All policies of insurance that Consultant is required under the terms of this Exhibit C Owner's Insurance to secure and maintain shall bear the endorsement "Not to be canceled until sixty (60) calendar days after Owner has received a written notice from insurer as evidence by a return receipt of registered or certified mail."

   b. The Owner shall not be responsible for obtaining or paying premiums or other expenses in connection with insurance required to be carried under the Agreement or normally carried by the Consultant's consultants, and the obligation to obtain such insurance and to pay such premiums and other expenses shall be solely that of the Consultant.

   c. The Consultant shall bear all the costs of any and all deductible amounts under any insurance policies required to be carried under the Agreement and shall remain solely and fully liable for the full amount of any claim or item not compensated by insurance (to the extent that any amount resulted from damages that arose out of the Consultant's sole negligence.)

4. COVERAGE
   The coverage's referred to above are set forth in full in the respective policy forms, and the foregoing descriptions of such policies are not intended to be complete.

5. GENERALLY

   a. The Consultant thereby represents and warrants to the Owner that, as of the date of the execution of the Agreement, the Consultant is not aware of any claims or potential claims which have been made, filed or threatened against any of the insurance or for damages covered by any of the insurance required to be carried under the Agreement that would affect the Consultant's ability to provide the insurance coverage required by this agreement.

b. It is understood that the provisions in the Agreement requiring the Consultant to carry insurance shall not be construed as in any manner waiving or restricting the liability of the Consultant as to any obligations imposed under the Agreement, including, but not limited to, obligations imposed under the provisions of Article 11 of the AIA A201-2017 General Conditions.

Insurance requirements for Contractors

1. CONTRACTOR'S INSURANCE – to be used with AIA A101-2017
   The Contractor shall at its own expense maintain in effect at all times during the performance of the Work under the Agreement at least the following coverage and limits of insurance:

   a. Commercial General Liability

      i. General Aggregate $1,500,000

      ii. Products/Completed Operations Aggregate $1,500,000

      iii. Per Occurrence $1,500,000

      The Owner shall be named as additional insured for Commercial General Liability Insurance

   b. Automobile Insurance

      i. Per Occurrence $1,000,000

      ii. PIP Basic

      iii. Underinsured Motorist $1,000,000

      iv. Uninsured Motorist $1,000,000

   c. Workers Compensation

      i. Coverage A is statutory.

      ii. Coverage B $500,000 Each Accident

      iii. $500,000 Each Employee

d. Professional Liability (if the Contractor is hiring professionals)

   i. Per Claim $2,000,000

   For Projects with an estimated construction cost of over $10,000,000 or major structural work, additional Aggregate coverage of $4,000,000 is required.

e. Manned or Unmanned Aircraft Coverage (if used)

   i. Per Claim $1,000,000

   ii. Aggregate $1,000,000

f. Property Insurance

   i. Per Claim $1,000,000

   ii. Aggregate $1,000,000

   This insurance is only required for materials stored offsite and not incorporated into the project at delivery. For material stored on site, no additional insurance is required.

g. Builders “all risk” Insurance

   i. Per Claim $2,000,000

   ii. Aggregate $4,000,000

   This insurance is only required for additions exceeding $10,000,000. Renovations to existing schools are not required to have builders all risk insurance.

h. Umbrella Liability

   i. Aggregate limit $5,000,000

   This insurance is required only for projects larger than $10,000,000 in total construction costs.

Exhibit D – Project Schedule

Project Name and Number

MPS Project Number: FY25MULTI009

Project Name: Justice Page-Washburn Multi-Site Fire Protection

School: Justice Page Middle School

Address: 1 West 49th St. Minneapolis, MN 55419

School: Washburn High School

Address: 201 W. 49th St. Minneapolis, MN 55419

OP#: 25-2509

Description

Multi-site fire projection at Justice Page Middle School and Washburn High School per the project bid documents prepared by KFI Engineers.

Schedule

Construction commences: June 11, 2025

Juneteenth Holiday: June 19, 2025 (All MPS Buildings Closed)

Substantial Completion: On or before July 31, 2025

School administrators return: August 1, 2025

Teachers return on or before: August 18, 2025

Classes begin: September 2, 2025

Close-out Documents no later than 45 days past date of Substantial Completion

Substantial Completion

The Work will be substantially complete on or before _July 31, 2025_.

BID ACKNOWLDGMENTS

Date: 1/6/2025
Project: MPS Justice Page and Washburn Fire Pump Controller Replacement
KFI Project Number: 24-0944
Project Description: Fire Pump Controller Replacement

Bidder: Derau Construction

Initial line items below:

PJR — Contractor has read and reviewed all requirements in the specifications, including provisions for scheduling, payments, submittals, final testing, training, and close-out documentation requirements.

PJR — At the completion of this project, both buildings will have a complete and operable fire pump, jockey pump, fire pump controllers, suction control valves or controllers, and all associated equipment designed and installed according to the current MN Building and Fire Codes and MPS Standards.

PJR — At the completion of this project, new fire pump pads and new support shall be provided and installed. Concrete to be properly patched, grouted, and refinished as required.

PJR — At the completion of this project, all pipe or conduit penetrations will be properly sealed and patched according to specifications.

PJR — Contractor acknowledges and confirms understanding that the new feeder shall require both a public utility and private locate prior to any excavation. All routing to be walked and confirmed with owner.

PJR — At the completion of this project, all asphalt, concrete, or landscaping affected by the new electrical feeder installation shall be restored to their prior condition.

PJR — Contractor acknowledges and confirms understanding of the project scope and bid documents, and bid the project for a start date of June 11th, 2025 and substantial completion on or before July 31st, 2025.

PJR — It is the contractor's responsibility coordinate phasing of construction with engineer, AHJ, and owner in a way that minimizes any shutdowns or disruption to building operations. All parties must approve any system (FP or Electrical) outages a minimum of 2 weeks before the outage takes place.

Contractor acknowledges the items listed above.

MINNEAPOLIS PUBLIC SCHOOLS
RESOLUTION 2025-0019

RESOLUTION REVISING POLICIES 3000, 3002, 3003, 3004, 8111, 8510; REPEALING AND REPLACING POLICY 3001; AND ADOPTING POLICY 4300

WHEREAS, The Board's Policy Committee has recommended the proposed changes.

NOW THEREFORE BE IT RESOLVED, that the Board of Directors, Special School District No. 1 (Minneapolis Public Schools) adopts the changes as follows:

SECTION 1: **AMENDMENT** "Policy 3000: Conflicts Of Interest And Fiduciary Duty" of the Minneapolis Public Schools Policies & Regulations is hereby *amended* as follows:

AMENDMENT

Policy 3000: Conflicts Of Interest And Fiduciary Duty

1. **PURPOSE**
   The proper operation of democratic government requires that ~~public officials and~~District personnel~~employees~~ be independent, impartial, and responsible to the people; that government decisions and policy be made in the proper channels of the governmental structure; that public office not be used for personal gain; and that the public have confidence in the integrity of its government.

   In recognition of these goals, the ~~Board of Directors~~school board adopts policies related to conflicts of interest and fiduciary duty for school board members and District personnel. ~~all officials and employees whether elected or appointed, paid or unpaid.~~ The purpose of this policy is to establish ethical standards of conduct for all ~~such officials and employees~~District personnel by setting forth those acts or actions that are incompatible with the best interest of the Minneapolis Public Schools and by directing disclosure by such ~~officials and employees~~District personnel of private financial or other interests in matters affecting the Minneapolis Public Schools.
2. **GENERAL STATEMENT OF POLICY**
   This policy establishes minimum standards of conduct for District personnel. Failure to meet these standards may subject the actor to disciplinary action, up to and including termination.
   a. ~~This policy establishes minimum standards of conduct for public officials, employees and other district personnel. Failure to meet these standards shall subject the actor to disciplinary action.~~
   b. ~~Responsibilities of Public Office. Public officials and employees are agents of public purpose and hold office for the benefit of the public. Their conduct in~~

both their official and private affairs should be above reproach. They must avoid misconduct, apparent or real. They are bound to:

i. uphold the Constitution of the United States and the Constitution of this State;
ii. carry out impartially the laws of the nation, state, and school district; and
iii. discharge faithfully the duties of their office regardless of personal considerations, recognizing that the public interest must be their primary concern.

e. Dedicated Service and Fiduciary Duty.

i. All public officials of the school district shall be loyal to the district and its mission and goals, and the programs developed to attain those objectives.
ii. All employees of the district shall be loyal to the district, its mission and goals, and the program developed to attain those objectives.
iii. Appointed officials and employees should adhere to the rules of work and performance established as the standard for their positions by the appropriate authority.
iv. Public officials and employees and other district personnel may not exceed their authority or break the law or ask others to do so, and they should work in full cooperation with other public officials and employees unless prohibited from so doing by law or by officially recognized confidentiality of their work.
v. Public officials and employees and other district personnel shall not disclose any confidential or private, nonpublic, educational or employee data during their term of appointment, election or employment and shall likewise refrain from disclosing any private educational or employee data after their term of election or appointment, or employment has ended unless permitted by law.
vi. Public officials, employees and other district personnel shall not disclose or use any confidential, private, nonpublic, privileged or proprietary information gained by reason of their employment, election or appointment by or to the District other than in the course of their duties. Such a prohibition shall continue after the term of their election, appointment or employment ends.
vii. Public officials and employees shall manage the assets both real and personal of the district with highest integrity, and exercise any discretionary powers they may have for the benefit of the District with the care a reasonably prudent person would do.
viii. Employees must accept employment with the district as their primary employment, unless otherwise agreed to at the time of their hiring, and shall prefer the needs of their employment with the district over the needs of any additional employment they may have. Further, employees shall not engage in any work, paid or unpaid, incompatible with their employment at the district.

d. Fair and Equal Treatment

i. No public official or employee shall grant any special consideration, treatment, or advantage to any citizen beyond that which is available to every other citizen.

ii. Schools, programs and departments may enter into partnerships with corporate or business citizens to promote civic engagement, sponsorship of district activities or support of academic programs. Such partnerships shall not imply preference or endorsement of or for the services or products of those corporate or business partners. Any such partnerships are subject to the terms of this policy.

e. Conflict of Interest

i. No public official or employee shall engage in any business or transaction or shall have a financial or personal interest, direct or indirect, which is incompatible with the proper discharge of his or her official duties in the public interest or would tend to impair his or her independence of judgment or action in the performance of his or her official duties.

ii. "Personal interest" may be defined as an interest arising from:

(1) blood or marriage relationships;

(2) domestic partnerships;

(3) status of dependent of the person;

(4) membership in the same household;

(5) close business or political associates.

iii. Conflicts of interest include but are not limited to:

(1) Use of confidential information, obtained as a result of public position, for personal gain.

(2) Any use of official position for personal gain.

(3) Holding (possession) investments which interfere, or tend to interfere, with the proper discharge of public duty.

(4) Representation by public officials or employees of private interests before the Minneapolis Board of Education or departments and participation in the profits from such representation.

(5) Participation in transactions as a public representative with a business entity in which the public official or employee has a direct or indirect financial or other personal interest.

(6) Personal interest in legislation to the extent that private interest takes precedence over public interest and public duty.

(7) Entry by the district into contracts or other conduct of business for profit with a business in which a public official or employee has substantial or controlling interest, when the public official or employee can influence such contract or business because of his or her public position.

f. Use of Position for Influence

i. Recommendations.

(1) School personnel shall not make recommendations for a provider of professional services. School personnel may be asked by parents to recommend providers; this is particularly true of health care staff, who may be asked to recommend a physician, a dentist, or an optometrist. School personnel shall not make such recommendations.

(2) Employees may prepare and distribute lists of professional organizations or providers of professional services available in the region for the purposes of informing parents, but shall make no evaluation of the services or organizations, and shall not indicate a preference for any of them.

(3) Persons making requests for referrals to providers should be directed to the proper professional association for advice.

ii. Politics. The District recognizes and encourages the rights of its employees, as citizens, to engage in political activity, with the following restrictions:

(1) No employee of the school district shall solicit support of any political candidate, partisan or non-partisan, during regular work hours or on school property.

(2) No employee of the school district shall solicit support of any referendum issue not directly related to public education, during regular work hours, or on school property.

(3) No employee may use the name of the district, or any school, department or program to support any political candidate, ballot proposition or referendum.

(4) No resources of the district may be used to support any political candidate, partisan or non-partisan, or any ballot proposition or referendum not directly related to public education.

3. **APPLICABILITY****DEFINITIONS**

District personnel, solely for purposes of this policy, include Board of Education members, District employees, agents, volunteers, contractors, or persons subject to the supervision and control of the District.

a.

b. This policy applies to all Minneapolis Public Schools

i. officials,

ii. employees,

iii. contractors on district premises,

iv. council and advisory council members, and

v. site based council members.

c. This policy applies to all persons, whether

i. elected, appointed, employed, or supplying goods or services to the district under contract,

~~ii. paid or unpaid,~~
~~iii. engaged in any activity on behalf of the Minneapolis School District including activities at every school, department or program of the District.~~

~~d. When a public official or employee has doubt as to the applicability of a provision of this policy to a particular situation, he or she should submit the question to the General Counsel's Office for review and determination of applicability. Questions may be made anonymously, in which case the General Counsel shall make such answer available to the appropriate persons subject to this policy. The General Counsel may make any question and response or guidance public.~~

4. RESPONSIBILITIES AND DUTIES
   a. District personnel are agents of public purpose and must avoid conflicts of interest, apparent or real. They are bound to discharge faithfully the duties of their role regardless of personal considerations, recognizing that the public interest must be their primary concern in the performance of their duties.
   b. District personnel should adhere to the rules of work and performance established as the standard for their positions by the appropriate authority.
   c. District personnel may not exceed their authority or break the law or ask others to do so, and they should work in full cooperation with other District personnel unless prohibited from so doing by law or by officially recognized confidentiality of their work.
   d. District personnel shall not disclose or use any confidential, private, nonpublic, privileged or proprietary information gained by reason of their employment, election or appointment by or to the District other than in the course of their duties and as permitted by law. Such a prohibition shall continue after the term of their election, appointment or employment ends.
   e. District personnel shall manage the assets both real and personal of the District with highest integrity, and exercise any discretionary powers they may have for the benefit of the District with the care a reasonably prudent person would do.
   f. No District personnel shall grant any special consideration, treatment, or advantage to any citizen beyond that which is available to every other citizen.
   g. Partnerships with corporate or business citizens to promote civic engagement, sponsorship of District activities or support of academic programs shall not imply preference or endorsement of or for the services or products of those corporate or business partners. Any such partnerships are subject to the terms of this policy.
5. PROHIBITED CONDUCT
   a. *Conflicts of Interest*
      i. No District personnel shall engage in any business or transaction or shall have a financial or personal interest, direct or indirect, which is incompatible with the proper discharge of their official duties in the public interest or would tend to impair their independence of

judgment or action in the performance of their official duties.

ii. "Personal interest" may be defined as an interest arising from:
   (1) blood or marriage relationships;
   (2) domestic partnerships;
   (3) status of dependent of the person;
   (4) membership in the same household;
   (5) close business or political associates.

iii. Conflicts of interest include but are not limited to:
   (1) Use of confidential information, obtained as a result of public position, for personal gain.
   (2) Any use of official position for personal gain.
   (3) Holding (possession) investments which interfere, or tend to interfere, with the proper discharge of public duty.
   (4) Representation by District personnel of private interests before the Minneapolis Board of Education or departments and participation in the profits from such representation.
   (5) Participation in transactions as a public representative with a business entity in which the District personnel has a direct or indirect financial or other personal interest.
   (6) Personal interest in legislation to the extent that private interest takes precedence over public interest and public duty.
   (7) Entry by the District into contracts or other conduct of business for profit with a business in which a District personnel has substantial or controlling interest, when the District personnel can influence such contract or business because of their public position.

iv. *Use of Position for Influence*
   (1) *Recommendations.* District personnel shall not make recommendations for a provider of professional services. Instead, District personnel may prepare and distribute lists of professional organizations or providers of professional services for the purposes of informing parents, but shall make no evaluation of the services or organizations, and shall not indicate a preference for any of them.
   (2) *Politics*
   The District recognizes and encourages the rights of District personnel, as citizens, to engage in political activity, with the following restrictions:
      (A) No District personnel shall solicit support of any political candidate, partisan or non-partisan, during regular work hours or on school property.
      (B) No District personnel shall solicit support of any referendum issue not directly related to public education, during regular work hours, or on school

property.

(C) No District personnel may use the name of the District, or any school, department or program to support any political candidate, ballot proposition or referendum.

(D) No resources of the District may be used to support any political candidate, partisan or non-partisan, or any ballot proposition or referendum not directly related to public education.

b. Outside Employment
Employees of the school district may engage in outside employment provided such employment does not compromise the fulfillment of employees' responsibilities to the School District, is not conducted during assigned duty hours and does not involve the use of School District facilities.

6. **REPORTING SUSPECTED VIOLATIONS**

a. All ~~employees, contractors, public officials or council members~~District personnel have a duty and obligation to report what they believe to be a violation of this policy.

b. ~~The report must be made to their supervisor or manager of the department or building concerned.~~The report must be made to the Senior Human Resources Officer.

c. ~~In those instances in which the immediate supervisor is involved in the alleged violation, the report should be made to the person at the next highest supervisory level.~~In those instances which the complainant feels uncomfortable reporting the suspected violation to the Senior Human Resources Officer, that person may make a direct report to the Superintendent.

~~d. In those instances which the complainant feels uncomfortable reporting the suspected violation to any of the aforementioned persons, that person may make a direct report to the Office of District General Counsel.~~

~~e. Supervisors, Department Managers, Principals and Site Administrators will forward suspected violations of this policy to the General Counsel's Office. Any employee may also make a report to the General Counsel's Office.~~

f. Suspected violations submitted in good faith and in an appropriate manner, whether or not further investigation substantiates the claim, will be free from retaliation in any form. The identity of complainants will be protected, within legal limits, and any ~~public official, employee or other d~~District personnel who retaliate against them ~~will be disciplined.~~may be subject to disciplinary action, up to and including termination.

7. **INVESTIGATION AND RESOLUTION OF SUSPECTED VIOLATIONS**

a. ~~The District General Counsel will promptly investigate alleged violations.~~The District will promptly investigate alleged violations and may take appropriate disciplinary action, up to and including termination of employment, contract, and/or appointment.

~~b. Those accused of suspected violations will be given an opportunity to~~

~~respond.~~

~~c. The District General Counsel will prepare a report of the investigation.~~

~~d. If the investigation concerns the actions of an employee the report will be submitted to the manager or supervisor and Employee Relations with a copy to the Superintendent.~~

~~e. If the investigation concerns the actions of a non-employee or contractor, the report will be submitted to the appropriate supervisor of the person's activities with a copy to the Superintendent.~~

~~f. Any discipline of an employee shall follow District policies, contracts and procedures, up to and including termination of employment.~~

~~g. Any discipline of a contractor may include termination of the contract.~~

~~h. Any discipline of an appointee to an advisory board or site council may include termination of the appointment.~~

8. **REFRAINING FROM ABUSE**
    a. Any complainant or witness who abuses the enforcement procedure by knowingly submitting false reports, claims, testimony or evidence will be subject to disciplinary action up to and including termination.
9. **RESPONSIBILITY**
    a. The Superintendent shall take the necessary steps to assure that all individuals are in compliance.
    b. The Superintendent is authorized to promulgate regulations to implement this policy.

Original Adoption:
11/12/1991 (formerly Code of Ethics)

Revision Dates:
04/14/1992, 02/27/2007, 01/14/2014

Legal References:
Minnesota Rules 3512.5200 (Code of Ethics for School Administrators) Minnesota Rules 8710.2100 (Code of Ethics for Minnesota Teachers) Minneapolis Code of Ordinances, Title 2, Chapter 15, Article II, § 15.160

- ~~Minnesota Rules 3512.5200 (Code of Ethics for School Administrators)~~
- ~~Minnesota Rules 8700.7500 (Code of Ethics for Minnesota Teachers)~~

MPS Policy Cross References:

- Policy 4200 (Personnel Data)
- Policy 5690 (Student Data)
- Policy 1100 (Advertising in the Schools)
- Policy 1050 (Media Relations)
- Policy 1301 (Community Partners)
- Policy 1302 (Corporate Involvement in Schools)
- Policy 1320 (Board of Directors Advisory Committees)

- Policy 1450 (Volunteers)
- Policy 1692 (Shared Leadership for Continuous Improvement)
- Policy 2305 (Superintendent Advisories)
- Policy 3313 (Vendor Relations)
- Policy 3327 (Payment for Food and Drink)
- Policy 3330 (Travel Expense: Employee)
- Policy 3331 (Travel Expense: Non-employee)
- Policy 4000 (Equal Employment Opportunity)
- Policy 8505 (Director Travel)
- Policy 8510 (Conflict of Interest)

SECTION 2: **REPEAL** "Policy 3001: Gifts To District Personnel" of the Minneapolis Public Schools Policies & Regulations is hereby *repealed* as follows:

REPEAL

~~Policy 3001: Gifts To District Personnel~~ *(Repealed)*

1. **PURPOSE** The proper operation of a public funded institution requires that district personnel be independent, impartial, and responsible to their supervisors or to the public that elected or appointed them; that decisions be made in the proper channels of the organizational structure; that public employment and public service not be used for personal gain; and that the public have confidence in the integrity of the district. Many parents and students with a sincere wish to honor or express appreciation to their teachers, administrators, and other school personnel want to give gifts or solicit donations in order to purchase gifts for school employees. The purpose of this policy is to establish ethical standards of conduct for all district personnel regarding gifts from individuals, organizations or businesses, and to avoid the appearance of impropriety or conflict of interest on the part of district personnel.
2. **GENERAL STATEMENT OF POLICY**
    a. Minneapolis Public Schools discourages gift-giving to district personnel. Persons inclined to show appreciation to district personnel are encouraged to

show that appreciation through letters or notes to the individual, or individual's superiors regarding the individual, or to make gifts to the donor's choice in the name of the individual to be honored.

b. District personnel shall not solicit either by direct or indirect means a gift from a student, parent, or other individual or organization.

3. **VENDOR AND PROVIDER GIFTS**

a. Except as allowed below no district personnel may receive any gift from individuals or companies selling equipment, materials, supplies or services required in the operation, maintenance, or capital construction of the district.

b. District personnel may accept gifts from any organization in which they hold a membership, so long as an equivalent gift is given to all members.

c. District personnel may accept gifts from individuals selling equipment, materials, supplies or services required in the operation, maintenance or capital construction of the district so long as the individual is related to the district personnel, and the gift is given individually and not as a representative of the individual's business concern.

d. Teachers and Principals may accept sample textbooks and learning materials from publishers.

e. Employees attending a conference, convention, trade show or other event where service providers or vendors who sell or would like to sell or provide equipment, materials, supplies or services to the district are displaying or demonstrating their products and services who offer to all participants on an equal basis samples, gifts or food and beverages of a de minimus value, may accept such gifts.

f. Employees attending a conference, convention, trade show or other event that offers the opportunity to win door prizes that are equally available to all participants may accept such door prizes as they win through chance, provided that entry into any drawing for such a prize is not predicated upon the provider doing business with the district or any of its divisions, schools or programs. Entry into a drawing for door prizes shall not constitute solicitation of a gift under this policy.

4. **GIFTS FROM STUDENTS AND PARENTS OR PARENT ORGANIZATIONS**

a. Except as allowed below no district personnel may receive any gift from any person of more than a de minimus value.

b. Volunteer chaperones who are district personnel may accept contributions toward the cost of a district sanctioned field trip up to the full cost of the trip if the sponsor of the trip knows of the gift in advance and advises the parents of the students on the trip that such a gift has been received.

c. Principals and Teachers should advise their classes and parents that gifts to school personnel are not expected, nor will they be accepted if offered, if they do not meet the exceptions contained herein.

i. Teachers may accept gifts from the students or parents of the students in their class in the year in which the students are enrolled of a de minimus value. If the class, or any part thereof, makes a joint gift to

the teacher, the gift must not be of value more than five dollars ($5.00) per student.

ii. Teachers and Principals may accept gifts from the official parent organization of the school in which they work if the value of the gift is no more than five dollars ($5.00) per student enrolled.

iii. Teachers and Principals may, upon retirement from the district, receive such gifts that are offered them without limit as to amount.

5. **GIFTS FROM DISTRICT FUNDS**

a. Except as allowed below no district personnel may accept any gift from any division, department, school or program of the District of more than a de minimus value.

b. The Superintendent may establish an Employee Appreciation Program to recognize excellence and longevity of service, and use district funds to provide gifts to district personnel. Non-food individual gifts may not exceed fifty dollars ($50.00), and gifts of meals and beverages shall not exceed the limits allowed for the provision of food and beverage for employees at district meetings.

6. **RESPONSIBILITY**

a. The Superintendent is authorized to promulgate regulations to implement this policy.

b. Employees of the district who accept or solicit a gift in violation of this policy are subject to discipline up to and including termination.

c. Non-employee district personnel who accept or solicit a gift in violation of this policy are subject to discipline by the appropriate body; for appointed members of district advisories or councils, the discipline may be imposed by the district personnel assigned to the advisory or council upon consultation with the remaining members of the council or advisory, up to and including removal from the council or advisory.

d. All district personnel have a duty and obligation to report what they believe to be a violation of this policy.

i. Reports must be made to their supervisor or the manager of the department or building concerned. Any report received by a supervisor or manager should be forwarded to the Office of the District General Counsel.

ii. If the supervisor or manager is the subject of the report, the report should be made to the next highest supervisory level or directly to the Office of the District General Counsel.

iii. Suspected violations submitted in good faith and in an appropriate manner, whether or not further investigation substantiates the claim of violation, will be free from retaliation in any form. Any person who retaliates against a reporter or complainant shall be subject to discipline.

iv. The identity of reporters or complainants will be protected, within legal limits.

v. Reports shall be investigated by the Office of the General Counsel,

and Findings of Fact reports shall be submitted to the subject of the complaint, and to the Superintendent or Superintendent's designee.

e. District personnel who knowingly submit false reports or claims of violations may be subject to discipline.

7. **DEFINITIONS**

a. "de minimus value" shall mean a value of Five Dollars ($5.00) or less.

b. "district personnel" shall mean Directors of the Board of Education, employees of the District, appointees to district boards, committees and advisory councils, and contractors.

c. "gift" shall mean any of the following when the receipt of which is without a return of consideration of equal or greater value:

i. commissions
ii. expense-paid trips
iii. money
iv. real or personal property
v. loans
vi. services
vii. forgiveness of indebtedness
viii. promise of future employment
ix. meals or lodging, or reimbursement for the same.

d. "Employee Appreciation Program" shall mean a district established and regulated program of acknowledging the service and performance of district employees equally available to all employees with the same criteria for selection. Such a program may include acknowledgements based on:

i. Exemplary performance beyond the basic requirements of the employee's position.
ii. Exemplary innovation resulting in improvement of delivery of district services or academic goals;
iii. Exemplary service to students or parents;
iv. Longevity of employment with the District.

e. "operation of the schools" shall include the purchase of materials for the:

i. repair or maintenance of the physical assets of the district;
ii. conduct of student classes;
iii. conduct of student activities including but not limited to clubs, classes, athletic or other competitive teams.

f. "related to the district personnel" means those individuals in a familial or household relationship with the district personnel including, but not limited to:

i. parents or children
ii. brothers, sisters, nieces, nephews, aunts or uncles
iii. domestic partners, and their familial relations
iv. other dependents,
v. persons who reside in the same household as the district personnel, and their familial relations.

~~**Original Adoption:**~~

~~04/25/1967 (as 1560)~~

~~**Revised Dates:**~~
~~10/12/1971, 01/30/1973, 01/14/2014~~

~~**Legal References:**~~

- Minn. Stat. §10A.071 (Prohibition of Gifts)
- Minn. Stat. §15.43 (Acceptance of Advantage…)
- Minn. Stat. §471.895 (Certain Gifts by Interested Persons Prohibited)

~~**MPS Policy Cross References:**~~

- Policy 3000 (Conflicts of Interest and Fiduciary Duty)
- Policy 3327 (Payment for Food and Drink)
- Regulation 3327 A (Food and Meal Expense Procedures and Limitations)

SECTION 3: **ADOPTION** "Policy 3001: Administrator Code Of Ethics" of the Minneapolis Public Schools Policies & Regulations is hereby *added* as follows:

A D O P T I O N

Policy 3001: Administrator Code Of Ethics*(Added)*

1. **PURPOSE**
   The purpose of this policy is to establish the requirements of the school board that school administrators adhere to the standards of ethics and professional conduct in this policy and Minnesota law.
2. **GENERAL STATEMENT OF POLICY**
   a. An educational administrator's professional behavior must conform to an ethical code. The code must be idealistic and at the same time practical, so that it can apply reasonably to all educational administrators. The administrator acknowledges that the schools belong to the public they serve for the purpose of providing educational opportunities to all. However, the administrator assumes responsibility for providing professional leadership in the school and community. This responsibility requires the administrator to maintain standards of exemplary professional conduct. It must be recognized that the administrator's actions will be viewed and appraised by the community, professional associates, and students. To these ends, the administrator must subscribe to the following standards.
   b. The Educational Administrator:
      i. Makes the well-being of students the fundamental value of all decision-making and actions.
      ii. Fulfills professional responsibilities with honesty and integrity.

iii. Supports the principle of due process and protects the civil and human rights of all individuals.
iv. Obeys local, state, and national laws and does not knowingly join or support organizations that advocate, directly or indirectly, the overthrow of the government.
v. Implements the school board's policies.
vi. Pursues appropriate measures to correct those laws, policies, and regulations that are not consistent with sound educational goals.
vii. Avoids using positions for personal gain through political, social, religious, economic, or other influence
viii. Accepts academic degrees or professional certification only from duly accredited institutions.
ix. Maintains the standards and seeks to improve the effectiveness of the profession through research and continuing professional development.
x. Honors all contracts until fulfillment, release, or dissolution is mutually agreed upon by all parties to the contract.
xi. Adheres to the Code of Ethics for School Administrators in Minnesota Rule.

Original Adoption: Legal References: Minn. Stat. § 122A.14, Subd. 4 (Duties of Board of School Administrators) Minn. Rules Part 3512.5200 (Code of Ethics for School Administrators) **MPS Policy Cross References**

SECTION 4: **AMENDMENT** "Policy 3002: Outside Employment, Copyright And Royalties" of the Minneapolis Public Schools Policies & Regulations is hereby *amended* as follows:

AMENDMENT

Policy 3002: ~~Outside Employment, Copyright And Royalties~~Employee Publications, Instructional Materials, Inventions, and Creations

1. **PURPOSE**

~~The public is due that propriety and dedication of service of the district's employees that fosters confidence in the delivery of services and advancement of district goals that they have a right to expect. Individual employees have the right during their non-duty hours to such employment as does not conflict with the interests of the district or appears to conflict with the interests of the district. The purpose of this policy is to balance these two rights in favor of the public purpose of the district.~~The purpose of this policy is to identify and reserve the proprietary rights of the school district to certain publications, instructional materials, inventions, and creations which employees may develop or create, or assist in developing or creating, while employed by the school district.

2. **GENERAL STATEMENT OF POLICY**

Unless the employee develops, creates or assists in developing or creating a publication, instructional material, computer program, invention or creation entirely on the employee's own time and without the use of any school district facilities or equipment, the employee shall immediately disclose and, on demand of the school district, assign any rights to publications, instructional materials, computer programs, materials posted on websites, inventions or creations which the employee develops or creates or assists in developing or creating during the term of employee's employment. In addition, employees shall sign such documents and perform such other acts as may be necessary to secure the rights of the school district relating to such publications, instructional materials, computer programs, materials posted on websites, inventions and/or creations, including domestic and foreign patents and copyrights.

~~3. **COPYRIGHT AND ROYALTIES**~~

~~a. The district claims copyright on any and all intellectual property created or developed by the employee that pertains to his or her employment with the district unless the employee and the Superintendent or Superintendent's designee enter into a written agreement granting copyright of the material to the employee, or to the employee and the district jointly.~~

~~b. Any royalties or other benefits accrued based on intellectual property work done while an employee of the district shall be the property of the district unless royalties are assigned to the employee or to the district and the employee in shares according to a written agreement between the Superintendent or Superintendent's designee and the employee.~~

~~4. **RESPONSIBILITY**~~

~~a. This policy applies to all employees of the district whether full or part time, seasonal or year-round, salaried or hourly.~~

~~b. District principals and other managers are responsible for monitoring the outside employment affects on the employee's job performance. If the employee's job performance is adversely affected, the principal or manager will take appropriate disciplinary action including but not limited to, counseling, warning, or requiring the employee to choose one job or the other.~~

~~c. Failure to disclose outside employment or failure to follow this policy may result in discipline of the employee up to and including termination.~~

~~d. Questions regarding the compatibility of outside employment with the district employment shall be referred to the Office of the General Counsel, which shall make the final determination of compatibility.~~

~~e. The Superintendent is authorized to promulgate regulations to implement this policy.~~

5. **NOTICE OF POLICY**

The school district shall give employees notice of this policy by such means as are reasonably likely to inform them of this policy.

~~a. District employees, whether salaried or hourly, shall not accept employment, enter into a contract with another, or pursue a self-employment business interest that:~~

~~i. Interferes with the proper execution of his or her employment with the~~

district; or

ii. Creates or appears to create a conflict of interest that would materially impair the ability of the employee to serve the district.

b. District employees, whether salaried or hourly, shall not accept employment, enter into a contract with another or pursue a self-employment business interest to:

i. participate as an employee, principal or manager on a pending or existing district contract if the employee was involved in the negotiation, development, awarding, or management of that contract.

ii. participate in the negotiation or development on behalf of the outside employer of a pending contract with the District.

c. District employees, whether salaried or hourly, shall not accept employment, enter into a contract with another, or pursue a self-employment business interest to provide services that would bring the district into disrepute.

d. Employees accepting outside employment are required to inform their immediate supervisor of the employment including the name of the employer, the type of work to be done, and the expected hours of employment.

e. Subject to the above, hourly employees may accept outside employment limited to the employee's non-duty hours. Hourly employees may accept employment, enter into a contract with another or pursue a self-employment business interest during the employee's approved vacations, earned compensatory time or non-duty release days but not during a medical leave from employment with the district.

f. Subject to the above, salaried employees may accept outside employment, enter into a contract with another, or pursue a self-employment business interest scheduled outside of the employee's regularly scheduled work hours with the knowledge and consent of their supervisor, however

i. outside employment may not be allowed to conflict with the scheduled and unscheduled time demands of the individual's district employment;

ii. effect of the outside employment on the ability of the employee to perform their duties to the District shall be monitored, and adverse effects on the district employment may lead to withdrawal of permission for outside employment.

g. Employees who accept outside employment, enter into a contract with another, or pursue a self-employment business interest may not employ any district resource in the pursuit of that employment, contract or business interest. District resources include, but are not limited to:

i. Use of the district internet access, or computers;

ii. Use of district telephones, whether stationary or mobile;

iii. Use of copying, faxing or scanning machines;

iv. Use of office supplies or equipment

v. Use of a district issued email address;

vi. Use of district-created list-serves, distribution lists, or directories;

vii. Use of district mailboxes or mailing services;

viii. ~~Use of district facilities, except as under an appropriately requested and granted permit under the community use of facilities program;~~

ix. ~~Use of district vehicles, except under a negotiated contract for their use;~~

x. ~~Use of the District brand, or that of any of its schools, facilities or programs;~~

xi. ~~Use of any intellectual property developed while an employee of the district unless specific written permission is granted by the Superintendent or Superintendent's designee.~~

h. ~~Work assignments and schedules will not be changed to accommodate outside employment.~~

i. ~~Employees shall not share, use or reveal private, non-public information or proprietary materials, techniques learned while a district employee with any other employer, contractor or in their self-employed business interest.~~

Original Adoption:
01/14/2014

Revised:

Legal References:
Minn. Stat. § 181.78 (Agreements; Terms Relating to Inventions) 17 U.S.C. § 101 et seq. (Copyrights)

MPS Policy Cross References:

- Policy 3000 (Conflicts of Interest and Fiduciary Duty)

SECTION 5: **AMENDMENT** "Policy 3003: Nepotism" of the Minneapolis Public Schools Policies & Regulations is hereby *amended* as follows:

AMENDMENT

Policy 3003: Nepotism

1. **PURPOSE**
   As a public entity, the District must be held to high standards to deserve the public trust. Nepotism, or the appearance of nepotism, diminishes the integrity of the district in the public's eye and should be avoided at all times. Employing persons who are related to each other, or who reside with each other, but whose work assignments do not bring them into supervisory work relationships, and whose employment was not influenced by the other does not constitute nepotism. Balancing ~~the ability of the~~ District's ability to attract and keep the best employees for the public purposes of the

district with a prohibition against nepotism requires the disclosure of potential conflicts with this policy and district action to prevent and arrange placement of related persons within the district to avoid valid claims of nepotism.

2. **GENERAL STATEMENT OF POLICY**
    a. No individual shall be assigned, reassigned, permanently or temporarily employed or issued an independent contract in a department, program, location or school where a related person will have administrative or supervisory responsibility over that individual.
    b. No district employee shall be part of the interviewing, hiring or contracting process for a related person.
    c. No district employee shall influence or attempt to influence the hiring, transfer, suspension, promotion, discharge, reward, discipline or adjustment of grievances of a related person. If the district employee has been granted an exception to have a related person under their administrative or supervisory responsibility, any transfer, suspension, promotion, discharge, reward, discipline or adjustment of grievances for the excepted related person shall be handled by the ~~supervisor's superior~~individual designated by the Senior Human Resources Officer.
    d. Related persons may work in the same department, location, or school so long as the relationship is disclosed and approved by both party's supervisors.
    e. Potential employees are required to disclose their relationship to a district employee who is a related person during the application process.
    f. Employees shall disclose any potential conflict with this policy due to a proposed reassignment, transfer, promotion, or demotion, to their supervisor.
    g. Unique circumstances may allow an exception to this policy. Requests for exceptions must be made in writing with sufficient documentation to justify the exception. Exceptions for circumstances that do not involve a relationship to or with the Superintendent shall be determined by the Superintendent, or Superintendent's designee. Exceptions for circumstances that involve a relationship with the Superintendent shall be determined by the Board of Education upon a recommendation of the chief officer of the Division or Department affected by the employment or contract.
    h. Willful breaches of this policy may result in employee discipline up to and including reassignment or termination of employment.
    i. This policy does not apply generally to situations where students enroll in or are assigned to classes taught by related persons. In such cases, the related person shall notify the Principal of the relationship and the Principal may make reassignments. I~~n the event that~~f no reassignment is made, the related person shall be responsible for making those academic decisions normally incident to their instructional duties.

3. **RESPONSIBILITY**
    a. The Superintendent is authorized to promulgate regulations to implement this policy.
    b. All employees and all persons under an independent contract with the district or any of its subdivisions are responsible to comply with this policy.

Original Adoption:
08/31/1999 (as 4035)

Revised Dates:
01/14/2014

Legal References:

- Minneapolis Code of Ordinances, Title 2, Chapter 15, Article II, §15.160

MPS Policy Cross References:

- Policy 3000 (Conflicts of Interest and Fiduciary Duty)
- Regulations 3003 A (Definitions)
- Regulations 3003 B (Reporting, Investigation and Action)

SECTION 6: **AMENDMENT** "Policy 3004: Employee Use Of District Property" of the Minneapolis Public Schools Policies & Regulations is hereby *amended* as follows:

A M E N D M E N T

Policy 3004: Employee Use Of District Property

1. **PURPOSE**
   ~~As custodians of the public trust, the District is responsible for the appropriate use of all equipment and material acquired for the District. Employees have access due to their employment to such equipment and material. The purpose of this policy is to establish when employees may use equipment or material owned by the district.~~ This policy establishes the circumstances upon which District employees may use District property.
2. **GENERAL STATEMENT OF POLICY**
   As custodians of the public trust, the District is responsible for the appropriate use of all and material acquired for the District. Employees have access due to their employment to such equipment and material. The purpose of this policy is to establish when employees may use equipment or material owned by the District.
3. **USE OF DISTRICT PROPERTY**
   a. Employees may have specific equipment or material assigned for their use by their supervisor, or supervisor's designee.
   b. Employees are responsible for the care, appropriate use and security of equipment and material provided for the performance of his or her duties.
      i. Employees shall use equipment and material assigned to them for the purposes for which the equipment or material has been assigned.
      ii. Employees shall only use equipment and material assigned to them, or

generally available to all employees, for appropriate uses to discharge their duties.

iii. Employees shall take reasonable and prudent steps to secure equipment or materials assigned to them in the course of their employment.

iv. Employees shall surrender all equipment and material assigned to them as required by their supervisor.

c. Borrowing district equipment or material for personal uses is not allowed.

d. Removal of district equipment from its usual location is permitted if the removal is for the purposes of executing the employee's duties.

e. Equipment and material assigned to school-year employees may be checked out and removed from their usual location for the summer months, if requested in writing by the employee and required for the proper execution of the employee's duties for the District. Any equipment checked out or removed from a school or department under this section must be approved in advance by the employee's supervisor.

f. Employees may apply to use district premises, equipment or material for personal purposes through the permit process that is available to all persons on the same basis as any applicant.

4. **RESPONSIBILITY**

a. The Superintendent is authorized to promulgate regulations for the implementation of this policy.

b. Employees who lose or damage district equipment or materials due to their gross neglect may be required to pay the replacement cost of the equipment or materials lost or damaged. Normal wear and tear of use shall not be considered damage to district equipment.

c. Employees who damage district equipment or materials by intentional acts shall be required to pay the replacement cost of the equipment or material.

d. Principals, Site Administrators and Department Heads are responsible for the supervision of the equipment and material assigned to their location, and to their employees. Principals, Site Administrators and Department Heads are required to properly account for all equipment and material assigned to their location or to their employees. Reports of loss or damage shall be made by the principal, site administrator or department head to their supervisor and to the appropriate district department in charge of distribution of the lost or damaged equipment or material.

Original Adoption:
01/14/2014

Revised:

MPS Policy Cross References:

- Policy 3179 (Equipment Replacement)
- Policy 3265 (Obsolete and Excess Materials, Equipment and Supplies)

- Policy 3440 (Inventories)
- Policy 3445 (Property and Equipment)

SECTION 7: **ADOPTION** "Policy 4300: Gifts To Employees And Board Members" of the Minneapolis Public Schools Policies & Regulations is hereby *added* as follows:

ADOPTION

Policy 4300: Gifts To Employees And Board Members*(Added)*

1. **PURPOSE**
   The purpose of this policy is to avoid the appearance of impropriety or the appearance of a conflict of interest with respect to gifts given to school district employees and school board members.
2. **GENERAL STATEMENT OF POLICY**
   a. The school district recognizes that students, parents, and others may wish to show appreciation to school district employees. The policy of the school district, however, is to discourage gift-giving to employees and to encourage donors instead to write letters and notes of appreciation or to give small tokens of gratitude as memorabilia.
   b. A violation of this policy occurs when any employee solicits, accepts, or receives, either by direct or indirect means, a gift from a student, parent, or other individual or organization of greater than nominal value.
   c. A violation of this policy occurs when any employee solicits, accepts, or receives a gift from a person or entity doing business with or seeking to do business with the school district. Employees may accept items of insignificant value of a promotional or public relations nature or a plaque with a resale value of $5 or less with an inscription recognizing an individual for an accomplishment. The superintendent has discretion to determine what value is "insignificant."
   d. Teachers may accept from publishers free samples of textbooks and related teaching materials.
   e. This policy applies only to gifts given to employees where the donor's relationship with the employee arises out of the employee's employment with the school district. It does not apply to gifts given to employees by personal friends, family members, other employees, or others unconnected to the employee's employment with the school district.
   f. An elected or appointed member of a school board, a school superintendent, a school principal, or a district school officer, including the school business official, may not accept a gift from an interested person.
3. **DEFINITIONS**
   a. "Gift" means money, real or personal property, a service, a loan, a forbearance

or forgiveness of indebtedness, or a promise of future employment that is given without something of equal or greater value being received in return.

b. "Interested person" means a person or a representative of a person or association that has a direct financial interest in a decision that a school board member, a superintendent, a school principal, or a district school officer is authorized to make.

c. "Financial interest" means any ownership or control in an asset which has the potential to produce a monetary return.

4. **PROCEDURES**
   Any employee considering the acceptance of a gift shall confer with the administration for guidance related to the interpretation and application of this policy.
5. **VIOLATIONS**
   Employees who violate the provisions of this policy may be subject to discipline, which may include reprimand, suspension, and/or termination or discharge.

Original Adoption: Legal References:
Minn. Stat. § 10A.07 (Conflicts of Interest)
Minn. Stat. § 10A.071 (Prohibition of Gifts)
Minn. Stat. § 15.43 (Acceptance of Advantage by State Employee; Penalty)
Minn. Stat. § 471.895 (Certain Gifts by Interested Persons Prohibited)

MPS Policy Cross References:

SECTION 8: **AMENDMENT** "Policy 8111: Duties Of Directors" of the Minneapolis Public Schools Policies & Regulations is hereby *amended* as follows:

AMENDMENT

Policy 8111: ~~Duties Of Directors~~Code of Ethics

1. **PURPOSE**
   ~~By answering the call to public service, each school board director commits to contributing to the formation of an effective and responsible school board which acts in the interests of the entire district and all of its students. To that end this policy exists to assist directors in fulfilling that commitment.~~The purpose of this policy is to assist the individual school board member in understanding his or her role as part of a school board and in recognizing the contribution that each member must make to develop an effective and responsible school board.
2. **GENERAL STATEMENT OF POLICY**
   Each school board member shall follow the code of ethics stated in this policy.
   ~~a. School board directors govern in the interests of the district as a whole. Directors make no personal promises or undertake any independent action that might compromise the Board as a whole. Authority rests with the school~~

board as whole in legal session, not in individual Directors, unless expressly authorized.

b. School board directors act responsibly toward the task of governance by:
    i. Attending all board meetings unless prevented from doing so for good cause;
    ii. Coming to board meetings well prepared, having read all relevant documents;
    iii. Being informed of the proper duties and functions of a school board Director and engaging in ongoing professional development;
    iv. Making decisions in board meetings on the available information, and only after all sides of debatable questions have been presented;
    v. Recognizing that school business may be legally transacted only in an open meeting of the school board;
    vi. Maintaining confidentiality of privileged information, including statements made in Executive Session.
    vii. Delegating details of board action to administrative employees;
    viii. Recognizing that appointed committees serve only in an advisory capacity to the school board;
c. School Board Directors maintain good working relationships with other Directors by:
    i. Listening to all points of view and respecting the right of others to have and express opinions;
    ii. Working with fellow board members in a spirit of cooperation when there are differences of opinion;
    iii. Sharing the work of the Board equitably, including external and internal committee assignments and other tasks as designated by the Board as a whole.
d. School Board Directors maintain the appropriate relationship with the Superintendent and his or her staff by:
    i. Exercising control over the management of the School District through the establishment of policies for the operation of the District and the employment of a Superintendent;
    ii. Holding the Superintendent responsible for the administration of the school district and giving the Superintendent authority commensurate with that responsibility;
    iii. Participating in school board action after considering the recommendation of the superintendent and only after the Superintendent has furnished adequate information supporting the recommendations;
    iv. Expecting the superintendent to keep the school board adequately informed at all times through both oral and written reports;
    v. Giving the superintendent counsel and advice;
    vi. Protecting all school personnel by referring any concerns to the Superintendent or her or his designated staff.
    vii. Providing support for the Superintendent and employees of the

District so they may perform their proper functions on a professional level.

e. School Board Directors endeavor to meet their responsibility to the community by:
    i. Working to determine both the present and future educational needs of the school district when making decisions;
    ii. Attempting to obtain adequate financial support for the District by every available legal means;
    iii. Communicating actively with the community and interpreting the needs and attitudes of the community, to the best of their ability;
    iv. Insisting that fiscal information and all business transactions of the school district are presented in an ethical, transparent and responsible manner.

f. School Board Directors fulfill their legal obligations by:
    i. Complying with all federal, state and local laws relating to board function;
    ii. Complying with all District policies as adopted by the school board;
    iii. Abiding by all rules and regulations as promulgated by the Minnesota Department of Education and other federal and state agencies with jurisdiction over school districts.

g. AS A MEMBER OF THE SCHOOL BOARD, I WILL:
    i. Attend school board meetings.
    ii. Come to the meetings prepared for discussion of the agenda items.
    iii. Listen to the opinions and views of others (including, but not limited to, other school board members, administration, staff, students, and community members).
    iv. Vote my conscience after informed discussion, unless I abstain because a conflict of interest exists.
    v. Support the decision of the school board, even if my position concerning the issue was different.
    vi. Recognize the integrity of my predecessors and associates and appreciate their work.
    vii. Be primarily motivated by a desire to provide the best possible education for the students of my school district.
    viii. Inform myself about the proper duties and functions of a school board member.

h. IN PERFORMING THE PROPER FUNCTIONS OF A SCHOOL BOARD MEMBER, I WILL:
    i. Focus on education policy as much as possible.
    ii. Remember my responsibility is to set policy – not to implement policy.
    iii. Consider myself a trustee of public education and do my best to protect, conserve, and advance its progress.
    iv. Recognize that my responsibility, exercised through the actions of the school board as a whole, is to see that the schools are properly run –

not to run them myself.

v. Work through the superintendent – not over or around the superintendent.

vi. Delegate the implementation of school board decisions to the superintendent.

i. TO MAINTAIN RELATIONS WITH OTHER MEMBERS OF THE SCHOOL BOARD, I WILL:
   i. Respect the rights of others to have and express opinions.
   ii. Recognize that authority rests with the school board in legal session – not with the individual members of the school board except as authorized by law.
   iii. Make no disparaging remarks, in or out of school board meetings, about other members of the school board or their opinions.
   iv. Keep an open mind about how I will vote on any proposition until the board has met and fully discussed the issue.
   v. Make decisions by voting in school board meetings after all sides of debatable questions have been presented.
   vi. Insist that committees be appointed to serve only in an advisory capacity to the school board.

j. IN MEETING MY RESPONSIBILITIES TO MY COMMUNITY, I WILL:
   i. Attempt to appraise and plan for both the present and future educational needs of the school district and community.
   ii. Attempt to obtain adequate financial support for the school district's programs.
   iii. Insist that business transactions of the school district be ethical and open.
   iv. Strive to uphold my responsibilities and accountability to the taxpayers in my school district.
   v. Communicating actively with the community and interpreting the needs and attitudes of the community, to the best of their ability.

k. IN WORKING WITH THE SUPERINTENDENT OF SCHOOLS AND STAFF, I WILL:
   i. Hold the superintendent responsible for the administration of the school district.
   ii. Give the superintendent authority commensurate with their responsibilities.
   iii. Assure that the school district will be administered by the best professional personnel available.
   iv. Consider the recommendation of the superintendent in hiring all employees.
   v. Participate in school board action after considering the recommendation of the superintendent and only after the superintendent has furnished adequate information supporting the

recommendation.
vi. Insist the superintendent keep the school board adequately informed at all times.
vii. Offer the superintendent counsel and advice.
viii. Recognize the status of the superintendent as the chief executive officer and a non-voting, ex officio member of the school board.
ix. Refer all complaints to the proper administrative officer or insist that they be presented in writing to the whole school board for proper referral according to the chain of command.
x. Present any personal criticisms of employees to the superintendent.
xi. Provide support for the superintendent and employees of the school district so they may perform their proper functions on a professional level

l. IN FULFILLING MY LEGAL OBLIGATIONS AS A SCHOOL BOARD MEMBER, I WILL:
i. Comply with all federal, state, and local laws relating to my work as a school board member.
ii. Comply with all school district policies as adopted by the school board.
iii. Abide by all rules and regulations as promulgated by the Minnesota Department of Education and other state and federal agencies with jurisdiction over school districts.
iv. Recognize that school district business may be legally transacted only in an open meeting of the school board.
v. Avoid conflicts of interest and refrain from using my school board position for personal gain.
vi. Take no private action that will compromise the school board or administration.
vii. Guard the confidentiality of information that is protected under applicable law.

Original Adoption:
11/12/1991 (as Policy 8260)

Revision Dates:
08/11/2009, 04/13/2021

Legal References:
Minn. Stat. §123B.02 (General Powers of Independent School Districts)
Minn. Stat. §123B.09 (Boards of Independent School Districts)
Minn. Stat. §128D.01 (Special Independent District: Minneapolis)
Minn. Stat. §128D.04 (District Like Independent District; Exception) Minn. Stat. § 123B.143, Subd. 1 (Superintendent)

MPS Policy Cross References:

Policy 8110 (Purposes and Role of the Board)Policy 8500 (Board Director Development)

SECTION 9: **AMENDMENT** "Policy 8510: Conflict Of Interest" of the Minneapolis Public Schools Policies & Regulations is hereby *amended* as follows:

AMENDMENT

Policy 8510: Conflict Of Interest

1. **PURPOSE**
   ~~The purpose of this policy is to establish the commitment of the Board of Directors to engage in District business activities in accordance with law and in a manner designed to avoid any conflict of interest or appearances of impropriety.~~The purpose of this policy is to observe state statutes regarding conflicts of interest and to engage in school district business activities in a fashion designed to avoid any conflict of interest or the appearance of impropriety.
2. **GENERAL STATEMENT OF POLICY**
   It is the policy of the school board to contract for goods and services in conformance with statutory conflict of interest laws and in a manner that will avoid any conflict of interest or the appearance thereof. Accordingly, the school board will contract under the statutory exception provisions only when it is clearly in the best interest of the school district because of limitations that may exist on goods or services otherwise available to the school district.
3. ~~**GENERAL STATEMENT OF POLICY**~~
   a. ~~The Board of Directors of Special School District No. 1, Minneapolis Public Schools will contract for goods and services in conformance with statutory conflict of interest laws and in a manner that will avoid any conflicts of interest or the appearances thereof.~~
   b. ~~The Board will contract under the exceptions to the statutory prohibition only when it is clearly in the best interests of the District because of limitations that may exist on the goods or services provided in the contract that are otherwise available to the District.~~
   c. ~~All contracts under the statutory exceptions must be in accordance with law and by a unanimous vote.~~
   d. ~~The Board will not employ a teacher related by blood or marriage to a school board member, within the fourth degree as computed by the civil law, except by a unanimous vote of the full Board.~~
   e. ~~The Board will not contract with a class of school district employees where the spouse of a Director is a member of the class, unless~~
      i. ~~the spouse of the Director receives no special monetary or other benefit that is substantially different from that other members of the class receive under the contract;~~
      ii. ~~the Director spouse abstains from voting regarding the contract; and~~

iii. the essential facts of the contract are publicly set out at the meeting where the contract is approved.

f. In the event that a Director has a personal financial interest in a sale, lease or contract with the District which was entered into before the Director took office and presents an actual or potential conflict of interest, the Director shall:
   i. disclose such interest immediately upon discovery to the Board; and
   ii. refrain from participating in any action related to that interest.

g. If a contract for sale, lease or purchase that meets the criteria of Paragraph 2.F. above is considered for renewal, the contract will only be renewed if it meets one of the statutory exceptions to the general prohibition, and the contract negotiations and conclusion follow the procedures required by law.

4. **RESPONSIBILITY**

a. It is the responsibility of every Director to disclose any actual or potential conflict of interest to notify the Board immediately upon discovery of such a conflict.

b. The determination of whether or not a conflict of interest exists is to be made by the board.
   i. Directors with actual or potential conflicts shall cooperate with other Directors in the process of determining whether or not a conflict exists.
   ii. Findings of the Board on conflicts shall be made publicly.

5. **GENERAL PROHIBITIONS AND RECOGNIZED STATUTORY EXCEPTIONS**

a. A school board member who is authorized to take part in any manner in making any sale, lease, or contract in his or her official capacity shall not voluntarily have a personal financial interest in that sale, lease, or contract or personally benefit financially therefrom.

b. In the following circumstances, however, the school board may as an exception, by unanimous vote, contract for goods or services with a school board member of the school district:
   i. In the designation of a bank or savings association, in which a school board member is interested, as an authorized depository for school district funds and as a source of borrowing, provided such deposited funds are protected in accordance with Minnesota Statutes, chapter 118A. Any school board member having said interest shall disclose that interest and the interest shall be entered upon the school board minutes. Disclosure shall be made when such bank or savings association is first designated as a depository or source of borrowing, or when such school board member is elected, whichever is later. Disclosure serves as notice of the interest and need only be made once;
   ii. The designation of an official newspaper, or publication of official matters therein, in which the school board member is interested when it is the only newspaper complying with statutory requirements relating to the designation or publication;

iii. A contract with a cooperative association of which the school board member is a shareholder or stockholder but not an officer or manager;

iv. A contract for which competitive bids are not required by law. A contract made under this exception will be void unless the following procedures are observed:

(1) The school board shall authorize the contract in advance of its performance by adopting a resolution setting out the essential facts and determining that the contract price is as low as or lower than the price at which the goods or services could be obtained elsewhere.

(2) In the case of an emergency when the contract cannot be authorized in advance, payment of the claims must be authorized by a like resolution wherein the facts of the emergency are also stated.

(3) Before a claim is paid, the interested school board member shall file with the clerk of the school board an affidavit stating:

(A) The name of the school board member and the office held;

(B) An itemization of the goods or services furnished;

(C) The contract price;

(D) The reasonable value;

(E) The interest of the school board member in the contract; and

(F) That to the best of the school board member's knowledge and belief, the contract price is as low as, or lower than, the price at which the goods or services could be obtained from other sources.

v. A school board member may contract with the school district to provide construction materials or services, or both, when the sealed bid process is used. When the contract comes before the school board for consideration, the interested school board member may not vote on the contract.

vi. A school board member may rent space in a public facility at a rate commensurate with that paid by other members of the public.

c. In the following circumstances, the school board may as an exception, by majority vote at a meeting at which all school board members are present, contract for services with a school board member of the school district: A school board member may be newly employed or may continue to be employed by the school district as an employee only if there is a reasonable expectation on July 1, or at the time the contract is entered into or extended, that the amount to be earned by that school board member under that contract or employment relationship, will not exceed $20,000 in that fiscal year. If the

school board member does not receive majority approval to be initially employed or to continue in employment at a meeting at which all school board members are present, that employment is immediately terminated and that school board member has no further rights to employment while serving as a school board member in the school district.

d. The school board may contract with a class of school district employees, such as teachers or custodians, when the spouse of a school board member is a member of the class of employees contracting with the school board and the employee spouse receives no special monetary or other benefit that is substantially different from the benefits that other members of the class receive under the employment contract. For the school board to invoke this exception, it must have a majority of disinterested school board members vote to approve the contract, direct the school board member spouse to abstain from voting to approve the contract, and publicly set out the essential facts of the contract at the meeting in which the contract is approved.

6. **LIMITATIONS ON RELATED EMPLOYEES**
   a. The school board must hire or dismiss teachers only at duly called meetings. When a husband and wife, brother and sister, or two brothers or sisters, constitute a quorum, no contract employing a teacher may be made or authorized except upon the unanimous vote of the full school board.
   b. The school board may not employ any teacher related by blood or marriage to a school board member, within the fourth degree as computed by the civil law, except by a unanimous vote of the full school board.
7. **CONFLICTS PRIOR TO TAKING OFFICE**
   A school board member with personal financial interest in a sale, lease, or contract with the school district which was entered before the school board member took office and presents an actual or potential conflict of interest, shall immediately notify the school board of such interest. It shall thereafter be the responsibility of the school board member to refrain from participating in any action relating to the sale, lease, or contract. At the time of renewal of any such sale, lease, or contract, the school board may enter into or renew such sale, lease, or contract only if it falls within one of the enumerated exceptions for contracts relating to goods or services provided above and if the procedures provided in this policy are followed.
8. **DETERMINATION AS TO WHETHER A CONFLICT OF INTEREST EXISTS**
   The determination as to whether a conflict of interest exists is to be made by the school board. Any school board member who has an actual or potential conflict shall notify the school board of such conflict immediately. The school board member shall thereafter cooperate with the school board as necessary for the school board to make its determination.

Original Adoption:
04/25/1967 (as Policy 8240)

Revision Dates:

10/12/1971, 12/12/1972, 11/12/1991, 08/11/2009

Legal References:
Minn. Stat. §122A.40, Subd. 3 (Employment; Contracts; Termination: Hiring, Dismissing)
Minn. Stat. §123B.195 (Board Members' Right to Employment)
Minn. Stat. §471.87 (Public Officers, Interest in Contract; Penalty)
Minn. Stat. §471.88 (Exceptions)
Minn. Stat. §471.89 (Contract, When Void)

MPS Policy Cross References:
Policy 3000 (Conflicts of Interest and Fiduciary Duty)
Policy 3001 (Gifts to District Personnel)
Policy 3003 (Nepotism)
Policy 8110 (Purposes and Role of the Board)
Policy 8111 (Duties of Directors)

PASSED AND ADOPTED BY THE MINNEAPOLIS PUBLIC SCHOOLS BOARD OF DIRECTORS _____.

	AYE	NAY	ABSENT	ABSTAIN
Abdi	_____	_____	_____	_____
Beachy	_____	_____	_____	_____
Cerrillo	_____	_____	_____	_____
El-Amin	_____	_____	_____	_____
Ellison	_____	_____	_____	_____
Emerick	_____	_____	_____	_____
Callahan	_____	_____	_____	_____
Norvell	_____	_____	_____	_____
Skjefte	_____	_____	_____	_____

Presiding Officer

_____
Collin Beachy, Chair, Minneapolis Public Schools

Attest

_____
Lori Norvell, Clerk, Minneapolis Public Schools

Special School District Number 1
Board of Education Resolution

MINNEAPOLIS
PUBLIC SCHOOLS

Resolution No. 2025-0021
March 11, 2025

Resolution Approving Comprehensive Achievement & Civic Readiness Advisory Committee Charter and Bylaws and Terminating the World's Best Workforce Advisory Committee (2025-0021)

WHEREAS, school districts in Minnesota are required to have an "advisory committee to ensure active community participation in all phases of planning and improving the instruction and curriculum affecting state and district academic standards"; and

WHEREAS, a School Board advisory committee called the World's Best Workforce Advisory Committee has historically fulfilled this requirement; and

WHEREAS, Minnesota law has been amended to update the name used to Comprehensive Achievement & Civic Readiness; and

WHEREAS, it recommended that the Board update the name of the committee to align with state law and make substantial changes to the committee makeup and operations through the creation of a new committee charter and bylaws; and

WHEREAS, the Board extends its gratitude to the current members of the World's Best Workforce Advisory Committee and those who have served in the past.

NOW THEREFORE BE IT RESOLVED, that the Board of Directors of Special School District No. 1 (Minneapolis Public Schools) hereby approves the committee charter and bylaws (labeled as item 2025-0021A) to create the Comprehensive Achievement & Civic Readiness Advisory Committee.

BE IT FURTHER RESOLVED, that the World's Best Workforce Advisory Committee is hereby terminated.

ADOPTED this 11th day of March 2025.

Collin Beachy, Chair

Lori Norvell, Clerk

RECORD OF BOARD VOTE (2025-0021)						
DIRECTOR	MOVE	SECOND	AYE	NAY	ABSTAIN	ABSENT
Abdi						
El-Amin						
Skjefte						
Cerrillo						
Norvell						
Callahan						
Beachy						
Ellison						
Emerick						

Committee Charter

Name	Comprehensive Achievement & Civic Readiness Advisory Committee
Item File	2025-0021A
Type	Standing
Purpose	To fulfill the requirement in MN Statutes Section 120B.11: • *"Each school board must establish an advisory committee to ensure active community participation in all phases of planning and improving the instruction and curriculum affecting state and district academic standards…"*
Membership	Up to fifteen (15) members, appointed in accordance with the committee bylaws by the School Board, Superintendent, CityWide Student Leadership Board, and the District Parent Advisory Committee (DPAC)
Leadership Structure	Co-chairs selected by committee members
School Board Liaison	Yes; appointed at annual organizational meeting
Meeting Frequency	At least three (3) times per year; Committee to determine schedule
Supporting Departments	• Strategic Planning (primary) • Core Academics • Equity and School Climate
Governing Rules	Bylaws and Policy 1320 (Board Of Directors Advisory Committees)
Date Approved	TBD

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Bylaws

1. Purpose
2. Advisory Capacity
3. Membership
4. Appointments
5. Leadership
6. Attendance and Participation Expectations
7. Code of Ethics and Conflicts of Interest
8. Meetings
9. Decision Making
10. Recommendations
11. Disclaimers

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1. Purpose

a. The Comprehensive Achievement & Civic Readiness Advisory Committee ("Committee") exists to serve as the School Board's advisory committee, as required by MN Statutes Section 120B.11, Subd. 3.

b. The Committee ensures active community participation in all phases of planning and improving the instruction and curriculum affecting state and district academic standards, consistent with the provisions of MN Statutes Section 120B.11, Subd. 2.

c. The Committee must pursue community support to accelerate the academic and native literacy and achievement of English learners with varied needs, from young children to adults.

d. The district advisory committee must recommend to the school board:

   i. rigorous academic standards; and

   ii. student achievement goals and measures; and

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iii. district assessments; and

iv. means to improve students' equitable access to effective and more diverse teachers; strategies to ensure the curriculum is rigorous, accurate, antiracist, culturally sustaining, and reflects the diversity of the student population; strategies to ensure that curriculum and learning and work environments validate, affirm, embrace, and integrate the cultural and community strengths of all racial and ethnic groups; and program evaluations.

2. Advisory Capacity

a. In accordance with Policy 1320 (Board Of Directors Advisory Committees), the Committee only provides advice and recommendations to the School Board.

b. The Committee does not have authority beyond providing recommendations to the School Board.

c. Advice and recommendations shall be limited to the areas within the Committee's charge.

3. Membership

a. The Committee will be composed of fifteen (15) members.

b. Whenever possible, parents and other community residents must comprise at least two-thirds of advisory Committee members.

c. Committee members must be either a resident of the City of Minneapolis, an MPS student, or an MPS employee.

d. Committee, to the extent possible, must reflect the diversity of the district and its school sites, and include teachers, parents, support staff, students, and other community residents.

i. The School Board Chair shall be responsible for ensuring the Committee membership reflects the diversity of the community.

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e. The School Board shall appoint a non-voting liaison to the Committee. The School Board liaison shall be the primary point of contact between the School Board and committee leadership.

4. Appointments

a. Nine (9) members of the Committee will be appointed by School Board Directors

   i. Each Director shall appoint one (1) member.

   ii. Directors that represent an election district shall appoint members that are residents of their election district.

   iii. At-large Directors may appoint members who are residents of the City of Minneapolis.

   iv. Committee members shall be removed when their appointing Board Director exits the Board, unless re-appointed by another Board Director.

b. One (1) member shall be appointed by the Superintendent.

c. Two (2) members shall be MPS students appointed by the Citywide Student Leadership Board.

d. Three (3) members shall be MPS caregivers appointed by the District Parent Advisory Committee (DPAC).

e. Appointment terms shall last as long as the appointing authority desires.

f. The appointing authority may decide to replace a member at any time with or without cause.

g. Vacancies caused by resignation, residency ineligibility, or other reason shall be filled by the respective appointing authority.

h. The appointing authority shall provide the name and contact information of their appointees to the school board administrative staff. Board administrative staff shall verify residency and include the names of

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appointed members in a report to the School Board at the next regular business meeting.

5. Leadership

a. The Committee shall select two co-chairs by a vote.

b. Co-chairs shall serve a term of no longer than two years.

c. The co-chairs work with assigned district staff to plan meeting agendas and act as the primary point of contact with the School Board.

6. Attendance and Participation Expectations

a. Regular attendance and participation are important. If a member misses two consecutive meetings, the member needs to communicate with staff if they are able to continue.

b. Committee member attendance will be provided to the Board of Education at least annually, and as requested.

c. Members will inform staff and co-chairs as soon as possible when they are aware they will be unable to attend a meeting by email.

d. Members agree to disclose potential conflicts of interest with relevant agenda items at the beginning of each meeting.

e. Members' conduct and feedback must be respectful, constructive and cooperative.

f. Advisory Committee members represent their respective communities/constituents, seek to understand the positions and priorities of others and strive to make decisions as a group.

g. Advisory Committee members agree to follow and uphold the spirit, intent and direction of the Committee as outlined in these bylaws and in enabling legislation and policy.

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7. Code of Ethics and Conflicts of Interest

a. As District personnel, Committee members must be aware of and adhere to the district's code of ethics and conflict of interest policies and regulations.

b. Committee members may not use or attempt to use their position to secure benefits, privileges, exemptions, or advantages for themselves, their family or an organization with which they are associated that are different from those available to the general public.

c. Committee members found to have engaged in illegal discrimination, sexual harassment, harassment, or retaliation in violation of MPS policy may be subject to removal.

d. Committee members and staff have an affirmative duty to recognize and address potential conflicts of interests when they arise on a committee agenda. Members will announce this conflict along with their introduction.

8. Meetings

a. The Committee shall meet a minimum of three (3) meetings per year and at least two (2) meetings shall include a roundtable discussion where district department staff present on topics within the Committee's purview.

b. The Co-Chairs, who shall work with the assigned supporting district staff to set the meeting schedule, agendas, and format (in-person/virtual/hybrid).

c. Unless a quorum of School Board members are in attendance, the Committee is not subject to the provisions of the Minnesota Open Meeting law as it is an advisory committee to the School Board, not a committee of the board.

9. Decision Making

a. A quorum of the Committee shall be at least fifty (50) percent plus one (1), or eight (8) members.

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b. A quorum of the Committee is required to make any decision.

c. For purposes of voting, attendance is defined as someone in the meeting room or a member of the Committee accessing the meeting remotely.

d. Decisions will be made by a majority vote or by another method determined by the Committee that ensures at least the equivalent of a majority vote.

10. Recommendations

a. The Committee shall determine how to submit recommendations to the School Board. Recommendations may be provided on a rolling basis, if desired.

b. Recommendations shall be limited to the topics outlined in applicable statute and in the Committee's charter.

c. Recommendations shall be provided in writing for inclusion in the public record.

d. Co-chairs of the Committee shall have no fewer than two (2) opportunities per year to present about the Committee's recommendations at a School Board Committee of the Whole meeting where a strategic plan update is on the agenda.

11. Disclaimers

a. These bylaws may be amended by a majority vote of the School Board.

b. Any such amendments will be provided to Committee members upon approval.

c. The Committee may decide to develop its own working procedures. However, these bylaws shall supersede any such procedures, which must not conflict with these bylaws.

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d. Pursuant to the Minnesota Government Data Practices Act, data created by members of the Committee regarding Committee work may be considered public and be provided upon proper request.

e. Assigned district staff are available to support the Committee's work and ensure the committee members have access to necessary information, but the Committee or its co-chair do not have authority to direct the work on district staff.

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